

DECISION NO. 15/1993 (VIET NAM)

Communication addressed to the Government of Viet Nam on
6 November 1992.

Concerning: Nguyen Khac Chinh, Doan Viet Hoat, Doan Thank Liem,
Do Ngoc Long and Nguyen Chu, on the one hand, and the Socialist Republic
of Viet Nam, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it, and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communications received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with concern that to date no information has been forwarded by the Government in respect of the cases in question. With the expiry of more than ninety (90) days since the transmittal of its letter, the Working Group is left with no option but to proceed to render its decision in respect of the cases of alleged arbitrary detention brought to its knowledge.

3. (Same text as paragraph 3 of Decision No. 43/1992).

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Viet Nam. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstance of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. The cases in question communicated to the Working Group were as follows:

- Nguyen Khac Chinh, 70 years of age, a lawyer, member of the Vietnamese Bar Association, writer, member of the Vietnamese branch of the Pen Club. He was reportedly arrested on 27 December 1975 at his home in Ho Chi Minh City by two security agents who took him to the "district security office", "to answer a complaint lodged against him by one of his former clients". Since that date he is said to have been held, without charge or trial, in a number of places of detention. The reason for his arrest was reportedly "expressing anti-revolutionary thoughts";

- Doan Viet Hoat, 50 years of age, an English teacher in an agricultural college and former administrative vice-chancellor of the Van Hanh University. He is also said to have been involved in publishing and distributing "Free Forum" a publication which was regarded as illegal and which advocated human rights, political pluralism and democracy in Viet Nam. He was allegedly arrested on 17 December 1990 at his home in Ho Chi Minh City and has been held since then, without trial, in the following places of detention: Chi-Hoa Prison; a temporary detention centre in the district of Binh Thanh, Ho Chi Minh City, and Phan Dang Luu Prison (district of Binh Thanh), where he is said to be held at the present time. He is reportedly charged with activities to overthrow the Government of the people, under article 73 of the Criminal Code.

According to the source, Doan Viet Hoat is being held in violation of his right to freedom of expression and association.

- Doan Thanh Liem, 58 years of age, a lawyer, former co-director of the "Shoeshine Boys", a charity organization. He is reported to have been arrested on 23 April 1990, tried and convicted on 13 May 1992 to 12 years' imprisonment for "acts of propaganda against the socialist regime". At the present time he is said to be held in the Phan Dang Luu Prison, Giai Phung, Ho Chi Minh City;

According to the source, Doan Thanh Liem's arrest occurred shortly after he met Nick Malloni, a foreign journalist who went on to publish an article criticizing the Vietnamese Government in the "Far Eastern Economic Review". The source adds that Doan Thanh Liem's arrest and conviction seem to have been based on three documents: an article found at his home, written by an American friend (Doug Hostetter) concerning the non-violent overthrow of communism in Eastern Europe and the role played by the Catholic Church in that development; comments criticizing the Vietnamese Government's education system, found in Doan Thanh Liem's personal diary and notes suggesting legislative changes in Viet Nam, that Doan Thanh Liem showed to his friends.

According to the source, these activities are protected by article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, guaranteeing the right to freedom of opinion and expression.

- Do Ngoc Long, 56 years of age, an economist, former co-director of the "Shoeshine Boys" charity organization. He is said to have been arrested on or about 23 April 1990 and has been held since that date, without charge or trial. After he was arrested, Do Ngoc Long was held in the Phan Dang Luu Prison in Ho Chi Minh City. In July 1992 he was said to have been taken to the Chi-Hoa Prison hospital, in the same city. At the present time, he is reported to have left hospital but is still being held in the Chi-Hoa Prison. The source does not know the precise charges against Do Ngoc Long, but believes that he is accused of spying as a result of his contacts with foreigners. The foreigners include Nick Malloni, the journalist mentioned in case No. 3; Michael Morrow, an American businessman who was expelled from Viet Nam after being accused of spying - an accusation denied by the person concerned; and Richard Hughes, the American founder of the "Shoeshine Boys" charity organization, which is intended to help street children displaced by the war. The source also states that the law applied was article 71 of the Code of Criminal Procedure, which allows temporary detention for the purposes of the investigation. According to the source, this law also provides that any detention in excess of eight months requires authorization from the Chief Prosecutor of the People's Supreme Control Body. The source adds that there is no indication of any such authorization being granted in the case of Do Ngoc Long.

- Nguyen Chu, 60 years of age, a Protestant clergyman of the Evangelical Church of Viet Nam and a teacher, living in Kontum, in the province of Gia Lai-Kon Tum. He was reportedly arrested by six security agents at his home on 13 May 1990. The arrest was connected with a number of decisions that were disclosed on 10 May 1990 by the People's Committee of his place of

residence. The Committee is said to have referred to a police report accusing the clergyman of organizing an unlawful meeting at his home, and concluding that Pastor Nguyen Chu was a danger to "collective security". The Committee is also said to have accused the Evangelical Church of Viet Nam of being "in the service of the Americans" and supporting the "United Front in the Struggle for Oppressed Races" (FULRO - an armed opposition movement active in the region).

According to the source, the clergyman is still being held without charge or trial, for exercising his rights to freedom of expression, freedom of association and freedom of religion.

6. In the case of Nguyen Khac Chinh, it should be noted that, in a letter addressed to the Secretariat on 8 January 1993, his wife stated that he was released on 27 December 1992 from the re-education camp where he was being held. Accordingly, in accordance with paragraph 14 (a) of the Group's methods of work, the case is filed.

7. As to the other persons mentioned in the communication, it seems that they are accused of engaging in activity to promote human rights, political pluralism and democracy in Viet Nam (the case of Doan Viet Hoat), or being in contact with foreigners, United States journalists in this instance, who had criticized the political or educational system in Viet Nam (Doan Thanh Liem, Do Ngoc Long, Nguyen Chu) when, in doing so, they were simply exercising their rights to freedom of opinion, expression and association. In addition, they have not been recognized the right to be tried fairly without undue delay, not to mention the fact that most of them have been held without charge.

8. In the light of the above, the Working Group decides the following:

The detention of Doan Viet Hoat, Doan Thanh Liem, Do Ngoc Long and Nguyen Chu is declared to be arbitrary, being in contravention of articles 9, 10, 11, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 10, 14, 19 and 21 of the International Covenant on Civil and Political Rights, and falls within category II of the principles applicable in the consideration of the cases submitted to the Group.

9. Consequent upon the decision declaring the detention of Doan Viet Hoat, Doan Thanh Liem, Do Ngoc Long and Nguyen Chu to be arbitrary, the Working Group requests the Government of the Socialist Republic of Viet Nam to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 30 April 1993