



REFERENCE:GH/fup-136

11 November 2022

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 24, 46 and 52 of the concluding observations on the report submitted by Viet Nam ([CCPR/C/VNM/CO/3](#)), adopted by the Committee at its 125th session from 4 to 29 March 2019.

On 29 March 2021, the Committee received the reply of the State party. At its 136th session (10 October to 4 November 2022), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 4 (see [CCPR/C/136/2/Add.4](#)) to the Report on follow-up to concluding observations (see [CCPR/C/136/2](#)). I hereby include a copy of the Addendum 4 (advance unedited version).

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee requests the State party to provide this information in the context of its next periodic report due in 2023.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

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

Vasilka SANCIN

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

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Evaluation of the information on follow-up to the concluding observations on Viet Nam

<i>Concluding observations (125th session):</i>	CCPR/C/VNM/CO/3 , 25 March 2019
<i>Follow-up paragraphs:</i>	24, 46 and 52
<i>Information received from State party:</i>	CCPR/C/VNM/FCO/3 , 29 March 2021
<i>Information received from stakeholders:</i>	International Federation for Human Rights and Vietnam Committee on Human Rights , 18 July 2022
<i>Committee's evaluation:</i>	24[C][E], 46[E] and 52[C]

Paragraph 24: Death penalty

The Committee reiterates its recommendation (CCPR/CO/75/VNM, para. 7) that the State party should:

- (a) Consider introducing a moratorium on the application of capital punishment and ratifying or acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;
- (b) Until a moratorium is in place, amend the Penal Code to further reduce the number of crimes subject to the death penalty and ensure that such punishment is retained only for the most serious crimes, that is, for crimes of extreme gravity involving intentional killing;
- (c) Ensure that the death penalty is not a mandatory sentence for any crimes and, if imposed, is never in violation of the Covenant's provisions, including with regard to fair trial procedures, and give reasonable advance notice of the scheduled date and time of execution to the affected death row inmates and their families;
- (d) Ensure that pardons or commutations of death penalty sentences are effectively available in all cases, and regardless of the crimes committed;
- (e) Publish official figures regarding death sentences and executions, disaggregated by sex, age, ethnicity, religion and crime.

Summary of the information received from the State party

- (a) Viet Nam retains death penalty for extremely serious crimes, and it is a necessary measure to deter extremely serious crimes. It has studied the retention and abolition of the death penalty in other countries and the possible ratification of the Second Optional Protocol.
- (b) Viet Nam's policy of reducing the application of death penalty is reflected in the amended Penal Code, Criminal Procedure Code (CPC) and Law on Criminal Judgment Execution. A study on the reduction of crimes punishable by death penalty will conclude in 2022.
- (c) Death penalty is not mandatory in the application of law. Defence counsel shall be appointed to defendants charged with a crime punishable by 20 years' imprisonment, life imprisonment, or death penalty as the maximum penalty. A relative or representative of persons sentenced to death shall be notified within three days. Viet Nam will study the Committee's recommendation on giving advance notice to death row inmates and consider legislative amendments.
- (d) Under article 367 of the CPC, all death sentences shall be reviewed by the Chief Justice of the Supreme People's Court or the Procurator-General of the Supreme People's Procuracy. The sentenced person has the right to file for commutation. Numerous death sentences have been commuted to life imprisonment.



(e) Data on death sentences have been published in accordance with law.

Summary of the information received from stakeholders

International Federation for Human Rights and Vietnam Committee on Human Rights

(a) Viet Nam has not introduced a moratorium on the death penalty. On 16 December 2020, Vietnam abstained on the UN General Assembly resolution on the moratorium. Between October 2020 and July 2021, the number of death sentences had reportedly increased by 34 per cent, with 440 more death sentences, compared to 2019. Facilities for death row prisoners are reportedly overcrowded.

(b) The death penalty is applied for offenses that are not the “most serious crimes” under the Covenant. Six national security crimes in the Criminal Code, including high treason and spying, remain punishable by death. For example, article 109 carries the death penalty for individuals who “establish or join organizations with intent to overthrow the people’s administration [...] or cause serious consequences.”

(c) A systematic lack of due process of law and of transparency concerning death sentences, executions, and prison conditions for death row inmates continued.

(d) No information is provided.

(e) Information on death sentences and executions remains a state secret under the 2018 Law on State Secrets.

Committee’s evaluation

[C]: (a) and (b)

While noting the studies conducted on the retention and abolition of the death penalty and the possible ratification of the Second Optional Protocol to the Covenant, the Committee remains concerned about the reported increase in the number of death sentences and death row prisoners in recent years. It reiterates its recommendation.

While also noting the State party’s policy of reducing crimes punishable by death penalty and an ongoing study in this respect, the Committee regrets the lack of information on the reduction of the number of such crimes and any measures taken to ensure that death penalty is only for crimes of extreme gravity involving intentional killing.

[E]: (c), (d) and (e)

While noting that the death penalty is not a mandatory sentence for any crimes, the Committee remains concerned about the reported systematic failure to respect due process guarantees in death penalty cases. It reiterates its recommendation and requests further information on the aforementioned plan to study and introduce legislative amendments on giving advance notice of the execution to death row inmates.

The Committee also regrets the lack of specific information on measures taken to make commutation effectively available in all cases, particularly considering the reported increase in the number of death sentences and death row prisoners. It reiterates its recommendation and requests information on the number of commuted sentences during the reporting period.

While noting the State party’s statement, the Committee received information that official data on death sentences remains unavailable to the public, and reiterates its recommendation.

Paragraph 46: Freedom of expression

The State party should, as a matter of urgency, take all necessary steps, including revising legislation, to end violations of the right to freedom of expression offline and online, and ensure that restrictions do not go beyond the strictly defined limitations set forth in article 19 of the Covenant, taking into account Committee’s general comment No. 34 (2011) on the freedoms of opinion and expression. It should also promote pluralistic media that can operate free from undue State interference.



Summary of the information received from the State party

The Government has issued Decree 119/2020/ND-CP, under which unlawfully obstructing press activities may be fined or held criminally liable. It has improved its cyber security laws and regulations and promulgated Decree 15/2020/ND-CP, which regulates the use of social network services and online information security. It is considering amending Decree 72/2013/ND-CP.

Viet Nam provides the number of existing Radio and TV channels and the increased number of internet users. Radio and TV channels have live coverage of the National Assembly sessions.

During the COVID-19 pandemic, the public was provided with information about quarantine measures, transmission situation and treatment of infected persons as well as access to free internet in places of quarantine. Any abuse of the right to freedom of speech shall be handled in accordance with law. Some organisations and individuals have abused the right to freedom of expression to incite riots or violent terrorism. The Penal Code sets up a mechanism to deter any such abuse.

Regarding the case of Nguyen Ngoc Nhu Quynh, Viet Nam has provided sufficient information to the Working Group of Arbitrary Detention.

Summary of the information received from stakeholders

International Federation for Human Rights and Vietnam Committee on Human Rights

New laws restricting the freedom of expression have been adopted: namely Decree 119/2020/ND-CP on penalties for administrative violations in journalistic and publishing activities and Decree 15/2020/ND-CP on penalties for administrative violations in telecommunications, postal services, and information technology. These Decrees punish acts of posting news, photos or information that are, inter alia, “not suitable for the interest of the country” or “offending the nation, famous persons or national heroes”. In April 2022, the Government was in the process of amending Decree 72/2013-ND-CP to further restrict online speech, including by requiring social media companies to remove content the Government deems illegal within 24 hours.

Media remains controlled by the Government, and the Press Law continues to restrict press freedom.

Committee’s evaluation

[E]

While noting the State party’s information on legislative measures taken to implement the Committee’s recommendations, the Committee remains concerned about reports that, on the contrary, the adoption of Decrees 119/2020/ND-CP and 15/2020/ND-CP further restricts the right to freedom of expression. While noting information about the number of TV and radio channels and the internet access, the Committee regrets the lack of specific information on steps taken to promote pluralistic media free from State interference. It reiterates its recommendation and requests further information on measures taken to bring into line with the Covenant Decrees 119/2020/ND-CP and 15/2020/ND-CP and any amendment envisaged to be made to Decree 72/2013/ND-CP.

Paragraph 52: Human rights defenders

The State party should ensure that human rights defenders and other civil society actors are protected against threats, intimidation and physical attacks and investigate, prosecute and convict perpetrators of such acts. It should also allow them the necessary latitude to carry out their activities, including engaging with the United Nations, without fear of restrictions or reprisal.



Summary of the information received from the State party

The right to freedom of speech, assembly, association, movement and demonstration can only be restricted as stipulated in article 14 (2) of the 2013 Constitution. No one shall be threatened, intimidated or attacked for their contact or collaboration with the United Nations. As regard activities of foreign NGOs, a new Decree is being drafted to substitute Decree 12/2012/ND-CP.

Viet Nam prohibits only unlawful assemblies that disturb public security and order or infringe others' rights, such as the 2018 assembly in Binh Thuan Province. Arrests, investigation, prosecution, trial or hearing of law violators, including of national security offences, are conducted in conformity with domestic law and procedures and article 26 of the Covenant.

Summary of the information received from stakeholders

International Federation for Human Rights (FIDH) and Vietnam Committee on Human Rights (VCHR)

The Government subjected human rights defenders to intimidation, threats, physical attacks, arbitrary arrest, and imprisonment. Between April 2019 and July 2022, at least 95 activists, government critics and human rights defenders were arrested, and 113 were sentenced to imprisonment of up to 15 years. Most of them remain detained under national security provisions of the Criminal Code. Since January 2022, four prominent environmental rights defenders, Mai Phan Lợi, Bạch Hùng Dương, Đặng Đình Bách, and Nguyễn Thị Khanh, have been sentenced to 2-5 years' imprisonment on tax evasion charges, which are often used to silence critics. Đặng Đình Bách was denied access to his lawyer during detention, his family was not allowed to attend the court hearing, and evidence presented by his lawyers was ignored by the court.

Human rights defenders and civil society actors are frequently harassed for engaging with international bodies. In November 2019, independent journalist Phạm Chí Dũng was sentenced to 15 years' imprisonment on charges of writing "antistate articles" and "cooperating with foreign media to deliver distorted information" after sending an appeal to the European Parliament concerning the European Union/Vietnam Free Trade Agreement.

Civil society activities have been further restricted by new Decrees 80/2020/ND-CP and 56/2020/ND-CP, which established "unreasonably burdensome requirements for their reporting, registration of funding and projects, meetings and other public activities, especially for issues related to human rights." Prime Minister's Decision 06/2020/QĐ-TTg, dated 21 February 2020, imposed new requirements on the organization of international conferences on issues such as religious freedom and human rights.

Committee's evaluation

[C]

While noting the information provided, including on the law being drafted on foreign NGOs, the Committee regrets the lack of specific information on measures taken to ensure the protection of human rights defenders and civil society actors. It reiterates its recommendation and requests further information about: (a) cases involving four environmental rights defenders, Mai Phan Lợi, Bạch Hùng Dương, Đặng Đình Bách, and Nguyễn Thị Khanh, including about the respect of fair trial guarantees in their proceedings; and (b) the compatibility with the Covenant, particularly its article 22, of Decrees 80/2020/ND-CP and 56/2020/ND-CP and Prime Minister's Decision 06/2020/QĐ-TTg.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 29 March 2023.
