

Stakeholders' submission	Suggested questions	Suggested recommendations
<p>In the last years, the crackdown on freedom of expression has intensified. Reports indicate that in 2017, Viet Nam authorities have detained or exiled many peaceful activists and bloggers. Human rights lawyers who work on sensitive cases frequently face reprisals either in relation to their own human rights advocacy or their legal representation of people seen as critical of the Government. They are subjected to, amongst other things, threats, harassment and intimidation. Some lawyers have been the victim of physical attacks in connection to their legitimate advocacy. See Joint submission (JI) L4L & LRWC, par.10</p> <p>A number of lawyers in Viet Nam have even been subjected to arrests and prosecution in connection to their professional activities or in relation to their human rights advocacy. See JI L4L & LRWC, par.11</p>	<p>(1) How does the Viet Nam ensure that lawyers can discharge their professional duties and engage in human rights advocacy free from threats, intimidation, physical attacks and other forms of harassment.?</p> <p>(2) How does the Viet Nam ensure that lawyers can exercise their professional duties and engage in human rights advocacy without being subjected to arbitrary arrest and detention illegitimate prosecutions and other punishments in reprisal?</p> <p>(3) How does Viet Nam ensure that crimes, harassment and other violations against lawyers are effectively investigated, publicly condemned at all levels and that perpetrators are identified and held accountable?</p> <p>(4) How does Viet Nam ensure that lawyers not suffer or be threatened with prosecution or other punishments for the legitimate exercise of their professional duties or their right to engage in human rights advocacy?</p>	<p>Take immediate measures to ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and their effective protection against all forms of retaliation, including arrests, detention, prosecution and violence, in connection with their professional activity and/or engagement in human rights advocacy.</p> <p>Immediately take effective measures necessary to ensure that crimes, harassment, and other violations against lawyers and their families are effectively investigated and publicly condemned at all levels, and that the perpetrators of such acts are prosecuted or otherwise held accountable.</p> <p>Immediately ensure protection and safeguarding of lawyers facing insecurity as a result of discharging their functions, in line with principle 17 of the Basic Principles.</p> <p>Take all steps necessary to reverse convictions and waive sentences imposed under Articles 109 (or the former Article 79) and/or 117 (or the former Article 88) of the Penal Code including convictions of Nguyen Van Dai, Le Thu Ha and redress violations of their internationally protected rights, including steps to ensure:</p> <ul style="list-style-type: none"> - Immediate and unconditional release of these individuals, and in the case of Nguyen Van Dai and Le Thu Ha, their return to Viet Nam without risk of loss of liberty; - Compensation for the violations of each individual's rights and their loss of liberty.
<p>Governments must protect lawyers from unfair or arbitrary disciplinary proceedings. Disciplinary action against lawyers must be based solely on a code of professional conduct consistent with recognized ethical and professional standards including the Basic Principles and determined by an independent tribunal after a fair hearing conducted in accordance with international due process requirements. Before the UPR review of Viet Nam in 2014, several leading human rights lawyers had been disbarred, including lawyers Le Cong Dinh, Nguyen Van Dai, and Le Quoc Quan. More recently, other lawyers have been disbarred or are facing disbarment or other disciplinary actions on improper grounds. See JI L4L & LRWC, par.12</p>	<p>(5) How does Viet Nam ensure that lawyers are not subjected to suspension, disbarment or other disciplinary proceedings as a result of properly discharging their professional duties?</p>	<p>Refrain from any actions that may constitute harassment, persecution, or undue interference in the work of lawyers, including their suspension, disbarment, or other disciplinary actions or criminal prosecution based on improper grounds such as the expression of critical views or the nature of the cases that the lawyer is involved in.</p>



<p>Lawyers, like any other individual, have the right to freedom of expression. The freedom of expression that lawyers enjoy in connection to their professional functions should not only be guaranteed in light of the rights of the lawyer, but also in protection of the rights of their clients. Articles 109 and 117 (formerly articles 79 and 88) of the Penal Code (“conducting propaganda” against the State and statements aiming to “overthrow” the State) are frequently invoked to imprison lawyers, bloggers and human rights defenders for the peaceful exercise of their rights to free expression. Several UN bodies have defined these articles as vague and overbroad and failing to meet the test of certainty for criminal offences. As determined by the WGAD (A/HRC/WGAD/2018/10), such vague and overbroad offences “provide a “standard less sweep” that requires prosecutors and judges to apply subjective standards to determine what constitutes an offence, confers unrestricted judicial discretion and allows prosecutors and judges to pursue personal agendas.” Furthermore, the Office of the United Nations High Commissioner for Human Rights stated that the “ill-defined scope of this law makes it all too easy to quash any kind of dissenting views and to arbitrarily detain individuals who dare to criticize Government policies”. See JI L4L & LRWC, par.14-17.</p>	<p>(6) How does Viet Nam ensure the effective protection of lawyers' rights to freedom of expression, association, assembly or the right to participate in public affairs?</p>	<p>Immediately repeal sections of the Penal Code (particularly articles 109 and 117) and bring all sections of the Penal Code into compliance with international legal standards, as set out by the ICCPR and the Universal Declaration on Human Rights, including sections guaranteeing rights to notice, time, and opportunity to prepare a defense, freedom from <i>ex post facto</i> prosecution, and the right to have charges and rights determined.</p>
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Lawyers for Lawyers (L4L), established in 1986, is an independent foundation merely funded by lawyers' donations. L4L is committed to safeguard the proper functioning of the rule of law through a free and independent exercise of the legal profession in accordance with international norms, including the United Nations Basic Principles on the Role of Lawyers. L4L was granted Special Consultative status with the UN Economic and Social Council in July 2013. www.lawyersforlawyers.org

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 through advocacy, education and legal research. LRWC is a volunteer-run NGO with Special Consultative status with the UN Economic and Social Council since 2005. <https://www.lrwc.org>