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VIET NAM: UN HUMAN RIGHTS COUNCIL CANDIDACY DEMANDS PROGRESS ON HUMAN RIGHTS

UN General Assembly resolution 60/251 requires that members elected to the Human Rights Council (HRC) uphold the highest standards in the promotion and protection of human rights. We, the undersigned organizations, have held longstanding and publicly expressed concerns about the state of human rights in Viet Nam. Viet Nam must immediately commit to taking concrete steps to improve its human rights performance, including by releasing arbitrarily detained human rights defenders, including journalists, ensuring the rights to freedom of expression and association, and improving cooperation with international human rights mechanisms. Such steps would be needed for Viet Nam to become a credible member of the Council.

Since announcing its candidacy for the HRC on 22 February 2021, Viet Nam has detained, arrested, or sentenced at least 48 journalists, activists, and NGO leaders for arbitrary crimes ranging from ‘abusing democratic freedoms’ to ‘propaganda against the State’ to ‘tax evasion’, articles 311, 117 and 200 of the *Criminal Code*. Two emblematic cases of the recent trend are Pham Chi Dung, former president of the Independent Journalists Association of Viet Nam, who was sentenced to 15 years in prison in January 2021, and [Pham Doan Trang](#), a prominent independent journalist and human rights defender, who was sentenced to 9 years imprisonment also on propaganda charges in December 2021.

On 4 August 2022, Viet Nam [addressed](#) the President of the General Assembly of the UN, professing its human rights accomplishments and sharing its voluntary pledges. We express particular concern that Viet Nam has falsely characterized civil and political rights in the country as “better ensured”, especially given the continued harassment and arrests of activists and journalists. For example, in September 2022, the activist [Trinh Ba Tu](#) was allegedly beaten, placed in solitary confinement, and shackled for days while serving part of his 8-year sentence for spreading “propaganda against the State”. Despite [calls](#) for an independent investigation from NGOs, no such investigation has taken place.

Viet Nam also described civil society organizations as “[o]perating in a conducive environment”. Meanwhile, the arrest of the leaders of three environmental [NGOs](#) this year on politicized tax charges belies this claim.

In 2019, the UN Human Rights Committee [called](#) on Viet Nam “as a matter of urgency” to revise vague and broadly formulated legislation used to facilitate violations of freedom of expression. Since then, our organizations have continued to [document](#) Viet Nam’s history of using the law to silence those exercising their right to free expression, with no end in sight.

General Assembly [Resolution 60/251](#), which created the HRC, established that elected members must “uphold the highest standards” on human rights and to cooperate with the Council. For Viet Nam to take on this responsibility, it must immediately take concrete actions to bring its laws, policies and practices in line with international human rights law and standards and to cooperate with the human rights mechanisms of the Council.

FREEDOM OF ASSOCIATION

Viet Nam has pledged to raise awareness of human rights among the public, but any such measures are undermined by recent decrees aiming to control NGOs, many of whose core activities are education programs that raise public awareness of human rights. On 31 August 2022, Viet Nam introduced [Decree 58](#), which regulates foreign NGOs. Viet Nam has also [drafted](#) the *Regulations on the organization, operation and management of associations* aimed at regulating domestic NGOs. Both regulations allow for the termination of NGOs on vague grounds such as ‘national interest’ and ‘social order’, providing the Viet Nam authorities with almost indefinite scope to silence their critics and those engaging in disfavoured

expression. This scope is worsened in the draft decree for local NGOs, which prohibits the '[u]ndermining' of the State under article 11(1).

Viet Nam has pledged to carry out legal reforms to further incorporate provisions of international human rights treaties into national laws. But these recent decrees allow the State to punish NGOs for what may amount to publicly voiced criticism. They are non-compliant with Viet Nam's obligations to respect and ensure the rights to freedom of expression and association provided for in articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR) to which Viet Nam is a State-party.

FREEDOM OF EXPRESSION

The authorities have long used the law to attack anybody in Viet Nam who speaks out in defense of their and others' human rights. This includes articles from the *Criminal Code*, especially [Article 117](#), which criminalises 'making, storing, distributing or disseminating information, documents and items against the Socialist Republic of Vietnam', and [Article 331](#), which criminalizes 'abusing democratic freedoms to infringe on the interests of the State'. In particular, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression previously [stated](#) that Article 117 is "overly broad and appears to be aimed at silencing those who seek to exercise their human right to freely express their views and share information with others".

Our organizations have documented the use of these charges, and similar charges, by Viet Nam to arrest and threaten more than 100 human rights defenders and activists since 2019. While Viet Nam has pledged to conduct legal reforms aimed at enhancing its institutional, judicial, and policy foundation related to human rights, the continued abuse of critics brave enough to speak out against the Vietnamese government since the pledge was made demonstrates they do not intend to honour it.

Our organizations believe that Viet Nam, before seeking election into the HRC, needs to first demonstrate a genuine commitment to uphold the highest standards of human rights protection. We provide the following minimum recommendations for Viet Nam in this respect:

RECOMMENDATIONS

- We jointly call for the government of Viet Nam to act upon the voluntary pledges made on 4 August 2022 by immediately releasing and dropping all charges against all people arbitrarily detained for alleged violations of Articles 117 and 331 of the *Criminal Code*. Effective redress must be provided to those who have been targeted by harassment or violence, including family members.
- We jointly call for an end to the use of Articles 117 and 331 against human rights defenders, journalists, and activists, by the Vietnamese authorities to ensure compliance with obligations under the ICCPR and other international human rights law per Viet Nam's pledges. Viet Nam should also begin the process of amending these articles to bring their laws in line with their international legal obligations that protect the rights to freedom of expression and freedom of association.
- We jointly call for the immediate repeal or revision of the "NGO decrees" to ensure compliance with obligations under the ICCPR and other international human rights law per Viet Nam's pledges. These decrees must not be arbitrarily used to restrict the right to freedom of association but to ensure an enabling environment for NGOs to facilitate the education of the public on human rights and other activities protected under international human rights law.
- We jointly call for Viet Nam to accept requests by the UN Human Rights Council Special Procedures to visit the country. Viet Nam should extend an open invitation to all UN Special Procedures and allow their full and unfettered access to the country in order to monitor the situation and report back to the HRC on the visits' findings. Allowing for the independent oversight and investigation of the Special Procedures is crucial to the implementation of international human rights and the obligation of all States-parties. Viet Nam has previously declined requests to visit from Special Procedures mandate holders including the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

SIGNATORIES

Amnesty International

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ARTICLE 19

Human Rights Watch

International Commission of Jurists