

# VIETNAM

## RURAL UNREST IN VIETNAM

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## I. SUMMARY AND RECOMMENDATIONS

The statistics are impressive. Since the launching of *doi moi*, the economic renovation process in 1986, Vietnam's poverty has been reduced by 35 percent. GDP growth has averaged 8 percent annually since 1989.<sup>1</sup> Living standards have dramatically increased for much of the urban population. After a decade of growth, however, the economy is beginning to display a downward trend, and social and political pressure points are emerging. One of the most serious of these is the stark disparity between urban and rural incomes, given that 80 percent of Vietnam's seventy-five million population is agrarian. Serious rural unrest in 1997, provoked by peasants' economic grievances, have highlighted human rights violations, including the government's resort to detention without trial, lack of freedom of the press, and lack of freedom for private associations to form independently of state control.

Decollectivization of agricultural production in the late eighties boosted Vietnam from a net importer of rice to the world's second largest exporter after Thailand in 1997. With farmers able to control their own production, average rural incomes have risen since the mid-1980s but still lag dramatically behind those of the urban population. The rural-urban living standards gap has widened since 1991, and by 1995 the average rural income was one-fifth of urban income.<sup>2</sup> Fifty-seven percent of the rural population lives below the poverty line, according to the World Bank's 1996 report. The Ministry of Agriculture recently reported that farmers in the Mekong Delta earned only U.S.\$50 to \$60 in 1996 after covering their production costs.<sup>3</sup> Meanwhile the 1996 per capita annual income was around U.S.\$1000 in Ho Chi Minh City and \$800 in Hanoi. Average GNP per capita in 1997 stands at U.S.\$300, according to the latest World Bank report.<sup>4</sup>

Peasant unrest in Thai Binh province eighty kilometers southeast of Hanoi and in Dong Nai province forty kilometers north of Ho Chi Minh City has sent a clear signal to the government that the farmers' stoic forbearance is reaching breaking point. In May 1997 several thousand peasants in Thai Binh began openly protesting against corrupt local officials, punitive tax demands, land disputes, unfair rice prices, and compulsory labor contributions.<sup>5</sup> Widespread unrest continued for at least five months, and Human Rights Watch/Asia understands that sporadic protests broke out again in November. From May to September there was a total media blackout, and foreign journalists were still banned from visiting Thai Binh as of December 1997. Several international staff from nongovernmental organizations had

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<sup>1</sup> UNDP/UNICEF, "Catching Up: Capacity Development for Poverty Alleviation in Vietnam", Hanoi, October 1996.

<sup>2</sup> Ibid.

<sup>3</sup> "The Trouble with Rice," *Vietnam Economic Times*, October 1997.

<sup>4</sup> World Bank Vietnam country report, October 30, 1997.

<sup>5</sup> Reuters, July 24, 1997.

access to their project sites severely restricted. On November 7, 1997, violent protests erupted in the southern province of Dong Nai, just five days before the opening of Vietnam's first ever international summit, La Francophonie, in Hanoi. These protests appear to have been sparked primarily by the expropriation of church land by corrupt local authorities in the predominantly Catholic district of Thong Nhat.<sup>6</sup> The situation had calmed down within a few days, but further disturbances apparently broke out in late November, with peasants continuing to protest against very similar economic grievances to those in Thai Binh. Dong Nai, too, has remained off-limits to foreign journalists, and no reports of the protests have appeared in the domestic press.

Due to press restrictions, no accurate information is available about numbers of arrests, charges, and how many cases have been or will be brought to trial. Human Rights Watch/Asia is concerned that protestors can be arrested under the Administrative Detention Decree (31C/P) under which individuals are detained without trial for between six months and two years on the vague charge of "threatening the national security."

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<sup>6</sup> Reuters, Agence France-Presse, Associated Press, November 10, 1997.

The scale of the rural unrest sent shock waves through the upper echelons of the government and ruling Communist Party. Months of official silence were broken with carefully orchestrated responses from the top leadership in the party press. These responses suggest top-level political commitment to addressing the structural problems fueling the unrest. In his speech to the National Assembly on November 21, 1997, Prime Minister Phan Van Khai stressed the need for a rural reform program. This followed his comments the previous month that political and social stability was attainable only if farmers' incomes were increased and the widening "social polarization" between the rural and urban population narrowed.<sup>7</sup> Former Communist Party Chief Nguyen Van Linh publicly raised concerns about the rising number of landless and unemployed farmers in the Mekong Delta in August 1997.<sup>8</sup> In August 1997 the Ministry of Agriculture announced its "ten big policies" of rural reform, including improving infrastructure, reducing taxation on farmers and establishing a land-use licensing system. No specific time-frame for implementation was indicated. Party Secretary Do Muoi announced in October that the country now needed to implement a system to help people exercise their "democratic rights," and that the party should clamp down on local corruption and listen to the voice of the people:

The people are those who push the boat, and at the same time, they are those who topple the boat. Any authority who abuses power will be toppled by the people.<sup>9</sup>

There has been no perceptible progress, however, towards legal reform to safeguard these undefined "democratic rights." Instead, new regulations have been enacted to enhance the state's capacity for social control through administrative detention and restrictions on the press. These retrograde laws are being used to contain the rural protests in the short term and do not conform to the foreign-donor-funded legal reform programs which are aiming to strengthen the rule of law, to regulate the legal environment, and enhance accountability, transparency and good governance.

The United Nations Development Program (UNDP) is the leading player in the legal reform process in Vietnam, providing U.S.\$4.4 million for four legal reform projects with the Ministry of Justice. These projects comprise Promotion of the Rule of Law which aims to establish a legal framework suitable for a market-based economy and civil governance (U.S.\$1.4 million); Strengthening Legal Capacity, executed through the National Assembly, to help in drafting legislation, in understanding comparative law and foreign legislation, and in English language training (U.S.\$1 million with an additional U.S.\$2 million from Denmark); Strengthening Judicial Capacity, through building knowledge and capacity of the courts, judges and court personnel, and support to judicial training school and facilitating law drafting (U.S.\$1 million with an additional U.S.\$2 million from Denmark); and Strengthening Supreme People's Procuracy, training personnel in prosecutorial work, strengthening the understanding of comparative foreign perspectives on the Criminal Procedure Code, and development of information services to speed up information transfer from the Supreme People's Procuracy and provincial procuracies (U.S.\$1 million with an additional U.S.\$2 million from Denmark). The World Bank is cooperating with UNDP in this process by providing technical assistance in two areas, within the overall commercial law framework, and also on sectoral projects, such as the banking sector and power sector. The Asian Development Bank (ADB) is providing U.S.\$1.7 million for technical assistance on retraining of government lawyers at the Ministry of Justice, and developing a registration system for mortgages. With its clear economic focus, the legal reform process is not addressing the strengthening of the rights of citizens in conformity with international human rights standards.

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<sup>7</sup> "New PM says voice of farmer must be heard," *Vietnam Investment Review*, October 13-19, 1997.

<sup>8</sup> "Ex-Party Chief calls for Mekong Delta rethink," *Vietnam Investment Review*, July 28 - August 3, 1997.

<sup>9</sup> "New Prime Minister says voice of farmer must be heard," *Vietnam Investment Review*, October 13-19, 1997.

Peasants in Vietnam may be sanctioned under Vietnam's laws and practice if they publicly air their grievances or try to form independent associations to represent their interests. The social conflict in 1997 highlights the instability within the current system of top-down government where freedom of expression and association are not permitted. Any long-term objectives for sustainable rural development must be underpinned by a strengthening of citizens' participation in that process. Effective popular participation requires legal guarantees of freedom of association and the freedom of expression through the press. These rights are enshrined in the 1992 Constitution of the Socialist Republic of Vietnam and the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a party. This report examines the causes of rural unrest, the response by the government and the Communist Party, and the lack of respect for human rights displayed by the Vietnamese government.

## **Recommendations**

### **To the Government of the Socialist Republic of Vietnam:**

1. The government should uphold its obligations under the International Covenant on Civil and Political Rights and its own 1992 Constitution to respect freedom of speech, of press, of assembly, and of association.
2. Domestic laws and regulations which impose restrictions on these rights should be revised to comply with international law. Ambiguities in the Criminal Code's section on crimes against national security should be eliminated, to ensure no application of these laws against those who have only exercised their basic right to freedom of expression.
3. The government should repeal the Administrative Detention Directive (31/CP), which is unconstitutional in authorizing detention without trial.
4. The government should ensure that all detainees have the right to a fair trial and that pre-trial detention should not exceed a reasonable period.
5. The government should allow greater transparency in its administration of detention facilities. Regular visits to places of detention by international human rights or humanitarian organizations would assist in this process.
6. The government should introduce legislation to safeguard the right of the domestic and foreign press to report objectively, recognizing the freedom of the press as an essential element in liberalizing the economy and strengthening political, economic and legal transparency and accountability.
7. The government should present as soon as possible to the National Assembly for ratification a law which allows the establishment of independent associations. These associations should be permitted to represent their views to and engage in two-way debate with state authorities.

### **To the International Community:**

1. The international community, and in particular foreign aid donors, should support Vietnam's process of legal reform but make technical and financial assistance conditional on the government's

willingness to repeal Directive 31/CP on administrative detention and amending other laws to bring them in line with international standards.

2. The international community should urge the government to introduce legislation which protects the rights to free speech and press, association and assembly.
3. The international community should support Vietnam in achieving greater transparency and accountability in its legal and penal systems and should press for access for international observers to trials and persons held under administrative detention. They should continue to press for an independent and impartial judiciary.
4. The international community should urge the Vietnamese government to cease its harassment of local and foreign journalists and its censorship of the domestic media, recognizing that a free press is essential in promoting civil and political rights and long-term sustainable economic development.

## II. GRIEVANCES IN RURAL VIETNAM

The social unrest in 1997 was triggered by a range of grievances common to much of Vietnam's rural population, including local corruption, loss of land, depressed rice prices, and taxation.

Of these grievances, the question of rampant corruption among local officials has provoked the most anger among the peasants. Government and party bureaucracy at provincial and district level is excessively bloated and official salaries are meager. A district-level cadre earns an average U.S.\$20 per month. With the flourishing of private enterprise and the influx of investment has come the opportunity for graft and extortion by those in positions of authority. In any village in rural Vietnam the most substantial and modern building is invariably the office of the People's Committee, the Communist Party organ at provincial and district level, while the shabbiest are usually the school and health clinic. Peasants are seeing virtually no returns for their hefty tax payments, rural infrastructure is in decline, land-use rights are often abused, and local officials are widely perceived to be ignoring the needs of the peasants in their pursuit of short-term economic gain.

Another growing source of conflict in Vietnam is land disputes. As industrialization gathers pace in pockets of Vietnam, the question of land-use rights is becoming one of the most pressing problems facing peasants. All land belongs to the state, but individuals are allowed to buy and sell land-use rights. The legal framework for such transactions is extremely weak and guarantees little security for the holder of the land-use certificate. Over the past five years, local authorities have acquired vast swathes of agricultural land for commercial development, sometimes forcing farmers to sell, sometimes buying from indebted peasants at prices far below market value.<sup>10</sup> Farmers' loss of livelihood, inadequate payment for land, and confiscation of property by local authorities have fueled peasant anger in recent years.

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<sup>10</sup> "Cuu Long farmers sell their land to survive," *Vietnam News*, July 2, 1997.

In cases of compulsory land sales, farmers frequently receive inadequate compensation after local officials have taken their cut. This has sparked repeated protests, such as in late 1996 when hundreds of peasants in Kim No village outside Hanoi clashed with police over land purchased by Daewoo, a South Korean conglomerate, for building a golf course. Near to industrial and export-processing zones, such as in southern Dong Nai province, many indebted farmers have chosen to sell their land, often at artificially low prices, for short-term economic gain. Vietnam is witnessing the reemergence of landless peasantry, reminiscent of the feudal system which existed during the French colonial period, against which the Communists protested so vehemently before independence. According to the state-run Farmers' Union, over 83,000 farming households in the Mekong Delta are now landless.<sup>11</sup> These peasants have little choice but to work as tenant farmers or occasional hired labor for more prosperous landowners, with no labor rights or legal associations to represent their interests.

The government is trying to curb urban migration through a tight control on residence permits (*ho khau*). Peasants who drift into the cities invariably end up working illegally for menial wages as rickshaw drivers or day-hire laborers. The escalating problem of rural unemployment has been acknowledged at the highest level. In a commentary in the official party daily, *Nhan Dan*, in July 1997, Nguyen Van Linh, former party secretary, described the farmers' situation in the Mekong Delta as "critical," with much of the countryside in the hands of the prosperous minority.<sup>12</sup>

A further grievance for farmers is the price of rice. The rice trading system discriminates against farmers in favor of middlemen and state-owned rice exporting companies. The Ministry of Trade operates an export quota system which is dominated by a handful of state-owned companies, such as Southern Food General Corporation, better known as Vinafood II. The farmers are paid depressed prices for their harvests for which they bear the entire risk, while the exporters reap the profits. According to Ministry of Agriculture figures, a farmer will typically make \$5 profit per ton while the quota-holding company makes around U.S.\$30 per ton.<sup>13</sup>

Taxation has caused massive discontent in rural Vietnam. With a policy of partial deregulation of taxes, ample opportunity has arisen for abuse and corruption by poorly-paid local officials. Peasants must pay numerous local financial "contributions" on top of already onerous national taxes. A 1996 study by Oxfam UK and Ireland on basic living standards in northcentral Ha Tinh province revealed that peasants are required to pay eight types of tax set by Hanoi, for agricultural land use, fishing, salt making, slaughter, among others, and a further six local "contributions" ranging from national defense and public security funds to disaster preparedness funds.<sup>14</sup> In September 1997 the party mouthpiece *Nhan Dan* reported that peasants in Thai Binh province face up to thirty kinds of locally imposed "contributions" on top of national taxation.<sup>15</sup>

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<sup>11</sup> Associated Press, October 15, 1997.

<sup>12</sup> "Ex-Party Chief calls for Mekong Delta rethink," *Vietnam Investment Review*, July 28 - August 3, 1997.

<sup>13</sup> "The Trouble with Rice," *Vietnam Economic Times*, October 1997.

<sup>14</sup> Oxfam UK and Ireland, "Report on the Financing and Delivery of Basic Services at the Commune Level in Ky Anh, Ha Tinh," March 1996.

<sup>15</sup> *Vietnam News Agency*, September 8, 1997.

The peasants' grievances over unfair taxation have been exacerbated by the unpopular decree introduced by Prime Minister Vo Van Kiet in 1996 on compulsory labor "contributions." Under the slogan of "the state and the people working together", citizens are required to contribute ten days' labor to national infrastructure projects, such as road-building. Many Vietnamese have noted parallels with the *corvée* labor used by the French colonial authorities in Indochina, another key focus for the Communists in the 1930s to mobilize peasants in their struggle for independence. Most urban dwellers pay off local authorities rather than undertake the labor, but few poor peasants can afford to buy their way out, contributing to their resentment against local authorities.

### III. RURAL UNREST SINCE THE START OF *DOI MOI*

Isolated incidents of peasant protest have occurred since the late 1980s. Peasants from the Mekong Delta demonstrated in Ho Chi Minh City in 1988, in northcentral Ha Tinh and Thanh Hoa provinces in 1991-2 and 1994 respectively, in central Quang Nam Da Nang in 1994 and outside Hanoi in 1996. The military newspaper *Quan Doi Nhan Dan* published a long article on September 15, 1997 analyzing the problem of a decade of social unrest in Military Region IV, encompassing six northcentral provinces from Thanh Hoa to Quang Binh, historically the cradle of the revolution.<sup>16</sup> In the report, the paper's "political and military correspondents' group" claimed that popular dissatisfaction with maladministration, misappropriation of funds, and inaction by corrupt officials had led to "worsening political stability." It also claimed that in some cases "Buddhist and Catholic followers were lured into illegal activities against the party and the state's line and policies." No specific details are given. The report concludes that under the leadership of the party and guidance of the military and public security forces, these "complicated incidents" of unrest can be solved. By placing most of the blame for the unrest on local civilian authorities for exploiting the "adverse effects of the market economy," the military are tacitly claiming the moral high ground as regards maintaining social order.

In 1997, Vietnam experienced the most serious sustained rural unrest for decades, primarily in Thai Binh and Dong Nai provinces where thousands of peasants took to the streets to protest against rampant corruption among local party and government officials whom the peasantry see as ignoring their fundamental economic grievances.

#### **Thai Binh Province**

Starting in May 1997 with a 3,000-strong sit-in in Quynh Phu district People's Committee office, peasant protest spread to six out of seven districts of Thai Binh province, and continued for over six months on a variable scale. Sporadic protests were also reported in neighboring provinces, including Thanh Hoa. The peasants' anger was provoked by endemic corruption among local officials, land disputes, punitive taxation, unfair rice prices, and compulsory labor contributions to national infrastructure projects.

Protests turned violent against local officials in some districts, with reports of isolated cases of arson and physical assault and makeshift "courts" established by the local people to bring corrupt cadres to book. On November 25, Reuters reported the release of twenty local officials who had been unlawfully detained by protestors some months earlier. In August the government dispatched around 1,200 special police to control

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<sup>16</sup> *Quan Doi Nhan Dan*, Summary of World Broadcasts (SWB), September 15, 1997



the demonstrations. Senior Politburo member responsible for mass organizations Pham The Duyet was sent to intervene in the potentially explosive situation. In a Hanoi-directed attempt to clamp down on abuse of power by local authorities, over fifty police and People's Committee officials were arrested and are to be brought to trial on specific charges of corruption. The Vietnamese press has also reported that over one hundred "bad elements" among the protestors were also arrested and detained, charged with "threatening the national security." Human Rights Watch/Asia understands that they have probably been detained under Administrative Detention Decree 31/CP, with no legal recourse to a trial.

There was a national press blackout regarding the Thai Binh protests from May to September. The five-month official silence probably indicates Hanoi's indecision as to how to exercise damage limitation and isolate the disturbances. The so-called "bad elements" among the protestors were paraded on provincial television to deliver self-criticisms as a warning to other protestors. National coverage of the unrest was largely confined to the Communist Party's official daily, *Nhan Dan*, and the Army newspaper, *Quan Doi Nhan Dan*, in September. The articles acknowledged the legitimate grievances of the farmers and criticized widespread corruption amongst grassroots cadres but provided no detailed information about the scale of the protests and number of subsequent arrests and charges. They failed to mention that among the organizers of the protests were former Party members, war veterans and war heroes' mothers. The involvement of these traditional party stalwarts indicates the scope of discontent with local authorities. In their press reports, both the party and the military mentioned the need to allow for citizens' rights, without defining those rights. Both placed more emphasis on the need for heightened social and political control:

[The cadres] must consistently enhance their political background, strengthen their combat readiness, heighten their vigilance against the "peaceful evolution" schemes of the hostile forces, and stand ready to firmly defend our national integrity and regime.<sup>17</sup>

No foreign journalist has been granted permission to go to Thai Binh since major unrest broke out in May. According to press regulations that came into force on December 1, 1996 after the disturbances in Kim No village outside Hanoi, foreign journalists must submit written requests to the Foreign Ministry Press Department for permission to travel outside of Hanoi five days in advance. Repeated requests from Hanoi's foreign press corps to visit Thai Binh have been refused on the grounds that a visit at such a time would be "inconvenient."

### **Dong Nai Province**

Violent unrest broke out in Dong Nai province on November 7, 1997 and continued for three days, with a majority of women and children reportedly at the forefront of the demonstrations. Protests by several thousand peasants were apparently sparked by the confiscation by local authorities of Catholic church land in Tra Co commune, Thong Nhat district. Hundreds of demonstrators also blocked Highway One, the only artery joining the north and south of the country. Police were mobilized very swiftly to break up the protests, and several police and demonstrators allegedly sustained serious injuries. The area remains off-limits to journalists and few independently confirmed details of the events are available. While basic economic grievances remain the same as in Thai Binh, two added dimensions complicate the issue of the Dong Nai protests: religion and ethnicity.

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<sup>17</sup> *Quan Doi Nhan Dan*, September 20, 1997

With regard to religion, Thong Nhat is a predominantly Catholic district within Xuan Loc, the largest diocese in Vietnam with 700,000 Catholics, many of whom relocated from Thai Binh and surrounding provinces when Vietnam was divided in 1954. The historical antipathy of the southern Catholics towards the Communist authorities was stoked in April 1997 when the People's Committee of Dong Nai issued a directive (1216/UBT) declaring illegal and disbanding all church groups sanctioned in Bishop Nguyen Minh Nhat's diocese "Guide for Religious Ministry" of March 1993. These groups included the Holy Mother's group, the Catholic Mother's group, the Holy Communion Youth group and the Head of Families group. No information is available as to why the bishop's circular, and activities listed therein, were not declared illegal until four years after being distributed. This directive violates the right to assembly as defined in Article 69 of the Vietnamese constitution and Article 21 of the International Covenant on Civil and Political Rights, which guarantee the right of assembly and association.

Directive 1216/UBT provoked an outcry amongst the Catholic community in April, and Pham The Duet of the Politburo, the earlier mediator for Thai Binh, was dispatched to Dong Nai to placate the situation through dialogue with Bishop Nhat. Although relative calm was restored, tension was still high in Xuan Loc diocese, which would explain why violent protests erupted so suddenly in Thong Nhat district after confiscation of church land in early November. The government was quick to play down any religious dimension to the disturbances but nevertheless called on Bishop Nhat to appeal for calm among the protestors, as well as sending a Catholic mediator from the National Assembly to the area. This strategy amounts to a tacit acknowledgment by Hanoi that southern Catholic communities look to the church rather than the state as their respected symbol of authority. It may also explain why police were mobilized so much more quickly than in Thai Binh to control the demonstrations.

The second factor, ethnicity, may have contributed to latent hostility between the local community and the authorities. Tra Co commune has a high percentage of *nung* ethnic Chinese, who migrated south from the Chinese border in 1954. Many Special Forces soldiers were recruited from this ethnic group by American forces during the war for carrying out protection duties. Tens of thousands of *nung* Chinese fled as boat people from 1979 onwards. The ethnic Chinese communes of Dong Nai are strikingly poorer than neighboring *kinh* Vietnamese (the majority ethnic group in Vietnam) communes, and, according to nongovernmental organizations's research, educational levels and employment rates are lower than provincial averages. From accounts available so far, there is no evidence that the protests were in any way ethnically motivated, but historical tensions likely contributed to the rapid escalation of popular anger in Tra Co commune.

The party and government leaders have publicly acknowledged the legitimate grievances of the farmers and demanded increased probity among local officialdom. Former Prime Minister Vo Van Kiet issued a decree (89/CP) in August 1997 ordering government ministry staff and People's Committee cadres at all levels to be available to hear citizens' complaints on a regular basis.<sup>18</sup> The rhetoric is certainly promising, but it is too soon to assess the extent of its application. Concretely, the civil unrest has provoked only ad hoc reflexes by the government until now. Human Rights Watch/Asia is concerned that the arrests or dismissal of a number of corrupt local officials may be a largely cosmetic measure to placate the peasants. In isolation it does not address the fundamental structural problems facing the rural population, and does nothing to nurture the development of civil society.

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<sup>18</sup> "Government urges agencies to meet citizens more often," *Saigon Times*, August 12, 1997.

#### IV. TOOLS OF CONTROL

The doi moi era has seen two major legislative achievements, the 1985 Criminal Code, amended in 1992, and the 1989 Criminal Procedure Code. Since the Eighth Party Congress in June 1996, however, new regulations have been issued that codify existing tools of social and political control but do not conform with the Criminal Code.

##### **Administrative Detention**

One such tool of control is administrative detention. This is a familiar means of social and political control in Vietnam. It was widely used by the French colonial authorities in the 1930s to arrest those suspected of Communist activities. The Communist authorities have long employed very similar means to detain those suspected of "counter-revolutionary" offenses, most forcibly with the detention of hundreds of thousands of South Vietnamese in reeducation camps after April 1975. With the introduction of the Administrative Detention Directive (31/CP) signed by Prime Minister Vo Van Kiet on April 14, 1997, the Vietnamese government is now reinforcing this tool of control.

Directive 31/CP authorizes village-level People's Committee and Public Security officials to detain individuals without trial for between six months and two years. Article 2 of Directive 31/CP states that "administrative detention applies to those individuals considered to have violated the laws, infringing on the national security, as defined in Chapter 1 of the Criminal Code, but [whose violation] is not serious enough to be prosecuted criminally." Because there is no criminal prosecution, the detainee is not brought to trial and therefore has no opportunity for legal defense. In the Criminal Code, however, there is no provision for national security offenses to be considered as anything less than a criminal offense. Article 2 of the Criminal Code states that "only those persons committing an offense defined in criminal law shall be deemed to be criminally liable. Penalties shall be decided by the courts." Detention of individuals "infringing in the national security" without criminal prosecution is therefore illegal under both Vietnamese and international law. Directive 31 C/P violates not only the Criminal Code but also the 1992 Vietnamese constitution, which states in Article 72 that "no citizens shall be considered guilty and liable to punishment until a verdict has been reached by the Court and come into effect."

While legal reform is progressing in other areas, administrative detention directive 31/CP represents a major step backwards. In the Criminal Code, Chapter 1 on national security is so wide-ranging and vaguely worded as to allow prosecution of virtually any peaceful government critic, and it has repeatedly been applied in this manner.<sup>19</sup> It is an open door to detaining any perceived government critics or individuals considered to be, in official parlance, a "bad element" or "hostile force for peaceful evolution." No further definition of these categories has ever been made public by either the party or the government. In regard to rural unrest, the directive allows local authorities to detain precisely those people who have protested against their corruption and abuses of power. Under Directive 31/CP, the provincial People's Committee chairman decides whether the detainee is to be held under surveillance at his or her place of residence or in an alternative detention facility. Village-level People's Committee cadres are responsible for keeping

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<sup>19</sup> Individual cases of detention for crimes against the national security in Vietnam have been cited in previous Human Rights Watch/Asia reports: "Vietnam: The Suppression of the Unified Buddhist Church," March 1995; "Vietnam: Human Rights in a Season of Transition, Law and Dissent in the Socialist Republic of Vietnam," August 1995; "Behind Vietnam's Open Door: A Climate of Internal Repression," November 1997.

monitoring files on the detainee, who is encouraged to earn “credit points” by reporting on other people suspected of violating the law. The detainee is “placed under the control and education of the local government and people.” Restricted access to information makes it impossible to gauge how many protestors are currently being administratively detained in Thai Binh and Dong Nai without having been brought to trial.

### **Press Control**

Another major tool for social control is restriction of the press. Article 69 of the Vietnamese constitution claims that “citizens are entitled to freedom of speech and freedom of the press.” In reality all domestic media are state-controlled and subject to rigorous censorship. Vietnamese and foreign journalists claim that press controls have become even tighter since the Eighth Party Congress in June 1996. The domestic media currently have no freedom to develop into independent social, political or economic watchdogs. For example, although reporting of corruption has been widely encouraged by the Vietnamese leadership, the arrest on October 8, 1997 of Nguyen Hoanh Linh, editor of the business newspaper *Doanh Nghiiep*, on charges of “revealing state secrets” after reporting on high-level corruption within the General Department of Customs, indicates that only politically expedient exposure of abuses is tolerated.<sup>20</sup> As regards rural unrest, the trouble spots of Thai Binh and Dong Nai remain off-limits to foreign journalists, and domestic press coverage has been centrally controlled as described above, making it impossible to build up an objective picture of events.

A government directive adopted on September 28, 1997 legally obliges Vietnamese journalists to obtain approval from the Ministry of Culture and Information before passing any information to foreign journalists. The directive potentially puts in jeopardy any Vietnamese journalist who enters into even informal contact with a foreign journalist. It constitutes a serious infringement on the right to freedom of expression and of the press, and demonstrates a tightening of control over information flows.

Foreign journalists are directly monitored by the Foreign Ministry Press Department, while their local press assistants are obliged to report regularly on their activities to the Ministry of Interior Press Center. Instances of harassment and even intimidation of press assistants have increased over the past year, particularly if the foreign journalist is endeavoring to cover any issue deemed sensitive by the authorities, such as civil unrest.

These restrictions of the press violate Article 69 of the Vietnamese constitution as cited above and Article 19 of the ICCPR, which states: “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.” For all that Party Secretary Do Muoi claimed in the aftermath of the Thai Binh unrest that the people should be able to express their concerns through the mass media, the domestic press offers no opportunity for debate or dialogue. It remains a channel for top-down communication, and these new directives smack of more, not less, state control.

### **No Right to Association**

There is no legal right to independent association in Vietnam. The 1957 Law on National Associations

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<sup>20</sup> Human Rights Watch/Asia, “Behind Vietnam’s Open Door: A Climate of Internal Repression,” November 11, 1997.

allows for mass organizations, such as the Youth Union, the Farmers' Union, and the Women's Union, which fall under the umbrella of the Party's Fatherland Front. Doi moi reforms have given rise to new economic interest groups, for example private entrepreneurs, employers, and independent farmers, who fall outside the existing structure of mass organizations and therefore have no legal forum to represent their interests to the political center.

To address this need for new fora, the Fatherland Front, the government and the Party have been drafting new legislation on associations for ratification by the National Assembly. According to advisors, there have been over ten drafts, but no agreement has been reached among the three parties. This tortuous process indicates that the legalizing of associations is perceived as a potential political threat. In stark contrast, the directives on administrative detention and press control did not require any protracted debate before ratification.

Vietnam has no law allowing autonomous domestic nongovernmental organizations. The government claims to have 450 domestic nongovernmental organizations currently. Decree 32 passed in 1992 established procedures for setting up Vietnamese so-called "nongovernmental organizations", but these must be linked to a state organization and are not politically independent. Until Vietnam establishes the right to independent association, interest groups which are emerging out of the country's dynamic changes will remain disenfranchised. Without the right to either association or free expression through the media, civil protest is the only effective option for citizens to make their voices heard at central as well as local level.

## V. CONCLUSION

The Communist Party's legitimacy in the eyes of the peasantry, its traditional bedrock of support, lies in its ability to deliver on economic promises. Peasants currently perceive that the market reforms are not delivering economic gains to them, while allowing corruption amongst local officials to flourish. It is clear that unless the Party and the government address the structural inequities which persist in the rural economy, civil unrest seen in Thai Binh and Dong Nai provinces may well spread.

In the aftermath of the Thai Binh protests, Communist Party Secretary Do Muoi identified the need for a system in which citizens are allowed "to exercise their democratic rights through the mass media."<sup>21</sup> But no legislation has been introduced which would guarantee those rights, as defined in Article 53 of the Vietnamese constitution:

Citizens have the right to take part in managing the State and society, in debating on general issues of the whole country or of the locality, and make petitions or recommendations to the state offices.

Instead, new regulations are codifying tools of political and social control, while the protection of civil rights has yet to progress beyond the rhetoric. Despite assistance for legal reform from international donors including the United Nations Development Program, the World Bank, and Asian Development Bank,

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<sup>21</sup> "Ex-Party Chief calls for Mekong Delta rethink," *Vietnam Investment Review*, 28 July - 3 August 1997.

Vietnam is failing to develop the rule of law in accordance with international standards. The Vietnamese government and the party, ranging from the prime minister's office down to provincial People's Committees, are continuing to issue directives and decrees that curb the rights of citizens and stifle the development of civil society.

For now, all the conditions for further rural unrest remain in place. Major projects of population relocation could easily trigger widespread protests. Tension is reportedly already high in northern Son La province, where 40,000 people face relocation in the next five years to make way for a hydroelectric dam. Social and political pressure points will always emerge in economies in transition. The Vietnamese government and party's commitment to listen to the people and redress the economic imbalance will undoubtedly be put to the test many more times in the near future. Reactive responses of social and political clampdown, continued gagging of the press, and application of administrative detention will reinforce a growing perception both within Vietnam and abroad that the Vietnamese leadership is playing no more than lip service to the peasants' grievances and is neither prepared to allow people to exercise their civil rights nor honor the government's commitment to international human rights standards. Human Rights Watch/Asia urges the Vietnamese government and Communist Party to safeguard the right of every person to express peacefully their grievances, to open up the media, and allow the formation of independent associations through which different interests can be represented.

#### *Human Rights Watch/Asia*

Human Rights Watch is dedicated to protecting the human rights of people around the world.

We stand with victims and activists to bring offenders to justice, to prevent discrimination, to uphold political freedom and to protect people from inhumane conduct in wartime.

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Its Asia division was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzeczyk is the Washington director; Robin Munro is the Hong Kong director; Patricia Gossman is the senior researcher; Zunetta Liddell is the research associate; Jeannine Guthrie is NGO liaison; Sarah Cooke is the research assistant; Mickey Spiegel is a consultant; Olga Nousias and Tom Kellogg are associates. Andrew J. Nathan is chair of the advisory committee and Orville Schell is vice chair.

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**ADMINISTRATIVE DETAINMENT POLICY**  
(issued in attachment with Directive No. 31/CP)  
of April 14, 1997 by the Government)

**Chapter I:**  
**GENERAL REGULATIONS**

**Article 1** - Administrative detention is an administrative measure to force violators of the laws specified in Article 2 of this Policy to reside and work in a specific locality and to be placed under the control and education of the local government and people.  
The term of detention is from 6 months to 2 years.

**Article 2**- Administrative detention applies to individuals that violate the laws, infringing on the national security as defined in chapter 1 of the crime section of the Criminal Laws but [their violation is] still not serious enough to be prosecuted criminally  
Administrative detention does not apply to individuals under 18 years of age.

**Article 3**- Administrative detention must apply to correct subjects, with proper authorities, procedures and orders as defined in the Order to Deal with Civil Violations and this Policy  
It is strictly forbidden to harm the administrative detainee's life, health, honor and human dignity.

**Article 4**- The decision on an administrative detention will be carried out at the detainees' place of residence. In case it is deemed impossible to let the administrative detainees reside in critical areas in terms of politics, economic, security, or national defense; or in areas where the detainees have the means to continue their violations of the law and harm the nation's interests. Chairmen province and cities People's Committees under Central jurisdiction (generally called the province level) will decide whether to administratively detain them in other areas within the provinces or cities. After serving out the detention decision, the detainees can return to their previous place of residence.  
People's Committee of districts, provincial capitals, cities under province jurisdiction (generally called the district level) holding the administrative detainees are responsible to create favorable conditions for them to work and live in.

**Chapter II**  
**PROCEDURES FOR CONSIDERING AND MAKING DECISIONS ON ADMINISTRATIVE DETAINMENT,**  
**AND FOR COMMUTING TERMS OF ADMINISTRATIVE DETAINMENT.**

**Article 5** - Chairmen of People's Committees at the district level are responsible for opening files on individuals that need to be put under administrative detention and presenting these files to Chairmen of People's Committees at the province level for decisions  
Village Public Security offices and the People's Committees of villages, districts, provincial capitals (generally called the hamlet level) where individuals that need to be put under administrative detention live have the responsibilities to help the Chairmen of district People's Committees to collect information and set up files.

**Article 6** - The file to recommend administrative detention consists of  
-A brief history of the individual that needs to be put under administrative detention,  
-Data on violations of the laws by the individual that needs to be put under administrative detention,  
-Opinions of the People's Committee of the village where the individual that needs to be put under administrative detention lives,  
-Opinions of the Fatherland Front at the district level,  
-Observation of the Public Security office at the district level,  
-Recommendations of the Chairman of the district People's Committee.

**Article 7**- Within 10 days after receiving the file from the district Public Security office, the Chairman of the district People Committee must review and make recommendation in writing to the Chairman of the province People Committee.

**Article 8** - The Chairman of the province People Committee will form an advising council, including representative of the leadership of the provincial Public Security office, the provincial Justice office, and the provincial Fatherland Front office. The representative of the provincial Public Security office must be the standing member of the advising council.

**Article 9** - The standing member of the advising council has the responsibility to prepare and organize the necessary documents, chair and record the meeting of the council, and represent the council in issuing recommendation for administrative detention to the Chairmen of the province People's Committee for decision.

**Article 10** - Within 30 days upon receiving the file, the advising council must meet to study the file and document the case for the Chairman of the province People's Committee to make decision on. The document presented to the Chairman of the province People's Committee must clearly include the name, date of birth, residency, profession, summary of papers on the violations of the laws by the individual that need to be administratively detained, opinions and conclusion of the advising council, the term and place for the administrative detainment.

If necessary, the meeting can be postponed to collect more proofs or further verify the file on the individual that needs to be administratively detained. The advising council functions as a committee. The meeting of the advising council is attended by the representative of the People's Inspectorate at the province level. The meeting must be recorded, clearly documenting the opinions of all members and opinions of the representative of the People's Inspectorate.

**Article 11** - The Chairman of the province People's Committee studies the case and issues the decision to administratively detain within 10 days after receiving the document recommending administrative detainment from the advising council. In the case the administrative detainee must serve the term in another area, before issuing the decision, the Chairman of the province People's Committee must direct the Chairman of the district People's Committee of that areas to prepare the necessary conditions so the detainee can serve the decision.

The Decision of administrative detainment must include the issue date; fullname and official function of the issuer; full name, date of birth, profession, and place of residence of the administrative detainee; reasons, articles and titles of the laws being applied; length and location of the detainment; the detainee's right to appeal; location and time limit for the appeal.

**Article 12** - Within 3 days after signing the decision of administrative detainment, the Chairman of the province People's Committee must send the decision to the detainee, the People's Inspectorate office at the province level, the People's Committee and the Public Security office at the district level, and the People's Committees of the villages where the detainee is living and where he will serve the decision of detainment.

**Article 13** - After serving one half of the term of detainment, if the administrative detainee shows clear signs of progress or earns credits according to the standards listed below, the Chairman of the province People's Committee might review his term of detainment according to the recommendations by the Chairman of the People Committee of the district where this individual serves the decision of detainment.

- A clearly progressing administrative detainee is someone that shows sincere remorse, labors actively, studies [political teachings], and complies strictly with the regulation of the laws and the Administrative Detainment Policy.

-An administrative detainee will earn credits if this individual has one or more of the following actions: disclosing violations of the laws by other people, helping the Public Security authority in its investigation to detect criminals, having technical ideas to improve production, saving other people's lives in emergency situations, rescuing properties of the State, community or citizens at time of flood, fire, epidemics, etc.

The reduction of the term must not exceed 1/3 of the length of the original term of administrative detainment.

**Article 14** - The Public Security office at the district level and the Chairman of the People's Committee of the village where the detainee resides have the duty to help the Chairman of the district People's Committee in reviewing and filing papers to the Chairman of the province People's Committee for the commutation of the administrative detainee's term.

The Director of province Public Security has the duty to help the Chairman of the People's Committee at the same level review the request for commutation of the term of administrative detainment, based on the recommendations of the Chairman of the People's Committee of the district where the detainee is serving the decision of detainment.

### **Chapter III: SPECIFIC REGULATIONS FOR THE ADMINISTRATIVE DETAINEES**

**Article 15** - Within 5 days after receiving the decision of administrative detainment, the detainee must turn himself to the People's Committee of the district where he will serve the decision of administrative detainment. The term of administrative detainment is counted from the day the detainee turns himself in.

The village People's Committee has the duty to announce the Decision and the content of the Administrative Detainment Policy to the administrative detainee so he can carry them out.

If the administrative detainee fails to present himself within the specified time and has no justifiable reasons the village People's Committee shall summon the detainee to the office of the People's Committee to file a citation and force him to serve the Decision.

**Article 16** - The administrative detainee must strictly comply with the laws of the State and the Administrative Detainment Policy, study [political teachings], and labor to become a good person.



**Article 17** - During the term of administrative detainment, the detainee must reside and work at the village of the district of the city specified by the decision of administrative detainment: and be placed under the control and education of the local government and people. The detainee can only travel within the area of detainment. If there are justifiable reasons for the detainee to travel outside the village of the district of the city, he must submit a petition according to the following regulations:

-if the travel is within the same district or ward of the city of the province, the Chairman of the village People's Committee can issue the travel permit.

-If the travel is within the same province or city under the Central jurisdiction, the Chairman of the district People's Committee can issue the travel permit.

-If the travel is outside the province or city under the Central jurisdiction, the Chairman of the province People's Committee can issue the travel permit.

If the administrative detainee has to travel outside the area of detainment and temporarily stay at this destination, he is not allowed to stay for more than 5 days at a time. The total number of traveling days must not exceed 1/15 the length of the term of detainment.

If the administrative detainee must go to a specific location daily to study [political teachings] and labor or for other justifiable reasons, the Chairman of the People's Committee may consider issuing monthly permit.

On the travel permit issued by the Chairmen of the People's Committee to the administrative detainee, the time limit, the destination and the allowed route [to the destination] must be clearly written.

After being issued the travel permit from the Chairman of the People's Committee, the administrative detainee must carry out exactly as written in the permit. For temporary stay, he must go and present the permit immediately to the village People's Committee of his destination. At the end of the temporary stay, the administrative detainee must request the Chairman of the village People's Committee to certify his temporary stay.

If the detainee leaves his area of detainment without permit, his time of absence from the area of detainment will not be counted toward the time served under the decision of administrative detainment.

**Article 18** - Once a month, the administrative detainees must appear at and report their effort to carry out the decisions of administrative detainment to the village People's Committee of their area of detainment.

The detainees must report to the office of the village People's Committee whenever they are ordered. If they are absent without justifiable reasons, the Chairman of the village People's Committee will summon them to the office of the People's Committee, file a citation, and demand them write their self-criticism on such violations.

**Article 19** - People currently under administrative detainment are not allowed to hold any leading positions in government offices, social organizations, grassroots associations. They are not allowed to do business of special types and a number of professions with which they have access to the means to violate the laws.

**Article 20** - The administrative detainee has the right to appeal and to file charges of violations of the administrative detainment laws by individuals or offices that enforce the decisions of administrative detainment, according to the regulations under the Order to Deal with Civil Violations.

**Article 21** - When an administrative detainee violate the Administrative Detainment Policy or other laws, depending on the manner and scope of the violation, he can be punished for civil violations or prosecuted criminally.

#### **Chapter IV: RESPONSIBILITIES OF OFFICES THAT ENFORCE THE DECISION OF ADMINISTRATIVE DETAINMENT.**

**Article 22** - The village People's Committee of the area where the detainees serve their Decisions has the responsibility to control, educate, and create favorable conditions for the administrative detainees to work and live in. Once every three months, it must send a report to the district People's Committee on the control and education of the administrative detainees, and their compliance with the detainment regulation in the area.

The village Public Security will help the village People's Committee in keeping a monitoring file and collaborating with other organizations, local people, and families of the detainees to control and educate the detainees.

**Article 23** - The district People's Committee has the responsibilities of directing and monitoring the village People's Committees in their enforcement of the administrative detainment regulations. Once every three months, it must report to the province People's

Committee the status of the enforcement of administrative detainment.

**Article 24** - The province People's Committee has the responsibilities of directing and monitoring the lower People's Committees in their enforcement of the detainment regulations. Once a year, it must report to the Ministry of Interior the status of the enforcement of administrative detainment in its area.

**Article 25** - Public Security offices have the responsibilities to help the People's Committees at the same levels to enforce the decision of detainment by the Chairman of the province People's Committee. The administrative detainment files are retained by the Public Security offices.

**Article 26** - At the end of the term of administrative detainment, the village People's Committee issues a certificate of completion for the serving of the administrative detainment decision to the detainee. Copies of that certificate are also sent to the district People's Committee and the Chairman of the province People's Committee.

**Article 27** - Offices and individuals charged with the authority to enforce the decisions of administrative detainment must seriously carry out the regulations on detainment and must not create difficulties or prevent the detainee from working and having normal lives. If the detainees violate the laws, depending on the manner and scope of the violations, they can be disciplined or prosecuted criminally. If the administrative detainees are materially harmed, they must be compensated.

**Article 28** - The Ministry of Interior has the responsibilities to direct and monitor the enforcement of this Policy, and to generate the forms for decisions, certificates, travel permits, summons, and other document forms pertinent to the enforcement of the Administrative Detainment Policy.

From the GOVERNMENT PRIME MINISTER