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**Cover photo:**

Vietnamese students surf the internet at a cafe near Hanoi's university in central Hanoi.



# Socialist Republic of Viet Nam

## A tightening net: Web-based repression and censorship

### Introduction

*"Everyone has the right to express his/her wishes and opinions on political, economic, social and cultural issues in the mass media."*<sup>1</sup>

The Vietnamese government's 2005 report "*Achievements in the Protection and Promotion of Human Rights in Vietnam*" suggests that the Vietnamese people enjoy the right to freedom of expression. Reality paints a different picture.

At the United Nations World Summit on the Information Society in Tunis in November 2005, Iranian Nobel peace laureate Shirin Ebadi lamented how some governments promote censorship on the Internet and even go as far as punishing those who express criticism:

*"Tragically in some countries human rights activists, authors and translators are imprisoned for nothing more than exercising their freedom of expression and opinion."*<sup>2</sup>

Viet Nam is one of those countries. Shirin Ebadi delivered her speech less than a month after three young Vietnamese chatroom users, Truong Quoc Tuan, Truong Quoc Huy and Pham Ngoc Anh Dao had been arrested in Ho Chi Minh City on 19 October 2005.

After nine months in detention without access to legal representation or visits by family members, the three were suddenly released on 7 July 2006, no charges ever having been brought forward. The welcome release was replaced only six weeks later by news of Truong Quoc Huy's rearrest, reportedly at an Internet café in Ho Chi Minh City. Around the same time, seven other people who had engaged in political debate over the Internet were arrested.

The legal framework regulating the Internet in Viet Nam is increasing. Many provisions are in breach of Viet Nam's international human rights obligations and in stark contrast to the assurances of respect for the right to freedom of expression included in the government's 2005 human rights report. The most recent



Truong Quoc Huy, 25

<sup>1</sup> "Achievements in the Protection and Promotion of Human Rights in Vietnam", launched by the Ministry of Foreign Affairs in August 2005.

<sup>2</sup> Shirin Ebadi, NGO representative World Summit on the Information Society, Tunis 16-18 November 2005; <http://www.itu.int/wsis/tunis/statements/docs/cs-opening/1.pdf>

legislation, Decree No. 56/2006/ND-CP on “punishment for administrative violations in the culture and information sector”, entered into force on 1 July 2006. A complement to criminal law in the realm of the mass media, it introduced additional prior censorship mechanisms and risks stifling further the embryonic freedom of expression that the Internet has brought to Viet Nam.

The rights guaranteed under Article 19 of the International Covenant on Civil and Political Rights (ICCPR) are not adequately respected, protected and fulfilled in Viet Nam. Vietnamese law criminalizes the exercise of and suppresses the right to freedom of opinion, information and expression. Individuals are harassed, detained and imprisoned for the peaceful expression of their opinions. Fear of persecution by the authorities fuels widespread self-censorship, which impacts on Vietnamese society as a whole.

In November 2003 Amnesty International published a report detailing the cases of 10 cyber-dissidents considered by the organization to be prisoners of conscience.<sup>3</sup> It also looked at state control of Internet use and restrictions of freedom of expression and association. This report updates the ambiguous developments since then, and shows how the Internet continues to be a crucial tool for both state repression and political opposition. It also indicates that the Internet has, despite a strict regulatory regime, filtering and self-censorship, developed into the primary public sphere for dissent.

## **The Internet in Viet Nam**

The number of Internet users in Viet Nam is growing fast and the Internet infrastructure is undergoing rapid change. By September 2006, there were 13.2 million Internet users, or 17 percent of the population,<sup>4</sup> a six percent climb in less than a year; in November 2005 an estimated 11 percent of the population had access to the Internet.<sup>5</sup> In March 2004 a mere 4.18 percent could surf the worldwide web.<sup>6</sup> Nearly three quarters of Internet users are located in Ha Noi or Ho Chi Minh City, making it largely, but not only, an urban phenomenon.<sup>7</sup>

Despite such a drastic increase in accessibility, costs of hardware and subscriptions remain prohibitive for many Vietnamese, around 26 percent of whom live in poverty.<sup>8</sup> Most users do not have private connections at home, but visit one of the estimated 5,000 cyber cafés across the nation,<sup>9</sup> where prices are around 3,000 – 6,000 VND per hour (approx. 0.20 – 0.40 USD per hour).

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<sup>3</sup> *Socialist Republic of Viet Nam: Freedom of expression under threat in cyberspace* (AI Index: ASA 41/037/2003).

<sup>4</sup> *HCMC Internet café licenses sell like hot cakes*, Thanh Nien, 4 September 2006

<sup>5</sup> Saigon Times Daily, 21 November 2005

<sup>6</sup> See note 3.

<sup>7</sup> *Freedom of information different from Internet politicisation*, Vietnam News Agency, 25 Nov 2005

<sup>8</sup> Estimation according to the new standardised poverty line by the Ministry of Labour, Invalids and Social Affairs, as quoted by Voice of Vietnam in *Closer co-operation in poverty reduction required*, 17 May 2005

<sup>9</sup> *Media watchdog says Vietnam holding three Internet users*, AFP, 19 December 2005

Internet communication itself is also changing with the massive growth of Voice over Internet Protocol (VoIP).<sup>10</sup> VoIP services are available in most Vietnamese Internet cafés, some of which offer telephone service only. Phone calls through some Internet telephone software are encrypted, which makes it hard to trace the author, to scan for key words or to store for later scrutiny.

The Vietnamese authorities view up-to-date information technology (IT) as a central component for “economic development and social advancement”:

*“It strengthens the country’s material, intellectual and spiritual growth, promotes the reform process, speeds up the modernization of economic sectors, and empowers the competitiveness of businesses”.*<sup>11</sup>

Consequently, Viet Nam’s on-going Internet revolution is to a large extent an outcome of the current policy to promote modern communications. To tackle existing shortcomings and to promote continued development, a range of efforts are underway at various levels, and continuous and significant investments in infrastructure are being made. Seeking to spread the Internet beyond the big cities, the Vietnam Post and Telecommunications Group<sup>12</sup> (VNPT), launched a project in 2003 aiming to install Internet connections in some 2,500 rural post offices across the country.<sup>13</sup> A government programme supporting IT training has been introduced in schools, to ensure ongoing human resource development and future supply of technical skills within the field.<sup>14</sup>

However, such efforts to extend Internet access and literacy exist alongside measures which aim at controlling, filtering and reducing what the authorities regard as politically harmful information. In fact, the state has made clear that it will punish those involved in producing, disseminating or accessing such material.

## Law, regulations and implementation

As a State Party to the ICCPR since 1982, Viet Nam has obligations to uphold the rights protected by this Covenant. Article 19 states that:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

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<sup>10</sup> Technology for making telephone calls over the Internet instead of on an analogue phone-line.

<sup>11</sup> Speech by Nguyen Trong Duong, Ministry of Posts and Telematics of Vietnam, May 2004

<sup>12</sup> Vietnam Post and Telecommunications Group is the result of a merger between the Post and Telecommunications Corporation and some other companies early 2006.

<sup>13</sup> *Internet to enter mountain and remote communes next year*, VietNamNet, 29 October 2003

<sup>14</sup> *New legal framework for IT development*, Nhan Dan, 21 May 2004

3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*

(a) *For respect of the rights or reputations of others;*

(b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

International standards on freedom of expression and opinion, including those in the ICCPR, encompass also on-line expression, according to numerous declarations and statements by media freedom watchdogs and the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Expression and Opinion.<sup>15</sup>

Governments and other representatives at the World Summit on the Information Society (WSIS) reaffirmed their “*desire and commitment to build a people-centred, inclusive and development-oriented Information Society, premised on the purposes and principles of the Charter of the United Nations, international law and multilateralism, and respecting fully and upholding the Universal Declaration of Human Rights, so that people everywhere can create, access, utilize and share information and knowledge, to achieve their full potential and to attain the internationally agreed development goals and objectives, including the Millennium Development Goals.*”<sup>16</sup>

Article 69 of Viet Nam’s 1992 Constitution affirms the right to freedom of expression, together with the rights to assembly and association:

*“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.”*

However, these rights are to be interpreted through the restrictive prism of Article 33:

*“The State shall promote information work, the press, radio, television, cinema, publishing, libraries and other means of mass communication. The State shall strictly ban all activities in the fields of culture and information that are detrimental to national interests, and destructive of the personality, morals, and fine lifestyle of the Vietnamese.”*

In its Concluding Observations on the consideration of its second periodic report of Viet Nam’s implementation of the ICCPR, the UN Human Rights Committee expressed concern that “*certain constitutional provisions would appear to be incompatible with the*

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<sup>15</sup> See e.g. *Civil and Political Rights, including the question of: Freedom of Expression*, Report of the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression, Mr. Abid Hussain E/CN.4/1999/64

<sup>16</sup> World Summit on the Information Society, Tunis Commitment, 18 November 2005. WSIS-05/Tunis/doc/7-E, Paragraph 2.

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*Covenant and that the Vietnamese Constitution does not enumerate all Covenant rights, nor the extent to which they may be limited and the criteria used. The Committee is concerned that according to Vietnamese law the Covenant rights must be interpreted in a way that may compromise the enjoyment of these rights by all individuals*".<sup>17</sup>

According to Article 69 of the Constitution (see above), the rights can only be enjoyed "in accordance with provisions of the law". This includes, *inter alia*, a raft of Internet decrees, the Press Law (amended in 1999), the Publishing Law, and the State Secrets Protection Ordinance and above all the 1999 Criminal Code. All comprise ambiguous and loosely-worded provisions that Amnesty International believes are used in an arbitrary manner to stifle rights to freedom of expression and related rights. Amnesty International believes that important provisions of these laws are in breach of international human rights law standards as enshrined in treaties that Viet Nam has ratified.

The UN Human Rights Committee has expressed concern about "extensive limitations on the right to freedom of expression in the media". Making specific mention of the Press Laws, the committee expressed concerns about "restrictions on publications which..., *inter alia*, are said to cause harm to political stability or insult national institutions". It concluded that "*these broadly defined offences are incompatible with paragraph 3, of article 19 of the Covenant*".<sup>18</sup> Amnesty International believes that these concerns are equally valid for freedom of expression in cyberspace.

In practice, authorities have continued arbitrarily to limit the enjoyment of these human rights, a fact that is reflected in both the text of the growing body of Internet-related legislation and the manner in which it is being enforced.

In simple terms one could distinguish two broad categories of laws and regulations: those relating to administration and structures on the one hand, and those relating to content on the other. The former spell out what entity is responsible for which part of the Internet architecture and governance, and in what ways; the latter relates to management of the information on the web. Generally, decrees, directives and circulars contain a mix of both types of regulations.

It is the Department General of Posts & Telecommunications (DGPT) that coordinates and regulates management of the Internet for the authorities,<sup>19</sup> while primary responsibility for its content is assigned to the Ministry of Culture and Information.<sup>20</sup> Day-to-day management of the Internet infrastructure is administered by the VNPT.<sup>21</sup>

Decree No 55/2001/ND-CP can be seen as the basis for the regulatory control of the Internet. The decree establishes the first comprehensive provisions on management, access

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<sup>17</sup> Concluding Observations of the Human Rights Committee, Vietnam, U.N. Doc. CCPR/CO/75/VNM (2002). Para. 5.

<sup>18</sup> *Ibid.* Para. 18.

<sup>19</sup> Article 30 (2) Decree No 55/2001/ND-CP, 23 August 2001

<sup>20</sup> Article 32 Decree No 55/2001/ND-CP, 23 August 2001

<sup>21</sup> *Internet Filtering in Vietnam in 2005-2006: A Country Study*, OpenNet Initiative, August 2006

and use of Internet service. It also broadly sets out the restrictions on permissible content in Vietnamese cyberspace. Users are strictly prohibited from:

*“Take advantage of the Internet to do hostile actions against the Socialist Republic of Vietnam or cause security unrest, violate morality and good customs and other laws and regulations.”<sup>22</sup>*

Amnesty International is concerned that this and other vaguely worded provisions, both in the Internet legislation and in national security laws, open the door to abuse by the authorities. The danger of arbitrary use is compounded by the lack of independence of the judiciary. The possibilities for such arbitrary use and tough penalties foster further self-censorship and are part of the government’s strategy of repressing the expression of critical opinion and the dissemination of anti-government information.

### **Developments since 2003**

Viet Nam has issued a string of directives and circulars in the past three years, attempting to close the window on greater freedom of expression which the Internet has brought to the country.<sup>23</sup>

Decision No. 71/2004/QD-BCA (A11), issued in January 2004 by the Ministry of Public Security, assigned to the General Department of Security the lead on Internet governance, including monitoring, control and supervision.<sup>24</sup> The Decision formally hands responsibility for information stored and transmitted on the Internet to all agencies and individuals who participate in Internet activities. Users are banned from printing out, copying or spreading information that causes “*harm to national security or social order and safety*” or breaches “*fine customs and traditions or cultural traits of Vietnam*”. Violations of the articles of the Decision could lead to fines up to 3,000 USD or potential criminal liability.<sup>25</sup>

Only four months later, a new Directive was issued by the Minister of Posts and Telematics, against the backdrop of government assertions that “*the hostile forces are increasingly taking advantage of postal, telecommunication and Internet services, to infringe upon our national security and undermine our social order and safety.*”<sup>26</sup> This Directive stepped up security arrangements, monitoring and surveillance on the part of the pertinent authorities.

In August 2004 the Ministry of Public Security introduced a police taskforce dedicated to tackling Internet and on-line crime, and in the following month the then-Deputy Minister Pham Gia Khiem ordered the relevant authorities to better thwart access to “negative

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<sup>22</sup> Article 11 (3) of Government Decree on The Management, Provision and Use of Internet Services, Decree No 55/2001/ND-CP, 23 August 2001

<sup>23</sup> For a discussion on earlier legislation, please refer to Amnesty International’s 2003 report AI Index: ASA 41/037/2003

<sup>24</sup> Public Security Ministry’s Decision No. 71/2004/QD-BCA (A11) of January 29, 2004

<sup>25</sup> Article 9 (2) and Article 13; Public Security Ministry’s Decision No. 71/2004/QD-BCA (A11) of January 29, 2004

<sup>26</sup> Directive No 06/2004/CT-BBCVT, 7 May 2004

information” on the Internet.<sup>27</sup> Within weeks at least 65 Internet cafés had been shut in Ho Chi Minh City after inspectors allegedly had found links to pornographic and anti-government websites on computers.<sup>28</sup>

The noose tightened further when an inter-ministerial circular in July 2005 spelt out how so-called Internet agents, Viet Nam-based individuals and organizations that provide Internet access or services,<sup>29</sup> must be involved in monitoring and controlling Internet users: it was stated that this should be through storage of information, software to trace web traffic and through the physical placement of Internet café computers to facilitate monitoring by the management.<sup>30</sup> The circular banned Internet agents from using tools to access filtered or blocked websites as well as direct dial-up to foreign Internet Service Providers (ISPs). ISPs were further tasked with monitoring Internet agents, while end users were instructed to act as informants to the authorities about website and Internet services that oppose the state, causing disturbance or disorder. The government controlled VNA News agency commented on the rationale behind the regulations:

*"Some e-newspapers still provide sensational news and articles, while other providers even distribute reactionary and slanderous information and depraved culture."*<sup>31</sup>

This inter-ministerial circular reinforced obligations on Internet café clients to register with the café owners, who are required to monitor customers' Internet use. In effect, Internet café owners were turned into “police auxiliaries”, according to Reporters Without Borders, which condemned the circular.<sup>32</sup>

On 6 June 2006 a new decree on Administrative Sanctions on Cultural and Information Activities was signed by departing Prime Minister Phan Van Khai, to enter into force on 1 July.<sup>33</sup> A complement to criminal law in the field of mass communications, the decree further intensifies censorship in the media, including on the Internet.

According to the new decree, circulating “harmful” information over the Internet is punishable by a fine. No clarifications are provided as to what is meant by “harmful”.<sup>34</sup> The five chapters and 77 articles of the decree also mete out fines for various other violations including: 3 million dong (approx 187 USD) for publishing a story with anonymous sources and 7 million (438 USD) for preventing an interviewee from reading an article before it is published. Amnesty International has long documented the use of vaguely worded provisions

<sup>27</sup> *Call for stricter Internet information*, Voice of Vietnam, 13 August 2004

<sup>28</sup> *Internet Cafés Shut in Vietnam for Porn, Politics*, Reuters, 17 September 2004

<sup>29</sup> Decree No. 55/2001/ND – CP, Article 20

<sup>30</sup> Joint Circular No 02/2005/TTLT-BCVT-VHTT-CA-KHDT, 14 July 2005

<sup>31</sup> *Vietnamese party issues directive on electronic press development*, VNA News agency website, Hanoi, 25 July 2005

<sup>32</sup> *Government tightens grip on cyber-café and online press*, Reporters Without Borders, 26 July 2005

<sup>33</sup> Decree No. 56/2006/ND-CP on Sanctioning Administrative Violations in Cultural and Information Activities, 6 June, 2006

<sup>34</sup> *Ibid.* Article 17

in the 1999 Criminal Code on espionage and revealing state secrets to prosecute individuals for peaceful exercise of freedom of expression and association. The Criminal Code provisions criminalizing revealing state secrets stipulate punishments of up to 15 years' imprisonment. The new decree imposes a fine of up to 30 million dong (1875 USD) for revealing "party secrets, state secrets, military secrets and economic secrets" or "disseminating reactionary ideas". Publishing "*contents distorting historical truths, negating revolutionary gains, hurting the nation, great public figures or national heroes; slandering or infringing upon the prestige of agencies or organizations*" can lead to a fine of between 20 and 30 million dong (1,250 and 1,875 USD).

### **Filters and firewalls**

Parallel to the tightening of regulations, automated filtering and blocking regimes also attempt to prevent Internet users enjoying unrestricted access to the web. A recent OpenNet Initiative (ONI) study on Internet filtering in Viet Nam, published in August 2006, found significant filtering of content relating to politics, religion and human rights.<sup>35</sup>

While the state claims to filter the Internet in order to protect users against content perceived as socially objectionable such as pornography, the ONI found next to no ongoing filtering of such material.

The ONI found that most Vietnamese language sites mentioning the names of known political dissidents are blocked, as are those mentioning democracy, sensitive religious topics and human rights. Vietnamese language sites were found to be significantly more likely to be blocked than English or French. Also, the study concluded that the filtering is on the increase: compared over time, a considerably wider range of categories and a higher number of sites within each category were being blocked in March 2006 as compared to November 2005. Filtering of on-line software to protect the identity of surfers – so called anonymizers – was also on the rise.

The authorities, however, have denied the results of the study:

*"Our policy is to apply measures to prevent youngsters from unhealthy sites,"* Foreign Ministry spokesman Le Dung said at a press briefing after the launch of the OpenNet report. *"We do not apply any measures for political goals."*<sup>36</sup>

Filters blocking blacklisted websites and content can operate at different levels of the Internet architecture – from the national gateways via access points and service providers, all the way down to the individual computer. In Viet Nam the bulk of automated filtering goes on at the ISP level,<sup>37</sup> unlike for instance in China, where every layer of the architecture is part of the more sophisticated and effective censoring regime.<sup>38</sup>

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<sup>35</sup> *Internet Filtering in Vietnam on 2005-2006: A Country Study*, OpenNet Initiative, August 2006

<sup>36</sup> *Vietnam's online censors target politics not porn, says study*, AFP, 10 August 2006

<sup>37</sup> *Internet Filtering in Vietnam on 2005-2006: A Country Study*, OpenNet Initiative, August 2006

<sup>38</sup> *Internet Filtering in China in 2004-2005: A Country Study*, OpenNet Initiative, 2005

It is unclear if ISPs are ordered to use a certain block list provided by the state authorities or if they accrue their own lists of what they consider it is necessary to censor in order to implement regulations. All Vietnamese ISPs are wholly or partly owned by the state.

### **Relevant international standards**

Amnesty International recognizes the Vietnamese government's responsibility to protect its citizens against threats to national security or other genuine risks of harm to a legitimate public interest. However, such protection must be compatible with international human rights law. As established in Article 19 paragraph 3 of the ICCPR, and elaborated in jurisprudence of the UN Human Rights Committee,<sup>39</sup> restrictions on the right to freedom of expression must be:

- (a) provided by law, that is they must be set out in legislation which is accessible, unambiguous, precise and clear enough to allow the individual to know in advance whether a particular action is lawful or not;
- (b) aimed only at safeguarding one or more of the following legitimate public interests: the respect for the rights or reputations of others, the protection of national security, public order, public health or morals.
- (c) Justifiably necessary to protect these prescribed interests. Even if a measure aims at protecting a legitimate public interest, it falls on the government to pass the proportionality test by demonstrating that other, less restrictive measures would be insufficient.

Where safeguarding the interests of national security is concerned, The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, of 1996 stipulate that:

*“In particular, a restriction sought to be justified on the ground of national security is not legitimate if its genuine purpose or demonstrable effect is to protect interests unrelated to national security, including, for example, to protect a government from embarrassment or exposure of wrongdoing, or to conceal information about the functioning of its public institutions, or to entrench a particular ideology, or to suppress industrial unrest.”*<sup>40</sup>

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<sup>39</sup> UN Human Rights Committee, General Comment 10, Article 19, (Nineteenth session, 1983), UN Doc. HRI/GEN/1/Rev.1 at 11 (1994). *Mukong v. Cameroon*, 21 July 1994, Communication no 458/1991, para. 9.7. See also the UN Economic and Social Council, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1985/4 (1985).

<sup>40</sup> The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, of 1996, Principle 2(b)

So far, as demonstrated in this report, in the continued application of existing legislation and the introduction of new directives introduced since 2003, the Vietnamese government has failed to meet all three tests.

Moreover, recent legislation effectively delegates censorship to ISPs and Internet agents, such as Internet café managers, in blocking certain content.

Legislation not only sanctions and facilitates but in fact promotes infringements on the right to freedom of expression in that it recruits Internet café owners and others to inform on individuals who have not committed any recognizably criminal offence under international standards.

The extent to which this vast array of Internet legislation is used to arrest, charge and convict Internet users is not known, as many legal processes in politically related cases are believed to go unreported. So far, most of the high-profile Internet dissidents in the country have been targeted under vaguely worded provisions covering national security crimes in the criminal law, some of which carry the death penalty.

### **Cases under national security legislation**

**Nguyen Vu Binh, 37**, imprisoned since September 2002, is serving a seven-year sentence for “spying” under Article 80 of the Criminal Code, after publishing criticism, partly through the web, about corruption and human rights violations. Among the charges against him were that he “communicated via e-mails” with “reactionary” organizations overseas and disseminated information about human rights in Viet Nam.

Nguyen Vu Binh is detained at Ba Sao prison camp in Nam Ha province, northern Viet Nam. He is reportedly regularly punished for refusing to sign a “confession”.

Amnesty International considers him a prisoner of conscience detained solely for exercising his right to freedom of expression and association.

(For further details on Nguyen Vu Binh, see Appendix 2.)

**Cong Thanh Do**,<sup>41</sup> a 47-year-old engineer and US citizen living in San José, was arrested in Phan Thiet, where he was visiting with his family, in the early morning of 14 August 2006 accused of “planning terrorist acts”. He was transferred to Ho Chi Minh City, where he was held until his release on 21 September.

Under the pen name Nam Tran, Cong Thanh Do wrote and disseminated articles on the Internet for several years about human rights in Viet Nam and democracy. Amnesty International believes that he was detained for his political activism and journalism on the Internet. (For further details on Cong Thanh Do, see Appendix 1.)

**Dr Le Nguyen Sang** and **Huynh Nguyen Dao**, both Vietnamese nationals living in the country, were arrested on the same day as Cong Thanh Do in Ho Chi Minh City. They were

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<sup>41</sup> Cong Thanh Do is his American name; in Viet Nam, his name reads Do Thanh Cong.

reportedly accused of involvement in the same “plot” as Cong Thanh Do, although the authorities have not made public any formal charge.

At time of writing Amnesty International has little information about the latter two men, who remain behind bars in Phan Dang Luu Prison in Ho Chi Minh City and have not been allowed to see a lawyer.

(For further information on this and related cases, see Appendix 1.)

### ***Self-censorship and fear***

The automated content control of the Internet remains a relatively unsophisticated tool in Viet Nam, but nevertheless impacts negatively on the average surfer’s Internet experience. The immaturity of Internet infrastructure and a high level of self-censorship mutually re-enforce this.

Not only are journalists forced by legislation, including the Press Law, to exercise self-censorship, but after decades of state-authorized censoring of information and punishment of individuals with dissenting opinions, self-censorship is common practice amongst the population as a whole.

The OpenNet Initiative, which has carried out similar studies in a range of countries that practice extensive censorship of the Internet, such as China, Iran and Tunisia, were unable to recruit Vietnamese nationals as testers for their Viet Nam study and had to use foreigners for the on-the-ground tests, unlike in other countries. “*We couldn’t find anyone willing to take the perceived risks*”, OpenNet Initiative researcher Derek Bambauer of Harvard Law School told Amnesty International. “*There is a widespread reticence about posting anything on the Internet. Internet users are hesitant even to put up blogs about sports*”, said Bambauer, basing the information on informal interviews with Vietnamese Internet users carried out by the ONI team during the testing.

The prevalence of self-censorship stops the general Internet users from posting information on the Internet, in blogs, websites and other on-line activities that are widespread in neighbouring countries, including China. This, in turn, freezes the momentum for Internet development, impeding the creation of a “*people-centred, inclusive and development-oriented Information Society*” that governments committed to at the WSIS in 2005 “*so that people everywhere can create, access, utilize and share information and knowledge, to achieve their full potential and to attain the internationally agreed development goals and objectives*”.<sup>42</sup>

In a country where most political dissent is kept away from the public eye, arrests, harassment and interrogations of high-profile, well-known dissidents appear to be carried out quite deliberately without the authorities trying to hide their activities. Such incidents are often reported by overseas media, whose stories permeate through the filtering and spread inside Viet Nam in what some describe as a strategy by the authorities to reinforce self-censorship.

<sup>42</sup> World Summit on the Information Society, Tunis Commitment, 18 November 2005. WSIS-05/Tunis/doc/7-E. Paragraph 2.

“We help the government sometimes”, US-based human rights activist Hieu Van Ngo commented. “They arrest and harass, we announce it to the public, and people get more afraid”.

### Cases: Harassment and restrictions on movement

Two prisoners of conscience arrested in the 2002-2003 crackdown, Nguyen Khac Toan and Dr Pham Hong Son, were released from prison during prisoner amnesties in 2006 but remain subject to various restrictions for three years, including that of free movement under conditions provided in Article 38 (*Probation*) of the Viet Nam Criminal Code.<sup>43</sup> State-controlled media and government officials refer to such restrictions as “house arrest”, a term used also in this report.<sup>44</sup>

**Nguyen Khac Toan** was arrested in January 2002 for passing information via the Internet about farmers’ protests. He was convicted of spying and sentenced to 12 years’ imprisonment, plus three years subsequent restrictive probation on release from prison. After serving one third of his prison sentence, Nguyen Khac Toan was unexpectedly released from Ba Sao prison under a prisoner amnesty to mark Lunar New Year in January 2006. He is currently under house arrest, serving the probation portion of his sentence.

Countering orders not to give media interviews, Nguyen Khac Toan told international journalists about restrictions imposed on him and described the conditions at Ba Sao prison camp, Nam Ha province.

In March 2006 he and another political dissident, Do Nam Hai, were arrested at an Internet cafe in Ha Noi and interrogated for seven hours at the municipal police station after accessing a blocked website.<sup>45</sup> In August, he and four others who were in the process of launching a bulletin named Freedom and Democracy (*Tu Do Dan Chu*) were taken in for questioning and had personal items, including computers and telephones, confiscated by security officials. For days they were under strict surveillance and harassed.

**Dr Pham Hong Son** was arrested in March 2002 after translating and disseminating an article entitled “What is Democracy?” from the website of the US embassy in Viet Nam and sentenced to five years imprisonment on charges of spying. He was released from prison on

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<sup>43</sup> *Article 38. Probation*: Probation means forcing the sentenced persons to reside, earn their living and reform themselves in a certain locality under the supervision and education of the local administration and people. During the probation period, the sentenced persons must not leave their residence places and are deprived of a number of civic rights according to Article 39 of this Code and banned from practicing certain occupations or doing certain jobs.

Probation applies to persons who commit crimes infringing upon national security, dangerous recidivists or in other cases stipulated by this Code.

The probation durations ranges from one year to five years from the date the imprisonment penalty is completely served.”

<sup>44</sup> See e.g. *5,325 prisoners granted amnesty*, Voice of Vietnam, 28 August and *Vietnam to release top dissident from jail to house arrest*, AFP, 28 August, 2006 (on Pham Hong Son’s “house arrest”).

<sup>45</sup> *Vietnamese police seize two dissidents at Internet cafe*, DPA, 1 March 2006.

30 August 2006 under a prisoner amnesty marking National Day on 2 September, about six months before completion of his prison sentence and is now under house arrest. Within weeks of his release, Dr Pham Hong Son was arrested by public security officials after he visited dissident Hoang Minh Chinh in breach of the restrictions imposed on him. He was reportedly beaten by the officials and taken to a local police station in Ha Noi, where he was questioned for nine hours before being released.<sup>46</sup>

Amnesty International continues to consider Nguyen Khac Toan and Dr Pham Hong Son prisoners of conscience, and is calling for all restrictions imposed during this period of “probation” to be lifted, and for them to be able to fully exercise their rights to freedom of expression and association.

(For further information on these two cases, see Appendix 2.)

Internet dissidents who are not subject to restrictions under Article 38 are regularly harassed and questioned by police; many of them have had their computers and other equipment confiscated and are not allowed access to the Internet in their homes.

**Dr Nguyen Dan Que**, who has spent some 20 out of the last 28 years in prison for advocating human rights and political reform, was last released in February 2005 after serving 23 months of a 30-month prison sentence and has remained under close surveillance. Police keep watch outside his Ho Chi Minh City home; his e-mails are censored and his visitors questioned. Until May 2006 Dr Nguyen Dan Que had not been allowed access to the Internet; his phone line remained cut off and confiscated documentation had not been returned to him. In an interview with Voice of America (VOA) in February 2006 Dr Que described the restrictions:

*“I am faced with a lot of trouble in daily life. My political, social, and even charitable activities are hindered. As for myself, although I’m officially no longer under house arrest, in reality my phone is cut, I can’t have a fax machine or Internet service installed, and my mail is censored. The cell phone is my only means of communication, but if its use is detected by the police, its service will be cut immediately. Plain-clothes police officers regularly take turns keeping a watch on my house. If I venture out of doors, I’ll be followed. The police will summon for questioning and threaten anyone who comes to see me, and will make it difficult for them to do their jobs. After being released by the authorities this time, I don’t feel freer at all than in the previous times, when I was released in 1988 and 1998. On the contrary, I am subject to much stricter controls.”*

In June 2006, a group of public security agents and police entered and searched Dr Que’s home without a warrant, and behaved threateningly towards his family. Two days earlier three dissidents had met him in his home for a short time.

<sup>46</sup> *Vietnamese dissident detained for visiting friend, wife says*, DPA, 18 September 2006; *Vietnamese dissident questioned by police*, Agence France Presse, 18 September 2006.

## **Politics on the Internet**

Despite self-censorship, regulations and repression, the Internet is playing a crucial role among active dissidents.

*“Since the arrival of the Internet the work on democracy and human rights activism has gone through a big change in terms of efficiency.”*

*“Internet is almost the only way of working on these issues.”*

*“Some well-known dissidents can’t leave their own homes, so they have to use the Internet to be in touch with others.”*

Many government critics and pro-democracy activists in Viet Nam testify to the increasing importance of the Internet among groups and between individuals whose opinions are perceived as intolerable by the authorities.

Prior to the Internet, political dissent was much more difficult to spread across the nation and outside. Costs for doing so were considerable, while the risks involved were high. With the spread of the Internet, most opinions can be voiced and disseminated around the world within seconds, with ingenuity often dodging censorship and overcoming filters.

However, the Internet is not only a means to relay dissenting views; it has also generated a public sphere in which people and opinions meet. Voice over Internet Protocol has made it possible for people within the country and in the Diaspora to meet and exchange ideas in chatrooms, forums and web conferences.

*“Voice chat has speeded up the democracy process”*, human rights advocate Nguyen Thanh Giang asserted in an interview with Time Asia.<sup>47</sup> The People’s Democratic Party (PDP), where Cong Thanh Do is a Central Committee member, was formed in 2005 on the Internet. Most communication between party members inside and out of the country and recruitment of new members take place on the Internet. Although the arrests in August of leading party activists impacted on the activities of the PDP and reportedly sent many members underground, the party testifies to the transformation of the Internet into a key arena for all non-state sponsored political discourse.

### **Bloc 8406**

On 8 April 2006 activists launched the Manifesto 2006 on Freedom and Democracy for Vietnam, an on-line petition signed by 118 democracy activists, calling for peaceful political change and respect for human rights. Unlike most previous political initiatives, the Manifesto involved people from various political factions, religious creeds, professional background and geographical areas of the country.

*“Also, it has been the first political effort to attract ordinary citizens,”* said Professor Doan Viet Hoat, a former prisoner of conscience who since his release in 1998 after over 20 years in prison lives in the USA, from where he continues his political endeavours.

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<sup>47</sup> *Voice of Dissent*, 18 September 2006, Time Asia

The petition quickly attracted more signatories and its launch marked the effective creation of an Internet based pro-democracy movement, which is now known as Group 8406, or Bloc 8406. Since April some 2,000 people inside Viet Nam have signed a petition in support of the Manifesto.

Although the creation of such a movement is unprecedented in Viet Nam and could not have happened without the Internet, it is – so far – no more than a loose network of individuals who subscribe to the general ideas of the Manifesto.

*“It’s only a petition. You don’t become a member, so whoever wants to join can do so. We don’t do anything”*, a Vietnamese human rights advocate told Amnesty International.

Another central transformation brought about by the Internet is that those voicing dissent in cyberspace are considerably younger than most of the well-established dissidents. Chatrooms that provide web based conferences, among them the popular New York-based PalTalk, have brought thousands of young Vietnamese face to face with each other across the nation and with young Americans, French or Australians of Vietnamese origin.

### Case: The new generation

The most well-known among this new generation of critics is **Truong Quoc Huy**, aged 25. He was first arrested with two of his brothers and a young woman in Ho Chi Minh City on 19 October 2005. They had taken part in a chat room entitled *“The voice of people in Viet Nam and Abroad”*, hosted by the PalTalk website. One brother was soon released, while the other three were reportedly accused of attempting to overthrow the government under Article 79 of the Criminal Code.

Truong Quoc Huy, Truong Quoc Tuan, aged 27, and Pham Ngoc Anh Dao, (f), aged 27, were detained incommunicado for nine months without charge or trial. They were released on 7 July 2006.

After his release Truong Quoc Huy said in interviews that he supported the Bloc 8406 and on 18 August 2006 he was rearrested in an Internet cafe in Ho Chi Minh City where he had logged on to the PalTalk website.<sup>48</sup>

After the rearrest, Truong Quoc Huy’s family home was searched and several items were confiscated, including mobile phones and a camera. At the time of writing, his family have heard no further news about him; his whereabouts are unknown and no public charges have been brought forward.

Amnesty International believes that Truong Quoc Huy is a prisoner of conscience, detained solely for peacefully exercising his right to freedom of expression.

(For further information, see Appendix 1.)

<sup>48</sup> *Vietnam releases Internet democrats*, DPA, 16 August, 2006

## Concluding remarks

The Vietnamese government's so-called White Book on the protection and promotion of human rights, published in August 2005, states that:

*“citizens have the right to be informed and to express their opinions via the press on the domestic and world affairs; to contact and provide information, articles and photographs and other works to press without being censored by any organization or individual; to present views on the formulation and implementation of the policy and law; to criticize, make recommendations, complaints and denunciations in the press and etc.”*<sup>49</sup>

These words ring hollow in today's Viet Nam where the authorities seek to exercise arbitrary control over expression, including in cyberspace.

The Vietnamese authorities are taking creditable steps to bridge the digital divide within the country and to ensure up-to-date connectivity. Yet the regulatory regimes raise deep concerns about the scope and quality of that connectivity.

The need to apply international guarantees of freedom of expression to the Internet has been emphasised repeatedly, by the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, by Amnesty International and by other international organizations and media watchdogs. As far back as 1998 the Special Rapporteur stated that new technologies, including on-line expression, ought to

*be considered in light of the same international standards as other means of communication and that no measures be taken which would unduly restrict freedom of expression and information; in case of doubt, the decision should be in favour of free expression and flow of information.*<sup>50</sup>

In a joint declaration, three international mechanisms promoting freedom of expression affirmed that “no one should be required to register with or obtain permission from any public body to operate an Internet Service Provider, website, blog or other on-line information dissemination system” for other than technical purposes.<sup>51</sup> The declaration states that the Internet should be overseen by bodies that are protected from government, political and commercial interference, and that “filtering systems which are not end-user controlled” are a form of prior censorship and cannot be justified.

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<sup>49</sup> *Achievements in Protecting and Promoting Human Rights in Vietnam*, Ministry of Foreign Affairs, August 2005, <http://www.nhandan.com.vn/english/news/200805/humanrights.htm>

<sup>50</sup> *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, E/CN.4/1998/40, 28 January 1998

<sup>51</sup> Joint Declaration by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, 21 December 2005.

Important provisions of the Vietnamese regulatory regime – regulations and laws directly encompassing the Internet, national security legislation and other parts of the 1999 Criminal Code, the Press Law and the Publishing Law – are in breach of international human rights law as enshrined in treaties that Viet Nam has ratified.

Registration of Internet agents and users, government interference, and non-transparent filtering systems outside the control of the end-user are all part of the regulation of Vietnamese cyberspace. Internet dissidents have been sentenced to long prison terms for having communicated peaceful opinions over the web.

## **Recommendations**

Amnesty International calls on the Vietnamese authorities to:

- Immediately and unconditionally release prisoners of conscience Nguyen Vu Binh, Truong Quoc Huy, Dr Le Nguyen Sang and Huynh Nguyen Dao and all of the many others who have been detained for the peaceful exercise of their rights to freedom of expression and access to information.
- Lift the restrictions imposed on prisoners of conscience Nguyen Khac Toan, Dr Pham Hong Son and Nguyen Dan Que since their release from prison. Cease harassments and threats against them and other dissidents.
- Repeal or amend Internet decrees, the Press Law (amended in 1999), the Publishing Law, and the State Secrets Protection Ordinance and above all the 1999 Criminal Code as a matter of urgency to bring it into line with Viet Nam's international human rights obligations. In so doing, ensure that ambiguous provisions relating to national security are clearly defined or removed, so they cannot be applied in an arbitrary manner to stifle legitimate dissent, debate, opposition, and freedom of expression.
- Remove all restrictions and arbitrary interference on the operation and usage of the Internet that violate the right to freedom of expression and end practices, such as censorship, monitoring and surveillance that do not conform with Viet Nam's human rights obligations.

## **Appendix 1: Recent arrests**

### ***PalTalk users – the new generation***

Brothers **Truong Quoc Huy**, aged 25, **Truong Quoc Tuan**, aged 27, and **Truong Quoc Nghia**, and **Pham Ngoc Anh Dao**, (f), aged 27, also known as Lisa Pham and a US resident visiting Viet Nam, were arrested at the Truong family home in Ho Chi Minh City on 19 October 2005. Some 50 police officers entered the house at around 3pm, beat and kicked the four and took them to B34 Security Prison.

Truong Quoc Nghia was subsequently released, while the others were detained under Article 79 of the Criminal Code (Carrying out activities aimed at overthrowing the people's administration).<sup>52</sup> They were refused legal representation and family visits.

On their release from B34 nine months later, Pham Ngo Anh Dao was given diplomatic assistance to return to the USA.

While in custody, Truong Quoc Tuan's small-scale computer business reportedly went bankrupt.

**Truong Quoc Huy** was again arrested six weeks later on 18 August 2006 by plainclothes policemen from an Internet cafe in Ho Chi Minh City where he had logged on again to the PalTalk website. Reportedly accusations levelled against him again relate to Article 79.

When interviewed in August 2006, after his release, Truong Quoc Huy said that he supported Bloc 8406 and that he would continue to criticise the government.<sup>53</sup>

His brother, Truong Quoc Tuan, was also arrested on 18 August 2006 but released the following day reportedly into house arrest.

Another young PalTalk user, Pham Van Dinh, 25, is reportedly also held at B34 Security Prison, accused of attempting to overthrow the government. Deprived of access to family members or others who can support his basic needs in detention, Pham Van Dinh is said to be seriously emaciated. At the time of writing very little is known about Pham Van Dinh, who is an English teacher.

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<sup>52</sup> **Article 79 - Carrying out activities aimed at overthrowing the people's administration**

*Those who carry out activities, establish or join organizations with intent to overthrow the people's administration shall be subject to the following penalties:*

- 1. Organizers, instigators and active participants or those who cause serious consequences shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment;*
- 2. Other accomplices shall be subject to between five and fifteen years of imprisonment."*

<sup>53</sup> *Vietnam releases Internet democrats*, DPA, 16 August, 2006

## **Arrest of Cong Thanh Do, Dr Le Nguyen Sang and Huynh Nguyen Dao**

The Vietnamese authorities have publicly claimed that US citizen Cong Thanh Do, arrested on 14 August and released on 21 September 2006, aimed to “implement a terrorist plot to destroy the US General Consulate in Ho Chi Minh City”, and that he was associated with a US-based organization headed by Nguyen Huu Chanh, who the Viet Nam government believes is responsible for previous bomb attacks against three Vietnamese embassies abroad. They also claim that he had contacted two other people, “allegedly to establish a reactionary organization aimed at overthrowing Vietnam’s Government.”<sup>54</sup>

Before Cong Thanh Do’s release, the US Ambassador to Viet Nam reportedly said that US officials had not seen any evidence that the allegations of terrorism had any basis, that they hoped for a speedy investigation and that he would be released and allowed to return home.<sup>55</sup>

Nguyen Van Dai, a Ha Noi-based lawyer and one of the original signatories of the 8406 petition, agreed to represent Cong Thanh Do, but was not allowed access to his client.



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Cong Thanh Do

On 1 September, a US consular official was allowed to visit Cong Thanh Do in prison for the first time. According to his family’s account of that meeting, Cong Thanh Do stated that he was beginning a hunger-strike in protest at his arrest. He also claimed to be a member of the People’s Democratic Party (*Dang Dan Chu Nhan Dan*) (PDP), which advocates for political change and human rights.

In April 2006, the PDP is reported to have distributed leaflets in Ho Chi Minh City calling for the release of two political prisoners and political reform.

Using the pen name Nam Tran, Cong Thanh Do has been posting articles on the Internet and disseminating information about human rights in Viet Nam and democracy for several years. In the official charges against prisoner of conscience Dr Pham Hong Son (see below), Nam Tran (or Tran Nam) was cited as one of his e-mail contacts and to whom he had sent anti-State materials and documents in support of their “campaigns to falsely accuse our State of violating human rights”.<sup>56</sup>

<sup>54</sup> Police arrest Viet Kieu on terror, conspiracy charges, *Nhan Dan* website, 20 September 2006.

<sup>55</sup> US hopes Vietnam will soon free dissident, *Agence France Presse*, 9 September 2006.

<sup>56</sup> See Amnesty International report, *Socialist Republic of Viet Nam: Dr Pham Hong Son – prisoner of conscience*, Appendix 1: Unofficial translation of the official indictment against Dr Pham Hong Son, 10 April 2003 (AI Index: ASA 41/017/2003, June 2003).

Cong Thanh Do was unexpectedly released and deported from Viet Nam to his home in the USA on 21 September 2006. The Vietnamese authorities did not provide an explanation for his sudden release.

While his release was welcome, Amnesty International believes that his arrest was unlawful and aimed solely at punishing Cong Thanh Do for having exercised his right to freedom of expression.

Another six individuals with links to the PDP were arrested around the same time. The party president **Dr Le Nguyen Sang** (also known as Nguyen Hoang Long) and central committee member **Huynh Nguyen Dao** (also known as Huynh Viet Lang) were arrested in their homes on the same day as Cong Thanh Do and are currently held in pre-trial detention. Following the arrests, dozens of police searched their houses for between two and three days and confiscated some personal belongings. Lawyer Nguyen Van Dai is reportedly representing the two men, but has so far not been permitted to see his clients in detention.

**Le Trung Hieu** and three un-named men were arrested in their native Tien Giang province and detained, reportedly incommunicado, at a police detention facility in the province. Amnesty International believes that all six were arrested for their peaceful political activities.

## Appendix 2: Dissidents arrested during the 2002/2003 crackdown

Of eight Internet dissidents arrested during the 2002/2003 crackdown, one remains in prison, two are officially under movement restrictions, and five have been released but are believed to be subject to harassment and surveillance by security officials.

### **Nguyen Vu Binh – serving a seven-year sentence**

Nguyen Vu Binh, a journalist and writer, has been in detention since his arrest in September 2002. He worked as a journalist at the official Communist Party of Viet Nam journal, *The Communist Review* (Tap Chi Cong San) for almost 10 years, before resigning to attempt, unsuccessfully, to form an independent political party.

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Nguyen Vu Binh

Nguyen Vu Binh was also one of several dissidents who attempted to form an anti-corruption association in 2001. He was briefly detained in July 2002 after he submitted a written testimony to testimony Nguyen Vu Binh described how named dissidents were harassed and arrested, stating that *“The Vietnamese authorities have violated human rights on a frequent, continuous, and systematic basis.”*

A Directive issued by the Communist Party of Viet Nam in early 2003<sup>57</sup> referred to Nguyen Vu Binh as having already been arrested and prosecuted for spying activities. At that time he had not been officially charged and continued to be detained until he was brought to trial on 31 December 2003, more than a year after his arrest. Nguyen Vu Binh was sentenced to seven years’ imprisonment, plus three years’ restrictive probation on release for “spying” under Article 80 of the Criminal Code. Amongst the charges against him were that he “communicated via e-mails” with “reactionary” organizations overseas and disseminated information about human rights in Viet Nam. The sentence was upheld on appeal on 5 May 2004.

Nguyen Vu Binh, married with two children, is detained at Ba Sao prison camp in Nam Ha province, northern Viet Nam.

Appealing for a re-examination of his case, his wife gave a personal account of Nguyen Vu Binh’s imprisonment in a letter sent to the authorities in September 2006:

*“My husband is proficient in the verse of the law and he has always respected it. Because of this, I am most certain that my husband and thus my family are being wrongfully convicted. This sentence is not only unjust, it is simply inhumane.*

*Dear Sirs:*

<sup>57</sup> Socialist Republic of Viet Nam: Two official Directives relating to anti-government activities (AI Index: ASA 41/018/2003, June 2003).

*As of the day of my husband's arrest (9/25/02 - it has almost been 4 years), my two children and I have lived everyday in anxiety and sorrow, awaiting him to be acquitted and come home. When my husband was arrested, my oldest daughter had just turned 4 and my youngest one was barely 9 months."*

As a prisoner of conscience detained solely for exercising his right to freedom of expression and association, Amnesty International is calling for the immediate and unconditional release of Nguyen Vu Binh.

## ***Prisoners of conscience currently living under restrictions***

### **Nguyen Khac Toan**

A former soldier, maths teacher and businessman, Nguyen Khac Toan was arrested in January 2002 for passing information by the Internet to overseas Vietnamese activist groups about farmers' protests in Ha Noi. He also reportedly helped farmers' representatives draft petitions to the government voicing disapproval over official corruption and land confiscation.

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Human Rights Commission



Nguyen Khac Toan

Despite the obvious constraints on his activities, Nguyen Khac Toan has been associated with Bloc 8406 and was deputy editor of a bulletin named *Freedom and Democracy* (Tu Do Dan Chu). Over a period of several days in August 2006, Nguyen Khac Toan and four others key to the bulletin's publication planned for 2 September were harassed and kept under strict surveillance. The others were the editor, Hoang Tien, a dissident writer; lawyer Nguyen Van Dai and reportedly co-author of the 2006 Manifesto on Freedom and Democracy; Duong Thi Xuan, a teacher and the editorial secretary, and Bach Ngoc Duong, an engineer. The five were taken for questioning by security officials and had personal items confiscated, such as computer and phone equipment, in an attempt to stop the publication going ahead.

### **Dr Pham Hong Son**

Dr Pham Hong Son, a 37-year-old businessman and qualified medical doctor, was arrested on 27 March 2002 after translating an article entitled "What is Democracy?" from the website of the US embassy in Viet Nam, and sending it to both friends and party officials. He also wrote an article, "Hopeful Signs for Democracy in Viet Nam" which was also sent to senior party officials. He actively shared information that he found on the worldwide web and wrote, on the Internet, to friends and government officials. Dr Pham Hong Son also signed a petition to the authorities in August 2002 calling for peaceful political reform.



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Dr Pham Hong Son

Following his arrest, Dr Pham Hong Son was held in pre-trial detention in excess of the legally allowed period before being brought to trial on 18 June 2003. He was sentenced to 13 years' imprisonment plus three years' restrictive probation on release for espionage under Article 80 of the Criminal Code; the closed trial lasted only half a day. His sentence was reduced to five years' imprisonment on appeal in August 2003. The charges against him included contact with other dissidents in Viet Nam and with the Vietnamese community in exile through e-mail.

In a telephone interview following his September release, Dr Pham Hong Son is reported to have said: "*I will speak and exchange opinions freely and openly...Everything I have done, I feel no regret. I just regret that I didn't do more before my arrest.*"<sup>58</sup> Following his release, he remains under house arrest for three years of probation.

## **Releases**

Amnesty International has welcomed the release of five of the well-known dissidents arrested in the 2002-2003 crackdown. However, the organization is concerned that released dissidents have since faced varying degrees of restrictions on their activities.

**Le Chi Quang**, a 33-year-old law graduate and computer teacher was arrested in February 2002 at an Internet cafe in Ha Noi. The official charge stated that he was "caught red-handed" on the Internet sending e-mails abroad. He was accused of writing and distributing anti-government articles about human rights, democracy and Viet Nam's foreign policy. He was sentenced to four years imprisonment, plus three years restrictive probation on release in November 2002 for "carrying out propaganda against the state". Le Chi Quang, who had a kidney condition before his imprisonment, suffered serious health problems while in prison. His early release before completion of his sentence in June 2004, was widely believed to have been due to international pressure.

**Colonel Pham Que Duong**, aged 74, a retired colonel in the Vietnamese Army, military historian and former Editor-in-Chief of *The Journal of Military History*, and **Professor Tran Khue**, aged 70, a former professor of Vietnamese and Chinese literature and writer, were both arrested in late December 2002 in Ho Chi Minh City. Together with another dissident, **Tran Dung Tien**, aged 77, a military veteran, both were named in the Communist Party of Viet Nam Directive referred to above.<sup>59</sup> The Directive contained a detailed description of the activities of these high-profile dissidents, stating that they were to be tried under Article 80 of the Criminal Code for "spying", which provides for a sentence between five and 20 years' imprisonment or the death penalty.

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<sup>58</sup> VN cyber-dissident to continue criticism, *Deutsche Presse Agentur*, 30 August 2006.

<sup>59</sup> *Illegal activities of Pham Que Duong, Tran Khue and Tran Dung Tien*, secret Vietnamese government directive issued by the Politburo of the Communist Party of Viet Nam and reportedly addressed to the Executive Committee of the Vietnamese Veterans Association 2003. Unofficial translation published by Amnesty International in June 2003 (*Two official Directives relating to anti-government activities*, 26 June 2003, AI Index: ASA 41/018/2003)

However, when the three were eventually brought to trial they were instead charged under Article 258 of the Criminal code for “abusing democratic freedoms to encroach on the interests of the state, the legitimate rights and interests of organizations and/or citizens”, with a possible prison term of between six months and seven years.

Tran Dung Tien was tried on 12 November 2003 and sentenced to 10 months imprisonment. He was released one week after being sentenced, because of the time he had already spent in prison. Tran Khue was tried on 9 July 2004 and sentenced to 19 months’ imprisonment, and released shortly afterwards as he had been detained for more than 18 months. Colonel Pham Que Duong was tried on 14 July 2004, was also sentenced to 19 months’ imprisonment, and was also released shortly after having already been detained for 18 months. All three of them were among the original 118 signatories of the 8406 Manifesto.

Amnesty International believes that the arrests of Colonel Pham Que Duong, Professor Tran Khue and Tran Dung Tien punished them for having peacefully exercised their right to freedom of expression. The organization is also concerned by the Vietnamese authorities’ use of 18-month periods of pre-trial detention.<sup>60</sup>

**Dr Nguyen Dan Que**, who has spent some 20 out of the last 28 years in prison for advocating for human rights and political reform, was last imprisoned in March 2003. Released in February 2005 after serving 23 months of a 30 month sentence, he has remained under close surveillance. Plainclothed police keep watch outside his Ho Chi Minh City home; his e-mails are censored and his visitors regularly questioned. Until May 2006 Dr Nguyen Dan Que had not been allowed access to the Internet; his phone line remains cut off and he has not had documentation returned to him which would enable him to resume his professional work.

Most recently, in June 2006, a group of public security agents and police entered and searched Dr Que’s home without a warrant. They behaved threateningly towards his family, telling them that they knew what he had been doing and that he should stop. Two days earlier three dissidents had met for a short time with Dr Que at his house.

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<sup>60</sup> The Human Rights Committee has recommended that the Vietnam government “should ensure that no persons are subjected to arbitrary restriction on their liberty and that all persons deprived of their liberty are promptly brought before a judge or other officer authorised to exercise judicial power by law and that they can only be deprived of their liberty on the basis of a judgement based on law, as required by article 9, paragraphs 3 and 4, of the Covenant (ICCPR). See Concluding Observations of the Human Rights Committee, Vietnam, U.N. Doc. CCPR/CO/75/VNM (2002). Para 8