**Questionnaire for International Organizations and Civil Society by the**

**UN Special Rapporteur on the situation of human rights defenders**

**Mary Lawlor, 9 February 2021**

The UN Special Rapporteur on the situation of human rights defenders, Ms. Mary
Lawlor invites you or your organization to respond to the questionnaire below. Submissions received will inform the thematic report of the Special Rapporteur on the issue of long term detention of human rights defenders, which will be presented to the UN General Assembly in October 2021.

The questionnaire on the report is available at OHCHR website in English (original
language) as well as in French, Spanish, Russian and Arabic (unofficial translations): (<https://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>).

All submissions received will be published in the aforementioned website, unless you/your organization clearly indicated that you did not wish to have your input be made publicly available when submitting your response.

There is a word limit of 2500 words per questionnaire. Please submit the completed questionnaire to defenders@ohchr.org

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

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| --- | --- |
| Type of Stakeholder (please select one) |  [ ]  Civil Society Groups or Organisations  |
| Name of Stakeholder/Organization (if applicable)Name of Survey Respondent | Christian Solidarity Worldwide (CSW) |
| Email | clairedenman@csw.org.uk |
| Can we attribute responses to this questionnaire to you or your organization publicly\*? \*On OHCHR website, under the section of SR on human rights defenders. |  **Yes** Comments (if any): |

*Human rights defenders are persons, who individually, or in association with others, work peacefully to promote and protect universally recognized human rights and fundamental
freedoms, in accordance with the UN Declaration on Human Rights Defenders.*

*Defenders around the world peacefully promoting and defending human rights operate under national legal frameworks not always fully consistent with the United Nations Charter and international human rights law. In some instances, as echoed in multiple Human Rights Council and General Assembly resolutions,[[1]](#footnote-1)[1] national legislation, in particular national
security and counter-terrorism laws, or regulations on civil society and public freedoms have been misused to target defenders in a manner contrary to international law, that might result in long-term arbitrary deprivation of liberty.*

**Questions**

**Do you know of any human rights defender(s) currently detained by States, who have been imprisoned on charges that carry a prison sentences of at least 10 years or more? Please provide a list of cases.**

* Nguyen Trung Ton, 12-year prison sentence
* Nguyen Bac Truyen, 11-year prison sentence

Nguyen Trung Ton is a human rights defender and Protestant pastor who has advocated for the right to freedom of religion or belief and spoken out against social injustices. He and his family experienced first-hand the authorities’ persecution of religious minorities when they and their church members were repeatedly and violently [attacked](http://www.csw.org.uk/2017/03/23/press/3485/article.htm)by local authorities and police officers. Pastor Ton was sentenced to two years’ imprisonment and two years’ house arrest in 2011. After his release in 2013 Pastor Ton joined the Interfaith Council of Vietnam, which advocates for religious freedom. He was arrested again on 30 July 2017.

Hoa Hao Buddhist Nguyen Bac Truyen is a legal expert who has provided pro bono legal assistance to families of political prisoners, victims of land grabs, and persecuted religious communities. In 2006, as a result of his pro-democracy writing and activism, Truyen was arrested on a charge of ‘propaganda against the state’ under Article 88 of the penal code, and sentenced to three and half years’ imprisonment and two years’ house arrest. Following his release in 2010, Truyen provided pro bono legal assistance through the Vietnamese Political and Religious Prisoners Friendship Association.

In the most recent case, both Nguyen Trung Ton and Nguyen Bac Truyen were arrested on 30 July 2017 and charged, together with activist Pham Van Troi, citizen journalist Truong Minh Duc, prominent human rights lawyer Nguyen Van Dai and his colleague Le Thu Ha, with ‘carrying out activities aimed at overthrowing the government’ under Article 79 of the Vietnamese penal code.

They were sentenced during trial on 5 April 2018 to between 7 and 15 years in prison following their conviction. Lawyer Nguyen Van Dai received the longest sentence, but was released into exile in June 2018, together with his colleague Le Thu Ha [see case below].

Their detention was widely believed to be in retaliation for their defense of human rights, including the right to freedom of religion or belief, and their pro-democracy activism.

**Do you know of any human rights defender(s) falling under any of the previous categories above, who were released before ending their long-term prison sentences for any reasons (e.g. granted a pardon, as a result of an appeal, or released on humanitarian or other grounds)? Please provide a list of cases.**

* Nguyen Van Dai, originally sentenced to 15 years in prison and five additional years under house arrest. In addition, he spent 28 months in pre-trial detention.
* Le Thu Ha, originally sentenced to nine years in prison sentence. In addition, she spent 28 months in pre-trial detention.

Nguyen Van Dai is a prominent Christian human rights lawyer, pro-democracy activist and founder of the Brotherhood for Democracy, a Vietnamese association promoting human rights in the country. Nguyen Van Dai has provided legal advice and representation to victims of human rights abuses – including religious minorities – across Vietnam. As a result of his work, Dai has been repeatedly harassed and attacked by individuals working for the authorities. Nguyen Van Dai served a prison sentence prior to 2018. In 2007 he was sentenced to five years for ‘disseminating slanderous and libellous information against the Socialist Republic of Vietnam' under Article 88 of the nation's Criminal Code. His sentence was cut by one year following an appeal hearing.

Le Thu Ha, Dai’s former colleague, was also subject to arbitrary detention.

Nguyen Van Dai and Le Thu Ha were arrested on 16 December 2015 and taken into police custody in Hanoi. At the time of arrest, Nguyen Van Dai was preparing to meet with European Union representatives who were in Hanoi for the annual EU-Vietnam human rights dialogue. Both defendants were charged with ‘conducting propaganda against the Socialist Republic of Vietnam’ under Article 88 of the penal code; the charge was later changed to ‘carrying out activities aimed at overthrowing the government’.

Nguyen Van Dai and Le Thu Ha were two of six human rights defendants sentenced on 5 April 2018.

Following an appeal, Nguyen Van Dai and his colleague Le Thu Ha were released from prison into exile on 7 June 2018 and allowed to fly to Germany.

The four other human rights defenders tried on 5 April alongside Nguyen Van Dai and Le Thu Ha had their sentences upheld [See first cases listed in this questionnaire for further details.]

Their detention was widely believed to be a government backlash against their defense of human rights, including the right to freedom of religion or belief, and their pro-democracy activism.

We request that the Special Rapporteur consider supporting these recommendations to the Vietnamese authorities:

* Release all those detained in connection with their peaceful defense of human rights, including those detainees named above, and those detained in retaliation for their activities to protect human rights and to provide information to the United Nations Special Rapporteurs.
* Ensure that prisoners of conscience are not deliberately imprisoned in locations at huge distance from their families
* End the use of solitary confinement against prisoners of conscience who peaceful refuse to accept their sentences or advocate for prisoners’ rights
* Allow the detainees named above access to medical care including examination by doctors where needed
* End the confiscation of correspondence between prisoners and their families in retaliation for their advocacy for prisoners’ rights

**5) What actions do you suggest the Special Rapporteur can take to:**

1. **Prevent defenders from being detained for long terms in connection to their human rights work? and**
2. **Have those human rights defenders arbitrarily detained under long sentences released?**

CSW encourages the following actions for consideration.

* Support human rights education among the police, security services and judiciary.
* Support and engage with initiatives that provide spaces for HRDs to network, share best practices and experiences.
* Encourage submissions from civil society on cases and patterns of arrests of HRDs.
* Communicate directly with States on alleged human rights violations by sending urgent appeals or letters of allegation on cases of concern, patterns of violations and problematic legislation used to bring false charges against HRDs. CSW also encourages the Special Rapporteur to raise cases of concern with the state responsible at the point of arrest and when charges have been brought, in addition to at the point of sentencing, with the aim of dropping charges against the defendant before the case reaches trial.
* Promote fair and just judicial systems and in situations where HRDs are detained without trial or charge, call for the case to be brought before the court of law in a fair trial.
* Recommend UN Member State representatives to attend trials wherever possible.
* Make recommendations to States on adherence to human rights standards and preventing, ending, or remedying violations, including amending and appealing discriminatory legislation, and encouraging expert and civil society consultations where legislative and/or constitutional changes are being made.
* Further to the recommendations above, communicate directly with States by sending urgent appeals or letters of allegation on cases of concern where HRDs are arbitrarily detained under long sentences, and call for their unconditional release without precondition.
* Further to the recommendations above, promote fair and just judicial systems and in situations where HRDs are arbitrarily detained under long sentences, call for a review of the case, an appeal hearing and unconditional release without precondition.
* Undertake in-person country visits to assess human rights violations, and meet with HRDs where safe to do so, and where possible, ask to visit prisons/prisoners and to meet with prison officials, judges, legislators.
* Urge states to allow detainees to meet regularly with a lawyer of their choice.
* Encourage states to ensure prison conditions meet international standards, that detainees are allowed visitations from family members and lawyers, and have adequate food and access to healthcare while detained, as well as access to religious literature and other measures necessary to guarantee their right to freedom of religion or belief.
* Encourage UN Member State representatives in the country of concern to request information and visitations of prisoners.

**NOTE**: When providing the list of cases/examples under each question, please include: the name of the human rights defender(s), a summary of their human rights work, history of
detention (date of arrest(s), charges and conviction including articles of the relevant law(s)), a brief explanation of facts relevant to their case).

1. [1] See [A/HRC/RES 22/6](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/22/6) (2013) and [A/RES/68/181(2014)](https://undocs.org/A/RES/68/181). See also: [A/HRC/RES/25/18 (2014),](https://undocs.org/A/HRC/RES/25/18) [A/HRC/RES/27/31 (2014),](https://undocs.org/A/HRC/RES/27/31) [A/HRC/RES/32/31](https://undocs.org/en/A/HRC/RES/32/31) (2016) and [A/HRC/RES/34/5 (2017)](https://undocs.org/en/A/HRC/RES/32/31)  [↑](#footnote-ref-1)