

STATEMENT
UPR Pre-session on VIETNAM
Geneva, December 12, 2018
Delivered by: LEGAL INITIATIVES FOR VIETNAM

I – Introduction: Legal Initiatives for Vietnam

This statement is delivered on behalf of Legal Initiatives for Vietnam, an independent Civil Society Organization whose mission is to work on improving the legal framework and culture in the country. We have submitted a joint report on the death penalty in Vietnam together with ACAT-France for this UPR cycle.

A national consultation for the UPR was organized by the government, but regrettably, it was not inclusive enough and our organization was not able to join.

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II – Issues to be Presented

This statement addresses the three following issues:

- (1) the overview of the death penalty in Vietnam
- 2) transparency on the application of the death penalty and access to justice, and
- (3) prison conditions and inmates' right to contact with the outside

III – Statement

1) The overview of death penalty in Vietnam

In 2014, the government continued to support recommendations to reduce the number of offenses subjected to the death penalty, notably those from Germany, Norway, Switzerland, Italy, Belgium, and Namibia.

Vietnam further agreed to consider restricting the use of the death penalty only for the most serious crimes in accordance with Article 6 of the ICCPR, and to examine the possibility of introducing a moratorium.

However, in reality, from the last cycle of UPR until today, there has been no substantial implementation of the accepted recommendations regarding the death penalty.

We acknowledged that since its first UPR in 2009, Vietnam has until now reduced a total of 15 offenses subjected to the death penalty, however, the number of people sentenced to death has doubled in the same period.

In 2018, the government confirmed 112 people were sentenced to death which was an increase from 2017, and that it has executed 85 people. It means at least one person was executed per week this year.

Thus, we are recommending the government shall:

- a) Impose a moratorium on the execution of non-violent crimes, including those offenses which related to drugs;
- b) Reduce the number of cases subjected to the death penalty involving drugs offenses, non-violent crimes, and homicide with extenuating circumstances;
- c) Ratify the Second Optional Protocol to the ICCPR before the midterm review of the next UPR cycle;

2) Transparency and Access to Justice

Vietnam has also agreed during the last UPR cycle to push for reforms towards greater transparency around the issue of the death penalty, according to the recommendations it had accepted from New Zealand and Switzerland.

In reality, however, the information on the use of death penalty is still not readily made available to the public.

There has been only one report from the Ministry of Public Security with very little information on the application of the death penalty in the five years from July 2011 – to June 2016.

Executions are conducted in secret with unknown lethal drugs and we are deeply concerned that no one, including the families of death row inmates, are allowed to witness the executions.

Since the new form of execution took place in 2011 and up to June 2016, there had been 429 people executed by unknown lethal drugs with unknown procedures.

Vietnam accepted one recommendation from Denmark regarding effective and equal access to lawyers to be provided for at all stages of legal proceedings in the last UPR cycle. However, this recommendation has not been implemented and realized in practice.

In 2018, a South African man, Tyron Coetzee who was sentenced to death for drug trafficking was appointed a lawyer by the state. But his attorney did not speak English and only met him once, on the day of the trial.

Lacking adequate legal representation affected the fair trial standards and increased the numbers of wrongful convictions. The cases detailed in our factsheet of Ho Duy Hai, Le Van Manh, and Nguyen Van Chuong - three young men languished on death row for over a decade, clearly show this point.

Therefore, we recommend:

- a) Immediately and publicly disclose what are the lethal drugs being used along with their dosage in all executions;
- b) Publish adequate and publicly accessible information on the death penalty annually;
- b) Uphold the right to a fair trial, including the right to have access to adequate legal presentation at all stages of a criminal investigation.
- d) Immediately initiate the appropriate legal proceedings to review the cases of Ho Duy Hai, Le Van Manh, Nguyen Van Chuong, Dang Van Hien, and Tyron Coetzee.

III) Prison conditions and Inmates' Contact with the Outside

Prison conditions and treatment of prisoners are varied in prison centers across the country, arbitrarily implemented at the mercy of correctional officers.

Inmates are still being pressured to confess even after sentencing, which includes the use of solitary confinement, shackle, physical violence and rejection of family visits.

In the case of prisoners on death row, Nguyen Van Chuong, who had told his family that he was regularly confined solitarily in a small cell for many years, where he had to lie down on a cement platform and get shackled for 24/7 and could not even use the toilet. He also had to use the same water for drinking and sanitary purpose.

Families of death-row inmates had testified that correctional officers routinely committed improper interference with family visit; not allowing inmates to receive adequate food supply, and proper medical care.

Current laws in Vietnam provide for very limited contact between the death-row inmates and the outside world; with no visits from independent organizations, including the International Committee of the Red Cross; mail correspondence, phone calls are also limited.

We recommend:

- a) Establish a national mechanism that independently, effectively and regularly monitors and inspects all places of detention to be conducted by independent CSOs;

b) Accede to the Optional Protocol to the Convention against Torture;

c) Ensure the right of death row inmates to make contact with others, free to receive supply and be able to communicate by telephone;

Thank you very much for your time.