



CONTACT  
Toll Free: (888) 352-1891  
Email: [info@caolawfirm.com](mailto:info@caolawfirm.com)

NEW ORLEANS  
2439 Manhattan Blvd  
Suite 302  
Harvey, LA 70058  
T: (504) 367-5001  
F: (504) 684-1231

HOUSTON  
9555 W Sam Houston Pkwy S  
Suite 355  
Houston, TX 77099  
T: (713) 337-1931  
F: (713) 337-0932

## CAMPAIGN TO ABOLISH TORTURE IN VIETNAM

December 10, 2013

VIA FACSIMILE

His Excellency Pham Binh Minh  
Minister of Foreign Affairs  
1 Ton That Dam Street  
Ba Dinh District, Ha Noi  
Socialist Republic of Vietnam  
Fax: +844 3823 1872

His Excellency Gen. Tran Dai Quang  
Minister of Public Security  
44 Yet Kieu Street  
Hoan Kiem District, Ha Noi  
Socialist Republic of Vietnam  
Fax: +844 3942 0223

Your Excellencies:

On behalf of the Campaign to Abolish Torture in Vietnam ("the Campaign"), a group that was formed to advocate for the **elimination of torture** and for the **humane treatment** of detainees and prisoners in Vietnam, we respectfully urge the Government of Vietnam to immediately end torture in all of its forms in Vietnamese prisons, and other places of detention.

To this regard, the Campaign is preparing a report that documents the torture and ill-treatment of political and religious detainees and prisoners in Vietnam, i.e. people who have been detained or imprisoned for peacefully exercising their rights to freedom of expression, association, assembly, religion, or political asylum. We are committed to producing a report that is well-informed, accurate, and objective. This commitment requires the assurance that the product accurately characterizes the views, policies, and practices of the Socialist Republic of Vietnam regarding its treatment of political and religious prisoners and detainees. For this reason, a "Summary of Findings and Questions for the Government of the Socialist Republic of Vietnam" has been enclosed with this letter, and we respectfully request that Vietnam promptly provide a response to the questions.



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[www.CaoLawFirm.com](http://www.CaoLawFirm.com)

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Many of the basic safeguards against torture and other abuses of prisoners and detainees, as well as due process protections, are enshrined in the International Covenant on Civil and Political Rights (ICCPR)—to which Vietnam is a state party. With Vietnam's election to the United Nations Human Rights Council and its signing of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in November 2013, the Government of Vietnam now must demonstrate its commitment to human rights by taking prompt steps to abolish torture.

The right to be free from torture is among the most fundamental and unequivocal human rights. The prohibition against torture is absolute and non-derogable, which means that there are no limitations on the right to be free from torture and that the right cannot be suspended in times of war, when national security is threatened, or during other public emergencies. We, therefore, urge the Vietnamese Government take the following two steps to affirm its commitment:

- 1) ratify CAT promptly; and 2) sign the Optional Protocol to the Convention against Torture (Op-CAT), a treaty that supplements CAT and strengthens its preventive mandate.**

With the aim of preventing torture, Op-CAT creates enforcement mechanisms to protect prisoners and detainees from torture and cruelty. It provides for independent monitoring and oversight of prisons and detention sites by both international and domestic monitoring bodies.

We hope you or your staff will comment on our findings and respond to the attached questions so that your views are accurately reflected in our report. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by December 30, 2013. In addition to the information requested below, please feel free to include any other materials, statistics, and government actions regarding Vietnam's prisons, re-education centers, and other places of detention, and its treatment of prisoners and detainees that would be important to understand the system.

Thank you for your time in addressing these urgent matters. I am,

Sincerely,

Anh "Joseph" Cao

Former Member of the United States Congress



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On behalf of The Campaign to Abolish Torture in Vietnam:

- Association of Con Dau Parishioners
- Boat People SOS (BPSOS)
- Christian Solidarity Worldwide
- Coalition to Abolish Modern-day Slavery in Asia (CAMSA)
- Committee for Religious Freedom in Vietnam
- The Council of Indigenous Peoples in Today's Vietnam
- Hmong National Development
- Hoa Hao Buddhist Congregation (Overseas)
- International Office of Champa
- Khmer Krom Foundation
- Montagnard Human Rights Organization
- The Nguyen Kim Dien Priests Group
- The United CaoDai Tayninh Holy See Overseas
- VETO!

cc:

His Excellency Le Hoai Trung  
Ambassador and Permanent Representative to the United Nations  
Consulate of Vietnam  
866 U.N. Plaza, Suite 428  
New York City, New York

His Excellency Pham Quang Hieu  
Ambassador and Deputy Permanent Representative to the United Nations  
Consulate of Vietnam  
866 U.N. Plaza, Suite 428  
New York City, New York

His Excellency Nguyen Quoc Cuong  
Ambassador of Vietnam to the United States  
Embassy of Vietnam  
1233 20<sup>th</sup> St., NW, Suite 400  
Washington, D.C.

His Excellency Nguyen Sinh Hung  
Chairman of the National Assembly  
Office of the National Assembly  
35 Ngo Quyen St, Hoan Kiem District  
Ha Noi, Viet Nam



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His Excellency Lt-Gen. Nguyen Van Ninh  
Deputy General Director  
General Department VIII  
Ministry of Public Security  
Ha Noi, Viet Nam

STRENGTH  INTEGRITY  COMPETENCE

# CAMPAIGN TO ABOLISH TORTURE IN VIETNAM

## Summary of Findings and Questions for the Government of Vietnam

Our report focuses on treatment of political and religious detainees and prisoners who have been arrested for their peaceful political and religious beliefs and practices, and does not cover the treatment of people arrested for common criminal offenses.

Our report is based in part on detailed interviews that we conducted with 60 former political and religious prisoners and detainees from Vietnam, the majority of whom had been released from custody within five years of their interview with us. The former prisoners and detainees we interviewed provided detailed descriptions about their treatment in 43 different prisons, jails, police lockups, border police stations, detention centers, and re-education camps; two military detention centers; and one psychiatric hospital. These facilities are located in 20 different provinces and municipalities throughout Vietnam.

Our findings to date include the following:

### **Torture and Ill-treatment of Political and Religious Detainees**

1. The practice of torture of political and religious detainees by police and security forces in Vietnam is not only pervasive, it is a systematic and intrinsic part of the investigation and interrogation phase of detention.
2. Political and religious detainees are most at risk of being tortured while being held incommunicado during pre-trial detention, and before he or she has access to legal representation, or been brought before a judge, or charged with any crime. During interrogation, law enforcement officials use torture techniques to force detainees to sign confessions or provide information, to punish them, or to intimidate detainees and others from engaging in future acts of peaceful dissent or independent religious activity.
3. Torture and mistreatment of political and religious detainees and prisoners is primarily carried out by law enforcement officials under the authority of the Ministry of Public Security's Department of Criminal Sentence Execution and Judicial Support (previously known as V26, now General Department VIII). They include prison officials, wardens, and guards, as well as provincial, district, commune, and municipal police officers.

In some cases torture is carried out in prisons and detention centers by inmates or detainees authorized by police and prison officials to carry out beatings of political and religious prisoners.

Torture is also carried out by members of the civil defense forces (*dan phong*), a voluntary security force under the authority of village People's Committee officials that often collaborates with local police.

4. Political and religious detainees in Vietnam are subjected to a number of different forms of torture by police and prison officials. These include:
  - Beating with truncheons, belts, and leather sandals,
  - Boxing on the ears until they bleed,
  - Slamming them against concrete walls,
  - Kicking them with military boots,
  - Shocking them with electric batons,
  - Submerging their heads in water, or forcing them to drink soapy water and then punching them in the stomach,

- Injecting them with drugs that cause permanent memory loss and make them numb, weak, and unable to speak and think clearly,
- Hanging them by their handcuffed wrists to the ceiling or upper ledge of a window while beating them with batons or shocking them with electric rods,
- Forcing detainees to maintain uncomfortable positions, such as sitting, squatting, lying down with arms and legs raised, or standing on one leg for long periods of time,
- Having writing pens inserted between their fingers and then tightly trying their hands with a rope, squeezing and crushing the fingers,
- Setting the legs of a chair on the detainee's foot and then sitting on it while interrogating the detainee.

In addition to physical abuse, police and prison authorities in Vietnam use various types of psychological techniques, some clearly amounting to torture, on detainees. These include:

- Isolation and prolonged solitary confinement,
- Threats, including threats to kill the detainee or harm their family members,
- Forced stress positions,
- Denial of natural light,
- Water torture,
- Forced renunciation of religious faith,
- Erratic scheduling of interrogation sessions,
- Sexual humiliation,
- Compulsory commitment to mental institutions;
- Pharmacological manipulation (forced medication).

In some cases, political and religious detainees and prisoners have died in custody or shortly after their early release as a result of torture and mistreatment by police and prison officials.

#### **Questions:**

1. How will the Vietnamese government bring an end to practices widely used by law enforcement and security officials in prisons and detention centers that encourage or facilitate torture? What steps will the government take to enforce the absolute prohibition on torture and ill-treatment of detainees and prisoners by police, security officials, prison and detention center staff and other detainees?
2. What training is provided to law enforcement officials, security forces, and interrogators with respect to interrogation methods and the use of coercion and torture?
3. What concrete steps will the government take to ensure the prosecution of public officials and employees who engage or acquiesce in torture and ill treatment of detainees and prisoners?
4. What steps will the Vietnamese government take to abolish incommunicado detention and ban the use of statements and "confessions" extracted by torture in trials and legal proceedings?
5. When a prisoner or detainee dies in custody, what steps are taken to insure the death is properly investigated, with any persons found responsible held legally accountable, and the results conveyed to family members?
6. We have received a number of reports that the remains of prisoners who die in prison before the end of their sentence are not released to family members until the prisoner's term is finished. Is this an



official policy of the MPS? If so, please explain the rationale and provide reasons for why such practices should not be terminated.

7. Will the government commit to a timetable by which it will authorize independent monitoring of all prisons, re-education centers, and other places of detention in Vietnam by both international and domestic monitoring bodies to investigate allegations of physical abuse and torture of prisoners and detainees and enforce the absolute prohibition on such abuses by police, security officials, prison and detention center staff, and other detainees?
8. Will the government accept a visit by the Special Rapporteur on Torture and the Working Group on Arbitrary Detention to Vietnam and authorize their unfettered visits to prisons, detention centers, psychiatric institutions, re-education camps, drug detention centers, jails, police lock-ups, and other places of detention?

### **Forced Labor**

All convicted prisoners in Vietnam, as well as detainees in re-education centers, are required to work eight hours a day without pay, primarily doing agricultural and manufacturing work.

Manual labor is obligatory for convicted prisoners in Vietnam, regardless of whether they have been sentenced for political and religious reasons. This is in violation of the ILO's Convention on the Abolition of Forced Labor (No. 105), which prohibits forced or compulsory labor of prisoners convicted of political offenses or because of racial, social, national, or religious discrimination. Vietnamese political and religious prisoners who have tried to protest forced labor requirements have been harshly punished.

The use of forced labor by detainees in re-education centers (and drug detention centers) also violates ILO Convention No. 29. Ratified by Vietnam in 2007, the convention prohibits the use of forced labor by detainees who have not been convicted in a court of law.

### **Questions:**

1. Will the government of Vietnam invite officials from the International Labor Organisation to make unfettered visits to prisons, detention centers, re-education camps, and other places of detention in Vietnam in order to investigate and monitor labor conditions?
2. Will the government agree to publish a list of all forms of work in which prisoners and detainees are involved, which products are processed using detainee and prison labor, and the companies whose products are processed using detainee and prison labor?
3. What steps will the government take to ensure that the same health and safety standards apply to prison and re-education camp labor as to other types of labor?
4. Will the government of Vietnam agree to promptly ratify and effectively implement ILO Convention No. 105 (Abolition of Forced Labor), which prohibits forced or compulsory labor of prisoners convicted of political offenses or because of racial, social, national, or religious discrimination?
5. Regarding the use of forced labor by detainees in re-education camps and drug detention centers, who are detained without any judicial process, will Vietnam abide by ILO Convention No. 29, which it ratified in 2007, which prohibits the use of forced labor by detainees who have not been convicted in a court of law?

### **Arbitrary Detention under National Security and Administrative Detention Laws**

Vietnamese authorities use national security and administrative detention laws to arbitrarily arrest, detain, and imprison individuals for peaceful political and religious beliefs and practices. This is in violation of fundamental rights enshrined in international law, including the ICCPR to which Vietnam is a state party.

The victims of torture in detention include peaceful activists who have been arbitrarily arrested and detained for activities such as:

- using the Internet to discuss democracy or criticize the government;
- distributing leaflets or hanging banners calling for democratic reforms or human rights;
- launching independent labor unions, newspapers, political parties, or human rights organizations;
- participating in independent religious groups that are banned by the government, or in officially-recognized religious groups involved in social justice movements calling for land rights, civil rights, democratic reforms, and religious freedom;
- conducting peaceful protests calling for land rights, better pay and working conditions, protection of Vietnam's territorial integrity, indigenous peoples' rights, or religious freedom; and
- attempting to seek protection and political asylum abroad because of their persecution and mistreatment by Vietnamese authorities on account of their nonviolent religious or political beliefs and activities or membership in an ethnic minority group.

### **Questions:**

1. Will the government commit to a timetable by which it will end the practice of arbitrary arrests and detention of peaceful dissidents under national security and administrative detention laws and other legislation not in conformity with international standards?
2. In line with its obligations under the ICCPR, will the government of Vietnam bring into compliance with international standards the Penal Code and other laws that penalize peaceful exercise of the rights to freedom of expression, association, assembly, and religion? Specifically:
  - a. Will the government commit to a timetable in which it will repeal articles in the Penal Code relative to "national security" and "public order" offenses, including articles 79, 80, 87, 88, 89, 91, 245, and 258, which criminalize the exercise of civil and political rights on the grounds that they violate or threaten national security, public order, and/or national unity?
  - b. Will the government repeal laws such the new administrative detention law passed in 2012 (Law on Handling of Administrative Violations (No. 15/2012/QH13), which authorize the arbitrary detention without trial of political and religious dissidents in re-education camps (*Co So Giao Duc*, or CSGD), Social Protection Centers (*Trung Tam Bao Tro Xa Hoi*), and mental hospitals on the grounds that they pose a threat to public security or social order?
3. Please provide a complete listing of all prisons and detention centers in Vietnam, including each facility's location and officer in charge.
4. Please provide a complete listing of all of the re-education centers (*Co So Giao Duc*, or CSGD) in Vietnam, including each facility's location and officer in charge.



### **Lack of Due Process, Rule of Law, and Legal Safeguards against Torture**

Essential safeguards against torture in pre-trial detention, such as the right to legal representation, access to medical care, and limits on incommunicado detention, do not exist for most political and religious prisoners in Vietnam. Instead, upon arrest many political and religious detainees are routinely held in detention incommunicado, denied all contact with the outside world. They are prohibited access to legal counsel, medical care, and family visits.

Most are also subjected to prolonged solitary confinement during the initial investigatory phase of their detention, which lasts from several weeks to more than one year. During this time they are not brought before judicial authorities, nor do they have access to legal representation. Most political and religious detainees are not brought before a judge until the day of their trial, denying them the right to challenge the lawfulness of their detention or their treatment, including torture, in custody. Most political and religious detainees are not informed of their right to request a lawyer, with most lacking any legal representation during their interrogation and investigation.

Instead of abiding by its obligations as a party to the ICCPR, Vietnam's judicial system is characterized by arbitrary arrest; lengthy pre-trial detention; incommunicado detention; lack of presumption of innocence during court proceedings, where evidence is often lacking or fabricated; denial of access to defense lawyers; and politically-based judicial decisions.

#### **Questions:**

1. Are statistics available on how long people charged with national security or public order crimes remain in detention before being referred to an investigative judge?
2. Will the government of Vietnam commit to repealing provisions in the Penal Code that authorize prolonged and even indefinite pre-trial detention of persons charged with national security crimes?
3. What measures are in place to ensure that detainees can contact a lawyer, receive medical treatment when requested, or notify their family about their arrest and current whereabouts?
4. When will the government of Vietnam begin to implement and adhere to basic safeguards against torture and other abuses of detainees that are enshrined in the ICCPR, to which Vietnam is a party? The ICCPR prohibits arbitrary detention and torture, and protects the rights of people deprived of their liberty, including the right to prompt access to legal advice and a fair trial.
5. Will the government of Vietnam promptly ban the practice of incommunicado detention, which violates the prohibition of arbitrary arrest or detention provided in the ICCPR (article 9)?
6. Will the government make public any information in its possession about the whereabouts and status of workers' rights activist Le Tri Tue, who went missing in May 2007 after seeking political asylum in Cambodia? While initial reports stated that he was feared dead, more recent reports indicate that he has been held incommunicado since 2007. For example, the US State Department's 2011 and 2012 annual reports on Vietnam state that authorities placed Le Tri Tue in custody in 2007 but that there continues to be no information regarding his whereabouts.
7. Is Vietnam intending to take steps to increase the independence of the judiciary in general and of judges in particular, with the aim of improving legal and judicial safeguards against torture and ill-treatment of prisoners and detainees and providing legal and judicial oversight over the practice of holding detainees incommunicado and in solitary confinement?

### **Lack of Accountability and Effective Complaints Mechanisms**

Vietnam's laws governing temporary custody, pre-trial detention, and imprisonment provide for detainees and inmates to file complaints if they are subjected to abuses in custody. None of the 60 political and

religious prisoners with whom we spoke had succeeded in lodging complaints about his or her unlawful detention, torture, or mistreatment in custody. To the contrary, the few who did try to raise complaints or asked for legal representation were often harshly disciplined.

While the Vietnamese state media have reported on a small number of police officials who have been disciplined for mistreating and torturing people detained for criminal offenses, we are aware of no such steps taken against those who have tortured and abused political and religious detainees and prisoners. For this reason, torture and ill-treatment of political and religious detainees in Vietnam continues to be carried out with impunity.

**Questions:**

1. What recourse do prisoners and detainees have if they have been subject to torture and ill-treatment in custody?
2. What provisions are in place to protect detainees who raise concerns or complaints about torture, ill-treatment, or labor conditions from being subject to retribution from prison authorities or individuals acting on their behalf?
3. Will the government take prompt steps to establish an independent mechanism allowing prisoners to submit complaints without the knowledge of prison guards directly responsible for them?
4. In 2012,
  - How many law enforcement officers were investigated in connection to torture or abuse of detainees or prisoners? How many officers were indicted, prosecuted, and brought to justice?
  - How many law enforcement officers were investigated in connection to torture or abuse of detainees or prisoners being held on national security or public order charges? How many officers were indicted, prosecuted, and brought to justice, or subject to disciplinary measures if found guilty of abuse, in regard to these cases? Please provide details regarding each case: location of the prison or detention facility; date the alleged abuse took place; type of abuse; officer[s] allegedly involved; prisoner[s] allegedly involved; results, if any, of an investigation into the case; disciplinary measure carried out against law enforcement officer found guilty of abuse.
5. In 2013,
  - How many law enforcement officers were investigated in connection to torture or abuse of detainees or prisoners? How many officers were indicted, prosecuted, and brought to justice
  - How many law enforcement officers were investigated in connection to torture or abuse of detainees or prisoners being held on national security or public order charges? How many officers were indicted, prosecuted, and brought to justice, or subjected to disciplinary measures if found guilty of abuse,, in regard to these cases? Please provide details regarding each case: location of the prison or detention facility; date the alleged abuse took place; type of abuse; officer[s] allegedly involved; prisoner[s] allegedly involved; results, if any, of an investigation into the case; disciplinary measure carried out against law enforcement officer found guilty of abuse.
6. Will the government take steps to ensure that adequate compensation and medical care is provided to detainees and former detainees for harm to their physical and mental health suffered while in detention or prison?
7. Will the government take steps to ensure that prisoners and detainees are able to seek redress for abuse committed by law enforcement officials and others acting on their behalf?

**Lack of Independent Monitoring**

Vietnam's signing of the Convention against Torture provides an opportunity for the government to implement important safeguards to prevent torture and other abuses of prisoners and detainees. One of the most effective preventive measures against torture, according to the Special Rapporteur against Torture, is regular and unannounced inspection of places of detention

Lack of independent monitoring of prisons and other places of detention, together with incommunicado detention of religious and political detainees, not only facilitates torture but also shields such practices from public scrutiny. Prison authorities, guards, even inmates themselves know they can carry out beatings and mistreatment of prisoners with impunity, out of view of journalists, diplomats, UN experts, and international rights monitors. In the same way, police and judicial officials know they can routinely violate due process and international fair trial standards if the public does not know about it.

**Questions:**

1. Now that Vietnam has signed the Convention against Torture (CAT), will the government commit to ratification of the Convention within the first six months of 2014?
2. Will the government also sign and ratify the Optional Protocol to the Convention against Torture (Op-CAT) in 2014?
3. In line with its obligations under CAT, the ICCPR, and other international standards, when will the government of Vietnam allow unhindered access to places of detention by United Nations monitors, independent human rights organizations, attorneys, medical personnel, family members of detainees, and others whose presence would deter torture?
4. To improve transparency, will the government of Vietnam agree to publish a central registry of the names and locations of all persons held in pretrial detention, as well as a list of all those convicted and sentenced, and the relevant charges or reasons for their detention?