

Socialist Republic of Viet Nam

In place of veneration, incarceration: Elderly prisoners of conscience

"When they were younger, today's elderly people had the task of giving birth to, bringing up and educating children about dignity, and they still play an important role in families and society. Caring for the material and spiritual needs of elderly persons and continuously promoting their role are the responsibilities of families, State and the entire society, which reflect the fine nature, morality and traditions of our nation."¹

The United Nations (UN) definition of an elderly person is someone over 60 years old. This is also the definition accepted by the Vietnamese government.² The international community increasingly recognizes the elderly as a particularly vulnerable group with special concerns and requirements.³

In Viet Nam there are a growing number of prisoners of conscience who fall within this definition, many of whom throughout their lifetime have spent long periods in prison for peacefully exercising their fundamental rights to freedom of expression and association. This report provides information on a selection of elderly prisoners of conscience from different backgrounds who are currently serving prison terms, as well as elderly dissidents who are in detention awaiting trial or under house arrest. None of them have committed or advocated violence.

Amnesty International believes that no person should be detained solely for the peaceful expression of their beliefs. The lengthy confinement of older prisoners is of special concern. Societies are often legitimately judged on how they treat their more vulnerable members, including the elderly.

On the occasion of the UN sanctioned International Day of Older Persons, Amnesty International calls upon the Government of Viet Nam to show due respect for the elderly prisoners documented in this report, many of whom have children and grand-children, and immediately and unconditionally set them free so that they might enjoy their remaining years in liberty with their friends and families. They deserve no less.

¹ Viet Nam's Ordinance on Elderly People, No. 23/2000/PL-UBTVQH10, 28 April 2000.

² Ibid. Article 1.

³ Please refer to Recommendations for Action, Vienna International Plan of Action on Ageing, endorsed by the United Nations General Assembly in 1982 (resolution 37/51).

The elderly under international law

The elderly receive scant specific mention under international law. Unlike women and children, no comprehensive international convention exists in relation to the rights of older persons. The United Nations Principles for Older Persons⁴ provides a framework which the UN “encourage governments to incorporate into national programs”. These principles address *inter alia* issues of care and dignity. Elderly prisoners, along with all detainees, are protected by the two UN Covenants, on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR).

The UN Committee on Economic, Social and Cultural Rights, in its General Comment No. 6 stated:

“The Committee.....is of the view that States parties to the Covenant are obligated to pay particular attention to promoting and protecting the economic, social and cultural rights of older persons. The Committee’s own role in this regard is rendered all the more important by the fact that unlike other population groups such as women and children, no comprehensive international convention yet exists in relation to the rights of older persons and no binding supervisory arrangements attach to the various sets of United Nations principles in this area.”⁵

Viet Nam has signed and ratified both of the UN Covenants on civil and political rights and on economic, cultural and social rights.

Conditions of detention in Viet Nam

Article 10 of the ICCPR

“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

Amnesty International believes that individuals deprived of their liberty in Viet Nam are not guaranteed humane treatment. The organization has documented dozens of cases of prisoners whose treatment amounted to torture or cruel, inhuman or degrading treatment or punishment. This ranges from denial of access to adequate medical care, prolonged solitary confinement leading to severe mental distress and suffering, lack of access to family members, shackling

⁴ Adopted by the UN General Assembly in 1999, the International Year of Older Persons.

⁵ Para. 13, Committee on Economic, Social and Cultural Rights, General comment No. 6, The economic, social and cultural rights of older persons (Thirteenth session, 1995), U.N. Doc. E/C.12/1995/16/Rev.1 (1995).

of prisoners as a form of punishment, and lack of adequate nutrition. Older prisoners who are more likely to suffer from health problems are particularly vulnerable in such conditions and many of the prisoners documented in this report do indeed suffer from serious health problems. Prisoners are obliged to access whatever health facilities are available to them in prison, often extremely limited and in many cases rely on medication provided by their families. In several of the cases outlined in this report, the elderly prisoner concerned was denied access to family-provided medication for periods of time, especially immediately after arrest and detention.

Administrative detention, including house arrest in Viet Nam

Article 9 of the ICCPR

"1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

Amnesty International has long been concerned about the extensive use of administrative detention in Viet Nam. Under decree CP-31, persons can be kept under house arrest for up to two years without the intervention of a judge or a judicial officer. Additionally, under Article 71 of the Criminal Procedure Code the duration of 'preventive detention' of an individual can be prolonged without time limits "if required" and "for serious offences against national security". This is detention at its most 'arbitrary' and is in clear breach of several articles of the ICCPR as pointed out in the concluding observations of the UN's Human Rights Committee when Viet Nam came under periodic scrutiny by the international body in 2002.⁶

Several of the elderly prisoners of conscience featured in this document have been detained at various times under the above regulations for lengthy periods. Administrative detention also means in practice that all post and telephone contact is severely restricted and under surveillance; private phone lines are frequently cut. Privacy is almost non-existent.

⁶ Concluding observations of the Human Rights Committee: Viet Nam. 26/07/2002, CCPR/CO/75/VNM, paragraph 8.

Elderly prisoners of conscience serving long prison terms

The following are prisoners of conscience detained for peacefully exercising their rights to freedom of expression and association:

Nguyen Dinh Huy, 71 years old, a former English and History professor, married with three children

Nguyen Dinh Huy was the founder of the Movement to Unite the People and Build Democracy (MUPBD). This movement, which advocated peaceful political change and respect for human rights, did not have state authorisation. He was arrested in November 1993 with 11 other MUPBD members for planning an international conference in Ho Chi Minh City on democracy and human rights. He was sentenced to 15 years imprisonment in August 1995 under national security legislation; the others arrested with him have since been released. He had previously been detained for “re-education” without charge or trial for 17 years before his release in January 1992. It has been reported that Nguyen Dinh Huy is suffering from Parkinson’s Disease.

Nguyen Dinh Huy is detained at Z30A prison camp, Xuan Loc, Dong Nai province. He is not due for release until 2008, when he will be 76 years old. He has spent 26 of the last 28 years in prison.

Reverend Pham Ngoc Lien (Tri), 62 years old, a Roman Catholic priest

Reverend Pham Ngoc Lien (Tri) is a member of the Congregation of the Mother Coredemptrix (CMC). He was one of 23 Roman Catholic priests and monks arrested in May 1987 and sentenced under national security legislation to long terms of imprisonment for holding training courses and distributing religious books without government permission. He was sentenced to 20 years imprisonment. All except one other of those arrested with him have since been released.

Reverend Pham Ngoc Lien (Tri) is detained at Z30A prison camp, Xuan Loc, Dong Nai province. It has been reported that he is in very poor health. He is not due for release until 2007, when he will be 68 years old.

Ha Hai, 72 years old, an Hoa Hao Buddhist married with at least three children

Ha Hai is the General Secretary of a branch of the Hoa Hao Buddhist Church of Viet Nam, led by Le Quang Liem, which is not officially recognized by the state. He was arrested on 19 November 2000 and sentenced to five years imprisonment on 15 January 2001 by Cho Moi People's Court, An Giang province. He was apparently charged under the vaguely-worded provisions of Article 258 of the Criminal Code for "abusing democratic freedoms to infringe upon the interests of the State".

At the time of his arrest Ha Hai was on his way to Ho Chi Minh City with a group of fellow Hoa Hao Buddhists who wanted to meet with then US President Bill Clinton who was visiting Viet Nam at the time. Ha Hai had previously sent petitions and appeal letters to the local authorities of An Giang province protesting government religious policies and the treatment their Church received. Amnesty International believes that he is detained solely for exercising his right to freedom of expression, association and religion.

Ha Hai is detained at Z30A prison camp in Xuan Loc, Dong Nai province. He is not due for release until November 2005, when he will be 74 years old.

Elderly possible prisoners of conscience serving long prison sentences

Tran Ngoc Khai, 74 years old, a driver wife a wife and six children; Pham Dinh Thuan, 89 years old, married with four children

These two men were among a group of people arrested in April and May 1985 for their alleged involvement with a political party which was banned in 1975 – the *Viet Nam Quoc Dan Dang* (VNQDD, Viet Nam National People's Party). Tran Ngoc Khai was also allegedly involved in another unofficial opposition political movement – the *Mat Tran Viet Nam Tu Do* (Free Viet Nam Front). They were detained for three and a half years before being tried in December 1988 on charges of carrying out "activities aimed at overthrowing the People's Government". Tran Ngoc Khai was sentenced to 20 years imprisonment; Pham Dinh Thuan to 18 years imprisonment, reduced to 16 years on appeal. In these cases Amnesty International has not been able to obtain sufficient information about the background and

activities of these two men to be able to categorically state that they are prisoners of conscience.

There has been no recent news about these possible prisoners of conscience. Both were last reported detained at Z30D-K1 “re-education” camp at Ham Tan, Thuan Hai province. Tran Ngoc Khai should be released by 2005 when he will 76 years old; he has in the past been reported as suffering from very poor health. Pham Dinh Thuan, ought to be released this year. Very elderly, Amnesty International has been unable to confirm whether he is still alive.

Elderly prisoners of conscience detained and awaiting trial

Colonel Pham Que Duong, 72 years old, military historian, former editor and former member of the Communist Party of Viet Nam, married with three daughters

Colonel Pham Que Duong was arrested on 28 December 2002. He is a prominent dissident critical of government policies, corruption and repression of dissent. In September 2001 he and Professor Tran Khue (see below), and other dissidents requested official permission to form an Anti-Corruption Association, to which they received no response. According to an official Directive from the highest levels of the Communist Party of Viet Nam, on 2 January 2003 proceedings were started to prosecute him on charges of espionage under Article 80 of the Vietnamese Criminal Code.⁷ This provides for imprisonment between 12 years and life, or the death penalty. As well as being critical of the government, he is accused of being in contact with individuals and overseas Vietnamese organizations to provide information; receiving money from overseas Vietnamese organizations; and admitting that he and others had agreed to form “The Movement to Struggle for Democracy”.

Following his arrest Colonel Pham Que Duong is detained at B14 prison in Ha Noi where for a time he reportedly had to sleep on a concrete floor in the cold. His family have not been allowed access to him.

⁷ See Amnesty International report Socialist Republic of Viet Nam: Two official Directives relating to anti-government activities, ASA 41/018/2003, June 2003.

Professor Tran Khue, 67 years old, former professor of Vietnamese and Chinese literature, and writer, married with at least one daughter

Professor Tran Khue was arrested on 29 December 2002. He is another prominent dissident who has been openly critical of government policies, including writing documents advocating political reform, and protesting border agreements between Viet Nam and China. Some of these documents were distributed on the Internet. Together with Colonel Pham Que Duong (see above) in September 2001 he requested permission to form an Anti-Corruption Association, which received no response. Following this he was placed under administration detention for two years. According to an official Directive from the highest levels of the Communist Party of Viet Nam,⁸ on 2 January 2003 proceedings were started to prosecute Professor Tran Khue under Article 80 of the Vietnamese Criminal Code on charges of espionage. This provides for between 12 years and life imprisonment, or the death penalty. In addition, the Directive stated that he would be charged under Article 269 of the Criminal Code for violating the administrative detention order placed on him. This may result in an additional prison sentence of between six months and three years. Amongst the allegations against him are that he used the Internet to communicate with “overseas Vietnamese reactionaries”; that he received money from overseas; and that he admitted that he and others had agreed to form “The Movement to Struggle for Democracy”.

It is not known where Professor Tran Khue is detained. It is believed that his family have not been allowed access to him.

Tran Dung Tien, 74 years old, a military veteran, married with at least two sons

Tran Dung Tien, a member of the Communist Party of Viet Nam, was arrested on 22 January 2003, after writing an open letter criticising the arrest of Colonel Pham Que Duong and Professor Tran Khue. He has also signed petitions and letters calling for the release of other imprisoned dissidents. It is believed that he also faces charges of espionage under Article 80 of the Vietnamese Criminal Code, which provides for between 12 years and life imprisonment, or the death penalty. Tran Dung Tien was also mentioned in the official Directive from the Communist Party of Viet Nam, together with Colonel Pham Que Duong and Professor Tran Khue.⁹ Allegations against him include encouraging others to join the Anti-Corruption

⁸ See Footnote 7.

⁹ See Footnote 7.

Association and writing and disseminating materials criticising Communist Party and government policies.

It is not known where Tran Dung Tien is detained. It is believed that his family have not been allowed access to him.

Dr Nguyen Dan Que, 61 years old, distinguished doctor and former hospital director, married.

Dr Nguyen Dan Que, a long-standing human rights activist, was arrested on 17 March 2003 outside his house in Ho Chi Minh City while on the way to an Internet café. It is believed that his arrested was prompted by a statement he issued on 13 March 2003 and which was published abroad. In this statement Dr Nguyen Dan Que asserted that there was no freedom of information in Viet Nam. He also supported legislation put to the US House of Representatives in February 2003 which proposed steps to be taken for the promotion of freedom of information in Viet Nam. On 22 March 2003 an official news report announced the arrest of Dr Que, stated that he had violated Article 80 of the Vietnamese Criminal Code and that he would be brought to trial following an investigation. Article 80 relates to charges of “spying” and provides for between 12 years and life imprisonment, or the death penalty.

Dr Nguyen Dan Que has been imprisoned twice before for a total of 18 years. In February 1978 he was arrested and accused of “rebellious against the regime” and forming a “reactionary” organization named the National Front of Progress. He was released in 1988 after 10 years of imprisonment without trial. He was arrested again in June 1990 after he founded the *Cao Trao Nhan Ban* (High Tide of Humanism Movement) which called for democratic change. He also became a member of Amnesty International. In November 1991 he was sentenced to 20 years imprisonment for “activities aimed at overthrowing the People’s Government.” He was released under a special amnesty in September 1998. On both occasions Dr Que was adopted as a prisoner of conscience by Amnesty International.

Dr Nguyen Dan Que is held at a detention facility in Ho Chi Minh City. His family has not been allowed access to him. He is known to suffer from a bleeding ulcer, kidney stones and high blood pressure requiring medication.

Elderly dissidents detained under house arrest and considered prisoners of conscience

The Venerable Thich Huyen Quang, 86 years old, Buddhist monk

Thich Huyen Quang, the Supreme Patriarch of the Unified Buddhist Church of Viet Nam (UBCV), has spent most of the time since 1977 under house arrest because of his outspoken defence of human rights and in particular the right to practice religion freely. His current status remains unclear following recent developments in which he has been allowed to travel accompanied by security officials to other cities, including Ha Noi and Ho Chi Minh City. He has been allowed to have meetings with Thich Quang Do, the Secretary General of the UBCV, who was released from administrative detention in July.

Thich Huyen Quang has also had meetings with the Prime Minister and members of the diplomatic community. He has however not been formally released from administrative detention and it is not known if he will be returned to house arrest. At last report Thich Huyen Quang was residing at the Nguyen Thieu Monastery in Binh Dinh province.

Bui Minh Quoc, 63 years old, well-known journalist and poet, married with at least one daughter

Bui Minh Quoc was arrested in Ha Noi on 8 January 2002. He was held for questioning by the police for three days and then taken to his home in Dalat, Lam Dong province in southern Viet Nam and placed under house arrest for two years. On 28 January 2002 a spokesperson for the Ministry of Foreign Affairs stated that "Bui Minh Quoc conducted activities that violated Vietnamese law. As the result the People's Committee of Lam Dong Province issued a decision on 14 January 2002 to put him under administrative surveillance." It is believed that he was arrested because he had been collecting information about border agreements between Viet Nam and China in December 1999 and 2000, and that the police had confiscated a lot of documents. Bui Minh Quoc has been known for a long time as one of a group of dissidents calling for political reform and freedom of expression. He was expelled from the Communist Party of Viet Nam in the late 1980s for campaigning with other dissidents for political and media reform, and was dismissed from a senior editorial post of the magazine *Lang Biang*. He has previously been detained under house arrest between September 1997 and October 1999 for his repeated dissident activities. He is due to be released from administrative detention in 2004.