



The Law Society  
of England and Wales

Lawyers' Rights Watch Canada



## **VIET NAM**

**Mid-term Report - Review of the implementation of recommendations with respect to the rule of law and the role of human rights defenders accepted by Vietnam during the UPR in 2014**

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## **I Introduction**

1. Lawyers for Lawyers (L4L), the Law Society of England and Wales (the Law Society) and Lawyers' Rights Watch Canada (LRWC) seek to assess the human rights performance of states with respect to the rule of law and the role of lawyers through the Universal Periodic Review (UPR) During the UPR of Viet Nam in 2014, the government of Viet Nam received and accepted recommendations concerning human rights defenders, including lawyers. In this mid-term report, the organizations review to the extent to which these recommendations have been implemented.

## **II Executive Summary**

2. During the UPR in 2014, Vietnam received and accepted two (2) recommendations about creating a favorable environment for the activities of human rights defenders, and the right to freedom of expression of human rights defenders. Article 9.3 of the UN Declaration on Human Rights Defenders reads: '[...] everyone has the right, individually and in association with others, inter alia: (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms'. We therefore understand human rights defenders to include lawyers. The recommendations on human rights defenders are also applicable to lawyers. Furthermore, Vietnam received and accepted one (1) recommendation with respect to effective and equal access to lawyers.<sup>1</sup>
3. This submission outlines L4L, the Law Society and LRWC's findings as to the extent to which Viet Nam has implemented these recommendations. It illustrates with individual cases that Viet Nam has not implemented the above-mentioned three recommendations with respect to lawyers. The examples demonstrate that there are not always efficient procedures and responsive mechanisms for effective and equal access to lawyers at all stages of legal proceedings. Furthermore, lawyers, especially those lawyers working on sensitive cases, do not benefit from a favorable environment for their professional activities, and their right to freedom of expression is not always protected.

### ***Recommendations***

4. *L4L, the Law Society and LRWC urge the authorities of Viet Nam to ensure the right to fair trial and to guarantee that every citizen has effective access to justice and legal assistance of their choice, in line with Preamble 9 and Principle 1 as well as Principles 16, 17 and 18 of the Basic Principles and article 14 ICCPR,<sup>2</sup> Viet Nam should implement recommendation 143.135 fully and without any delay.*

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review of Viet Nam, A/HRC/26/6, 2 April 2014, p. 21-24, and Addendum 1: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review.

<sup>2</sup> Principle 1 of the Basic Principles: "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings."

5. *L4L, the Law Society and LRWC urge the authorities of Viet Nam to guarantee the freedom of information and expression, particularly for lawyers and human rights defenders in line with Article 23 of the Basic Principles, Article 6 of the UN Declaration on Human Rights Defenders and Article 19 of the ICCPR. Viet Nam should implement recommendation 143.149 fully and without any delay.*
6. *L4L, the Law Society and LRWC urges the authorities of Viet Nam to ensure a favorable environment for the activities of lawyers and human rights defenders, in line with Principles 16, 17 and 18 of the Basic Principles and article 14 ICCPR.<sup>3</sup> Viet Nam should implement recommendation 143.167 fully and without any delay.*

### **III UPR recommendations accepted by Vietnam in 2014**

7. During the UPR cycle of 2014, Denmark submitted a recommendation on effective and equal access to lawyers:
  - a. to ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for at all stages of legal proceedings (143.135 - Denmark);

Furthermore, the following two recommendations were received and accepted by Vietnam during the UPR of 2014, on the freedom of expression of human rights defenders and the working environment of human rights defenders and lawyers

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<sup>3</sup> Principle 16 of the Basic Principles: "Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics."

Principle 17 of the Basic Principles: "Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities."

Principle 18 of the Basic Principles on the role of lawyers: "Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions."

Article 14 of the ICCPR:

"1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him; (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing; (c) To be tried without undue delay; (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it; (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) Not to be compelled to testify against himself or to confess guilt."

- a. to protect and guarantee respect for freedom of information and expression, particularly for journalists, bloggers and human rights defenders, and undertake a review of legislation governing the press to ensure its compliance with international standards (143.149. - Luxembourg); and
  - b. to ensure a favorable environment for the activities of human rights defenders, journalists and other civil society actors (143.167. - Tunisia).
8. L4L, the Law Society and LRWC find these three recommendations were not implemented to date, April 2017.

#### **IV. Effective mechanisms for the protection of human rights**

9. The adequate protection of human rights and fundamental freedoms requires that every citizen has effective access to justice and legal assistance. Legal assistance can only be provided effectively in a judicial system where lawyers, along with judges and prosecutors, are able to carry out their professional activities independently and without external pressures and interference<sup>4</sup>. This follows from – amongst other international instruments - the International Covenant on Civil and Political Rights (ICCPR) and the Basic Principles on the Role of Lawyers (Basic Principles).<sup>5</sup>
10. In its task of promoting and ensuring the proper role of lawyers, the government of Viet Nam should respect and take into account the Basic Principles within the framework of its national legislation and practice. Adherence to the Basic Principles is considered a fundamental pre-condition to fulfilling the requirement that all persons have effective access to legal assistance and representation.<sup>6</sup>
11. L4L, the Law Society and LRWC welcome that Viet Nam accepted recommendations 143.135, 143.149 and 143.167 and thus agreed to ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for at all stages of legal proceedings, to protect and guarantee the freedom of expression of human rights defenders, including lawyers, and to ensure a favorable environment for the activities of human rights defenders, including lawyers.
12. However, reports gathered by L4L, the Law Society and LRWC and information received from lawyers in Viet Nam demonstrate that these accepted recommendations have not yet been implemented and that in practice, the authorities of Viet Nam do not always uphold the necessary guarantees for the

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<sup>4</sup> Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, submitted in accordance with Human Rights Council resolution 8/6, 28 July 2009, A/64/181 , par. 12: 'lawyers are not expected to be impartial in the manner of judges yet they must be as free as judges from external pressures and interference. This is crucial if litigants are to have trust and confidence in them'

<sup>5</sup> Basic Principles, Principle 16 in particular: Governments shall ensure that lawyers ( a ) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; ( b ) are able to travel and to consult with their clients freely both within their own country and abroad; and ( c ) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

<sup>6</sup> Basic Principles, Preamble and paragraph 8 in particular.

proper functioning of the legal profession. As a consequence, lawyers encounter difficulties in carrying out their profession independently.

**V. No efficient procedures and responsive mechanisms for effective and equal access to lawyers at all stages of legal proceedings.**

13. The Constitution of Viet Nam guarantees the right to a fair trial<sup>7</sup> and prohibits arbitrary detention.<sup>8</sup> Despite this, Viet Nam is engaged in the systematic interference with these fundamental rights and has imposed significant limitations on their exercise. Viet Nam has faced widespread criticism for its failure to uphold due process and basic fair trial guarantees.<sup>9</sup>
14. Trials of political and religious activists in particular fail to meet international standards of fairness and due process. The rights to be presumed innocent, to cross-examine witnesses and have access to counsel are routinely denied.
15. Reports for the UPR cycle in 2014, indicate that only 9 to 11% of accused persons are legally represented<sup>10</sup> and authorities continually use a variety of means to deny access to counsel or otherwise restrict the right to be represented by a lawyer.<sup>11</sup>
16. Also lawyers that have been arrested in connection to their legitimate activities have been denied access to their legal counsel.

*Example: Le Quoc Quan - lawyer, human rights defender and blogger Le Quoc Quan was arrested on 27 December 2012 on alleged charges of tax evasion. Following his arrest, he was held incommunicado and denied permission to see his lawyer for two months. Repeated requests by his family to visit him were also denied. Le Quoc Quan first saw a family member at his trial on 2 October 2013, at which he was convicted of evading corporate income tax and sentenced to 30 months imprisonment and a fine of 1.2 billion dong (approximately USD 59,000).*

*In 2013, the United Nations Working Group on Arbitrary Detention ( 'UNWGAD') found that Le Quoc Quan was held in incommunicado detention during the first two months of his detention, and that detention under such conditions is a clear violation of his rights.<sup>12</sup>*

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<sup>7</sup> Art. 31 Constitution of the Socialist Republic of Vietnam (2013).

<sup>8</sup> Ibid, Art. 20.

<sup>9</sup> See, for example: Human Rights Watch (HRW) *World Report 2016: Vietnam, Events of 2015*, <https://www.hrw.org/world-report/2016/country-chapters/vietnam>: 'Vietnamese courts remained firmly under the control of the government and Communist Party, and trials of political and religious dissidents consistently failed to meet international fair trial standards. Police regularly intimidated and in some cases detained family members and friends who tried to attend trials.'

<sup>10</sup> Office of the High Commissioner of Human Rights (OHCHR) Summary for the UPR of Viet Nam, November 2013 at par. 47.

<sup>11</sup> US Department of State, *Country Reports on Human Rights Practices for 2013: Vietnam*, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220244>.

<sup>12</sup> Opinions adopted by the Working Group on Arbitrary Detention at its sixty-seventh session, 26–30 August 2013, No. 33/2013 (Viet Nam), A/HRC/WGAD/2103/, 12 November 2013, paras. 33 and 34. The WGAD opinion referred to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which provide that communication with the outside world, particularly with family,

*Example: Nguyen Van Dai – lawyer, human rights defender and blogger  
Nguyen Van Dai is a human rights lawyer, active blogger and long-standing advocate for multiparty democracy.*

*On 16 December 2015, when Nguyen Van Dai was scheduled to attend further meetings with delegates of the European Union, he was arrested by state authorities in connection with the offence of 'Conducting Propaganda against the Socialist Republic of Vietnam' – the same provision under which he was convicted and detained in 2007. His house was searched, items of property seized, and he was transferred immediately to a detention centre. Since 16 December 2015, Nguyen Van Dai has been held incommunicado.*

*The violations of Nguyen Van Dai's human rights are numerous: no evidence was provided to support his arrest or detention, Nguyen Van Dai has been held incommunicado and denied access to legal representation and has been denied contact with his family. Nguyen Van Dai has not been brought before a court at any stage during the now over 13 months of his detention. The only visits allowed have been by his wife twice, in October 2016 and January 2017.*

17. The examples above demonstrate that Viet Nam has failed to ensure efficient procedures and responsive mechanisms for effective and equal access to lawyers, since it accepted the abovementioned recommendations made in 2014. This does not only impede the right of all those arrested of access to a lawyer, but also makes it difficult for lawyers to exercise their professional activities.

**VI. No protection to the right of freedom of expression of lawyers, and unfavorable environment for activities of lawyers**

18. Viet Nam has been repeatedly condemned by international human rights groups for non-compliance with international standards of freedom of expression. Viet Nam has a propensity to use overly broad and vague criminal provisions, including Article 88 of the Penal Code, to limit freedom of expression and penalize those who raise concerns about the protection of human rights. Individuals are prosecuted for the lawful exercise of the rights guaranteed by the ICCPR, the Universal Declaration on Human Rights (UDHR) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (BPPP) under such provisions.

19. The government of Viet Nam is considered to be one of the most repressive in the world.<sup>13</sup> The Communist Party maintains a monopoly on political power under a

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'shall not be denied for more than a matter of days' (Principle 15) and that a detained or imprisoned person shall have the right to be visited by and communicate with members of his family in particular, and be given adequate opportunity to communicate with the outside world (Principle 19).

<sup>13</sup> [http://www.mediadefence.org/sites/default/files/UN%20WGAD%20decision\\_Le%20Quoc%20Quan.pdf](http://www.mediadefence.org/sites/default/files/UN%20WGAD%20decision_Le%20Quoc%20Quan.pdf)  
HRW, *Letter to President Obama re: Vietnam* (19 May 2016), available at: <https://www.hrw.org/news/2016/05/19/letter-president-obama-re-vietnam>. See also, Committee to Protect Journalists, *10 Most Censored Countries: 2015*, <https://cpj.org/2015/04/10-most-censored-countries.php>.

one-party state.<sup>14</sup> It controls all public institutions, including the judiciary.<sup>15</sup> The media and Internet are controlled and censored.<sup>16</sup>

20. Viet Nam is repeatedly condemned by international human rights groups for non-compliance with international standards of freedom of expression.<sup>17</sup> Viet Nam ranks among the ten countries, which respect press freedom the least,<sup>18</sup> and among the ten countries that have imprisoned the highest number of journalists in 2015.<sup>19</sup>

21. Lawyers, like any other individuals, have the right to freedom of expression. In particular, they have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights.<sup>20</sup> This right is guaranteed under Article 19 of the ICCPR and Article 23 of the Basic Principles.

22. According to information received, since January 2014, the Viet Nam authorities have failed to ensure a favorable environment for the professional activities of lawyers, and have failed to protect lawyers' rights to freedom of expression and to take part in public discussion of matters concerning the protection of human rights. Several examples demonstrate that lawyers in Viet Nam still face threats, intimidation, physical attacks and prosecution in connection to their professional activities, or their exercising their right to freedom of expression. Furthermore, the Viet Nam authorities have not taken into account decisions of UN bodies that could lead to a more favorable environment for activities of human rights defenders and lawyers.

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<sup>14</sup> HRW, *Vietnam*, available at: <https://www.hrw.org/asia/vietnam>.

<sup>15</sup> Amnesty International, *Annual Report: Viet Nam 2015/2016*, available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>.

<sup>16</sup> Committee to Protect Journalists, *10 Most Censored Countries: 2015*, <https://cpj.org/2015/04/10-most-censored-countries.php>.

<sup>17</sup> See, for example: HRW, *World Report 2016: Vietnam, Events of 2015*, <https://www.hrw.org/world-report/2016/country-chapters/vietnam>: 'The ruling Communist Party has a monopoly on political power and allows no challenge to its leadership. Basic rights, including freedoms of speech, opinion, press, association, and religion, are restricted. Rights activists and dissident bloggers face constant harassment and intimidation, including physical assault and imprisonment'; Amnesty International, *Annual Report 2015/2016: Vietnam*, available at <https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>: 'Members of independent activist groups attempting to exercise their rights to freedom of expression, association and peaceful assembly faced regular harassment, including surveillance, restrictions on movement, arbitrary short-term detention and physical attacks by police and unidentified men suspected of working in collusion with security forces. Dozens of activists were attacked, many of them before or after visiting released prisoners and victims of human rights violations, or when attending events or meetings'; OHCHR, *Summary prepared by the OHCHR in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Viet Nam*, Human Rights Council Working Group on the Universal Periodic Review, 18<sup>th</sup> Sess., UN Doc. No. A/HRC/WG.6/18/VNM/3 (4 November 2013), ('OHCHR Summary for the UPR Viet Nam November 2013') par. 52; See also Amnesty International, *Annual Report 2015/2016: Vietnam*, available at <https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>; Freedom House, *Freedom in the World 2016: Vietnam*, <https://freedomhouse.org/report/freedom-world/2016/vietnam>.

<sup>18</sup> Reporters without Borders, *2016 World Press Freedom Index*, available at <https://rsf.org/en/ranking>.

<sup>19</sup> See Committee to Protect Journalists, *2015 Prison Census*, available at <https://cpj.org/imprisoned/2015.php>

<sup>20</sup> This follows from article 23 of the Basic Principles

*Example: Le Quoc Quan - lawyer, human rights defender and blogger*

*Le Quoc Quan was arrested on 27 December 2012 on alleged charges of tax evasion (see above). In 2013, the UNWGAD condemned Le Quoc Quan's detention as violating his right to freedom of expression and his right to a fair trial.<sup>21</sup>*

*The UNWGAD found his detention arbitrary and stated that his detention might be the result of his peaceful exercise of human rights. It found that Le Quoc Quan had been targeted for his work as an activist and as a blogger and called for his immediate release or for his conviction to be reviewed by an independent court. It also recommended that Viet Nam pay damages to Le Quoc Quan for his arbitrary detention. The UNWGAD emphasized Viet Nam's obligations as state party to the ICCPR and urged Viet Nam to bring its laws in conformity with international law, in particular international human rights law.*

*The government of Viet Nam has not responded to this decision. On 18 February 2014, the Court of Appeal in Hanoi upheld Le Quoc Quan's conviction. The decision of the UNWGAD was not taken into account in the judgment.<sup>22</sup>*

*Le Quoc Quan served his full sentence of 30 months in jail. He was released from prison on 27 June 2015. He is under continuous surveillance since that moment. His bar license has not been reinstated. Effectively, this means he can no longer perform his profession as a lawyer.*

*Example: Nguyen Van Dai – lawyer, human rights defender and blogger*

*For over ten years, Nguyen Van Dai has undertaken human rights work in Viet Nam in the face of harassment, surveillance, imprisonment and acts of violence against him. Prior to 2007, Nguyen Van Dai worked as a human rights lawyer representing clients in court to defend their right to religious freedom. In 2007, Nguyen Van Dai was charged and convicted of 'Conducting Propaganda against the Socialist Republic of Vietnam' and his license to practice law was revoked. Nguyen Van Dai served an eight-year prison term from March 2007 until March 2015, in prison and under house arrest. Nguyen Van Dai continued with his human rights work while under house arrest, co-founding the 'Brotherhood for Democracy' in 2013, an organization that provides training to community members on their legal rights in Viet Nam.*

*From his release in March 2015 until his arrest on 16 December 2015, Nguyen Van Dai was involved in advocating for stronger human rights protection in Viet Nam. Nguyen Van Dai wrote widely in blogs and on social media about the need for Viet Nam to transition from a one-party state to a multiparty democracy. He organized and conducted seminars to educate community members on their human rights and met with an international delegation from the European Union to discuss the state of human rights protection in Viet Nam.*

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<sup>21</sup> *Supra* note 12.

<sup>22</sup> On 16 September 2014, L4L made an oral statement<sup>22</sup> during the General Debate of the Human Rights Council. L4L pointed at the fact that Viet Nam is a member<sup>22</sup> of the Human Rights Council and called on Council to insist:

- that Viet Nam protect its lawyers, instead of detaining them,
- that Viet Nam comply with the Opinions of the WGAD, and
- that Viet Nam release Le Quoc Quan immediately.

*In November 2016, a petition was filed with the UNWGAD regarding the arrest and current detention of Nguyen Van Dai.<sup>23</sup> International media have reported on Nguyen Van Dai's arrest and detention.<sup>24</sup> The United Nations' High Commissioner for Human Rights ('UNHCHR'),<sup>25</sup> the European Parliament,<sup>26</sup> the United States' State Department<sup>27</sup> and a coalition 26 non-government organizations<sup>28</sup> have criticized Nguyen Van Dai's ongoing detention and called for his release. In October 2016, the UNHCHR called for all individuals detained in Viet Nam in connection with Article 88 of the Penal Code and similar provisions to be released.<sup>29</sup>*

*Example: Mr. Tran Thu Nam and Mr. Le Luan, lawyers, human rights defenders  
On 3 November 2015, human rights lawyers Mr. Tran Thu Nam and Mr. Le Luan were attacked and beaten by eight masked men. There is reason to believe that Tran Thu Nam and Le Luan were targeted in connection to their legitimate activities as attorneys.*

*When the eight masked men on motorcycles attacked Tran Thu Nam and Le Luan, the lawyers tried to escape, but were caught and beaten. They recognized one of the attackers as a local police officer. Tran Thu Nam and Le Luan sustained several injuries, including to their faces, and received medical treatment in the local hospital.*

*Tran Thu Nam and Le Luan are Hanoi-based human rights lawyers providing legal support to the victims of police brutality and other human rights abuses by the authorities. At the time of the attack, they were supporting the family of Do Dang Du, who died on 10 October 2015 in police custody after being held there for two months on a charge of theft. The lawyers questioned the validity of the autopsy carried out on Do Dang Du's body as it failed to include an examination of internal*

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<sup>23</sup> <http://www.advocatenvooradvocaten.nl/wp-content/uploads/20161125-UNWGAD-Petition-on-behalf-of-Nguyen-Van-Dai-for-submission.pdf>

<sup>24</sup> See, for example, Radio Free Asia, *Vietnam Detains Dissident Lawyer For 'Anti-State Propaganda'* (16 December 2015), available at <http://www.rfa.org/english/news/vietnam/lawyer-12162015152342.html>; Reuters, *U.S. 'deeply concerned' by arrest of Vietnam rights activist* (21 December 2015), available at: <http://www.reuters.com/article/us-usa-vietnam-rights-idUSKBN0U42L420151221>; Huffington Post, *No Trade Without Freedom of Information* (12 February 2016), available at: [http://www.huffingtonpost.com/christophe-deloire/no-trade-without-freedom\\_b\\_9220010.html](http://www.huffingtonpost.com/christophe-deloire/no-trade-without-freedom_b_9220010.html); Los Angeles Times, *Wife of jailed Vietnamese human rights activist comes to U.S. with a plea* (17 April 2016), available at: <http://www.latimes.com/local/california/la-me-adv-viet-activist-20160417-story.html>; Australian Broadcasting Corporation, *Wife of jailed Vietnamese lawyer asks Australians to push for her husband's release* (15 June 2016), available at: <http://www.abc.net.au/pm/content/2016/s4482360.htm>.

<sup>25</sup> OHCHR, *UN Human Rights Chief urges Viet Nam to halt crackdown on bloggers and rights defenders* (14 October 2016), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20679&LangID=E>.

<sup>26</sup> European Parliament Resolution on Vietnam, Adopted on 7 June 2016, (2016/2755(RSP)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=B8-2016-0767&language=EN>.

<sup>27</sup> U.S. Department of State, Daily Press Briefing, Spokesperson: John Kirby (21 December 2015), available at: <http://www.state.gov/r/pa/prs/dpb/2015/12/250813.htm#VIETNAM>

<sup>28</sup> Joint Statement Calling For the Release of Nguyen Van Dai and Le Thu Ha, 6 January 2016, available at: [http://www.ishr.ch/sites/default/files/documents/final\\_joint\\_statement\\_-\\_nguyen\\_van\\_dai\\_and\\_le\\_thu\\_ha\\_-\\_final.pdf](http://www.ishr.ch/sites/default/files/documents/final_joint_statement_-_nguyen_van_dai_and_le_thu_ha_-_final.pdf).

<sup>29</sup> OHCHR, *UN Human Rights Chief urges Viet Nam to halt crackdown on bloggers and rights defenders* (14 October 2016), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20679&LangID=E>.

*organs, which could prove that he died as a result of injuries sustained in a beating.*

*The attack on Tran Thu Nam and Le Luan happened right after the human rights lawyers had met with the family of Do Dang Du to discuss further steps in the legal proceedings regarding his death in police custody. Do Thi Mai, Du's mother, witnessed the attack.*

*Furthermore, on the morning of 12 November 2015, police officers arrested lawyer Tran Vu Hai and detained him at the Xuan La police station. Tran Vu Hai was part of a group of lawyers who planned to visit government offices to submit letters regarding the attack on Tran Thu Nam and Le Luan. Tran Vu Hai was released after 13 hours.<sup>30</sup>*

*Example of Vo An Don, human rights lawyer*

*Vo An Don provides free legal service to people who live in poverty, members of the ethnic minorities and under-aged offenders. He has acted as legal representative in more than 200 court cases on a pro-bono basis.*

*In 2012, Vo An Don represented the wife of a victim of police brutality. Her husband was beaten to death by the police while in custody. As a result of his work as a defense lawyer against police brutality, lawyer , Vo An Don has been subjected to harassment and retaliation by the authorities. He has received several death threats from the police and hired thugs. Moreover, on January 8, 2015 Vo An Don received an order from the authorities to audit his law practice. As his law office was the only law office in the city to be audited in 2015, this may constitute another act of harassment. Furthermore, several Vietnamese government offices, such as the police, prosecutors and the court of Tuy Hoa City, where the trial took place requested the Phu Yen Bar Association to cancel Vo An Don's license to practice law. On 21 January, the Phu Yen Bar Association sent a communication to the police, prosecutors and court of Tuy Hoa city, in which they asked authorities to withdraw the request for cancellation of Vo An Don's license to practice law. According to the Phu Yen Bar Association, the request to withdraw Vo An Don's license was ill- founded and authorities had no jurisdiction to make such a request.*

23. As demonstrated by the examples above, lawyers often conduct their professional activities in an unfavorable environment, and their right to freedom of expression is not always protected. In addition to the direct effects on the lawyers in question, these practices could have a "chilling effect" on other lawyers, , potentially forcing them to refuse certain kinds of cases, being hindered in carrying out their work, and live in the fear that they or their families may be at risk because of their work.

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<sup>30</sup> <http://www.advocatenvooradvocaten.nl/11293/vietnam-human-rights-lawyers-tran-thu-nam-and-le-luan-attacked/>

## **VII. Conclusion**

1. The adequate protection of human rights and fundamental freedoms requires that every citizen has effective access to justice and legal assistance. However, the authorities of Viet Nam have failed to take substantive steps to ensure the right to fair trial and to guarantee that every citizen has effective access to justice and legal assistance of their choice. There are a small number of lawyers in Viet Nam who dare to represent those who speak out against the government of Viet Nam, and who dare to contribute to the public debate about controversial topics such as a future multiparty democracy system in Viet Nam. The Viet Nam authorities have failed to ensure a safe environment for the professional activities of lawyers, and have failed to protect the right to freedom of expression and the right to take part in public discussion of matters concerning the protection of human rights of lawyers. Lawyers in Viet Nam still face threats, intimidation, physical attacks and prosecution in connection to their professional activities, and the exercise of their right to freedom of expression.  
Viet Nam has, to date, not implemented recommendations 143.135, 143.149 and 143.167.

2. L4L, the Law Society and LRWC urge the authorities of Viet Nam:
  - a. to ensure the right to fair trial and to guarantee that every citizen has effective access to justice and independent legal assistance of their choice, in compliance with Preamble paragraph 9 and Principle 1, 16, 17 and 18 of the Basic Principles and article 14 of the ICCPR and to implement recommendation 143.135 fully and without any delay;
  - b. to guarantee the freedoms of information and expression, particularly for lawyers and human rights defenders, in compliance with Article 23 of the Basic Principles and Article 19 of the ICCPR and to implement recommendation 143.149 fully and without any delay; and
  - c. to ensure a favorable environment for the activities of human rights defenders and lawyers, in line with Principles 16, 17 and 18 of the Basic Principles and article 14 ICCPR and to implement recommendation 143.167 fully and without any delay.

*Lawyers for Lawyers ('L4L') is an independent Dutch foundation, funded solely by lawyers' donations. The foundation was established in 1986 and has special consultative status with ECOSOC since 2013.<sup>31</sup> L4L's mission is to promote the proper functioning of the rule of law through a free and independent exercise of the legal profession, in conformity with international law, including but not limited to the International Covenant on Civil and Political Rights ('ICCPR'), the United Nations Declaration on Human Rights ('UDHR') and the Basic Principles on the Role of Lawyers of the United Nations ('Basic Principles').<sup>32</sup> L4L does this by supporting lawyers across the world who are threatened or suppressed as a result of discharging their functions and by promoting the proper role of lawyers.<sup>33</sup>*

*The Law Society of England and Wales is a professional body representing more than 166,000 lawyers in England and Wales. Its aims include upholding the independence of the legal profession, the rule of law and human rights around the world. The Law Society has special consultative status with ECOSOC since 2014.*

*Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and other human rights defenders who promote international human rights and the rule of law globally through advocacy, education and legal research. LRWC is a volunteer-run NGO in Special Consultative Status with the Economic and Social Council of the United Nations.*

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<sup>31</sup> For more information visit our website: <http://www.advocatenvooradvocaten.nl/about-us/>

<sup>32</sup> Basic Principles on the Role of Lawyers (Basic Principles), unanimously adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba on 7 September 1990. Subsequently, the UN General Assembly 'welcomed' the Basic Principles in their 'Human rights in the administration of justice' resolution, which was adopted without a vote on 18 December 1990 in both the session of the Third Committee and the plenary session of the General Assembly.

<sup>33</sup> For more information visit the L4L website: <http://www.advocatenvooradvocaten.nl/what-we-do/> this is a repeat of FN 1