



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Viet Nam

Concluding observations (125th session): [CCPR/C/VNM/CO/3](#), 25 March 2019

Follow-up paragraphs: 24, 46 and 52

Information received from State party: [CCPR/C/VNM/FCO/3](#), 29 March 2021

Information received from stakeholders: [International Federation for Human Rights Leagues and Vietnam Committee on Human Rights](#), 18 July 2022

Committee's evaluation: 24 [C][E], 46 [E] and 52 [C]

Paragraph 24: Death penalty

The Committee reiterates its recommendation¹ that the State party should:

(a) Consider introducing a moratorium on the application of capital punishment and ratifying or acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;

(b) Until a moratorium is in place, amend the Penal Code to further reduce the number of crimes subject to the death penalty and ensure that such punishment is retained only for the most serious crimes, that is, for crimes of extreme gravity involving intentional killing;

(c) Ensure that the death penalty is not a mandatory sentence for any crimes and, if imposed, is never in violation of the Covenant's provisions, including with regard to fair trial procedures, and give reasonable advance notice of the scheduled date and time of execution to the affected death row inmates and their families;

(d) Ensure that pardons or commutations of death penalty sentences are effectively available in all cases, and regardless of the crimes committed;

(e) Publish official figures regarding death sentences and executions, disaggregated by sex, age, ethnicity, religion and crime.

* Adopted by the Committee at its 136th session (10 October–4 November 2022).

¹ [CCPR/CO/75/VNM](#), para. 7.



Summary of the information received from the State party

(a) Viet Nam retains the death penalty for extremely serious crimes and considers it a necessary measure to deter such crimes. It has studied the retention and abolition of the death penalty in other countries and the possible ratification of the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

(b) The policy of reducing the application of the death penalty is reflected in the amended Penal Code, the Criminal Procedure Code and the law on the execution of criminal judgments. A study on the reduction of crimes punishable by the death penalty will conclude in 2022.

(c) The death penalty is not mandatory in the application of law. Defence counsel must be appointed to defendants charged with a crime punishable by 20 years' imprisonment, life imprisonment or the death penalty as the maximum penalty. A relative or representative of persons sentenced to death must be notified of the sentence within three days. Viet Nam will study the Committee's recommendation on giving advance notice to death row inmates and consider legislative amendments.

(d) Under article 367 of the Criminal Procedure Code, all death sentences shall be reviewed by the Chief Justice of the Supreme People's Court or the Procurator-General of the Supreme People's Procuracy. The sentenced person has the right to file for commutation. Numerous death sentences have been commuted to life imprisonment.

(e) Data on death sentences have been published in accordance with the law.

Summary of the information received from stakeholders*International Federation for Human Rights Leagues and Vietnam Committee on Human Rights*

(a) Viet Nam has not introduced a moratorium on the death penalty. Viet Nam abstained from voting on the resolution adopted by the General Assembly on 16 December 2020 on a moratorium on the use of the death penalty (resolution No. 75/183). Between 1 October 2020 and 31 July 2021, the number of death sentences increased by 34 per cent, with 440 more death sentences than in 2019. Facilities for death row prisoners are reportedly overcrowded.

(b) The death penalty is applied for offences that are not the most serious crimes. Six national security crimes listed in the Penal Code, including high treason and spying, remain punishable by death, as is establishing or joining an organization with intent to overthrow the Government.

(c) The lack of due process of law and transparency concerning death sentences, executions and prison conditions for death row inmates has continued to be systemic.

(d) No information is provided.

(e) Information on death sentences and executions remains a State secret under the 2018 law on State secrets.

Committee's evaluation

[C]: (a) and (b)

While taking note of the studies conducted on the retention and abolition of the death penalty and the possible ratification of the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, the Committee remains concerned about the reported increase in the number of death sentences and death row prisoners in recent years. It reiterates its recommendation.

While also taking note of the State party's policy of reducing crimes punishable by the death penalty and an ongoing study in this respect, the Committee regrets the lack of information on the reduction in the number of such crimes and any measures taken to ensure that the death penalty is applied only for crimes of extreme gravity involving intentional killing.

[E]: (c), (d) and (e)

While noting that the death penalty is not a mandatory sentence for any crimes, the Committee remains concerned about the reportedly systemic failure to respect due process guarantees in death penalty cases. It reiterates its recommendation and requests further information on the plan to study and introduce legislative amendments on giving advance notice of execution to death row inmates.

The Committee also regrets the lack of specific information on measures taken to make commutation effectively available in all cases, particularly considering the reported increase in the number of death sentences and death row prisoners. It reiterates its recommendation and requests information on the number of commuted sentences during the reporting period.

While taking note of the State party's statement, the Committee received information alleging that official data on death sentences remain unavailable to the public. It therefore reiterates its recommendation.

Paragraph 46: Freedom of expression

The State party should, as a matter of urgency, take all necessary steps, including revising legislation, to end violations of the right to freedom of expression offline and online, and ensure that restrictions do not go beyond the strictly defined limitations set forth in article 19 of the Covenant, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. It should also promote pluralistic media that can operate free from undue State interference.

Summary of the information received from the State party

The Government has issued Decree 119/2020/ND-CP, under which persons who unlawfully obstruct press activities may be fined or held criminally liable. It has improved its cybersecurity laws and regulations and promulgated Decree 15/2020/ND-CP, which regulates the use of social network services and online information security. It is considering amending Decree 72/2013/ND-CP on the effective management of the Internet and online information.

In 2020, there were 87 radio channels and 196 television channels, and 68 million Internet users. Radio and television channels provided live coverage of National Assembly sessions.

During the coronavirus disease (COVID-19) pandemic, the public was provided with information about quarantine measures, transmission and treatment and access to free Internet in places of quarantine. Any abuse of the right to freedom of speech is handled in accordance with the law. Some organizations and individuals have abused the right to freedom of expression to incite riots or violent terrorism. The Penal Code provides a mechanism to deter such abuse.

Viet Nam has provided sufficient information to the Working Group on Arbitrary Detention concerning the case of Nguyễn Ngọc Như Quỳnh.

Summary of the information received from stakeholders

International Federation for Human Rights Leagues and Vietnam Committee on Human Rights

New laws restricting freedom of expression have been adopted, namely Decree 119/2020/ND-CP on penalties for administrative violations in journalistic and publishing activities and Decree 15/2020/ND-CP on penalties for administrative violations in telecommunications, postal services and information technology. These decrees punish the posting of news, photographs and information that are allegedly not in the interests of the country or are offensive to the nation, famous persons or national heroes. In April 2022, the Government was in the process of amending Decree 72/2013-ND-CP to further restrict online speech, including by requiring social media companies to remove content it deems illegal

within 24 hours. The media continue to be controlled by the Government and the press law continues to restrict press freedom.

Committee's evaluation

[E]

While noting the State party's information on legislative measures taken to implement the Committee's recommendations, the Committee remains concerned about reports that, on the contrary, the adoption of Decrees 119/2020/ND-CP and 15/2020/ND-CP further restricts the right to freedom of expression. While noting information about the number of radio and television channels and of Internet users, the Committee regrets the lack of specific information on steps taken to promote pluralistic media free from State interference. It reiterates its recommendation and requests further information on measures taken to bring into line with the Covenant Decrees 119/2020/ND-CP and 15/2020/ND-CP and any amendment envisaged to Decree 72/2013/ND-CP.

Paragraph 52: Human rights defenders

The State party should ensure that human rights defenders and other civil society actors are protected against threats, intimidation and physical attacks and investigate, prosecute and convict perpetrators of such acts. It should also allow them the necessary latitude to carry out their activities, including engaging with the United Nations, without fear of restrictions or reprisal.

Summary of the information received from the State party

The right to freedom of speech, assembly, association, movement and demonstration can be restricted only as stipulated in article 14 (2) of the 2013 Constitution. No one shall be threatened, intimidated or attacked for their contact or collaboration with the United Nations. Concerning activities of foreign non-governmental organizations, a new decree is being drafted to substitute Decree 12/2012/ND-CP.

Viet Nam prohibits only unlawful assemblies that disturb public security and order or infringe others' rights, such as the 2018 assembly in Bình Thuận Province. Individuals who break the law, including by committing national security offences, are arrested, investigated, prosecuted, tried and heard in conformity with national law and procedures and article 26 of the Covenant.

Summary of the information received from stakeholders

International Federation for Human Rights Leagues and Vietnam Committee on Human Rights

The Government continues to subject human rights defenders to intimidation, threats, physical attacks, arbitrary arrest and imprisonment. Between April 2019 and July 2022, at least 95 activists, government critics and human rights defenders were arrested, and 113 were sentenced to imprisonment of up to 15 years. Most of them remain detained under the national security provisions of the Criminal Code. Since January 2022, four prominent environmental rights defenders – Mai Phan Lợi, Bạch Hùng Dương, Đặng Đình Bách and Nguyễn Thị Khanh – have been sentenced to two to five years' imprisonment on tax evasion charges, which are often used to silence critics. Đặng Đình Bách was denied access to his lawyer during detention, his family was not allowed to attend the court hearing, and evidence presented by his lawyers was ignored by the court.

Human rights defenders and civil society actors are frequently harassed for engaging with international bodies. In November 2019, an independent journalist, Phạm Chí Dũng, was sentenced to 15 years' imprisonment on charges of writing "anti-State" articles and cooperating with foreign media to deliver distorted information after sending an appeal to the European Parliament concerning the free trade agreement between the European Union and Viet Nam.

Civil society activities have been further restricted by two new decrees (80/2020/ND-CP and 56/2020/ND-CP), which established unreasonably burdensome requirements for their reporting, registration of funding and projects, meetings and other public activities, especially for issues relating to human rights. Prime Minister's Decision 06/2020/QĐ-TTg, dated 21 February 2020, imposed new requirements on the organization of international conferences on issues such as freedom of religion and human rights.

Committee's evaluation

[C]

While taking note of the information provided, including on the law being drafted on foreign non-governmental organizations, the Committee regrets the lack of specific information on measures taken to ensure the protection of human rights defenders and civil society actors. It reiterates its recommendation and requests further information on: (a) the cases involving four environmental rights defenders, Mai Phan Lợi, Bạch Hùng Dương, Đặng Đình Bách and Nguyễn Thị Khanh, including on respect of fair trial guarantees in their proceedings; and (b) the compatibility with the Covenant, particularly article 22, of Decrees 80/2020/ND-CP and 56/2020/ND-CP and Prime Minister's Decision 06/2020/QĐ-TTg.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 29 March 2023.
