

POSITION PAPER

JOINT SUBMISSION ON VIETNAM TO THE UN COMMITTEE AGAINST TORTURE

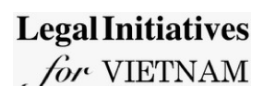
ACAT-France, Boat People SOS, Campaign to Abolish Torture in Vietnam, Christian Solidarity Worldwide, Legal Initiatives for Vietnam and Vietnam Coalition Against Torture

November 2018

In September 2017, the Socialist Republic of Vietnam (hereafter Vietnam), submitted its first State Report after the country signed and ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter UNCAT) in November 2013 and February 2015 respectively.

Ahead of the 65th session of the Committee Against Torture set to examine Vietnam's State Report on his implementation of the Convention, six human rights organisations working on Vietnam jointly submitted a shadow report: ACAT-France, Boat People SOS, Campaign to Abolish Torture in Vietnam, Christian Solidarity Worldwide, Legal Initiatives for Vietnam and Vietnam Coalition Against Torture. In the report, we documented the widespread use of torture in Vietnam, the systematic impunity of the abusers, and the lack of concrete action by the government of Vietnam to effectively reduce and prevent acts of torture. We focused specifically on abuses that take place in police stations, detention centers, and prisons that operate under the authority of the Ministry of Public Security. In addition to abuses suffered by the general population of prisoners and detainees, we examined specific violations of the rights or prisoners of conscience, ethnic and religious minorities, and inmates on death row.

The report is based on research and first-hand interviews conducted by our organizations, supplemented by reports by Vietnamese and international media, UN agencies, foreign governments, and Vietnamese and international human rights organizations. We also drew from online reports, videos and photographs posted by bloggers and human rights defenders in Vietnam, as well as from Vietnamese state media and official government documents, directives, and laws.



→ WE CONSIDER THAT VIETNAM FAILS TO COMPLY WITH THE DISPOSITIONS SET OUT IN THE UNCAT BY ENABLING AND CARRYING OUT ABUSES AGAINST VULNERABLE GROUPS

1. Prisoners of conscience are routinely deprived of basic rights from the moment they are arrested until after they finish serving their sentences.

They face arbitrary arrest, enforced disappearance, prolonged pre-trial detention, denial of access to counsel, forced confessions, physical and psychological torture, punitive isolation, health issues due to harsh prison conditions, and death.

We urge Vietnam to:

- ✓ ***End the practice of incommunicado detention and enforced disappearances of detainees and ensure their rights to immediate and continuing legal access, including for those arrested on national security charges, as well as their rights to regular visits.***
- ✓ ***End the practice of prolonged solitary confinement and punitive prison transfers and provide immediate and unhindered access to medical care to all detainees and prisoners who request it.***

2. Religious and ethnic minorities belonging to unregistered religious groups are particularly at risk of state-perpetrated human rights violations, including police torture and mistreatment.

Victims include ethnic minority Montagnard and Hmong Christians in the Central and Northwest Highlands, ethnic Khmer Buddhists in the Mekong Delta region, and Cao Dai and Hoa Hao Buddhist followers in southern Vietnam. Violations range from harassment, intimidation and intrusive monitoring, to arbitrary arrest, imprisonment, torture, and extrajudicial killings.

We urge Vietnam to:

- ✓ ***End forced renunciation of faith of ethnic minority communities and followers of unsanctioned religions by enforcing provisions in domestic legislation that prohibit such practices.***

3. Poor living conditions of death row inmates amount to ill-treatment and torture, combined with a lack of independent monitoring

Prisoners on death row face prolonged solitary confinement, lack of food and water supply, arbitrary restrictions on their contacts with the outside world and psychological torture, including last-minute execution notice and confinement to death row for several years, sometimes leading to suicides. In addition, in most death penalty cases, the death sentence is imposed after proceedings that do not meet international fair trial standards, including convictions that are based solely on “confessions” extracted through torture.

We urge Vietnam to:

- ✓ ***Immediately establish a moratorium on all executions with a view to abolishing the death penalty, in line with six UN General Assembly resolutions adopted since***

2007 and the Second Optional Protocol to the ICCPR regarding abolition of the death penalty.

- ✓ **Overturn the convictions and death sentences of Ho Duy Hai, Le Van Manh, and Nguyen Van Chuong, which resulted from proceedings that did not meet international fair trial standards.**

→ WE POINT OUT VIETNAM'S LEGISLATIVE SHORTCOMINGS AND DENOUNCE A THRIVING IMPUNITY FOR PERPETRATORS

1. Enforcement of legislative and institutional instruments prohibiting acts of torture remains poor.

While the government of Vietnam has incorporated prohibitions on torture in legislation passed or amended since 2015, these laws do not provide an explicit or comprehensive definition of torture consistent with Article 1 of UNCAT, nor do they provide essential safeguards against torture. In violation of the absolute prohibition on torture provided by Article 2 of UNCAT, Vietnam's 2015 Criminal Code actually authorizes police officers to use violence or inflict bodily harm in certain circumstances. The Law on Execution of Criminal Judgements and its implementing legislation, Circular 37, and the Law on Enforcement of Custody and Detention (version 2015) provide for the segregation and discriminatory treatment of prisoners of conscience sentenced for national security crimes.

We urge Vietnam to:

- ✓ **Repeal Circular 37 of the Ministry of Public Security to ensure prison regulations uphold and facilitate the rights of all people in detention or imprisonment, including prisoners of conscience arrested on national security charges, and comply with international standards on the treatment of detainees and prisoners.**
- ✓ **Repeal all laws and subsidiary legislation authorizing the administrative detention without trial of people in compulsory re-education centers and mandatory drug rehabilitation centers, and abolish all forms of forced labor in such centers.**
- ✓ **Fully apply international standards on the treatment of prisoners and conditions of detention, in particular by enacting into legislation and adhering to the UN Standard Minimum Rules for the Treatment of Prisoners.**

2. Due to a lack of transparency and judicial bias, impunity for abuse perpetrators is thriving.

The low number of cases of corporal punishment handled by Vietnam's Courts demonstrates its failure to properly implement laws against corporal punishment and its lack of will to tackle impunity for perpetrators. The common practice of holding prisoners of conscience incommunicado and denying them access to family and legal representation removes their torture and mistreatment in custody from the public eye. The absence of independent monitoring and complaint mechanisms means that the government fails to independently

investigate and impartially prosecute most allegations of torture. When they do investigate, abuse perpetrators such as police and government officials are seldom prosecuted due to vaguely worded laws and judicial bias. Vietnamese authorities are also targeting attorneys, thus depriving victims of abuse of a voice and directly affecting their chances to be properly represented in courts and access justice. In addition, the authorities often employ tactics aimed at preventing the relatives of torture victims from communicating with the outside world or seeking help to advocate for justice.

We urge Vietnam to:

- ✓ ***Publish a central registry of the names and locations of all persons held in pre-trial detention, administrative detention centers, and prisons, and the relevant charges or reasons for their detention and imprisonment.***
- ✓ ***Provide access to independent monitoring bodies to all prisons and detention centers, permitting unannounced visits and private interviews with prisoners and detainees.***
- ✓ ***Establish impartial mechanisms for prisoners and detainees to submit complaints without the knowledge of prison guards directly responsible for them, and ensure that complainants are not subjected to punitive reprisals from authorities.***