

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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Dear President, Prime Minister and Ministers,

Re: Arbitrary detention of human rights defender and humanitarian Nguyen Thuy Hanh

We are writing on behalf of Lawyers' Rights Watch Canada (LRWC), a committee of lawyers and other human rights defenders who promote the implementation of international human rights law and standards designed to protect the independence and security of human rights defenders whose rights and freedoms are threatened as a result of their human rights advocacy. LRWC is a volunteer-run NGO in Special Consultative Status with the Economic and Social Council of the United Nations (UN).

On 7 April 2021, Vietnam authorities arrested Nguyen Thuy Hanh from her home in Hanoi,¹ charging her under Article 117 of the 2015 Penal Code of Viet Nam for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam.” If convicted, she faces five to 20 years in prison.² It has been noted that she is being held in pre-trial detention without any access to a lawyer, family, or friends.³

¹ “Vietnamese Activist Who Aids Jailed Dissidents' Families Arrested For ‘Anti-State Documents’,” RFA, 7 April 2021, available at: <https://www.rfa.org/english/news/vietnam/election-04072021150632.html>.

² Amnesty International, “Viet Nam: Prominent human rights defender Nguyen Thuy Hanh arrested and charged,” 8 April 2021, available at: <https://www.amnesty.org/en/latest/news/2021/04/nguyen-thuy-hanh-arrested-and-charged/>.

³ Front Line Defenders, “Woman human rights defender Nguyen Thuy Hanh arrested,” 13 April 2021, available at: <https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-nguyen-thuy-hanh-arrested>

Nguyen Thuy Hanh is an active human rights defender, well-known for her creation of the “50K Fund” in 2017,⁴ which raises donations to provide humanitarian assistance to defenders at risk and prisoners of conscience, including groups like the Dong Tam villagers who were recently subjected to unfair trials.⁵ LRWC has reviewed several reports indicating that Nguyen Thuy Hanh has been repeatedly targeted by Vietnamese authorities for harassment, arbitrary detention and assault.⁶ This harassment includes her bank account being frozen due to the financial support provided to support the rights of Dong Tam villagers.⁷

LRWC has been monitoring the ongoing crackdown on human rights defenders, journalists and political activists in Viet Nam since at least 2018. LRWC has expressed grave concern with Viet Nam's persecution of its citizens, largely for exercising their rights to freedom of speech and association in violation of Vietnam's international legal obligations under the *International Convention on Civil and Political Rights* (ICCPR),⁸ to which Vietnam acceded in 1982.

We also draw your attention to international human rights standards set out in several other well-established UN instruments. The UN *Basic Principles on the Role of Lawyers* (Basic Principles)⁹ elaborate on fair trial rights guaranteed by Article 14 of the ICCPR. The Basic Principles provide that 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” (Article 1) Governments are required to ensure that all those in pre-trial detention are afforded prompt access to a lawyer of their own choosing (Article 5).

The UN *Standard Minimum Rules for the Treatment of Prisoners*¹⁰ stipulate that prisoners have the right of legal representation, including regular communication and visits from legal advisors of their own choosing (Rule 61) as well as from family members, and friends (Rule 58).

The UN Declaration on Human Rights Defenders (Declaration), adopted by consensus of the UN General Assembly in 1999,¹¹ recognizes the legitimacy and importance of the activities of human rights defenders, including their right to participate in peaceful activities to promote human rights. The Declaration states:

⁴ The 88 Project for Free Speech in Vietnam, “Nguyen Thuy Hanh,” April 2021, available at: <https://the88project.org/profile/350/nguyen-thuy-hanh/>.

⁵ Numerous signatories including “LRWC, Vietnam: Justice for the People of Dong Tam,” 8 October 2020, available at: <https://www.lrwc.org/vietnam-justice-for-the-people-of-dong-tam-joint-letter/>

⁶ The 88 Project, *supra* note 4.

⁷ Defend the Defenders, “Prominent HRD Nguyen Thuy Hanh Arrested after Vietnam’s Leadership for Next Five Years Forms,” 7 April 2021, available at: <https://www.vietnamhumanrightsdefenders.net/2021/04/08/prominent-hrd-nguyen-thuy-hanh-arrested-after-vietnams-leadership-for-next-five-years-forms/>.

⁸ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁹ United Nations, *Basic Principles on the Role of Lawyers*, 7 September 1990, available at: <https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx>.

¹⁰ UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* : resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175, available at: <https://www.refworld.org/docid/5698a3a44.html>.

¹¹ UN General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: resolution / adopted by the General Assembly, 8 March 1999, A/RES/53/144, available at: <http://www.refworld.org/docid/3b00f54c14.html>.

Article 1.

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 12.2

The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

LRWC joins many other organizations¹² calling for the immediate release of Nguyen Thuy Hanh, and for the Vietnamese authorities to end their harassment of human rights defenders, journalists, and political activists. We urge your government to guarantee in all circumstances the physical integrity and psychological well-being of Nguyen Thuy Hanh to provide her with immediate access to lawyers of her choice and to communications and visits with family members and friends. LRWC further calls on Vietnam to fully observe and implement its obligations and responsibilities under international human rights law to respect, protect and fulfill the human rights of all persons in Vietnam, including the rights to freedom of expression, peaceful assembly, and association.

We look forward to your early reply to these concerns and requests.

Yours sincerely,

[signed]

Joshua Lam
Vietnam Monitor
Lawyers' Rights Watch Canada

[signed]

Catherine Morris
Executive Director
Lawyers' Rights Watch Canada

¹² See, e.g., Defend the Defenders, Statement of Defend the Defenders Regarding Arrest of Human Rights Defender Nguyen Thuy Hanh, 8 April 2021, available at: <https://www.vietnamhumanrightsdefenders.net/2021/04/08/statement-of-defend-the-defenders-regarding-arrest-of-human-rights-defender-nguyen-thuy-hanh/>; International Federation for Human Rights (FIDH), Vietnam: Arbitrary detention of Nguyen Thuy Hanh, 14 April 2021, available at: <https://www.fidh.org/en/issues/human-rights-defenders/vietnam-arbitrary-detention-of-nguyen-thuy-hanh>; Amnesty International, "Viet Nam: Prominent human rights defender Nguyen Thuy Hanh arrested and charged," 8 April 2021, available at: <https://www.amnesty.org/en/latest/news/2021/04/nguyen-thuy-hanh-arrested-and-charged/>.

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