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# amnesty international

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## Socialist Republic of Viet Nam

### Duong Quang Tri:

## Sentenced to death for fraud

May 2006

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On 26 January 2005 Duong Quang Tri was sentenced to death on charges of tax fraud. According to Vietnamese law he would have had 14 days in which to appeal against the sentence, which must be heard by an appellate court within 60 days. When a death sentence is confirmed by an appellate court, it is sent immediately to the Supreme People's Court and Supreme People's Procuracy which must in turn decide within two months whether the sentence will stand. Death sentences are rarely overturned by the courts.

Duong Quang Tri's final opportunity for appeal would have been to petition the President within seven days for commutation of his sentence to life imprisonment. Commutation of death sentences by the President – while infrequent – have been recorded. There are no reports that Duong Quang Tri's sentence has been commuted.

Although there is no specified time-limit within which executions should be carried out, Amnesty International has noted that in some instances prisoners have been held on death row for between four to six years.

Duong Quang Tri is believed to be the most recent person known to be sentenced to death for a non-violent economic crime. He joins at least another 10 people on death row for similar crimes.

Duong Quang Tri was brought to trial with his wife, Pham Thi Kieu Phuong, at Ho Chi Minh City People's Court on charges of tax fraud. They were both found guilty of defrauding and appropriating over 385,000 USD in Value Added Tax. While Duong Quang Tri was sentenced to death, his wife was sentenced to 16 years imprisonment. Duong Quang Tri was the deputy director of a private enterprise, and his wife the director. They were accused of fabricating six false contracts to avoid paying the tax, in collaboration with 10 other people, including five officers from the state-run Agriculture and Forestry Products Import Export Company (Agrimexco). The 10 were sentenced to between four and 10 years' imprisonment.

### **A possible end to the death penalty for economic crimes**

Amnesty International welcomes reports that in February 2006 the Ministry of Public Security proposed a reduction in the number of offences punishable by the death penalty "in tune with the general tendency around the world, which Vietnam should follow".<sup>1</sup> The

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<sup>1</sup> An official of the judicial department of the Ministry of Public Security, as reported by AFP, 10 February 2006.

proposal, which has been submitted to the central judicial reform commission for consideration, reportedly recommends that economic crimes such as fraud and embezzlement, smuggling, counterfeiting and bribery should no longer be capital offences. It is reported that other offences punishable by death are also under consideration, and that the number of capital offences may be reduced from 29 to 20.

This welcome step, should it take effect in law, adds urgency to Amnesty International's calls for an immediate moratorium on all executions, and at this time in particular in outstanding cases where death sentences have been imposed for economic offences.

The last known execution for economic crimes took place on 21 March 2006, when Phung Long That, the former head of the anti-smuggling investigating division of the Ho Chi Minh City customs department, was shot by firing squad. He had been sentenced to death in April 1999 after being convicted of accepting bribes and smuggling goods worth 70 million USD.

***Sentenced to death for economic crimes since January 2003:***

**Truong Thi Thanh Huong (f)** – embezzlement of 890,212 USD (*death sentence upheld 24 April 2003*)

**Hoang Van Nam (m)** – smuggling forged banknotes (28 April 2003)

**Le Thi Kim Phuong (f)** – fraud involving 1.6 million USD (*death sentence upheld 6 June 2003*)

**Hoang Tu Lien (f)** – counterfeiting nearly 90,000 USD (12 August 2003)

**Phan Ngoc Hanh (f)** – fraud and debts worth 1.25 million USD (19 August 2003)

**La Thi Kim Oanh (f)** – embezzlement of public funds worth 4.7 million USD (2 December 2003)

**Tran Phuoc Toan (m)** – embezzlement of 360,000 USD from a post office (11 June 2004)

**Tran Huy Son (m)** – counterfeiting banknotes worth 25,000 USD (17 May 2004)

**Tran Van Giao (m)** – misappropriation of property valued at one million USD (2 August 2004)

**Tran Thi Hoa Anh (f)** – defrauding banks of 317,000 USD (10 November 2004)

**Duong Quang Tri (m)** – defrauding and appropriating over 385,000 USD in tax fraud (26 January 2005)

***Executed since January 2003:***

**Tang Minh Phung (m)** – fraud and corruption involving 357 million USD of state funds (11 July 2003)

**Pham Nhat Hong (m)** – fraud and corruption involving 357 million USD of state funds (11 July 2003)

**Tran Thi My Ha (f)** (see above) – counterfeiting nearly 90,000 USD (17 November 2004)

**Ngo Thanh Lam (m)** – embezzlement of more than 4.6 million USD (1 December 2005)

**Phung Long That (m)** – receiving bribes and smuggling (21 March 2006)

Currently the death penalty in Viet Nam is an optional punishment for economic crimes such as smuggling, counterfeiting, embezzlement, offering bribes when it involves property and money valued over specified amounts. Other offences for which the death penalty is applicable include murder, rape, drug trafficking and national security crimes.

Amnesty International is unconditionally opposed to the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. These rights are enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) to which Viet Nam is a state party.

Article 6 (2) of the ICCPR states that “*in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious of crimes...*” The UN Human Rights Commission has repeatedly stated that economic crimes do not fall within the “most serious crimes”. The most recent resolution on the question of the death penalty adopted on 20 April 2005 called on states “*To ensure...that the death penalty is not imposed for non-violent acts such as financial crimes.*”<sup>2</sup>

<sup>2</sup> UNCHR, The question of the death penalty – Human Rights Resolution 2005/59, 58<sup>th</sup> Meeting, April 2005.

Additionally, in 1996 the UN Special Rapporteur on extrajudicial, summary or arbitrary executions urged that “the death penalty should be eliminated for crimes such as economic crimes and drug-related offences”.

### **Executions carried out by firing squad**

A prisoner about to be executed faces a firing squad of five soldiers, often in public. S/He is blindfolded and tied to a stake. Relatives are not informed beforehand, but are asked to collect the executed prisoner’s belongings two or three days afterwards. In some cases the bodies of executed prisoners are not returned to the families until after three years.

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In February 2006 the Ministry of Public Security put forward a proposal for executions to be carried out by lethal injection, reportedly because of the “psychological affect on the marksmen, especially when the condemned was a female.” This is also now under consideration. Amnesty International considers any execution to be the ultimate human rights violation, brutalising to all involved. Execution by lethal injection executions can result in prolonged and agonizing death.

### **Death sentences and executions a “state secret”**

The Vietnamese authorities do not make public information and statistics on the use of the death penalty. In January 2004 a government decree prohibited the reporting of statistics on death sentences and executions as a “state secret”. This lack of transparency runs counter to safeguards in international human rights standards, which call for states to publish information about the use of the death penalty, the number of executions actually carried out and the number of persons under sentence of death. Despite the reporting restriction, media monitoring of individual cases reveals that at least 86 people, including four women, have been executed and at least 174 people, including 20 women, sentenced to death since 2004, the majority for drug-trafficking offences. The real number is believed to be much higher.

### **Commutation to life imprisonment**

Death sentences may be commuted to life imprisonment by the State President, as the final appeal against execution. Commutations are rare but not unknown. According to available information 23 death sentences have been commuted since January 2003, including four imposed for economic crimes, and four imposed on Australian nationals of Vietnamese origin convicted of drug trafficking.

Amnesty International is calling on the authorities to take the opportunity of the current proposal to remove the death penalty as a punishment for economic offences to commute the sentences of all prisoners on death row for such offences. It would be tragic if some women and men were executed by the State for offences that may soon no longer be deemed punishable by the death penalty.

## Take Action!

### Write:

- Welcoming reports that consideration is being given to remove non-violent economic crimes and possibly as many as nine offences from the scope of the death penalty;
- Encouraging the authorities to bring this into law as soon as possible in accordance with Viet Nam's obligations under the International Covenant on Civil and Political Rights (ICCPR) and UN Commission on Human Rights resolution 2005/59;
- Calling on the authorities in the meantime to issue instructions that the death sentence not be imposed in cases involving non-violent economic offences;
- Calling on the authorities to ensure that prisoners remaining on death row who have been convicted of non-violent economic crimes are not executed and that their sentences are commuted. These include Duong Quang Tri, Truong Thi Thanh Huong, Hoang Van Nam, Le Thi Kim Phuong, Hoang Tu Lien, Pham Ngoc Hanh, La Thi Kim Oanh, Tran Phuoc Toan, Tran Huy Son, Tran Van Giao and Tran Thi Hoa Anh.
- Urging the authorities to place a moratorium on all executions and to consider moving towards complete abolition of the death penalty.

### Write to:

#### The President

Office of the President  
35 Ngo Quyen  
Ha Noi  
Socialist Republic of Viet Nam  
Salutation: Your Excellency  
Fax: + 844 844 5905 (c/o Ministry of Foreign Affairs)

#### The Prime Minister

Office of the Prime Minister  
Hoang Hoa Tham  
Ha Noi  
Socialist Republic of Viet Nam  
Salutation: Your Excellency  
Fax: + 844 823 1872 (c/o Ministry of Affairs)

#### The Minister of Public Security

Ministry of Public Security  
44 Yet Kieu Street  
Ha Noi  
Socialist Republic of Viet Nam  
Salutation: Your Excellency  
Fax: + 844 826 0774

#### The Minister of Justice

Ministry of Justice  
58-60 Tran Phu Street  
Ha Noi  
Socialist Republic of Viet Nam  
Salutation: Your Excellency  
Fax: + 844 843 1431

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**INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM**