

**Mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of migrants and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 36/6, 34/18, 34/5, 34/21 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary arrest, enforced disappearance and subsequent repatriation of Mr. **Truong Duy Nhat** from Thailand to Viet Nam, as well as the surveillance and intimidation of Mr. **Bach Hong Quyen**.

Mr. **Truong Duy Nhat** is a Vietnamese blogger and journalist, regularly commenting on social and political issues, including human rights issues. From 1987 to 2011 Mr. Trong reported for a state-run newspaper.

Concerns at a previous arrest, detention and conviction of Mr. Truong Duy Nhat in connection with his criticism of the Vietnamese government, were raised in a communication by Special Procedures to the Government of Viet Nam sent on 12 August 2014.

Mr. **Bach Hong Quyen** is a Vietnamese environmental rights defender, an active blogger, and member of the Vietnam Path Movement, a human rights group.

According to the new information received:

*Concerning the case of Mr. Truong Duy Nhat*

On 16 January 2019, Vietnamese police allegedly initiated surveillance of Mr. Truong Duy Nhat and his home following rumors that he was preparing to publish information concerning officials of the Vietnamese communist party. As a result, Mr. Truong Duy Nhat went into hiding.

On 19 January 2019, Mr. Truong entered Thailand via a land crossing, traveling without legal documents because he had previously been placed on a travel ban by Vietnamese authorities.

On 25 January 2019, Mr. Truong approached UNHCR Thailand office to submit his application for refugee status. On the same day, he reportedly received a phone call from an unknown Thai number. He ended the call and moved out of the residence where he had been staying. Mr. Truong received two more phone calls from unknown numbers. It is believed that Thai police initiated these calls. Mr. Truong expressed concern that he was under surveillance and told persons associated with him that he was going to Future Park Mall, Rangsit District, Bangkok, the next day.

On 26 January 2019, around 17:30, Thai police in plainclothes reportedly approached and apprehended Mr. Truong in iBerry Café at Future Park Mall. No arrest warrant or explanation was reportedly provided. He was later seen in the presence of Thai police in Public Kitchen V restaurant and then shortly after 20:00 being reportedly handed over by the Thai police to three Vietnamese officials who put him in a white Toyota Van with Thai official license plates.

On 28 January 2019, the police surveillance of Mr. Truong's house in Danag, Viet Nam ended.

It is believed that Thai immigration as well as local police and representatives from a Thai ministry and representatives from the Vietnamese Department No. 2 Military Intelligence from Hanoi were involved in the alleged abduction of Mr. Truong, following which he was forcibly repatriated to Viet Nam.

Mr. Truong's fate and whereabouts were unknown from 26 January 2019 until some time between 15 and 20 March 2019, when Vietnamese police provided persons associated with Mr. Truong with a document stating he was in State custody in Hanoi Detention Centre T16. The notice stated that Mr. Truong came into State custody as of 28 January 2019. To this date, neither Mr. Truong's family nor his lawyer have been allowed to speak with him in detention. He is reportedly held on suspicion of violation of article 355 of the Penal Code, which concerns "abuse of power or position for appropriation of property" and carries a possible maximum sentencing of life imprisonment.

During the period in which he was forcibly disappeared, persons associated with Mr. Truong asked Thai immigration officials for information on his fate and whereabouts. On 10 February 2019, Mr. Truong's wife issued a public letter asking for information on his fate and whereabouts. Despite this, his detention in Viet Nam was not disclosed until mid-March 2019.

Mr. Truong was previously arrested in Viet Nam on 26 May 2013 on allegations that he had abused “democratic freedoms to infringe upon the interests of the State and legitimate interest of organizations and citizens”. He was sentenced to two years’ imprisonment on 4 March 2014. He has served this sentence.

*Concerning the case of Mr. Bach Hong Quyen*

Mr. Quyen has reportedly been under police surveillance since he organized, on 3 April 2017, a march to mark the one-year anniversary of the Formosa waste spill. He covered the environmental disaster on his blog, commenting on its impact on local populations as well as organizing protests against the company responsible for this incident.

On 12 May 2017, the police in the central province of Ha Tinh officially issued a national arrest warrant against Mr. Quyen, accusing him of “causing public disorder” under Article 245 of the Penal Code. The charge carries a penalty of up to seven years’ imprisonment.

On 13 May 2017, Mr. Quyen arrived in Thailand together with his wife and two children. He received UNHCR refugee status on 29 November 2017.

On 30 August 2018, Mr. Quyen and his family’s refugee application for permanent residence was submitted to Immigration, Refugee and Citizenship Canada.

On 1 March 2019, Thai authorities visited Mr. Quyen’s premises in Bangkok. However, he had relocated to a safe house a few days prior after he had learned of the disappearance of Mr. Truong Duy Nhat.

On the same day, the Thai authorities detained a Vietnamese person, known to Mr. Quyen, and questioned him about Mr. Quyen’s whereabouts. For fear of his safety and personal liberty and that of his family, Mr. Quyen is currently in a safe house, separate from his family.

*Draft law on Suppression and Prevention of Torture and Enforced Disappearances*

The crimes of enforced disappearances and torture are not currently codified within Thai law. A draft law has been pending since 2010. A draft Bill on Suppression and Prevention of Torture and Enforced Disappearances was scheduled for adoption in March 2019, but is reportedly not yet adopted. It appears the bill is not compliant with international standards as two key safeguard provisions were removed from the draft. The draft no longer contains an explicit and absolute prohibition of acts of torture and enforced disappearances in any circumstances and there is no provision prohibiting the refoulement of individuals

to countries where they could face a real risk of torture, or other cruel, inhuman or degrading treatment or punishment or enforced disappearance. These shortcomings are deeply concerning and seriously weaken the legal protection against torture and disappearances.

We express grave concern at the alleged abduction of Mr. Truong in Thailand and his forceful repatriation to Viet Nam in violation of the principle of non-refoulement, as well as the alleged arbitrary detention following a period of enforced disappearance. We further express concern at allegations that no information was provided to persons associated with him about his repatriation. We express concern at the charges brought against him which appear to be directly linked to his journalistic activities and the exercise of the right to freedom of expression. Furthermore, we express concern at the conviction of Mr. Truong in 2014, as this was based on a legal basis that is not compatible with international human rights law.

Moreover, we express serious concern at what appears to be a similar attempt of forceful repatriation of Mr. Quyen. We express concern at the charges brought against him in 2017, which appear directly linked to his human rights activities in connection with the Formosa waste spill.

Finally, we express concerns at the lack of explicit prohibition of torture and enforced disappearances as well as the lack of a provision prohibiting refoulement in the draft Bill on Suppression and Prevention of Torture and Enforced Disappearances, and urge your Excellency's Government to revise the bill so as to ensure its compliance with international human rights law.

Should these allegations be confirmed, they would be in violation of international human rights law articles 6, 7, 9 and 19, of the International Covenant on Civil and Political Rights (ICCPR), ratified by Thailand on 29 October 1996. The ICCPR guarantees the rights to life, to liberty and to personal security, to freedom from torture and other cruel, inhuman or degrading treatment or punishment, and freedom of expression, association and assembly.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearance sets out necessary protection by the State. In particular, it states that no State shall practice, permit or tolerate enforced disappearances (article 2) and that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction (article 3). The declaration underscores that no State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance (article 8).

While we welcome efforts to ensure that enforced disappearances and torture are codified as crimes within Thai law, we underline the importance of ensuring that any legislation in this regard is fully compliant with international human rights standards.

As matter of urgency we strongly recommend legislators enact a robust law that fully complies with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Thailand is a party to; the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which Thailand signed in 2012, and which it has pledged to ratify including in several recommendations which it accepted during its universal periodic review in 2014; as well as the United Nations Declaration on the Protection of All Persons from Enforced Disappearance.

Several of the obligations laid out in these instruments are non-derogable, notably protection from torture and ill treatment and enforced disappearance even in a State of Emergency and the right of non-refoulement where a person may be at risk of torture or enforced disappearance. It is essential that these legal principles are fully articulated and incorporated into the domestic legislation and that the definition of all crimes be in line with international standards.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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/comment you may have on the above mentioned allegations.
2. Kindly provide information on measures taken to ensure the rights of protection and due process guarantees for Vietnamese refugees and asylum-seekers who have been granted UNHCR protection status, including the right to be heard by relevant authorities, the right to legal representation, as well as access to an effective remedy to appeal a deportation decision. Kindly explain what, if any, measures have been undertaken to cease long immigration detention, prevent family separation and deportation without effective individual assessment, in light of international human rights standards.
3. Kindly provide detailed information on any agreement made between the Governments of Thailand and Viet Nam that led to the deportations of Vietnamese nationals to Viet Nam. Please also provide information on why persons associated with Mr. Truong were not informed of his deportation despite requests for information.

4. Please provide information on the legal basis of the arrest and the detention of Mr. Truong.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and 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 like to inform your Excellency's Government that a similar letter has been transmitted to the Government of Viet Nam.

Moreover, we would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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

Bernard Duhaime  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Felipe González Morales  
Special Rapporteur on the human rights of migrants

Nils Melzer  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

