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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16)  
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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 17/2, 16/4, 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the on-going detention of Messrs. **Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Peter Tran Huu, Dau Van Duong, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah** and the situation of human rights defender Professor **Pham Minh Hoang**.

Messrs. Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Peter Tran Huu, Dau Van Duong, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah are affiliated with the Congregation of the Most Holy Redeemer and have been active in the promotion and protection of economic, social and cultural rights in the Socialist Republic of Viet Nam. They had recently signed a petition for the release of Mr. Cu Huy Ha Vu, a human rights defender who was jailed for seven years in April 2011 after campaigning for multi-party democracy in Vietnam. The petition also criticised Article 88 of the Vietnamese Penal Code which restricts freedom of expression.

Mr. Pham Minh Hoang is a well-known blogger who writes on issues relating to problems facing Vietnam and in particular education and the environment. He is a lecturer in applied maths in Ho Chi Minh City Polytechnic Institute and organises workshops on leadership skills for his students. He actively campaigned against the exploitation of bauxite in the Central Highlands region and works at promoting human rights and in encouraging civic participation.

According to the information received:

Between 30 July 2011 and 16 August 2011, Messrs. Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Peter Tran Huu, Dau Van Duong, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah, were reportedly detained by police and officials of the Ministry of Public Security.

On 30 July 2011, it is reported that Messrs. Dang Xuan Dieu, Ho Duc Hoa and Nguyen Van Oai were detained at the airport of Ton Son in Ho Chi Minh. On 2 and 3 August 2011, police allegedly raided the homes of Messrs. Ho Duc Hoa and Nguyn Van Oai respectively. The human rights defenders have been charged with attempting to overthrow the Government under Article 79 of the Vietnamese Penal Code, which carries the death penalty as a maximum sentence. They are currently being held at Detention Centre B14 in Hanoi.

On 2 August 2011, Messrs. Peter Tran Huu and Dau Van Duong, who are both students, were reportedly detained at their homes in Vinh. They are reportedly in detention in Nghi Kim prison in Nghe An, but no formal charges have been brought against them.

On 3 August 2011, Mr. Paulus Le Van Son, was reportedly detained by the police in front of his home in Hanoi. According to information received, officials had blocked the way leading to his home causing him to fall off his motorbike. The police then reportedly lifted him by his arms and legs and put him in a police vehicle. He has been reportedly charged under Article 79 of the Penal Code and is being held at Detention Centre B14 in Hanoi.

On 7 August 2011, Mr. Nguyen Van Duyet, President of the Association of Catholic Workers, was detained in Nghe An. He has been charged under Article 79 of the Penal Code and is currently being detained at Detention Centre B14 in Hanoi.

On 16 August 2011, Mr. Ho Van Oah was reportedly detained in Yen Hoa Parish. In April 2011, he was temporarily detained when he attended the hearing of Mr. Cu Huy Ha Vu. He has allegedly been charged under Article 79 of the Penal Code and is currently being detained at 237 Nguyen Van CU, District 1, Ho Chi Minh City.

It is reported that after the detention of the aforementioned human rights defenders, their family members requested information from the authorities about their whereabouts and the reasons for their arrests, but the authorities refused to provide this information. Furthermore, police officers reportedly warned some family members not to raise the issue. In September, their families were allegedly informed of their location and the basis for the charges; however until today they are still not allowed to visit the detainees. It is further alleged that military personnel are surveilling the local area where the families of the individuals live.

According to the information received, the families cannot find lawyers to assist them, as the latter are afraid to represent them given the potential risk of being disbarred. The human rights defenders have yet to have access to legal assistance.

Furthermore, on 10 August 2011, it is reported that, Mr Pham Minh Hoang was sentenced to three years imprisonment by the Ho Chi Minh People's Court for "carrying out activities aimed at overthrowing the people's administration" contrary to Article 79 of the Vietnamese Penal Code. These charges reportedly relate to Mr Hoang's alleged membership of the banned Viet Tan group. It is alleged that he was detained on 13 August 2010 and was denied bail.

It is reported that only Mr Hoang's wife and his lawyer were allowed in the court room. His family and supporters were allegedly not permitted to attend the trial which lasted approximately three and a half hours.

Mr Pham Minh Hoang has allegedly appealed the sentence and a trial date was set for 14 October 2011. It is further reported that no notice of this date was given to Professor Pham Minh Hoang or his lawyer, who found out about it through national media. However, the appeal hearing was subsequently postponed and no new date has yet been set.

Concern is expressed regarding the on-going detention of Messrs. Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Peter Tran Huu, Dau Van Duong, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah. Concern is further expressed at the charges brought against Messrs. Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah, which carry a maximum sentence of death penalty. Serious concern is also expressed that, despite the on-going detention of Messrs. Peter Tran Huu and Dau Van Duong, no formal charges have yet been brought against them. Further concern is expressed regarding the charges and subsequent sentencing of Mr Pham Minh Hoang. Finally concern is expressed that the events described may be directly linked to the legitimate and peaceful work of the aforementioned individuals in defence of human rights and the exercise of their right to freedom of expression.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights.

Concerning the alleged lack of access to a lawyer of Messrs. Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Peter Tran Huu, Dau Van Duong, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah, we wish to stress that the right to legal assistance and representation is a fundamental right and guarantee of the right to a fair trial as enshrined in article 14 of the International Covenant on Civil and Political Rights. It is incumbent upon Governments to ensure such access which should be granted promptly and "in any case not later than forty-eight hours from the time of arrest or detention" according to principle 7 of the Basic Principles on the Role of Lawyers (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

With regard to lawyers' reluctance to provide legal assistance to these human rights defenders due to fears of reprisals, we wish to stress that "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics" according to the aforementioned instrument. Additionally, we wish to refer to the following provisions of the Basic Principles:

- "17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."

- "18. Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

- "20. Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority."

Regarding Mr. Hoang's trial, which only his wife and his lawyer were authorized to attend, we wish to underline that everyone has the right to a public trial according to article 14(1) of the ICCPR. The courts may only exclude all or part of the public "for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice", (Human Rights Committee General Comment No. 32, CCPR/C/GC/32, para. 29). Likewise, Mr. Hoang and his lawyer should be informed of the date, time and venue of the appeal's hearing. This information should also be made available to the general public (e.g. General Comment, para. 28).

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights, which provides that "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Furthermore, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the right to freedom of association, as recognized in article 22 of the International Covenant on Civil and Political Rights, which provides that "[e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In addition, we would to draw your Excellency's Government's attention to Human Rights Council 15/21 in which the Council "[c]alls upon States to respect and

fully protect the rights of all individuals to... associate freely... including persons espousing minority or dissenting views or beliefs and human rights defenders seeking to exercise or to promote [this right]..." (OP1).

In this connection, we would 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

In addition, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the afore mentioned persons are respected and, in the event that your investigations support or suggest the allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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 persons in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of these cases accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide information concerning the legal grounds for the arrest and detention of the aforementioned human rights defenders and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
5. Please provide full details of any measures taken to guarantee that Messrs. Dang Xuan Dieu, Ho Duc Hoa, Nguyen Van Oai, Peter Tran Huu, Dau Van Duong, Paulus Le Van Son, Nguyen Van Duyet and Ho Van Oah are granted prompt access to a lawyer and to their families.
6. Please indicate the reasons why Mr. Hoang's trial was not open to the general public.
7. Please indicate the measures taken to ensure that human rights defenders can carry out their legitimate work of promotion and protection of human rights and fundamental freedoms in a free and safe environment.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

El Hadji Malick Sow  
Chair-Rapporteur of the Working Group on Arbitrary Detention

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