

PETITION TO:  
UNITED NATIONS WORKING GROUP ON ARBITRARY DETENTION

Mr Sètonджи Roland Adjovi (Benin), Chair-Rapporteur  
Ms Leigh Toomey (Australia)  
Mr José Guevara (Mexico)  
Mr Seong-Phil Hong (Republic of Korea)  
Ms Elina Steinerte (Latvia)

HUMAN RIGHTS COUNCIL UNITED NATIONS GENERAL ASSEMBLY

In the matter of

**NGUYỄN VĂN ĐÀI**  
**(the “Petitioner”)**

v.

**Government of the Socialist Republic of Viet Nam**

Petition for Relief Pursuant to Commission on Human Rights Resolutions 1997/50,  
2000/36, 2003/31, and Human Rights Council Resolutions 6/4 and 15/1

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Submitted by:

Media Legal Defence Initiative  
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London SE11 5RR  
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On behalf of:

Lawyers for Lawyers  
Lawyer’s Rights Watch Canada  
Media Legal Defence Initiative  
PEN International  
Viet Tan

## EXECUTIVE SUMMARY

1. The Petitioner, Mr Nguyễn Văn Đài, requests that the United Nations Working Group on Arbitrary Detention (the “Working Group”) render an Opinion that the Petitioner’s detention violates fundamental guarantees enshrined in international law and constitutes Category II and Category III arbitrary detention as defined by the Working Group, and recommend that the Government of Viet Nam immediately and unconditionally release the Petitioner, as set out in Part VI of this Petition.
2. The Petitioner is a human rights lawyer, active blogger, and long-standing advocate for multiparty democracy who is a citizen of the Socialist Republic of Viet Nam (“Viet Nam”). For over ten years, the Petitioner has undertaken human rights work in Viet Nam in the face of harassment, surveillance, imprisonment and acts of violence.<sup>1</sup> Prior to 2007, the Petitioner worked as a human rights lawyer representing clients in court to defend their right to religious freedom. In 2007, the Petitioner was charged and convicted of “Conducting Propaganda against the Socialist Republic of Vietnam” pursuant to Article 88 of the Viet Nam Penal Code (“Penal Code”) and his license to practice law was revoked. The Petitioner served an eight-year prison term from March 2007 until March 2015, in prison and under house arrest. The Petitioner continued with his human rights work while under house arrest, co-founding the “Brotherhood for Democracy” in 2013, an organisation that provides training to community members on their legal rights in Viet Nam.
3. From his release in March 2015 until his arrest on 16 December 2015, the Petitioner was involved in a campaign advocating stronger human rights protection in Viet Nam. The Petitioner 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.<sup>2</sup> He organised and conducted seminars to educate community members on their human rights and he met with an international delegation from the European Union (the “EU”) to discuss the state of human rights protection in Viet Nam.
4. On 16 December 2015, when the Petitioner was scheduled to attend further meetings with EU delegates, he was arrested by state authorities in connection with the offence of “Conducting Propaganda against the Socialist Republic of Vietnam” under Article 88 of the Penal Code – 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, the Petitioner has been held incommunicado. The violations of the Petitioner’s human rights are numerous: no evidence was provided to support his arrest; the Petitioner has been denied access to legal representation and has been denied contact with his family; and the Petitioner has not been brought before a court at any stage during the 11 months of his detention.

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<sup>1</sup> See paragraphs 29(a) to (d) and 32 of this Petition which provides further details.

<sup>2</sup> See paragraphs 31(a) to (c) of this Petition for details of his writing.

5. International media have reported on the Petitioner's arrest and detention.<sup>3</sup> The United Nations' High Commissioner for Human Rights ("UNHCHR"),<sup>4</sup> the European Parliament,<sup>5</sup> the United States' State Department,<sup>6</sup> a coalition 26 non-government organisations<sup>7</sup> and a coalition of 73 Members of Parliament from around the world<sup>8</sup> have criticised the Petitioner'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 (**Annex I**).<sup>9</sup>
6. Viet Nam has been repeatedly condemned by international human rights groups for non-compliance with international standards of freedom of expression and fair trial rights.<sup>10</sup> Viet Nam has a propensity to use overly broad criminal provisions, including Article 88 of the Penal Code, to penalise those who raise concerns about the protection of human rights. Individuals, including the Petitioner, are prosecuted for the lawful exercise of the rights guaranteed by the International Covenant on Civil and Political Rights ("ICCPR"), the United Nations Declaration on Human Rights ("UDHR"), and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("BPPP").
7. The arrest and detention of the Petitioner for the lawful exercise of his right to freedom of opinion and expression (Article 19 ICCPR and UDHR), and the right to take part in the conduct of public affairs (Article 25 ICCPR and Article 21 UDHR) fulfil the Category II criteria for arbitrary detention. The violation of the Petitioner's right to a fair trial (Article 14 ICCPR and Article 11 UDHR) means that the arrest and detention also fulfil the criteria for Category III arbitrary detention.
8. Therefore, the Petitioner respectfully requests that the Working Group render an Opinion in the terms outlined in Part VI of this Petition.

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<sup>3</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>4</sup> Office of the United Nations High Commissioner for Human Rights ("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>5</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>6</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>7</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>8</sup> Front Line Defenders, *73 MPs on four continents call for the release of Nguyen Van Dai* (25 October 2016).

<sup>9</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>10</sup> See paragraphs 16 to 21 of this Petition for further details.

## BASIS FOR REQUEST

9. The Petitioner, Mr Nguyễn Văn Đài, is a citizen of Viet Nam, which acceded to the ICCPR on 24 September 1982.<sup>11</sup> Viet Nam is also bound by those principles of the UDHR that have acquired the status of customary international law. Its obligations under international law are further delineated in the BPPP.
10. The Petitioner was arrested and arbitrarily detained while he was exercising his right to freedom of opinion and expression (Article 19 ICCPR and UDHR) and his right to take part in the conduct of public affairs (Article 25 ICCPR and Article 21 UDHR). The circumstances of the Petitioner's arrest and detention violate his right to a fair trial (Article 14 ICCPR and Article 11 UDHR).
11. For the reasons stated herein, the Petitioner's arrest and detention violate the fundamental guarantees enshrined in international law and constitute Category II and Category III arbitrary detention as defined by the Working Group. He should be immediately released from detention.
12. Therefore, the Petitioner hereby requests that the Working Group consider this Petition to be a formal request for an Opinion of the Working Group pursuant to Resolutions 1991/42 and 1997/50 of the Commission on Human Rights and Resolution A/HRC/RES/15/18 of the UN Human Rights Council.

## MODEL QUESTIONNAIRE

13. The Petitioner has been held incommunicado in a detention centre in Viet Nam since 16 December 2015. The Petitioner has been denied access to a lawyer and has been denied any contact with his family. One of the consequences of this is that the Petitioner's legal representatives have been unable to obtain certain information requested in the Model Questionnaire and certain documents in support of this Petition. However, it is submitted that this should not affect the admissibility or final outcome of this Petition, consistent with the position of the Working Group in this regard.<sup>12</sup> Unless otherwise indicated, the information in this Petition has been provided by reliable sources.

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<sup>11</sup> UN Treaty Collection, *Chapter IV Human Rights, 4. International Covenant on Civil and Political Rights* (4 December 2014) ("ICCPR"), available at [https://treaties.un.org/pages/ShowMTDSGDetails.aspx?src=UNTS&tabid=1&mtdsg\\_no=IV-4&chapter=4&lang=en#Participants](https://treaties.un.org/pages/ShowMTDSGDetails.aspx?src=UNTS&tabid=1&mtdsg_no=IV-4&chapter=4&lang=en#Participants).

<sup>12</sup> The Working Group stated in its first report to the Commission on Human Rights, when establishing its methods of work, that 'failure to comply with all formalities [regarding the presentation of information about a petitioner and the use of the model questionnaire] shall not directly or indirectly result in the inadmissibility of the communication.' Working Group, *Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment: Report of the Working Group on Arbitrary Detention*, Commission on Human Rights, 48<sup>th</sup> Sess., U.N. Doc. No. E/CN.4/1992/20 (21 January 1992), <http://www2.ohchr.org/english/issues/detention/docs/E-CN4-1992-20.pdf>, par. 8. Further, in Petition No. 29/2006, a petition was accepted (and detention was proven to be arbitrary) based almost entirely on newspaper articles. It was judged that the information was reliable as far as it was possible because it came from 'independent and reliable sources' including NGOs: Working Group, *No. 29/2006, Communication addressed to the Government concerning the case of Mr. Ibn al-Shaykh al-Libi and 25 other persons* (8 December 2005), [http://unwgadatabase.org/un/Document.aspx?id=2309&terms=\(+29%2f2006+\)](http://unwgadatabase.org/un/Document.aspx?id=2309&terms=(+29%2f2006+)).

**Petitioner: NGUYỄN VĂN ĐÀI**

## **I. IDENTITY**

Family name	Nguyễn
First name	Văn Đài
Sex	Male
Birth date or age (at the time of detention)	45 years old
Nationality/Nationalities	Vietnamese
Identity document: (a) Issued by  (b) On (date)  (c) No.	National ID card (a) Hanoi Police Authority, Viet Nam  (b) 15/12/2005  (c) 012216392
Profession and/or activity	Lawyer, human rights defender and blogger
Address of usual residence	Room 302, House Z8, Bach Khoa building, Bach Khoa, Hai Ba Trung District, Hanoi.

## **II. ARREST**

Date of arrest	16 December 2015
Place of arrest	The Petitioner's arrest took place at approximately 08:50 am near his home in Hanoi as he was on his way to a meeting with delegates from the the EU as part of the fifth round of the annual EU-Vietnam Dialogue on Human Rights.
Forces who carried out the arrest or are believed to have carried it out	Police officers from the Ministry of Public Security, in the presence of local police and local authority representatives.
Did they show a warrant or other decision by a public authority?	The Ministry of Public Service police officers read aloud an arrest warrant but did not provide a copy of the warrant to the Petitioner or his wife at the time of the arrest.
Authority who issued the warrant or decision	Head of the Ministry of Public Security
Relevant legislation applied	Article 81 of the Viet Nam Criminal Procedures Code 2003 (Arresting persons in urgent cases) ( <b>Annex II</b> )

### III. DETENTION

Date of detention	16 December 2015
Duration of detention	Since 16 December 2015, being over 11 months at the time of filing, and ongoing.
Forces holding the detainee under custody	Public Security of Hanoi (under the Ministry of Public Security of the Government)
Place of detention	Detention Centre B14, Security Bureau, Ministry of Public Security, Thanh Liet, Thanh Tri District, Hanoi.
Authorities that ordered the detention	Ministry of Public Security. It is not known what authorisation if any was provided by the Supreme People's Procuracy.
Reasons for the detention imputed by the authorities	Conducting propaganda under Article 88 of the Penal Code ( <b>Annex III</b> )
Relevant legislation applied	Article 88 of the Penal Code and Article 81 of the Criminal Procedure Code 2003 ("Criminal Procedure Code") ( <b>Annex II</b> )

### IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY

14. Section A presents the factual context in which the arrest and detention of the Petitioner took place and provides information on his background. We respectfully refer the Working Group to the responses in sections I (Identity), II (Arrest), and III (Detention) of the Model Questionnaire on pages 4-5 of this Petition for additional information in this regard.

15. Section B outlines the legal arguments in support of the submission that the Petitioner's arrest and detention are arbitrary.

#### A. Circumstances of the arrest and detention

##### A.1 The human right situation in Viet Nam

16. 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 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> Free elections do not occur. In May 2016,

<sup>13</sup> Human Rights Watch (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>.

<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>.

in the elections for the 500-member National Assembly, 11 of the 900 candidates on the ballot were self-nominated independents and the remainder were nominated by the central government or local authorities which are controlled by the Communist Party.<sup>17</sup>

(i) Restrictions on freedom of expression

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

18. Article 69 of the Constitution of Viet Nam (“the Constitution”) guarantees the right to freedom of expression, thought, religion, and association, as follows:<sup>21</sup>

“The citizen shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law.”<sup>22</sup>

19. However, this guarantee is rendered meaningless by domestic legislation which expressly limits the right to freedom of expression. Article 1 of the 1999 Mass Media Law requires all Vietnamese media to serve as “the mouthpiece of Party organisations”.<sup>23</sup> Restrictions of online media are of even greater severity. Decree No. 72 was passed in 2011 to restrict the anonymity of sources and exclude bloggers from

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<sup>17</sup> TIME, *Vietnam Gets to Vote in Elections, but the Communist Party Picks Who’s on the Ballot* (23 May 2016), available at: <http://time.com/4344416/vietnam-elections-independent-communist/>; see also The Diplomat, *The Truth About ‘Democracy’ in Vietnam Today* (25 March 2016), available at: <http://thediplomat.com/2016/03/the-truth-about-democracy-in-vietnam-today/>

<sup>18</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/vietnam/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 Office of the United Nations High Commissioner for Human Rights 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>19</sup> Reporters without Borders, *2016 World Press Freedom Index*, available at <https://rsf.org/en/ranking>.

<sup>20</sup> See Committee to Protect Journalists, *2015 Prison Census*, available at <https://cpj.org/imprisoned/2015.php>

<sup>21</sup> Constitution of the Socialist Republic of Viet Nam (2013). The Constitution was revised in 2013.

<sup>22</sup> Art. 69 Constitution of the Socialist Republic of Viet Nam (2013).

<sup>23</sup> Committee to Protect Journalists, *The 2015 list of 10 Most Censored Countries* (2015), <https://cpj.org/2015/04/10-most-censored-countries.php>.

press freedom protections.<sup>24</sup> Internet service providers are legally required to block access to websites that are considered politically unacceptable.<sup>25</sup>

20. In addition to restrictive media and internet laws, 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 bloggers and activists for the peaceful exercise of their right to free expression.<sup>26</sup> Human rights organisations have condemned several of these laws as explicitly violating Viet Nam’s obligations under international law.<sup>27</sup> In Opinion 40/2016, the Working Group urged the Government of Viet Nam to bring Article 79 and other provisions which it described as “vague and overly broad and ... used to restrict the exercise of human rights” into conformity with the country’s commitments under international human rights law.<sup>28</sup> However, Viet Nam has not taken any steps to repeal or amend Penal Code Article 88 and other laws criminalising free expression.<sup>29</sup>
21. Human rights lawyers working in Viet Nam frequently face reprisals either in relation to their own human rights advocacy or due to their legal representation of journalists and others who are critical of the Government.<sup>30</sup> In 2009, Le Cong Dinh, an eminent lawyer and human rights defender and former Vice-President of the Ho Chi Minh City Bar, lost his licence to practice law due to his pro-democracy work and was sentenced to five years’ imprisonment following a conviction under Article 88 of the Penal Code for "activities seeking to overthrow the people's government" in 2010.<sup>31</sup> In November 2012, this Working Group concluded that his deprivation of liberty was arbitrary,<sup>32</sup> and he was freed on 6 February 2013.<sup>33</sup>
22. Journalists, bloggers and pre-democracy activists who have been prosecuted under Article 88 of the Penal Code and similar provisions include: blogger and pro-

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<sup>24</sup> Reporters Without Borders, *Vietnam: Targeting bloggers* (10 March 2014), available at <http://12mars.rsf.org/2014-en/2014/03/10/vietnam-targeting-bloggers/>; HRW, *World Report 2014: Vietnam*, available at <https://www.hrw.org/world-report/2014/country-chapters/vietnam>.

<sup>25</sup> Freedom House, *Freedom of the Press 2015: Vietnam*, available at <https://freedomhouse.org/report/freedom-press/2015/vietnam>.

<sup>26</sup> 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 of the Press 2015: Vietnam*, available at <https://freedomhouse.org/report/freedom-press/2015/vietnam>.

<sup>27</sup> OHCHR Summary for the UPR of Viet Nam, November 2013 at par. 48, 53 and 54.

<sup>28</sup> Working Group, *Nguyen Dang Minh Man v. Viet Nam*, Opinion No. 40/2016, UN Doc. No. A/HRC/WGAD/2016 (20 September 2016).

<sup>29</sup> HRW, *World Report 2016: Vietnam, Events of 2015* available at <https://www.hrw.org/world-report/2016/country-chapters/vietnam>: “The government took no steps in 2015 to repeal laws criminalizing peaceful expression.”

<sup>30</sup> Lawyers for Lawyers, *County Info: Vietnam*, available at <http://www.advocatenvooradvocaten.nl/countries/vietnam/>.

<sup>31</sup> *Union Internationale des Avocats* (International Association of Lawyers), *The UIA celebrates the release of Vietnamese lawyer Le Cong Dinh*, available at: [http://www.uianet.org/en/content/uia-celebrates-release-vietnamese-lawyer-le-cong-d#\\_ftn1](http://www.uianet.org/en/content/uia-celebrates-release-vietnamese-lawyer-le-cong-d#_ftn1).

<sup>32</sup> The Working Group, *Concerning Le Cong Dinh, Tran Huynh Duy Thuc, Nguyen Tien Trung and Le Thang Long*, Opinion No. 27/2012 (Viet Nam), UN Doc. No. A/HRC/WGAD/2012/27 (23 November 2012).

<sup>33</sup> *Union Internationale des Avocats* (International Association of Lawyers), *The UIA celebrates the release of Vietnamese lawyer Le Cong Dinh*, available at: [http://www.uianet.org/en/content/uia-celebrates-release-vietnamese-lawyer-le-cong-d#\\_ftn1](http://www.uianet.org/en/content/uia-celebrates-release-vietnamese-lawyer-le-cong-d#_ftn1).

democracy activist Tran Huynh Duy Thuc;<sup>34</sup> blogger Le Thanh Tung;<sup>35</sup> political blogger Truong Duy Nhat<sup>36</sup> and anti-corruption campaigner Dinh Tat Thang.<sup>37</sup>

(ii) Restrictions on the right to fair trial

23. The Constitution similarly guarantees the right to a fair trial<sup>38</sup> and prohibits arbitrary detention.<sup>39</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>40</sup> Trials of political and religious activists in particular fail to meet international standards of fairness. The rights to be presumed innocent, to cross-examine witnesses and have access to counsel are routinely denied. Only 9 to 11% of accused persons are legally represented<sup>41</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>42</sup> Denial of these fundamental guarantees was demonstrated in the 2014 trial of Hanoi land rights activists, in which the local court declined to hear a defence and refused to summon witnesses who may have given evidence in favour of the accused persons.<sup>43</sup>
24. The Working Group has declared that arbitrary detention has taken place in Viet Nam in more than 20 cases that have come before it since 1993.<sup>44</sup> Prominent examples of the arbitrary detention of political activists, journalists and bloggers include:

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<sup>34</sup> On 20 January 2010, Tran Huynh Duy Thuc was sentenced to 16 years in prison under Article 88 of the Penal Code after he had posted a blog calling on Viet Nam to respect human rights and institute political reform. See: Amnesty International, *Viet Nam: Silenced Voices: Prisoners of Conscience in Viet Nam* (7 November 2013), par. 4.6 available at <https://www.amnesty.org/en/documents/ASA41/007/2013/en/>.

<sup>35</sup> On 10 August 2012, Le Thanh Tung was convicted for blog posts advocating multi-party democracy in Viet Nam and improved human rights, following a one hour 'trial'. He was sentenced to four years in prison and four years of house arrest. See: Amnesty International, *Viet Nam: Silenced Voices: Prisoners of Conscience in Viet Nam* (7 November 2013), par. 4.6 available at <https://www.amnesty.org/en/documents/ASA41/007/2013/en/>; Reporters Without Borders, *Another Blogger gets jail term on anti-government propaganda charge* (14 August 2012), available at <https://rsf.org/en/news/another-blogger-gets-jail-term-anti-government-propaganda-charge>.

<sup>36</sup> On 4 March 2014, Truong Duy Nhat was imprisoned for two years under Article 258 of the Penal Code. The court held that his blog, *A Different Point of View*, was critical of the state and an "abuse of democratic freedoms to infringe upon the interests of the state".

<sup>37</sup> On 24 March 2016, Dinh Tat Thang was sentenced to seven months and 11 days in prison. On 5 August 2015, Mr Dinh wrote a letter to the Vietnamese Fatherland Front, a pro-government movement. He was arrested 11 days later and charged with "abusing democratic freedoms to infringe upon the interests of the state" under article 258 of the Penal Code. See: HRW, *Vietnam: 7 Convicted in One Week* (4 April 2016), available at <https://www.hrw.org/news/2016/04/04/vietnam-7-convicted-one-week>.

<sup>38</sup> Art. 31 Constitution of the Socialist Republic of Vietnam (2013).

<sup>39</sup> Art. 20 Constitution of the Socialist Republic of Vietnam (2013).

<sup>40</sup> See, for example: 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>41</sup> OHCHR Summary for the UPR of Viet Nam, November 2013 at par. 47.

<sup>42</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>43</sup> HRW, *World Report 2015: Vietnam*, available at: <https://www.hrw.org/world-report/2015/country-chapters/vietnam>.

<sup>44</sup> See: The Working Group, Detention Document Search, available at <http://www.unwgadatabase.org/un/> (updated 2 November 2016).

- a. In Opinion No. 40/2016, in the case of Ms Minh Man, a photojournalist, the Working Group determined that Viet Nam had contravened articles 9, 10, 14, 19, 22 and 25 of the ICCPR and that her detention was arbitrary under Categories II and III. Ms Minh Man was held in pre-trial detention for over 16 months before she was tried and convicted under Article 79 of the Penal Code. The Working Group held that there were “serious violations of the right to fair trial” at her hearing, and that since her conviction, Ms Minh Man has been held in prison conditions that violate her right to dignity and may amount to torture or other cruel, inhuman or degrading treatment under article 7 of the ICCPR.<sup>45</sup>
- b. In Opinion No. 45/2015, in the case of Nguyen Viet Dung, a political campaigner, the Working Group determined that Viet Nam had contravened articles 9, 10 and 11 of the ICCPR and his detention was arbitrary under Categories I and III. Mr Nguyen was arrested without the presentation of an arrest warrant (which was not produced until eight days after his arrest) or proper notification of the charges against him. He was subjected to pre-trial detention over a period of eight months.<sup>46</sup>
- c. In Opinion 33/2013,<sup>47</sup> the Working Group found the Government to have engaged in Category III arbitrary detention in relation to the arbitrary arrest and incommunicado detention of Le Quoc Quan, a prominent human rights defender and blogger.
- d. In Opinion 26/2013,<sup>48</sup> the Working Group declared that the treatment of 16 Vietnamese citizens amounted to Categories II, III and V arbitrary detention. The individuals were arrested, detained incommunicado and convicted because of their human rights activism, blogging, journalism, membership in faith-based associations and involvement in opposition groups. Their trials lasted only a few hours. Access to legal counsel was denied in some cases or was regarded by the Working Group as insufficient to comply with international fair trial standards.<sup>49</sup>
- e. In Opinion 27/2012, the Working Group made declarations of arbitrary detention in the cases of Le Cong Dinh, Tran Huynh Duy Thuc, Nguyễn Tien Trung, and Le Thang Long, four Vietnamese political activists. The individuals were arrested and charged with circulating propaganda against Viet Nam, and the Working Group “recall[ed] that the holding and expressing

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<sup>45</sup> Working Group, *Nguyen Dang Minh Man v. Viet Nam*, Opinion No. 40/2016, UN Doc. No. A/HRC/WGAD/2016 (20 September 2016).

<sup>46</sup> Working Group, *Nguyen Viet Dung v. Viet Nam*, Opinion No. 45/2015, UN Doc. No. A/HRC/WGAD/2015/45 (17 March 2016).

<sup>47</sup> Working Group, *Le Quoc Quan v. Viet Nam*, Opinion No. 33/2013, UN Doc. No. A/HRC/WGAD/2013/33 (12 November 2013).

<sup>48</sup> Working Group, Francis Xavier Dang Xuan Dieu, Peter Ho Duc Hoa, John the Baptist Nguyen Van Oai, Anthony Chu Manh Son, Anthony Dau Van Doung, Peter Tran Huu Duc, Paulus Le Van Son, Hung Anh Nong, John the Baptist Van Duyet, Peter Nguyen Xuan Anh, Paul Ho Van Oanh, John Thai Van Dung, Paul Tran Minh Nhat, Mary Ta Phong Tan, Vu Anh Binh Tran and Peter Nguyen Dinh Cuong v. Viet Nam, Opinion No. 26/2013, UN Doc. No. A/HRC/WGAD/2013/26 (14 January 2014).

<sup>49</sup> *Id.* par. 31 and 69.

of opinions, including those which are not in line with official Government policy, are protected under article 19 of the ICCPR.”<sup>50</sup> The Working Group determined that Viet Nam had contravened articles 9, 19 and 21 of the ICCPR and the detention was arbitrary under Category II.

#### A.2. *The Petitioner is a human rights defender*

25. The Petitioner has sought to exercise his right to freedom of expression and right to participate in public affairs through peaceful activities. The Petitioner is a prominent human rights lawyer in Viet Nam, an outspoken critic of the Government and a leading advocate on human rights protection.
26. The Petitioner graduated with a law degree from the Hanoi Law University in 1995.<sup>51</sup> After his graduation, he became a member of the Bar Association of Vinh Phuc (a province near Ha Noi) for several years and then became a member of the Bar Association of Ha Noi. The Petitioner has represented individuals persecuted for their religious beliefs, such as Pastor Nguyễn Hồng Quang and religious freedom activist Pham Ngoc Thach in 2004.<sup>52</sup>
27. In addition to practising as a lawyer, the Petitioner has written widely about human rights abuses in Viet Nam and commented on policy reforms and the need for a transition to a multi-party democracy on the blog *RFAVietnam* and on social media (**Annex IV and Annex V**). The Petitioner’s most recent publications prior to his arrest are outlined at paragraphs 31 (a) to (c) below.
28. The Petitioner is a leader in community advocacy for human rights protection in Viet Nam. In 2006, he founded “The Committee for Human Rights in Viet Nam” (now named the Vietnam Human Rights Centre) which trains human rights lawyers and promotes community education on human rights issues in Viet Nam. The Petitioner has organised and led training sessions for young people throughout the country, teaching them how to report human rights violations and handle police interrogations.<sup>53</sup> While under house arrest, the Petitioner founded “The Brotherhood for Democracy” in April 2013. That organisation advocates for the protection of human rights.<sup>54</sup>
29. The Petitioner has been targeted as a result of his human rights work on a number of occasions. The following are some of the most serious incidents:
  - a. On 17-19 November 2006, during the meeting of the Asia-Pacific Economic

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<sup>50</sup> Working Group, No. 27/2012 (Viet Nam), *Communication addressed to the Government concerning Le Cong Dinh, Tran Huynh Duy Thuc, Nguyen Tien Trung and Le Thang Long* (15 March 2012), online <http://www.unwgadatabase.org/un/Document.aspx?id=2867&terms=%28+viet+nam+%29>

<sup>51</sup> New America Media, *Wife of prominent Vietnamese human rights lawyer Nguyen Van Dai rallied for his release* (3 May 2016), available at <http://newamericamedia.org/2016/05/wife-of-prominent-vietnamese-human-rights-lawyer-nguyen-van-dai-rallied-for-his-release.php>.

<sup>52</sup> *Id.*

<sup>53</sup> 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>.

<sup>54</sup> Brotherhood for Democracy website, <https://haedc.org/gioi-thieu/>.

- Cooperation, which took place in Hanoi, ten security police officers surrounded the Petitioner's home and prohibited all visitors from entering.<sup>55</sup>
- b. On 28 February 2007, following pressure from Security Police, the Business Registration Office of Hanoi's Planning and Investment Bureau issued a "decision" to withdraw the licence of the Translation and Legal Consultation Firm in Hanoi, of which the Petitioner was the co-founder and the Executive Director.<sup>56</sup>
  - c. Most significantly, in March 2007, the Petitioner was arrested and charged with the offence of "spreading propaganda" under Article 88 of the Penal Code – the same provision under which he is currently detained – and served an eight-year prison term from March 2007 until March 2015, in prison and under house arrest.<sup>57</sup> At the time of his arrest, the Petitioner's licence to practice law was revoked.
  - d. In 2013, the Petitioner's house was bugged by police,<sup>58</sup> and in early 2015, his door was twice broken down by police.<sup>59</sup>

### A.3 *The circumstances immediately preceding the Petitioner's arrest*

30. The UNHCHR identified a "growing crackdown by Viet Nam on human rights defenders, journalists and bloggers" in the period 2015-2016.<sup>60</sup> During the first nine months of 2015, Human Rights Watch reported that at least 40 bloggers and rights activists were beaten by plainclothes state agents in Viet Nam.<sup>61</sup> The arrest and detention of the Petitioner is a sobering illustration of this trend.
31. From March 2015 until his arrest in December 2015, the Petitioner actively campaigned for stronger human rights protection in Viet Nam. The Petitioner published a number of blogs and articles calling for a transition to a multi-party democracy, for example:
  - a. On 16 September 2015, an article by the Petitioner entitled 'Freedom of Associations and Some Issues in the Draft Law on Associations' was published in Vietnamese on the website *RFAVietnam*.<sup>62</sup> The article criticised the draft law on associations as restricting the right to freedom of assembly and being "contrary to international law", citing Resolution 15/21 of the Human Rights Council.
  - b. On 21 September 2015, an article by the Petitioner entitled 'How to build a

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Fédération Internationale des Ligues des Droits de l'Homme (French: International Federation for Human Rights), *Arrest and arbitrary detention of Mr. Nguyen Van Dai, a human rights lawyer and well-known defender of religious freedom* (18 December 2015), available at: <https://www.fidh.org/en/issues/human-rights-defenders/arrest-and-arbitrary-detention-of-mr-nguyen-van-dai-a-human-rights>.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</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>61</sup> HRW, *World Report 2016: Vietnam, Events of 2015*, <https://www.hrw.org/world-report/2016/country-chapters/vietnam>.

<sup>62</sup> Nguyen Van Dai, *Freedom of Associations and Some Issues in the Draft Law on Associations* (16 September 2016), <http://www.rfavietnam.com/node/2798>.

multi-party democratic society peacefully in Vietnam?’ was published online in Vietnamese on *RFAVietnam*.<sup>63</sup> The article was critical of the one-party state for having “created hundreds of thousands “aggrieved citizens”” (“*dan oan*”), and “thousands of injustice cases”. The article outlined a vision for establishing a multi-party democracy in Viet Nam.

- c. On 8 November 2015, an article by the Petitioner entitled ‘Burma ends a 53 year military regime. When will Vietnam terminate a totalitarian one-party rule?’ was published online in Vietnamese on *RFAVietnam*.<sup>64</sup>

32. In the weeks leading up to his arrest on 16 December 2015, the Petitioner experienced an escalation in harassment and violence:

- a. On 5 - 6 December 2015, the Petitioner and others who are part of the Brotherhood for Democracy organised three forums to mark International Human Rights Day in Ha Noi, Nghe An and Saigon.<sup>65</sup> The Petitioner was prevented by police from leaving his house to speak at the event held in Ha Noi.
- b. On 6 December 2015, the Petitioner was beaten by masked men when returning home after leading a class to educate citizens about their human rights under the Constitution in the Nam Dan district, Nghe An (**Annex VI**).<sup>66</sup>

33. On 15 December 2015, the day before his arrest, the Petitioner and others met with EU delegates to the fifth round of the annual enhanced Dialogue on Human Rights in the spirit of the EU-Vietnam Partnership and Cooperation Agreement signed in 2012.<sup>67</sup>

*The Petitioner was arrested and detained without legal justification*

34. On 16 December 2015, at approximately 8.50 am, the Petitioner was approached by plain clothes police officers shortly after he had left his house to attend the second day of the EU-Vietnam Dialogue on Human Rights. The police officers escorted the Petitioner back to his house and, in the presence of his wife, arrested him.<sup>68</sup> The police officers read aloud an arrest warrant.

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<sup>63</sup> Nguyen Van Dai, *How to build a multi-party democratic society peacefully in Vietnam?* (21 September 2015), <http://www.rfavietnam.com/node/2806>.

<sup>64</sup> Nguyen Van Dai, ‘Burma ends a 53 year military regime. When will Vietnam terminate a totalitarian one-party rule?’ (8 November 2015), <http://www.rfavietnam.com/node/2896>.

<sup>65</sup> 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>.

<sup>66</sup> Vietnam Right Now, *Brutal attacks becoming routine: Amnesty International* (10 December 2015), available at: <http://vietnamrightnow.com/2015/12/brutal-attacks-becoming-routine-amnesty-international>. See also, HRW, *Vietnam: No More “Empty Promises” at EU Rights Dialogue* (13 December 2015), available at: <https://www.hrw.org/news/2015/12/13/vietnam-no-more-empty-promises-eu-rights-dialogue>.

<sup>67</sup> European Union External Action, *EU and Vietnam hold Human Rights Dialogue* (16 December 2015), available at: [https://eeas.europa.eu/headquarters/headquarters-homepage/4476/eu-and-vietnam-hold-human-rights-dialogue\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/4476/eu-and-vietnam-hold-human-rights-dialogue_en).

<sup>68</sup> 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>.

35. The police proceeded to search the couple's house and confiscated several of the Petitioner's belongings, including laptops, a desktop computer, USB sticks, a saving account bank book, and envelopes containing foreign currency. At no stage during the course of the search did the police show a search warrant and there is no indication that they were in possession of one, as required under Article 141 of the Criminal Procedure Code. The police then transported the Petitioner to Detention Centre B14, also known as Thanh Liet Detention Center, which is a pre-trial detention centre that is commonly used to hold political detainees and detainees held on account of their religion.<sup>69</sup>
36. The Ministry of Public Security provided the Petitioner's family with a memorandum stating the names of the team who carried out the arrest and search, the names of other witnesses and a list of confiscated items (**Annex VII**).
37. Since his arrest in December 2015, a coalition of non-government organisations have consistently called for the Petitioner to be released:
- By letter of 18 December 2015, Lawyers for Lawyers and Lawyers' Rights Watch Canada called on the Vietnamese authorities to immediately release the Petitioner and to conduct an independent investigation into the attack on him.<sup>70</sup>
  - Lawyers for Lawyers further requested the EU delegation to Viet Nam and the Ambassadors of the EU Member States in Viet Nam to visit the Petitioner in prison and to report on his condition.<sup>71</sup>
  - On 6 January 2016, 26 organisations from Viet Nam and around the world released a joint statement calling on the Vietnamese Government to release the Petitioner.<sup>72</sup>
  - On 9 January 2016, Lawyers' Rights Watch Canada sent a letter outlining violations of the ICCPR and other international instruments and calling for the release of the Petitioner and his colleague Lê Thu Hà and cessation of the prosecutions.<sup>73</sup>
  - On 13 January 2016, Lawyers for Lawyers requested that the Delegation of the European Union to Viet Nam contact the Vietnamese authorities to ensure that the Petitioner and his colleague were granted access to legal counsel and that their family members are allowed to visit them.<sup>74</sup>

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<sup>69</sup> Campaign to Abolish Torture in Vietnam (CAT-VN), *Vietnam: Torture and Abuse of Political and Religious Prisoners* (January 2014), available at <https://democraticvoicevn.files.wordpress.com/2014/01/vietnam-torture-and-abuse-01-16-2014.pdf>.

<sup>70</sup> Lawyers for Lawyers and Lawyers Rights Watch Canada, Letter to the President of Viet Nam, 18 December 2015, available at: [www.advocatenvooradvocaten.nl/wp-content/uploads/2015/12/20151218-Letter-to-Vietnam.pdf](http://www.advocatenvooradvocaten.nl/wp-content/uploads/2015/12/20151218-Letter-to-Vietnam.pdf)

<sup>71</sup> Lawyers for Lawyers, Letter to the Delegation of the European Union and the Ambassadors of the EU Member States, available at: [www.advocatenvooradvocaten.nl/wp-content/uploads/20151223-Letter-to-EU-and-Ambassadors-re-Nguyen-Van-Dai.pdf](http://www.advocatenvooradvocaten.nl/wp-content/uploads/2015/12/20151223-Letter-to-EU-and-Ambassadors-re-Nguyen-Van-Dai.pdf)

<sup>72</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>73</sup> Lawyers for Lawyers, Letter to the Minister of Public Security and Minister of Foreign Affairs (9 January 2016), available at: <http://www.lrwc.org/viet-nam-arbitrary-arrest-and-incommunicado-detention-of-nguyen-van-dai-and-le-thu-ha-letter/>

<sup>74</sup> Lawyers for Lawyers, Letter to Delegation of the European Union to Viet Nam, 13 January 2016, available at: <http://www.advocatenvooradvocaten.nl/wp-content/uploads/2016/01/13-Letter-to-EU-Delegation-to-Viet-Nam.pdf>

- On 26 April 2016, 19 international organizations called on the President of the United States to urge Viet Nam to release political prisoners, including the Petitioner.<sup>75</sup>
- On 4 July 2016, Lawyers' Rights Watch Canada asked the Office of the UN High Commissioner of Human Rights to persuade Viet Nam to ensure the withdrawal of charges, release and redress for the Petitioner.<sup>76</sup>
- On 24 October 2016, 73 members of parliament from around the world sent an open letter to the Prime Minister of Viet Nam calling for immediate and unconditional release of the Petitioner and his colleague.<sup>77</sup>

#### i. Legal basis of arrest

38. To the extent the signatory organisations are aware, no copy of the arrest warrant has been provided. According to the statements made by the Vietnamese officials at the time of the Petitioner's arrest, the Government appears to rely on Article 81(a) of the Criminal Procedure Code which provides for the arrest of a person "when there exist grounds to believe that such persons are preparing to commit very serious or exceptionally serious offenses" (see **Annex II**). As the maximum penalty for an offence under Article 88 of the Penal Code is 20 years' imprisonment, it may constitute a "very serious" or "exceptionally serious" offence for the purpose of Article 81(a) of the Criminal Procedure Code.<sup>78</sup>

39. An arrest warrant under Article 81 must specify "the date, full name and post of the warrant issuers, the full name, address of the arrestee and the reason for the arrest."<sup>79</sup> Furthermore, within 24 hours of arresting a person, the investigating bodies must take the person's statement and issue a decision to keep the arrestee in custody or release them.<sup>80</sup> Given that the Petitioner is detained incommunicado, it is unclear whether these his arrest met these fundamental principles of criminal process.

#### ii. Legal basis of detention

40. The Vietnamese authorities have held the Petitioner in incommunicado detention for over 11 months without providing any legal basis for his detention.

41. The onus is on the state to demonstrate a legal basis for the Petitioner's detention. It is not known whether the Petitioner has been formally charged with an offence or is being detained pending investigation of an alleged offence. However, as the Petitioner was arrested for his political and blogging activities, there cannot be a legal basis for his detention.

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<sup>75</sup> Joint Letter to the President of the United States, 26 April 2016, available at: <http://www.advocatenvooradvocaten.nl/wp-content/uploads/Vietnam-Letter-to-President-Obama-April-2016.pdf>

<sup>76</sup> Lawyers' Rights Watch Canada, Letter to UN High Commissioner for Human Rights, 4 July 2016, available at: <http://www.lrwc.org/category/countries/vietnam-letters/>.

<sup>77</sup> Front Line Defenders, *73 MPs on four continents call for the release of Nguyen Van Dai* (25 October 2016).

<sup>78</sup> Article 8.3 of the Penal Code provides definitions of the categories of criminal offences.

<sup>79</sup> Arts. 81(3), 80(2) of the *Criminal Procedure Code 2003*.

<sup>80</sup> Art. 83, *Criminal Procedure Code 2003*.

42. Furthermore, in Opinion 45/2015, in the case of Nguyen Viet Dung v. Vietnam, the Working Group reiterated that it should not be the general practice to subject defendants to pre-trial detention and that:

Detention pending trial must be based on an individualized determination that is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.<sup>81</sup>

43. Statements made by the Vietnamese officials at the time of the Petitioner's arrest suggest that the Petitioner may have been charged with, or is being investigated in relation to, an offence under Article 88 of the Penal Code. Article 88 criminalises the following conduct in relation to "Conducting propaganda against the Socialist Republic of Viet Nam":

- a) Propagating against, distorting and/or defaming the people's administration;
- b) Propagating psychological warfare and spreading fabricated news in order to foment confusion among people;
- c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam.

44. Article 88 of the Criminal Procedure Code (**Annex II**) provides that a person may be held in "temporary detention" during the investigation of any offence. For an "exceptionally serious offence", a person can be held in temporary detention for a period of up to 16 months under Article 120 of the Criminal Procedure Code.

45. In addition to the fact that the detention of the Petitioner cannot have a legal basis as it follows from the legitimate exercise of his rights, the detention appears to lack a legal basis on other grounds as well. Based on the limited information available, the Petitioner has not been informed of: the alleged criminal act(s) underpinning the charge or accusations against him; his trial date; the reason for, or the likely duration of his detention; and, has not been brought before a court to consider his pre-trial release. Pre-trial detention has been imposed on the Petitioner without a public hearing or any evidence being provided of risks of flight, interference with evidence and/or the recurrence of crime, and a determination that detention is the only way to prevent the established risk(s).

### iii. Conditions of his detention

46. Since 16 December 2015, the Petitioner has been held incommunicado in Detention Centre B14. In October 2016, the UNHCHR, in a statement regarding press freedom in Viet Nam, stated that incommunicado detention for an extended period of time, particularly without access to family members and to legal counsel, "is conducive to

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<sup>81</sup> Working Group, Nguyen Viet Dung v. Viet Nam, Opinion No. 45/2015, UN Doc. No. A/HRC/WGAD/2015/45 (17 March 2016).

torture and may amount to torture itself, in violation of the Convention against Torture (CAT), which Viet Nam ratified in February 2015.”<sup>82</sup>

47. The Petitioner has been denied access to a lawyer. We understand that three lawyers have applied to represent the Petitioner but all have been refused the required defence counsel certificate. Under Article 56(4) of the Criminal Procedure Code, it is necessary for a defence counsel to be granted a “defence counsel certificate” from the investigating body, procuracy or court.
48. The Petitioner has been denied access to his family and access to the outside world. Although the Petitioner’s family is allowed to send food to him twice a month, they have no way of knowing if the food is reaching him or if it is adequate within the context of his circumstances.
49. The current state of the Petitioner’s health is unknown, but is of great concern as he suffers from hepatitis B. It is not known whether the Petitioner is receiving appropriate medical treatment for his condition. Furthermore, the Petitioner was violently beaten 10 days prior to his arrest, following a human rights workshop that he was running, and had not fully recovered from the attack when he was arrested (see **Annex VI**). Prisoners of conscience in Viet Nam are routinely denied medical care and some prisoners report being told by the authorities that they would not receive any medical treatment unless they confessed to their alleged crimes.<sup>83</sup>
50. There have been numerous reports concerning the poor conditions and the ill-treatment of political prisoners within detention centres in Viet Nam.<sup>84</sup> Political prisoners are frequently placed in cramped cells and kept in darkness.<sup>85</sup> Solitary confinement is widespread and is regularly deployed as a means of torture.<sup>86</sup> Political prisoners are often provided with inadequate levels of food and water.<sup>87</sup> Many consequently suffer health issues while the requisite medical attention is denied.<sup>88</sup> In

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<sup>82</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>83</sup> Amnesty International, *Prisons Within Prisons: Torture and Ill-Treatment of Prisoners of Conscience in Viet Nam* (2016), pg 9 available at:

[https://www.amnestyusa.org/sites/default/files/asa\\_4141872016\\_eng\\_report.pdf](https://www.amnestyusa.org/sites/default/files/asa_4141872016_eng_report.pdf).

<sup>84</sup> Amnesty International, *Prisons Within Prisons: Torture and Ill-Treatment of Prisoners of Conscience in Viet Nam* (2016) available at

[https://www.amnestyusa.org/sites/default/files/asa\\_4141872016\\_eng\\_report.pdf](https://www.amnestyusa.org/sites/default/files/asa_4141872016_eng_report.pdf); Media Legal Defence Initiative, *Vietnamese Photojournalist Continues Hunger Strike After Four Years Behind Bars* (16 March 2015), available at <https://globalvoices.org/2015/03/16/vietnamese-photojournalist-continues-hunger-strike-after-four-years-behind-bars/>; HRW, *World Report 2016: Vietnam*, available at <https://www.hrw.org/world-report/2016/country-chapters/vietnam>.

<sup>85</sup> PEN Canada, *The Shock of Freedom: Dieu Cay’s Life After Prison* (15 January 2015), available at <http://pencanada.ca/news/too-warm-too-bright/>.

<sup>86</sup> Radio Free Asia, *Interview: “The Government Violated the Human Rights of Political Prisoners Severely”* (15 June 2015), available at <http://www.rfa.org/english/news/vietnam/vietnam-tam-06152015140429.html>.

<sup>87</sup> Mr Minh Tam Truong, *Mr Minh Tam Truong (As an Individual) at the Subcommittee on International Human Rights* (28 May 2015), available at <https://openparliament.ca/committees/international-human-rights/41-2/73/minh-tam-truong-1/only/>.

<sup>88</sup> Bob Dietz/CPJ Asia Program Coordinator, *Confronting the suffering in Vietnam’s prisons* (10 April 2014), available at <https://cpj.org/blog/2014/04/confronting-the-suffering-in-vietnams-prisons.php>.

addition to neglect, police authorities have reportedly engaged in beatings and peculiar forms of maltreatment in order to extract confessions from detainees.<sup>89</sup>

### *B. Reasons why the arrest and detention are arbitrary*

51. The arrest and detention of the Petitioner fall within Categories II and III arbitrary detention as defined by the Working Group. This section details the reasons that the arrest and detention are arbitrary by category, addressing each category in turn. It identifies the various ICCPR articles and the principles of customary international law reflected in the UDHR and BPPP that Viet Nam has breached as a result of its treatment of the Petitioner. The Working Group has identified BPPP principles as relevant considerations in determining the arbitrariness of detention.<sup>90</sup>

#### *B.1 The detention of the Petitioner constitutes Category II arbitrary detention because his deprivation of liberty results from the exercise of his right to freedom of opinion and expression (Article 19 ICCPR, Article 19 UDHR)*

52. The purpose of the Petitioner's arrest and detention is to punish him for exercising his rights under Article 19 ICCPR, to silence him during a further period of detention, and to deter others from speaking out against the State. The Petitioner has been vocal in expressing his views on democracy and the state of human rights in Viet Nam for over ten years. He has previously been subject to attacks, arrest and detention (see A.2). In the nine months prior to his arrest, the Petitioner actively pursued a campaign for human rights protection in Viet Nam. He expressed views and opinions on democracy and other political issues relating to human rights in a range of fora (see A.2 and A.3). Furthermore, the Petitioner's arrest and detention is consistent with the well-documented approach of the Vietnamese authorities in prosecuting critics of its authoritarian regime (see A.1).

53. The importance of the exercise of freedom of expression by lawyers is underlined in Article 23 of the Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders in 1990.<sup>91</sup>

54. The arrest and detention of the Petitioner constitutes a violation of Article 19 of the ICCPR. Article 19(3) requires that any restriction imposed on the right to freedom of

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<sup>89</sup> HRW, *World Report 2016: Vietnam*, available at <https://www.hrw.org/world-report/2016/country-chapters/vietnam>; HRW, *Vietnam: End Thuggish Repression of Activists* (27 January 2016), available at <https://www.hrw.org/news/2016/01/27/vietnam-end-thuggish-repression-activists>.

<sup>90</sup> Working Group, *Report of the Working Group on Arbitrary Detention*, UN Doc. No. E/CN.4/1992/20 (21 January 1992).

<sup>91</sup> Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba 27 August to 7 September 1990, 'Article 23: Freedom of Expression and association': Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall 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 and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

expression must satisfy three requirements, namely the restriction must be “provided by law,” designed to achieve a legitimate aim, and meet the requirements of necessity and proportionality. For the reasons outlined below, the Petitioner’s arrest and detention fail to satisfy the requirements of Article 19(3) and violate the right to freedom of expression.

#### i. The restriction is not provided by law

55. The restriction of the Petitioner’s right to freedom of expression fails to satisfy the first requirement of Article 19(3), namely that it be “provided by law”.<sup>92</sup> As outlined above, it is our position that there is no legal basis for the Petitioner’s arrest or detention. Notwithstanding this position, we consider that an arrest and/or detention on the basis of a charge under Article 88 of the Penal Code would not satisfy the “provided by law” requirement under Article 19(3). For a legislative provision to be characterised as a “law”, it must be formulated with sufficient precision to enable an individual to regulate his conduct accordingly.<sup>93</sup> Furthermore, the provision cannot confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.<sup>94</sup>

56. Article 88 of the Penal Code is so overly broad as to prevent both foreknowledge of the prohibited acts and an effective defence and therefore fails to meet the test of “provided by law”. There is no objective test by which to determine whether an individual’s conduct constitutes a “distortion” of the people’s administration or “psychological warfare” under Article 88. The operation of Article 88 has been widely criticised by UN bodies and NGOs.<sup>95</sup> Most recently, in October 2016, the UNHCHR called for the repeal of Article 88 on the basis that “[t]he overly broad, 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.”<sup>96</sup> The UN Human Rights Council recommended in 2014 that Viet Nam repeal or modify the Penal Code relating to Article 88, among other articles, “in order to prevent those articles from being applied in an arbitrary manner to impede freedom of opinion and expression”.<sup>97</sup>

#### ii. The restriction did not achieve a legitimate aim

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<sup>92</sup> UN Human Rights Committee (HR Committee), *General Comment No. 34, Article 19: Freedoms of opinion and expression*, UN Doc. No. CCPR/C/GC/34 (12 September 2011), par. 22.

<sup>93</sup> *Id.*, par. 25; Frank La Rue, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, UN Doc. No. A/HRC/14/23 (20 April 2010), par. 79(d).

<sup>94</sup> *Id.*

<sup>95</sup> See, for example, HRW, ‘Vietnam: Widespread ‘national security’ arrests’ (19 November 2015), available at <https://www.hrw.org/news/2015/11/19/vietnam-widespread-national-security-arrests> : Article 88 is criticised on the basis that it is “vaguely worded and loosely interpreted provision in its penal code [...] to imprison peaceful political and religious dissidents.”

<sup>96</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>97</sup> UN General Assembly, Report of the Working Group on the Universal Periodic Review Viet Nam, A/HRC/26/6, 2 April 2014, paras. 143.150 and 143.152.

57. Under Article 19(3) ICCPR, a restriction may only be imposed for the achievement of one of the specified aims stated therein, namely “respect of the rights or reputations of others” or “the protection of national security, [...] public order, [...] or of public health or morals”.<sup>98</sup> It is submitted that the arrest, detention, and conviction of the Petitioner do not achieve a legitimate aim. The HR Committee has expressly provided that:

[p]aragraph 3 may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of his exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest (...) be compatible with article 19.<sup>99</sup>

### iii. The restriction is not compliant with the strict tests of necessity and proportionality

58. Finally, Article 19(3) requires that any restriction must be necessary and proportionate to achieve the stated aim(s) and must be the “least intrusive instrument amongst those which might achieve their protective function”.<sup>100</sup>

59. Notwithstanding our position that the arrest and detention of the Petitioner was not carried out with a view to achieving a legitimate aim, it is submitted that, even if the restriction upon the Petitioner was in pursuit of a legitimate aim, the measures adopted are disproportionate. The HR Committee has emphasised that the form of expression is highly relevant in assessing whether a restriction is proportionate.<sup>101</sup> As stipulated in UN Human Rights Council Resolution A/HRC/RES/12/15 (par. 5 (p) (i)), the following types of expression should never be subject to restrictions:

- a. discussion of government policies and political debate;
- b. reporting on human rights, government activities and corruption in government;
- c. engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and
- d. expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.<sup>102</sup>

*B.2 The arrest and detention of the Petitioner constitutes Category II arbitrary detention because his deprivation of liberty results from the exercise of his right to take part in the conduct of public affairs (Article 25 ICCPR and Article 21 UDHR)*

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<sup>98</sup> Art. 19(3) ICCPR.

<sup>99</sup> U.N.G.A., HR Committee, General Comment No. 34: Article 19: Freedoms of opinion and expression, U.N. Doc. No. CCPR/C/GC/34 (Sep. 12, 2011), at [23].

<sup>100</sup> HR Committee, *General Comment No. 34, Article 19: Freedoms of opinion and expression*, UN Doc. No. CCPR/C/GC/34 (12 September 2011), par. 34; Frank La Rue, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, UN Doc. No. A/HRC/14/23 (20 April 2010), par. 79(g)(iv).

<sup>101</sup> HR Committee, *General Comment No. 34, Article 19: Freedoms of opinion and expression*, UN Doc. No. CCPR/C/GC/34 (12 September 2011), par. 34.

<sup>102</sup> The Special Rapporteur on the right to freedom of opinion and expression has also stated that restrictions on political debate and expressions of dissent are not permissible under the ICCPR, see: Frank La Rue, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, UN Doc. No. A/HRC/14/23 (20 April 2010), par. 81(i).

60. The Petitioner has been arrested and detained for exercising his right to freedom to take part in the conduct of public affairs (Article 25 ICCPR, Article 21 UDHR). He has been detained due to his participation in activities relating to a range of political and human rights issues and his active involvement in civil society, including human rights education, as described above.
61. The arrest and detention of the Petitioner on this basis is a clear violation of Article 25 ICCPR and Article 21 UDHR, which protect the freedom of each citizen to take part in the conduct of public affairs. The HR Committee has defined this conduct to include “exerting influence through public debate and dialogue with their representatives or through their capacity to organise themselves.”<sup>103</sup> No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>104</sup> Only objective and reasonable restrictions on this freedom are permissible.<sup>105</sup>
62. The Petitioner was targeted by the State authorities in Viet Nam for arrest and detention on the basis of his work providing human rights education to members of the community and advocating for political change to protect and improve human rights. These restrictions are neither objective nor reasonable.
63. Therefore, the arrest and detention of the Petitioner constitutes Category II arbitrary detention in violation of Article 25 ICCPR and the principles in Article 21 UDHR.

*B.3 The detention of the Petitioner constitutes Category III arbitrary detention because it violates his right to be informed promptly of the nature and cause of the charge against him (Article 14(3)(a) ICCPR, Article 11 UDHR, BPPP Principle 10) and the right to be tried without undue delay (Article 14(3)(c) ICCPR, Article 11 UDHR, BPPP Principle 11)*

64. The Petitioner has been detained incommunicado since he was arrested on 16 December 2015. It is understood that the Petitioner has not been informed of the alleged criminal act(s) underpinning the charge(s) or accusations against him. Furthermore, in the 11 months the Petitioner has been in detention, he has never been brought before a judge for determination of rights including his right to pre-trial release.
65. Detention of the Petitioner under such conditions is a clear violation of Article 14 of the ICCPR, Article 11 of the UDHR and the BPPP Principles 10 and 11.
66. Article 14(1) of the ICCPR provides that in the determination of any criminal charge, all persons “shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” Article 14(3) makes clear that such a fair

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<sup>103</sup> HR Committee, *General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25)*, OHCHR, 57<sup>th</sup> Sess., UN Doc CCPR/C/21/Rev.1/Add.7 (12 July 1996), <http://www.unhcr.ch/tbs/doc.nsf/o/dob7fo23e8d6d9898025651e004bcoeb> (“General Comment No. 25”) par. 8.

<sup>104</sup> HR Committee, *General Comment No. 25*, par. 3; See Articles 2 and 25 of the ICCPR.

<sup>105</sup> HR Committee, *General Comment No. 25*, par. 4.

trial requires that accused persons be afforded certain minimum procedural guarantees such as prompt and detailed notification of the nature and cause of the charge (14(3)(a)), access to legal counsel (14(3)(b) and (d)) and a trial without undue delay (14(3)(c)). Article 11 UDHR also requires that a person charged with a penal offence be tried with all the guarantees necessary for his defence. The BPPP Principles 10 and 11 closely reflect the provisions of Article 14 ICCPR.

67. The detention of the Petitioner in these circumstances is also contrary to Article 48(2)(a) of Viet Nam's Criminal Procedure Code which provides that a person held in custody has the right to be informed of the reasons for his/her custody.

*B.4 The detention of the Petitioner constitutes Category III arbitrary detention because it violates his right to adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing without restriction (Article 14(3)(b) ICCPR, Article 11 UDHR, BPPP Principles 11, 15 and 18)*

68. The Petitioner is being held incommunicado and has been denied any access to legal counsel. Detention of the Petitioner under such conditions is a clear violation of Article 14 ICCPR, the principles in Article 11 UDHR, and BPPP Principles 11, 15 and 18.

69. Article 14(3)(b) ICCPR provides that the required guarantees for a fair hearing include adequate time and facilities for the preparation of a defence and the right of the accused to communicate with counsel of his or her own choosing.

70. The BPPP Principles add to this by providing that communication with counsel 'shall not be denied for more than a matter of days' (Principle 15) and that the right to communicate with legal counsel is exercisable 'without delay ... [and] may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations, when it is considered indispensable by a judicial or other authority in order to maintain security and good order' (Principle 18). The BPPP is regarded as an authoritative interpretation of States' obligations under international law.<sup>106</sup> Moreover, this Working Group has, since its inception, identified these principles as a source it will consider in determining arbitrariness of detention.<sup>107</sup>

71. The right to access to counsel without undue delay is also recognised by the Basic Principles on the Role of Lawyers, which provide that access to a lawyer shall in any case not be later than 48 hours from the time of arrest or detention.<sup>108</sup>

72. The current detention of the Petitioner also contravenes the following rights

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<sup>106</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, General Assembly Resolution 43/173 (9 December 1988), [http://www.unhchr.ch/html/menu3/b/h\\_comp36.htm](http://www.unhchr.ch/html/menu3/b/h_comp36.htm).

<sup>107</sup> Working Group, *Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment: Report of the Working Group on Arbitrary Detention*, Commission on Human Rights, 48<sup>th</sup> Sess., U.N. Doc. No. E/CN.4/1992/20 (21 January 1992), <http://www2.ohchr.org/english/issues/detention/docs/E-CN4-1992-20.pdf>, par. 7, Annex I, A1-A14 and B1-B3. See also Working Group, *Fact Sheet No.26*, <http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf>.

<sup>108</sup> Article 7 of the Basic Principles on the Role of Lawyers.

contained in the Criminal Procedure Code of Viet Nam:

- a. The right of detainees (Article 11) and persons held in custody (Article 48(2)(d)) to ‘defend by themselves or ask other persons to defend them’; and,
- b. The right of a defence counsel to ‘meet the persons kept in custody; to meet the accused or defendants being under temporary detention’ (Article 58(2)(f)).

*B.5 The detention of the Petitioner constitutes Category III arbitrary detention because it violates his right to communicate with the outside world, particularly with his family (BPPP Principles 15 and 19)*

73. Prison officials have denied visitation requests by the Petitioner’s family and he has not seen his family since his arrest.
74. Detention of the Petitioner under such conditions is a clear violation of BPPP Principles 15 and 19. These Principles provide that communication with the outside world, particularly with family, ‘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).
75. In Opinion 33/2013 regarding Le Quoc Quan, the Working Group determined that incommunicado detention was “a clear violation of BPPP Principles 15 and 19”.<sup>109</sup>
76. For these reasons, the detention of the Petitioner is rendered arbitrary under Category III.

**V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN**

77. The Petitioner has been held incommunicado since his arrest on 16 December 2015. He has been denied access to a lawyer, to his family, and to an independent, impartial and competent tribunal to determine his rights including the right to pre-trial release and to be presumed innocent. He has been denied any opportunity to pursue domestic remedies with legal and administrative authorities to secure his release, the withdrawal of charges, or the fair determination of those charges against him.

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<sup>109</sup> Working Group, Opinions adopted by the Working Group, 67 sess, A/HRC/WGAD/2013 (12 November 2013) para 33.

## **VI. REQUESTED ACTION FROM THE WORKING GROUP**

78. For the reasons set out above, the detention of the Petitioner is rendered arbitrary under Categories II and III. The Petitioner therefore requests the Working Group to:
- a. render an opinion that the detention of the Petitioner is arbitrary as being the result of the legitimate exercise of his rights under Article 19 ICCPR and Article 19 UDHR, and Article 25 ICCPR and Article 21 UDHR and therefore falls within Category II of the categories of arbitrary detention defined by the Working Group;
  - b. render an opinion that the detention of the Petitioner is arbitrary due to failure by the Government of Viet Nam to ensure the Petitioner's fair trial rights as guaranteed by Article 14 ICCPR and by Article 10 and 11 UDHR and therefore falls within Category III of the categories of arbitrary detention defined by the Working Group;
  - c. recommend that the Government of Viet Nam immediately and unconditionally release the Petitioner and withdraw the charges against him;
  - d. recommend that the Government of Viet Nam provide just compensation to the Petitioner for the arbitrary detention that he has suffered; and
  - e. request that the Government of Viet Nam take such steps as are necessary to prevent further violations of the Petitioner's freedom to expression and freedom to participate in public affairs as recognised and guaranteed by the ICCPR and the UDHR.

**VII. FULL NAME AND ADDRESS OF THE PERSONS SUBMITTING THE INFORMATION**

Submitted by:

Media Legal Defence Initiative  
17 Oval Way  
London SE11 5RR  
United Kingdom

On behalf of:

Lawyer's Rights Watch Canada  
Lawyers for Lawyers  
Media Legal Defence Initiative  
PEN International  
Viet Tan

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Annex III: Translation of Articles 8 and 88 of the Viet Nam Penal Code

Annex IV: Original and translated copies of four of the Petitioner’s online articles

Annex V: Original and translated copies of three of the Petitioner’s posts on social media

Annex VI: Two photographs of the Petitioner following the assault on 6 December 2015

Annex VII: Original and translated copy of the memorandum provided by the Ministry of Public Security to the Petitioner’s family regarding the search conducted on 16 December 2015