



**The United States and Vietnam: Examining the Bilateral Relationship  
Testimony before the Senate Foreign Relations Subcommittee on East  
Asian and Pacific Affairs**

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The bilateral relationship between the United States and Vietnam has steadily improved during the last 20 years. In 1994 the U.S. lifted its trade embargo on Vietnam, normalizing relations in 1995. The two countries exchanged ambassadors in 1997 and signed a Bilateral Trade Agreement in 2001.

During the last two years trade, foreign policy and security ties have grown dramatically, with the U.S. and Vietnam conducting historic, high-level state visits with each other, resuming an annual human rights dialogue, and embarking on military and anti-terror collaboration. The week of President Bush's November 2006 visit to Hanoi, the U.S. lifted its designation of Vietnam as a Country of Particular Concern for religious freedom violations. Following Vietnam's entry into the World Trade Organization in January 2007, the U.S. granted Vietnam permanent normal trade relations status.

While economic engagement and other aspects of the bilateral relationship between the U.S. and Vietnam flourish, Vietnam's respect for human rights has taken a sharp turn for the worse. As a state party to the International Covenant on Civil and Political Rights (ICCPR), Vietnam is obligated to protect basic rights and freedoms. This is all the more

important now that Vietnam has been elected to a two-year seat on the United Nations Security Council.

## **Arbitrary Arrest, Torture, Detention, and Unfair Trials**

Article 14 of the ICCPR states that no one shall be subjected to arbitrary arrest or detention. Anyone arrested or detained on a criminal charge shall be brought promptly before a judicial officer and is entitled to trial within a reasonable time or to release.

Since mid-2006, the Vietnamese government has arrested and imprisoned more than 40 peaceful activists, including human rights defenders, independent trade union leaders, opposition political party members, members of unsanctioned religious groups, and underground publishers. Religious leaders who have advocated for respect for human rights, democratic reforms and land rights, or who have participated in peaceful demonstrations, have also been imprisoned.<sup>1</sup>

These new prisoners join more than 350 religious and political prisoners sentenced to prison since 2001, mostly Montagnard Christians from the Central Highlands. Buddhist monks from the banned Unified Buddhist Church of Vietnam, including its top two leaders, remained confined to their monasteries under "pagoda arrest."

There is compelling evidence of torture and other mistreatment of detainees. Prison conditions are extremely harsh and fall far short of international standards. We have received reports of solitary confinement of detainees in cramped, dark, unsanitary cells and of police beating, kicking, and using electric shock batons on detainees, or allowing inmates or prison gangs to carry out beatings of fellow prisoners with impunity.

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<sup>1</sup> Religious leaders imprisoned for non-violent political activities or participation in peaceful demonstrations include ethnic Khmer Buddhists, evangelical Christians, and Roman Catholic priest Nguyen Van Ly.

We are submitting for the record partial listings of people detained and imprisoned in Vietnam.

### No political trials?

Vietnamese officials continue to publicly assert that there are no political trials or prisoners of conscience in Vietnam and that the only people who are arrested are those who have violated Vietnamese laws.

In a press briefing last month, Ministry of Foreign Affairs spokesman Le Dzung asserted once again that there is “no political crackdown” taking place in Vietnam and that no one is arrested for their political or religious beliefs. “The State of Vietnam always respects the rights to freedom and democracy of all citizens,” he said.

In Vietnam people can be sent to prison for exercising their basic rights to peaceful expression, association, and assembly. This is in violation of international human rights conventions to which Vietnam is a state party, such as the ICCPR.

Vietnam’s Penal Code lists vaguely-worded “national security” crimes under which peaceful critics have been imprisoned, such as conducting propaganda against the government (article 88); “abusing democratic freedoms” of speech, press, belief, religion, assembly, and association to “infringe upon the interests of the State” (article 258); “undermining the unity police” (article 87); “disrupting security” (article 89); “causing public disorder” (article 245), and “spying” (article 80).

In addition, Vietnamese law continues to authorize arbitrary detention without trial. Administrative detention decree 31/CP was repealed in 2007, but a more repressive law, Ordinance 44, authorizes placing people suspected of threatening national security under house arrest or in

detention without trial in Social Protection Centers, rehabilitation camps, or mental hospitals.

A recently leaked internal document from the Communist Party of Vietnam (VCP) unequivocally establishes that “political trials” are conducted in Vietnam. I quote from a translation of the confidential document, which we have determined to be authentic. It details the conclusions of a Politburo meeting of August 6, 2007:

Recently, the disposition of these political trials has achieved some degree of success. It has the purpose of making an example or of teaching a lesson, to effectively prevent the contrarian political activities of the enemy forces while they are still in the embryonic stages, not allowing them to publicly establish themselves in the country to organize violent insurrection, in order to overthrow the rule of the people.

Therefore, we need to fortify the security measures to ensure our political stability, peaceful order in society and to protect the rule of socialism, to resolutely contribute to the economic and social development, to build a political system and promote the strength of the whole solidarity bloc of our nation’s populace, to ensure the perpetuation and stability of socialism. Our teams of cadres and soldiers who specialize in the ad-hoc task forces have made efforts in the handling of the political trials...

However, the quality and effectiveness of the execution of political cases have not met the requirements to enable the struggle to prevent and deal with these crimes. ...

In the near term, the reactionary anti-state activities from both inside and outside the country will continue unabated and resolute. They will conspire with ruses and innovative and

refined methods, armed with insidious intentions in order to successfully organize loyal opposition parties inside the country to provide support for their radical and extremist counterparts to utilize international forums on democracy and human rights, religions and races to strengthen their reputation, slander and make false accusation against the state in our national policy regarding the great solidarity of our people; they will increase domestic infiltration activities, conducting espionage inside various central and local agencies. They will utilize IT [information technology] and telecommunication in their intention to seek the destruction of socialism. Therefore, to fight and defeat the attack plot of the enemy forces is our first line of defense, urgent and immediate. Long-term, difficult and complex tasks still lie ahead requiring the effort of the whole Party and the people, where we cannot be vague, drop our guard or leaning to the right in this effort....

The administrative execution of the arrests, prosecution and trials of these reactionary and opportunist elements is necessary but it needs to be weighed carefully on many fronts; to apply uniformly various fighting measures and techniques such as political, rhetorical, argumentative and professional, which at once should be firm, responsive and intelligent: to expose the plot and nature of the enemy forces, to isolate the recalcitrant leaders, to wrest the people who are being pulled by the other side and try to win their sympathy, to limit the spread of false ideas in the population about democracy, human rights, religious freedom, which impacts negatively on the Party and the State foreign policy.<sup>2</sup>

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<sup>2</sup> Vietnam Communist Party, "Notice: Conclusion of the Political Party concerning raising the quality and effectiveness in the execution of the political trials in the face of new development," Hanoi, September 12, 2007. Disseminated by the People's Democratic Party in February 2008.

The Politburo congratulates the public security police for cleverly handling some of these “political” cases while noting weaknesses in the handling of other cases, most notably instances in which defendants were able to respond strongly during their trials.

Finally, the Politburo spells out the order that opposition political parties are to be neutralized: “It is absolutely necessary not to let it happen that political opposition parties be established.”<sup>3</sup>

### Arrests and trials continue

While high-profile arrests may appear to have abated recently, this is in part due to the fact the most of the opposition parties, independent trade unions, and pro-democracy bulletins that emerged during the brief opening of the political space in Vietnam in 2006 have now been forced underground or collapsed after their key leaders and founders were imprisoned, decided to cease their activities or engage in self-censorship, or were forced to flee the country.

The government continues to try to silence its critics by isolating them, cutting their phone lines, monitoring their internet usage, keeping them under surveillance, having them removed from their jobs, and subjecting them to verbal abuse in public meetings orchestrated by authorities or physical attacks by police or civilians working on their behalf.

Despite the sense of relative calm in recent weeks, however, the arrests, harassment and political trials of activists have not stopped.

We have learned that just last week, Ms. Bui Kim Thanh, champion of the farmers’ movement for settlement of land conflicts and lawyer for the opposition *Dang Dan Chu 21* (Democracy 21) party, was arrested by police once again, on March 6, and involuntarily committed to Bien Hoa mental hospital. She was previously involuntarily committed at the same

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<sup>3</sup> “Tuyệt đối không được để xảy ra việc thành lập các đảng chính trị đối lập.”

institution for more than nine months after police arrested her in November 2006 at the time of the Asia Pacific Economic Cooperation (APEC) summit in Hanoi.

Next week, on March 18, internet reporter Truong Minh Duc from the opposition *Vi Dan* (Populist) party is expected to go to trial in Kien Giang province on charges of “abusing democratic freedoms,” most likely for his political views and coverage of bureaucratic corruption.

## Freedom of Religion

Aside from harassment and imprisonment of political activists, the Vietnamese government continues to exert strong control over religious activities, as outlined in a June 2007 decision by the Prime Minister calling for the training of 22,000 cadre to oversee and monitor religious matters.

An updated training manual for local cadre to guide them in religious affairs continues to advance the policy that religious believers must follow the leadership of the Communist Party of Vietnam and contribute to the revolutionary task of the people. It states that the government will “implement its management of religion through the leaders of the various religions.”<sup>4</sup>

As a result of international pressure and from the U.S.’s designation of Vietnam in 2004 as a Country of Particular Concern for religious freedom violations, the Vietnamese government released a handful of religious prisoners and implemented some reforms, such as directives that expedite church registration requirements and forbid forced recantations of faith.

The 2004 Ordinance on Beliefs and Religions affirms the right to freedom of religion, as provided for in Article 18 of the ICCPR. However, it requires that

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<sup>4</sup> International Society for Human Rights and Christian Solidarity Worldwide, “Analysis: 2007 Revision of Internal Training Manual ‘Concerning the Task of the Protestant Religion in the Northern Mountainous Region’”, February 2008, p. 4.

all religious groups register with the government in order to be legal, and bans any religious activity deemed to cause public disorder, harm national security and national unity, or “sow divisions.”

While a number of new religious organizations have been allowed to register, the government continues to apply strict religious restrictions on members of the Unified Buddhist Church of Vietnam, ethnic Khmer Theravada Buddhists, Hoa Hao Buddhists, some Mennonite churches, and evangelical Christians in the northern and central highlands.<sup>5</sup>

Followers of religions that are not officially recognized by the government continue to be persecuted. Security officials disperse their religious gatherings, confiscate religious literature, and summon religious leaders to police stations for interrogation. Buddhist monks from the banned Unified Buddhist Church of Vietnam, including its Supreme Patriarch, Thich Huyen Quang, and second-ranking leader, Thich Quang Do, have been confined without charges to their monasteries for years, under police surveillance.

## Controls over Freedom of Expression and Information

Article 19 of the ICCPR provides for the right to freedom of expression. In contrast, Vietnam’s 1993 Law on Publications prohibits private ownership of media and publishing houses and strictly bans publications that oppose the government, divulge state secrets, or disseminate “reactionary” ideas. According to Vietnam’s 1989 Press Law (as revised in 1999), the role of the media is to “disseminate, popularize and contribute to the elaboration and protection of the Party’s lines, directions and policies” and “building and defending the Socialist Fatherland [of] Vietnam.”

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<sup>5</sup> US Commission on International Religious Freedom, Letter to Secretary Rice with 2007 CPC recommendations, May 1, 2007.



Criminal penalties apply to publications, websites, and internet users that disseminate information that opposes the government, threatens national security, or reveals state secrets. In addition, the government controls the internet by monitoring email and online forums and blocking websites covering human rights, religious freedom, democracy groups, and independent media.

Internet users such as democracy activist Truong Quoc Huy have been detained or imprisoned for alleged national security crimes after using the internet to disseminate views disfavored by the government. Truong Quoc Huy was first arrested in 2005 and detained for more than eight months on charges of attempting to overthrow the government (article 79 of the Penal Code) after participating in pro-democracy discussion forums on the internet. He was subsequently re-arrested and sentenced in January 2008 to six years' imprisonment and three years' house arrest for "abusing democratic rights" (article 258) for allegedly distributing leaflets criticizing the Communist Party of Vietnam.

## **Restrictions on Freedom of Association and Assembly**

Article 21 of the ICCPR recognizes the right of peaceful assembly, and Article 22 provides for the right to freedom of association with others. In Vietnam, however, political parties, unions, and nongovernmental human rights organizations that are independent of the government, the Party or mass organizations controlled by the Party are not allowed to operate.

Public demonstrations are rare, especially after government crackdowns against mass protests in the Central Highlands in 2001 and 2004. Decree 38 bans public gatherings in front of places where government, party, and international conferences are held, and requires organizers of public gatherings to apply for and obtain government permission in advance. Despite the restrictions, farmers from the provinces are increasingly conducting peaceful protests in provincial towns, Ho Chi Minh City or Hanoi against government land seizures. In December 2007, thousands of Catholics in Hanoi participated in unprecedented rallies and prayer vigils

for more than a month to call for return of church property confiscated by the Vietnamese government in the 1950s. In late January 2008, municipal officials ordered the demonstrators to disperse and launched an investigation into crimes allegedly committed during the course of the protests, while reportedly pledging to return the property to the church.

## Labor Rights

In 2007 the government announced it would raise the minimum monthly salary for workers in foreign companies for the first time in six years. Despite this, unprecedented numbers of workers—mostly at South Korean, Japanese, Taiwanese, and Singaporean enterprises—have continued to strike for better pay and working conditions.

A new draft law would fine workers who participate in “illegal” strikes not approved by the VCP-controlled union confederation. Decrees issued in 2007 enable local officials to force striking workers back to work, and ban strikes in strategic sectors including power stations, railways, airports, post offices, and oil, gas, and forestry enterprises.

Members of independent trade unions are arrested, harassed and intimidated, with at least six members of newly formed independent trade unions such as the United Worker-Farmers Organization arrested since 2006. Le Tri Tue of the Independent Workers' Union “disappeared” in May 2007 after claiming political asylum in Cambodia with the United Nations High Commissioner for Refugees (UNHCR). He was presumed to have been abducted and sent to prison in Vietnam.

## Conclusions and General Recommendations

Although Vietnam has made important strides in poverty reduction and economic reforms, the country remains a one-party state that denies its citizens the freedoms of speech, press, and religion, as well as the right to form independent trade unions and political parties. Vietnam’s eagerness to engage with the global economy must be linked with respect for basic

human rights and rule of law. Commitments such as those made last week by the deputy minister of foreign affairs, who asserted at the United Nations Human Rights Council that Vietnam is open and willing to engage more deeply in international dialogues and cooperation on human rights, must be vigorously pursued. This is especially important now that Vietnam has been elected to the UN Security Council.

The United States, which is now Vietnam's largest export market, needs to send a clear signal to Vietnam that its increasingly blatant disregard for its international human rights commitments will affect other aspects of the evolving bilateral relationship. Because of its growing economic ties with Hanoi, the United States needs to take a firm stance with Vietnam regarding human rights.

We therefore respectfully recommend that:

1. If Vietnam does not promptly implement significant, tangible reforms and end its crackdown on peaceful dissent and unsanctioned religious activities, the U.S. should reinstate Vietnam on its list of Countries of Particular Concern as a warning that the U.S. will not tolerate restrictions on religious freedom.
2. The U.S. must insist that the Vietnamese government release the hundreds of religious and political prisoners in prison. In addition, the U.S. itself must not be selective in advocating for the release of religious and political prisoners, and must not distinguish between religious and political prisoners—both are equally victims because of their exercise of fundamental human rights.
3. The U.S. should call on Vietnam to remove prohibitions on workers forming or joining independent unions, and ask the Vietnamese government for information about the whereabouts of labor activist Le Tri Tue who “disappeared” in May 2007 after claiming political asylum in Cambodia.
4. The U.S. and other members of the international community should also insist that as a member of the Security Council, Vietnam must cooperate more fully with the United Nations' human rights

- mechanisms and special rapporteurs, none of whom have been granted an invitation to Vietnam since 1998. Specifically, Vietnam should promptly issue standing invitations to the UN special rapporteurs on religious intolerance, torture, and indigenous people, and the UN Working Group on Arbitrary Detention.
5. If Vietnam is to be a reliable trading partner, the rule of law is essential, and the Vietnamese government must demonstrate its willingness to observe international rules and standards, including those governing respect for fundamental human rights. A first step would be for the Vietnamese government to repeal provisions in Vietnamese law that criminalize peaceful dissent, unsanctioned religious activity, and non-violent demonstrations and rallies.
  6. If concrete progress is not made on human rights before the next bilateral dialogue, the U.S. should seriously reconsider whether to proceed with the annual exercise.

More specific recommendations for human rights issues that the United States should raise with Vietnam follow below.

## Recommendations

1. Arbitrary arrest, torture, detention, and unfair trials
  - Immediately release or exonerate all people imprisoned, detained, or placed under house arrest, administrative detention, or involuntary commitment to mental hospitals for the peaceful expression of political or religious beliefs.
  - Amend provisions in domestic law that criminalize dissent and certain religious activities on the basis of imprecisely defined “national security” crimes. Specifically:
    - Amend or repeal Vietnam's Criminal Code to bring it into conformity with international standards.
    - Eliminate ambiguities in the Criminal Code's section on crimes against national security to ensure that these laws

cannot be applied against those who have exercised their basic rights to freedom of expression, assembly, religion and belief, and association.

- Amend or repeal provisions in the Ordinance on Religion, which restrict and criminalize the right to peaceful membership in independent religious groups.
- Repeal Ordinance 44, which authorizes administrative detention, house arrest, or detention in Social Protection Centers and psychiatric facilities for two-year renewable periods, without trial, for individuals deemed to have violated national security laws.
- Extend a standing invitation to the UN Working Group on Arbitrary Detention, which visited Vietnam in 1994, and the Special Rapporteur on Torture to visit Vietnam.

## 2. *Freedom of religion*

- Release people who have been imprisoned or placed under house arrest for their religious beliefs, including members of the Unified Buddhist Church of Vietnam, ethnic Khmer Buddhists, ethnic minority Christians, Roman Catholics, and members of the Cao Dai and Hoa Hao religions.
- End the restrictions on peaceful gatherings or activities by religious groups that are not registered with the government; pressure to join government-authorized churches; and abusive police surveillance and harassment of religious leaders and followers.
- Ensure that churches and religious organizations seeking to register with the government are granted approval for “religious operations” in general (đăng ký hoạt động) and not just for “specific activities” (đăng ký hoạt động).
- Allow independent religious organizations to freely conduct peaceful religious activities and govern themselves. Recognize the legitimate status of churches and denominations that do not choose to join or affiliate with one of the officially authorized religious organizations whose governing boards are under the

control of the government. Allow these religious organizations to register with the government and operate independently of already registered religious organizations if they choose to do so.

- Invite the UN Special Rapporteur on Religious Intolerance to return to Vietnam.

### 3. *Controls over freedom of expression and information*

- Amend provisions of Vietnam's Criminal Code that restrict and criminalize the right to peaceful dissent, particularly the provisions on national security.
- Bring press laws into compliance with Article 19 of the ICCPR.
- Authorize the publication of independent, privately-run newspapers and magazines.
- Remove filtering, surveillance and other restrictions on internet usage and release people imprisoned for peaceful dissemination of their views over the internet.

### 4. *Restrictions on freedom of association and assembly*

- Permit individuals the right to associate freely and peacefully with others of similar views regardless of whether those views run counter to the political or ideological views approved by the Party and state.
- Bring legislation regulating public gatherings and demonstrations into conformity with the rights of free association and assembly in the ICCPR.
- Address rural grievances without violating the rights of petitioners by strengthening the legal system, the independence of the judiciary, and making legal services available to the rural poor.

### 5. *Labor Rights*

- Immediately and unconditionally release all persons detained for peaceful activities to promote the rights of workers to freely associate, including the right to form and join trade unions of

their own choice; to peacefully assemble to protect and advance their rights; and to exercise their right to freedom of expression on behalf of workers and their concerns.

- Recognize independent labor unions.