

Mandates of the Working Group on Arbitrary Detention; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
UA VNM 10/2018

5 November 2018

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of death threats against Tran Thi Nga while in detention, as well as the denial of her family visits.**

Ms. Nga is a well-known labour and land rights defender in Viet Nam, detained since January 2017. Her case was considered by the Working Group on Arbitrary Detention (WGAD), which, in its Opinion No. 75/2017, concluded that such detention was arbitrary and requested her immediate release, as well as other reparations.

According to the information received:

Tran Thi Nga (Ms. Nga) was sentenced to nine years' imprisonment on 25 July 2017. She is now serving her sentence at the Gia Trung prison camp, in Gia Lai province. She has not been released and measures of reparation recommended by the WGAD have not been adopted.

Ms. Nga is being held in the same cell with an inmate who is considered to be the most aggressive person in the prison. This cellmate has repeatedly beaten Ms. Nga and threatened her life.

The last time Ms. Nga's family visited her was in July 2018. Since this visit, the authorities have not allowed her family to see her the last two times they went to visit. More than three months have passed since Ms. Nga's family last saw her, and they have no news about her and do not even know if she is alive.

The authorities told the family that Ms. Nga did not follow the prison rules and that, as a penalty, she was not allowed to see them. They have also denied her the possibility of making a telephone call to her relatives.

This situation continues to cause Ms. Nga's family great hardship. The long travel to the prison is very difficult for her two young children and the uncertainty about

her situation and fate is causing significant distress for her family, as well as to her many friends and supporters.

While we do not want to prejudge the accuracy of the information received, we wish to express our serious concern at the continuation of the arbitrary detention of Ms. Nga; at the death threats and beating that Ms. Nga has allegedly been subjected to from her cellmate, apparently without sanction from the prison authorities; and at the continuous denial of Ms. Nga's family visits while in detention. The continued arbitrary detention of Ms. Nga contravenes articles 3 and 9 of the Universal Declaration of Human Rights and articles 7, 9, 10, and 14 of the International Covenant on Civil and Political Rights (the Covenant), acceded to by the Socialist republic of Vietnam on 24 September 1982, which guarantees the rights to liberty and security of person; to not be subjected to arbitrary arrest or detention; to be treated humanely while in detention and to fair trial.

We would like to recall to your Excellency's Government that the Human Rights Council, in its Resolution 33/30, requested all states to take account of the views of the Working Group on Arbitrary Detention and to remedy the situation of persons arbitrarily deprived of their liberty. In the Resolution, the Council also encouraged states to give due consideration to the opinions and appeals of the Working Group and to take appropriate measures to ensure that their legislation, regulations and practices remain in conformity with relevant international law and standards.

Moreover, we would further like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2, which states that everyone has the right, individually and in association with others to promote and to strive for the protection and realization of human rights and that the State has a prime responsibility and duty to protect, promote and implement all human rights. We would also like to draw attention to article 6 and 12, which state that everyone has the right to know, seek, receive, and impart information about all human rights. While according to article 12, the state shall take all necessary measures to ensure the protection by the competent authorities of everyone, against any arbitrary action as a consequence of the legitimate exercise of their human rights.

Additionally, the facts as alleged appear to be in contravention with the Body of Principles for the protection of all persons under any form of detention or imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988. Principle 1 of the Body of Principles stipulates that all detainees shall be treated in a humane manner, with respect for their inherent dignity. Under Principles 15 and 19, communications, visits and correspondence of the detainee with the outside world, in particular with his family, should not be restricted but facilitated.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to ensure the effective respect and protection the rights of Ms. Nga in compliance with Vietnam's human rights obligations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and comment you may have on the above-mentioned allegations.
2. Please provide information about the grounds which justify that Ms. Nga is maintained in detention in spite of the Opinion No. 75/2017 of the Working Group on Arbitrary Detention (WGAD).
3. Please provide information on the conditions of detention of Ms. Nga and what measures are being implemented to ensure her physical and psychological security, while she is detained. In particular what steps are being taken to protect her against violent or otherwise abusive treatment by her cell mate? Why is it that prison authorities appear to tolerate violence of a prisoner against another prisoner?
4. Please provide information about the reason(s) why Ms. Nga has been denied regular visits by her family, as well as the steps taken by prison authorities to facilitate such visits.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations against Ms. Nga, to prevent their re-occurrence, and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would appreciate a response at your earliest convenience. After 60 days, this communication and any response received from Your Excellency's Government will be made public via the Special Procedures communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Michel Forst
Special Rapporteur on the situation of human rights defenders