

## General trends facing human rights defenders

1. Human rights defenders (HRDs) in Vietnam work in very challenging conditions. **No significant change** occurred since the last UPR review of Vietnam in May 2009. Between 2009 and 2013, Vietnamese HRDs and their families continued to be subjected to surveillance, intimidation, threats, interrogation, harassment, arbitrary arrest and detention, ill-treatment in prison, and bans on domestic and international travels.
2. HRDs are perceived by the authorities as '**troublemakers**' and in most cases are treated as 'enemies of the State'. Front Line Defenders has documented incidents where HRDs have been accused by State officials and government's media of being "foreign spies", "foreign agents", "traitors", and "violators of public orders and peace". In particular HRDs working on transparency and democratic reforms have been branded as advancing foreign interests and values.
3. HRDs cannot organise themselves officially. Due to restrictions on the right to **freedom of association**, HRDs mostly operate as individuals, whether it is as bloggers, writers, or individual activists. There is no formal organisation that HRDs may belong to or be affiliated with. Existing networks of HRDs are loose and are mainly set up in informal and spontaneous ways, for example on the occasion of trials of fellow HRDs, or when conversing on blogs and independent websites.
4. **Judicial harassment** remains a common tool employed to punish and silence HRDs. They face fabricated charges and heavy jail terms. The authorities use vaguely defined articles and national security provisions of the Penal Code to criminalize the exercise of civil and political rights. Most frequently used are Article 79 on "*carrying out activities aimed at overthrowing the people's administration*", Article 80 on "*spying*", Article 87 on "*undermining the unity policy*", Article 88 on "*conducting propaganda against the state*", and Article 258 on "*abusing democratic freedoms to infringe upon the interests of the state*". Detained HRDs are often held incommunicado, and pre-trial detention may extend to over a year. There are also reports of beating and ill treatment of HRDs while in detention.
5. HRDs are openly harassed and intimidated by local officials or by unknown individuals. There were reports of HRDs being dismissed from their jobs or being forcibly committed to mental institutions. Human rights lawyers have been disbarred and their licence to practice law revoked.
6. Alarming, **family members** of bloggers and HRDs are increasingly targeted. This not only occurs as a means to put further pressure on the HRD, but also occurs when the HRD is in detention, as an additional form of punishment or retaliation. Targeting includes harassment, intimidation and restrictions on their freedom of movement.

## Physical assault of human rights defenders

7. Front Line Defenders documented the attack against prominent human rights lawyer Mr **Le Quoc Quan** near his home in Hanoi in 2012. Le Quoc Quan provides legal representation to victims of human rights violations.

8. On 19 August 2012, at approximately 8pm, Le Quoc Quan was attacked by three men dressed in plain clothes while walking towards his home from a nearby car park. He was struck three times with steel rods, on the knee, thigh and back, and he also sustained injuries to the head and stomach. The attackers fled the scene when passers-by heard his cries for help. He was hospitalised at the Central Hospital of Transport and Communications in Hanoi. Le Quoc Quan believes that the attack was carried out by police or people connected to the police and that it was meant to discourage him from continuing his human rights activities. Despite calls by the international community for the authorities to investigate the attack, no investigation has been carried out. Le Quoc Quan was subsequently arrested in December 2012 and remains in pre-trial detention, after fabricated charges of tax evasion were brought against him.

### **Arbitrary detention and criminalisation of human rights defenders**

9. HRDs routinely face arrest and administrative and criminal trials. During the period under review, a number of cases were reported of HRDs being arbitrarily arrested, not informed of the reasons for the arrest, denied access to lawyers and families for several weeks, and denied bail. In all the cases that Front Line Defenders documented, family members of detained HRDs were initially not informed of their whereabouts.
10. Due to the type of charges brought against them (see para 4 above), many HRDs were sentenced, or risk being sentenced, to lengthy jail terms. Human rights lawyers who represented HRDs or communities affected by human rights violations have been harassed and disbarred from their bar associations.
11. Seventeen Catholic human rights defenders and bloggers were arbitrarily arrested by Vietnamese police in late 2011 and held in pre-trial detention. They were detained for their work as citizen journalists, environmental advocates, and anti-corruption activists, and were charged under Article 79 and 88 of the Penal Code.
12. Eight of them, namely Messrs **Ho Duc Hoa, Thai Van Dung, Paulus Le Van Son, Nguyen Xuan Anh, Tran Minh Nhat, Nguyen Dinh Cuong, Ho Van Oanh** and **Nguyen Van Duyet**, were convicted by the court of first instance in January 2013 to prison terms ranging from 3 to 13 years under Article 79 of the Penal Code. In May 2013, the Appeal Court reduced the sentences of Paulus Le Van Son to four years imprisonment and four years house arrest, down from thirteen years in prison and five years house arrest. Nguyen Xuan Anh's sentence was reduced from three to two years in prison; Ho Van Oanh's sentence was reduced from four years to three years and six months. The sentences of Ho Duc Hoa, Thai Van Dung, Tran Minh Nhat and Nguyen Dinh Cuong remained unchanged.
13. Four other members of the group – Messrs **Dau Van Duong, Tran Huu Duc, Chu Manh Son**, and **Hoang Poang** – were sentenced on 24 May 2012 on charges of disseminating propaganda against the state (Article 88). Dau Van Dong was sentenced to three and a half years imprisonment with one year probation; Tran Huu Duc was sentenced to three years and three months of imprisonment with one year probation; Chu Manh Son was sentenced to three years with one year probation, while Hoang Phong received a sentence of two

years probation. The trial of the remaining HRDs remain pending.

14. During the pre-trial detention, Mr **Paulus Le Van Son** was sent to Hoa Lo jail in Hanoi which is known for its harsh prison conditions. Another HRD, Mr **Dan Xuan Dieu**, has not been allowed to family visit over the last year.

### Targeting of land rights activists

15. Land grabbing has become an issue of serious concern in Vietnam. A considerable part of the population has been dispossessed of their property over the years. These are typically farmers who have had their lands seized by local government officials to build golf courses, industrial zones or infrastructure projects. As a result, land rights defenders have become the target of judicial harassment and are exposed to the same security-related charges faced by their colleagues working on good governance and democracy.
16. Land rights defenders Pastor **Duong Kim Khai**, Mr **Pham Van Thong**, Ms **Tran Thi Thuy**, and Mr **Cao Van Tinh** were convicted under Article 79 of the Penal Code, and sentences of 5 to 8 years in prison were ordered by the People's Court of Ben Tre on 30 May 2011. The authorities alleged that the four were found in possession of anti-government documents, which government's media characterized as "calling for a multiple party system and distort[ing] the leadership of the Communist Party of Vietnam" and that three belonged to a banned overseas Vietnamese political organization.
17. Three other members of the group – Mr **Nguyen Thanh Tam**, Mr **Nguyen Chi Thanh**, and Ms **Pham Ngoc Hoa** – were each sentenced to two years in prison and did not appeal. For many years, they had helped aggrieved citizens who were resisting land confiscations and were fighting for land rights. Pastor **Duong Kim Khai**, the leader of the so-called Mennonite Cattle Shed congregation in Ho Chi Minh City, had assisted land rights petitioners from the Mekong Delta to file complaints with local, provincial, and national authorities.

### Ill-treatment in prison

18. Detained HRDs face bad prison conditions, denial of medical help, retaliation and ill-treatment. Mr **Nguyen Van Dai**, a prominent human rights lawyer and a founder of Vietnam Human Rights Committee informed Front Line Defenders that during his four-year detention, which ended in 2011, he endured very harsh prison conditions. Nguyen Van Dai is an outspoken human rights lawyer who has provided legal advice to dissidents and had represented them in court. For the first ten months of his detention, he was moved to Hanoi Detention Camp, where he was held without access to clean water and was provided with old and dirty food.
19. Ms **Tran Thi Thuy**, a land rights activist convicted under Article 79 of the Penal Code, was subjected to forced labour. Long hours of husking and skinning cashew nuts caused caustic burns on her skin. The HRD was denied medical attention in spite of her repeated requests for urgent care. The authorities reportedly utilised prison inmates to intimidate her. It is believed that the ill-treatment was motivated by her refusal to accept the repeated offers made by the prison guards of lighter punishment in return for a confession of guilt.

20. Human rights defender Mr **Pham Van Troi** spent four years in prison from September 2008 to September 2012 for his advocacy for ThaiHa church, who had their land confiscated. While in prison, he campaigned on the right of prisoners and as a result he was separated and held in solitary confinement for three months, in a cell with the lights switched on at all times.
21. Mr **Nguyen Xuan Ngia**, a blogger on human rights and democracy, was sentenced to six years imprisonment and three years probation in October 2009 under Article 88 of the Penal Code. On March 2012, he was transferred to the Nghe An prison, located approximately 300 kilometres from his home, which severely affected family visits. His request that his wife be allowed to look after him while in hospital for a kidney disease was denied by the prison authorities.

### **Travel restrictions inside and outside the country**

22. HRDs who are high profile or have been under surveillance are routinely prevented from going abroad. HRDs who have served a jail sentence have also been prevented from travelling upon their release. HRDs under probation cannot travel outside of designated areas and are denied passports.
23. Human rights defender Mr **Nguyen Thanh Thuy** was arrested in September 2008 and sentenced in January 2010 to six years imprisonment and three years probation under Article 88 of the Penal Code. Probation conditions include that he has to remain within one square kilometre from his house, and can only move outside that area with prior permission from the local authorities.
24. After her release in September 2012, human rights defender Ms **Pham Thanh Nghien** has been placed under surveillance by the police. She informed Front Line Defenders that the neighbours around her home had been instructed by the police to monitor and report on her movements.

### **Cooperation with the UN Special Rapporteur on the situation of human rights defenders**

25. The Special Rapporteur on the situation of human rights defenders has continued to raise her concern regarding the situation of HRDs in Vietnam, particularly those working on civil and political rights and those defending freedom of religion and land rights. In her report to the 22<sup>nd</sup> session of the Human Rights Council in March 2013, the Special Rapporteur highlighted that *"she remains concerned for the physical and psychological integrity of human rights defenders in Vietnam, particularly those who have been given long prison sentences and those who are in custody awaiting trial"* as well as that she is *"further concerned about reported restrictions on the legitimate right to freedom of opinion and expression"*.
26. The Vietnamese government has not replied to the request to visit the country made in 2012 by the Special Rapporteur on the situation of human rights defenders, nor has it accepted the request for a visit made by the mandate holders on freedom of expression,

summary executions, right to food, torture, and cultural rights.

### **Development since the previous UPR Cycle**

27. As a state party to the International Covenant on Civil and Political Rights, Vietnam failed to implement the recommendation which it accepted from Algeria to “continue fulfilling its obligations under the international treaties to which it is a party.” The recommendation by Argentina to “take the necessary steps to ensure that citizens can fully enjoy the rights to freedom of expression” was accepted but no progress has been made in that regard. As mentioned in this report, human rights defenders have been denied by the state authorities the right to fair trial, the right to freedom of expression and opinion, and the right to freedom of association and assembly.
28. The recommendation made by Germany to “enhance cooperation with the United Nations special procedures” was accepted by the government. However, as mentioned above, visit requests by six UN Special Procedures remain outstanding.
29. Recommendations dealing explicitly with human rights defenders were not accepted by Vietnam. In particular, Vietnam rejected the recommendation made by Norway to “give individuals, groups and organs of society the legitimacy and recognition to promote human rights and to express their opinions or dissent publicly.”

### **Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Vietnam authorities to prioritise the protection of human rights defenders and in doing so to:**

1. Cease the harassment and persecution of human rights defenders, particularly those working on democracy related issues and land rights, and ensure that all human rights defenders in Vietnam are able to carry out their legitimate human rights activities free from persecution, arbitrary arrest, and judicial harassment;
2. Immediately release all human rights defenders held in pre-trial detention and drop the charges against them;
3. Review and quash the conviction of, and release, all human rights defenders who have been sentenced on grounds of their human rights work and who remain in detention;
4. Review and repeal all laws and provisions that are not in compliance with international human rights standards, including Article 88 of the Penal Code, and review and narrow the scope and application of other legal provisions used to persecute human rights defenders, including Article 79 of the Penal Code;
5. Ensure full respect for the right to freedom of association and review current legislation and practices regarding this right; in particular, ensure that human rights defenders are able to register associations should they wish to do so;
6. Cooperate fully with UN Special Procedures, including the Special Rapporteur on the

situation of human rights defenders, by responding to their urgent appeals and letter of allegations and accept the mandate holders' outstanding request to visit the country;

7. Accept the recommendations on human rights defenders that will be made in the course of the UPR, and consider how best to implement them in a transparent and participatory manner, including through consultation with human rights defenders.
8. Publicly recognise the positive and legitimate role played by human rights defenders in society;
9. Ensure full respect of the International Covenant on Civil and Political Rights and the UN Declaration on Human Rights Defenders, including in particular the right to freedom of expression, association and assembly.