

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: VNM 4/2016:

27 May 2016

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 24/7, 25/2, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of persecution, ill-treatment, and forced transfer to Nghe An prison camp of **Mr. Tran Huynh Duy Thuc**, who is currently serving a 16 year prison sentence for "attempting to overthrow the People's administration".

Mr. Tran Huynh was the subject of Opinion No. 27/2012 (A/HRC/WGAD/2012/27) of the Working Group on Arbitrary Detention in which the Working Group found that Mr. Tran Huynh's detention was arbitrary. He was also previously the subject of a joint allegation letter (see case no. VNM 1/2010) dated 25 January 2010, by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders. In this communication, the Special Procedures mandate holders raised concern about his arrest and the long sentence he received in 2009. We acknowledged receipt of the responses of your Excellency's Government dated 7 April 2010. We however reiterate our concerns in light of the reports received.

According to the new information received on Mr. Tran Huynh:

Mr. Tran Huynh is now in the seventh year of his sentence. It is reported that Mr. Tran Huynh, in addition to being deprived of the possibility of regular family visits, was not consistently permitted to send or receive letters to/from his family while being in Xuyen Moc prison camp.

On 10 April 2016, Mr. Tran Huynh began sending complaints to various authorities, including the Xuyen Moc prison camp superintendent, in order to demand basic human rights for prisoners, including the right to send and receive letters of correspondence.

On 5 May 2016, he was moved from Xuyen Moc prison camp to Nghe An prison camp, over 1,470 km from Ho Chi Minh City where his family lives. For 24 hours he was allegedly handcuffed and his mouth was covered. His family was allegedly not notified about the transfer, but learnt it through other sources. It is claimed that this transfer was a punishment for Mr. Tran Huynh's preceding actions to demand basic human rights for prisoners.

On 14 May 2016, when his family visited Mr. Tran Huynh at Nghe An prison camp, he announced that he would go on a hunger strike until death, starting on 24 May 2016, to demand the Vietnamese Government to respect the rule of law and human rights and let the people vote on the form of Government they want. It is reported that he had lost some weight and looked exhausted, with eyes that were 'dull with big dark circles'.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that the alleged persecution, ill-treatment and transfer of Mr. Tran Huynh are connected to his legitimate exercise of his right to freedom of expression and his activities in defence of detainees' human rights. We are also concerned about the mental and physical health of Mr. Tran Huynh, who is reportedly refusing to eat. Finally, we are further concerned by reports of ill-treatment and harassment of prisoners in Nghe An prison camp.

Without expressing at this stage an opinion on the facts of the case, we would like call upon relevant authorities to uphold the findings in the previous opinion of the Working Group on Arbitrary Detention (A/HRC/WGAD/2012/27) and to appeal to your Excellency's Government to take all necessary measures to guarantee Mr. Tran Huynh's right not to be deprived arbitrarily of his 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 (ICCPR).

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Vietnam ratified in 2015.

With regards to Mr. Tran Huynh's contact with the outside world, we also wish to refer to the Mandela Rules (the United Nations Standard Minimum Rules for the Treatment of Prisoners as amended on Nov. 5, 2015 by the UN General Assembly), which mandate regular correspondence between the prisoner and his or her family and friends, as well as the possibility to receive visits (Rule 58).

With regard to the allegations that the transfer of Mr Tran Huynh appears to be connected to his human rights activities, we would also like to refer your Excellency's Government to article 19 of the ICCPR, guaranteeing the right to freedom of expression, and 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 and 2 state that everyone has the right 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.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 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 information concerning the measures taken to ensure the physical and psychological integrity of Mr. Tran Huynh and all other detainees at Nghe An prison camp.
3. Please provide information about measures taken to follow up Mr. Tran Huynh's physical health in connection with his hunger strike.
4. Has a complaint been lodged?
5. Please provide detailed information about the prison conditions of Mr. Tran Huynh and explain how these conditions are compatible with international human rights law.
6. Please provide information about the legal basis and justification for transferring Mr. Tran Huynh from Xuyen Moc prison to the Nghe An prison. In addition,

please provide information on the standard practice of transferring detainees in correctional facilities in Viet Nam, particularly on the use of physical constraints.

7. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

8. Please provide information about the justification for denying Mr. Tran Huynh contact with his family and for denying him the right to correspondence.

9. Please indicate any remedial action taken vis à vis the victim or his/her family.

10. Please provide information on the measures taken to ensure that human rights defenders, including those who are serving sentence, in Viet Nam are able to carry out their legitimate work in a safe and enabling environment, without fear of threats or acts of intimidation and persecution 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.

Juan Ernesto Mendez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Michel Forst
Special Rapporteur on the situation of human rights defenders

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
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José Antonio Guevara Bermúdez
Vice Chair of the Working Group on Arbitrary Detention