

## HUMAN RIGHTS WATCH

350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
Tel: 212-290-4700  
Fax: 212-736-1300  
Fax: 917-591-3452

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December 13, 2013

Secretary of State John Kerry  
Department of State  
Washington, DC

Dear Secretary Kerry,

Your visit to Vietnam December 14-17 offers an important opportunity to highlight the Vietnamese government's worsening record on human rights, in particular its growing crackdown on critics.

We understand that the aim of your trip, consistent with Obama administration policy, is to improve US-Vietnam relations, in part through the negotiation of the Trans-Pacific Partnership, a multilateral trade agreement in which Vietnam would be a partner. The reward of enhanced integration in the world economy, and a closer relationship with the United States, in theory would serve as an incentive for the Vietnamese government to improve its human rights record.

We believe, however, that there are serious and legitimate questions to be raised about whether the rewards of closer engagement with Vietnam, including the signing of the Trans-Pacific Partnership, are justified in the current context. Despite increasingly close ties with the United States and other Western democracies, the Vietnamese government has made little progress on human rights and political freedoms in recent years. It continues to engage in systemic human rights abuses related to freedom of expression, association, assembly, religion, as well as labor rights, land, and other areas.

There have been some signs of improvement. The government of Vietnam has tolerated promotion and advocacy for recognition of lesbian, gay, bisexual, and transgender rights, and taken steps to decriminalize same sex marriage. It has ended new detention of sex workers for forced "rehabilitation", although there are concerns the government has not yet released those previously detained. As part of its candidacy for the UN Human Rights Council, in November Vietnam signed the UN Convention against Torture, though it still has to ratify the treaty and bring it into force under Vietnamese law.

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But the human rights situation remains dire. Vietnam remains a one-party state. Vietnam's 90 million citizens are ruled by an unelected government that is subordinate to the Politburo of the Communist Party. Criticism of the government, or the Communist Party, is punishable by arrest and prison. Exposing corruption or poor governance may land a citizen in jail. Independent trade unions are illegal, as are unsanctioned houses of worship. In remote areas, ethnic and religious minorities face persecution, and police routinely carry out abusive arrests and detention of ordinary civilians for petty offenses. There is little accountability for abuses by government actors who engage in abusive behavior.

Despite widespread public support for systemic changes, the ruling Vietnam Communist Party actually strengthened its legal claim to power in the recently amended constitution. The fact that possible reform was partially debated should not obscure the fact that recent constitutional debates were a major missed opportunity on pluralism and rights, and suggest on the part of the government a lack of commitment to reform.

In the face of these immense challenges, activists have increasingly been challenging government repression. In recent years, a growing number of citizens have been engaging in critical commentary expressed via digital and other media, questioning official policies, exposing official corruption, protesting land-grabbing, practicing religious beliefs in unauthorized ways, and calling for democratic alternatives to one-party rule. For instance, one recent effort, "Petition 72," calling for constitutional changes to allow multi-party elections, was created by 72 high-profile intellectuals and signed by another 15,000 people. "Statement 258," signed by 103 bloggers, urged the government to change Article 258 of the penal code, which is used to punish criticism of the government. At considerable risk to themselves, groups of these bloggers have also met with foreign diplomats in Hanoi and handed over petitions calling for foreign governments to pressure Vietnam to change Article 258.

In response, the Vietnam government's crackdown on free expression has intensified. An increasing number of critics have been arrested and imprisoned in the last three years for violations of Vietnam's vague penal code, in particular articles 79, 87, 88, 89, 91, and 258 detailing crimes such as "conducting propaganda," "subversion of the people's administration," "disrupting the unity of the state," or "abusing democratic freedoms to infringe upon the interests of the State or [its] citizens."

Detainees are often held incommunicado for long periods and subjected to torture or other mistreatment in pre-trial detention, and then prosecuted in politically controlled courts before receiving long prison sentences.

At least 63 political prisoners have been convicted for free speech acts in 2013 this year, an increase over the 40 cases from 2012, itself an increase from smaller

numbers in 2011 and 2010. Vietnam now has at least 150 political prisoners in custody and likely more—the full but unknown number of upland ethnic minority detainees, jailed in connection with religious activities, presumably makes the number higher. We have provided an appendix to this letter listing several key cases.

The government appears to be growing increasingly sensitive to dissent. Although it already has extensive powers to punish and deter internet freedom, the government on September 1, 2013 put into force Decree 72, which contains provisions legalizing content-filtering, censorship, and sanctions by the government against vaguely defined “prohibited acts.” The decree also forbids individuals from synthesizing news on blogs or personal websites.

Vietnamese authorities also continue to ban all political parties, labor unions, and human rights organizations independent of the government or the Communist Party. Official approval is necessary for any public gatherings, marches or protests. Notably, in May 2013, authorities in three Vietnamese cities used violence, arrests, and harassment to prevent or break up peaceful “human rights picnics” at which activists had planned to disseminate and discuss the Universal Declaration of Human Rights and other human rights documents.

The government also continues to monitor, harass, or crack down on religious groups that are outside of official, government-registered and government-controlled religious institutions. Religious organizations that have faced persecution have included unrecognized branches of the Cao Dai church, the Hoa Hao Buddhist church, independent Protestant and Catholic house churches in the central highlands and elsewhere, Khmer Krom Buddhist temples, and the Unified Buddhist Church of Vietnam. In January 2013, the government implemented Decree 92, focused on religious groups, containing new provisions curbing freedom of religion with more detailed and complex restrictions on religious groups.

Tens of thousands of people alleged to be dependent on drugs—including children—continue to be held in government detention centers, where they are forced to perform menial work in the name of “labor therapy” for periods up to four years. The work includes the processing of cashews, and work in construction, garments, and agriculture. Infringing detention center rules, including their requirements to work, can be punished by beatings, shocks with electrical batons, and confinement to disciplinary rooms where detainees were deprived of food and water.

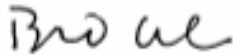
We urge you to be vocal on the human rights issues listed above and speak clearly about their consequences. We believe it important for the Vietnamese government to understand that failure to show improvements on the matters above will make it difficult for the US Congress to assent to US-Vietnam agreements and pass necessary legislation to implement them.

We suggest that you urge Vietnam to take several immediate steps to show its willingness to change, including the following:

- Release all political prisoners and prisoners of conscience. As an immediate first step, release all prisoners who are advanced in age or in poor health, such as Nguyen Van Hai, Cu Huy Ha Vu, Nguyen Huu Cau, Mai Thi Dung, Father Nguyen Van Ly, and others.
- Undertake immediate steps to revise Vietnam's penal code to remove provisions criminalizing criticism of the government, and in the interim impose a moratorium on the use of articles 79, 87, 88, 89, 91, and 258.
- Publicly pledge to allow workers and unions the freedom to organize and form trade unions.
- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and adopt implementing legislation.
- Remove legal requirements that detainees perform "labor therapy" as a component of forced drug addiction treatment in state-run detention centers.

We look forward to discussing these matters with you in further detail.

Sincerely,



Brad Adams  
Director

[Attachment: Vietnam's Political Prisoners: Key Cases of Concern]