

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders**

REFERENCE: UA  
VNM 3/2015:

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Excellency,

We have the honour to address you in our capacity as 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 Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the physical assault of human rights defenders by plainclothes police officers, and the detention of human rights lawyer Mr. Nguyen Van Dai.

Mr. **Nguyen Van Dai** is a human rights lawyer and founder of the Committee for Human Rights in Vietnam. He is a pro-democracy campaigner, engaged in advocacy through online blogging, and provides legal assistance to activists and religious minorities. Mr. Nguyen was the subject of three previous communications sent to your Excellency's Government on 25 May 2007, case number VNM 6/2007; 9 March 2007, case number VNM 3/2007; and 27 November 2011, and case number VNM 5/2006. We acknowledge with thanks the responses from your Excellency's Government to these communications, received on 23 July 2007; 4 May 2007; and 23 February 2007. However, we reiterate concerns about continuing intimidation and acts of retaliation against Mr. Nguyen in light of the new information received.

According to the information received:

On 6 December 2015, a human rights workshop organised by **Mr. Nguyen Van Dai, Mr. Vu Van Minh, Mr. Ly Quang Son** and **Mr. Le Manh Thang** took place in Nam Dan District, Nghe An Province. During the workshop, officers from Nam Dan District Police appeared and requested that the event be halted and cancelled. Following the refusal of this request by organisers and attendees, the event continued to its conclusion in the presence of the police officers.

After the workshop and whilst travelling to Quan Hanh, Nghi Loc District in Nghe An Province, the vehicle transporting Mr. Nguyen, Mr. Vu, Mr. Ly and Mr. Le was halted by plainclothes police officers in two unmarked cars and five motorbikes. Having forced the vehicle to stop, approximately 20 police officers proceeded to beat Mr. Nguyen, Mr. Vu, Mr. Ly and Mr. Le, and the driver of the vehicle with wooden sticks and metal objects. Mr. Vu, Mr. Ly and Mr. Le were able to flee the scene. However, Mr. Nguyen was seized by the police officers and brought to Cua Lo, at approximately 20 kilometres from Nghi Loc, where he was subjected to further beating, including punches to the face. The four human rights defenders were robbed of their belongings, including phones, cameras and wallets.

On 15 December 2015, during the annual human rights dialogue between the European Union (EU) and Viet Nam in Hanoi, the assault of Mr. Nguyen was raised by the EU delegation as a matter of concern.

A day later, on 16 December 2015, at approximately 8.30 a.m., as Mr. Nguyen was preparing to leave for a meeting with EU representatives in connection with the annual human rights dialogue, his home in Hanoi was raided by police officers, who confiscated two laptops, a desktop computer, several USB sticks, a camera and two camcorders. Mr. Nguyen was then arrested and taken to B14 Detention Camp on the basis of a warrant issued by the Ministry of Public Security on the charge of “conducting propaganda against the Socialist Republic of Viet Nam”, under article 88 of the Penal Code. Mr. Nguyen was informed that he would be held in pre-trial detention for a period of four months.

Serious concern is expressed at the alleged physical assault of Mr. Nguyen, Mr. Vu, Mr. Ly and Mr. Le by Vietnamese police officers, and that such attacks appear to be increasingly used in the country as a means of intimidating human rights defenders to discourage them to exercise peacefully their rights to freedoms of expression and peaceful assembly to conduct their legitimate activities. Further concern is expressed about the arrest and detention of Mr. Nguyen, which appear to be in retaliation for his cooperation with representatives of the European Union in the context of the annual EU-Viet Nam human rights dialogue.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international human rights norms and standards which appear to be violated in the cases described above.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Nguyen Van Dai is arbitrary or not, we respectfully recommend to your Excellency's Government to take all necessary measures to guarantee the right to personal security of this person, so as to ensure that he is not deprived arbitrarily of his liberty and is guaranteed a fair trial by an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human

Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified to by Viet Nam on 24 September 1982.

Articles 5, 19 and 20 of the UDHR, and articles 7, 19 and 21 of the International Covenant on Civil and Political Rights guarantee the rights not to be subjected to cruel, inhuman or degrading treatment or punishment, to freedom of expression and to peaceful assembly. In the same vein, to the Human Rights Council resolution 24/5 “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

In addition, 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6, 8 and 12. The Human Rights Council resolution 22/6 urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

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 seriousness of the matter, we would appreciate a response on the 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 and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation carried out in relation to the physical assault of the four above-mentioned human rights defenders. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide details, including the reasons and legal basis for the forced intrusion into, and search of Mr. Nguyen’s home, the confiscation of his laptop, computers, phone and other belongings, and the subsequent arrest and detention of Mr. Nguyen. Please explain how these actions are compatible with Viet Nam’s legal obligations under the international human rights norms and standards that it has ratified.

4. Please kindly indicate what measures have been taken, or are being considered, to ensure that human rights defenders are able to carry out their legitimate work and exercise their rights to freedom of expression and peaceful assembly, in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Michel Forst  
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