

OPINION No. 7/1998 (VIET NAM)

Communication addressed to the Government on 12 August 1997

Concerning: Ngoc An Phan (religious name: Thich Khong Tanh) and
Buu Hoa Ho (religious name: Thich Nhat Ban)

The State is not a party to the International Covenant on Civil and
Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights, which extended and clarified its mandate in resolution 1997/50. In accordance with its methods of work, the Working Group transmitted the above-mentioned communication to the Government.
2. The Working Group regrets that the Government has not transmitted its observations, even after the 90-day deadline.
3. (Same text as paragraph 3 of Opinion No. 1/1998.)
4. In the light of the allegations made, the Working Group would have welcomed the Government's cooperation. In the absence of any information from the Government, the Working Group believes that it is in a position to give an opinion on the facts and circumstances of the cases in question.
5. The following information collected by the Working Group was transmitted to the Government:

(a) Ngoc An Phan (religious name: Thich Khong Tanh), born on 9 August 1943, bonze of the Unified Buddhist Church of Viet Nam, resident of Lien Tri Pagoda, 153 Luong Dinh Cua, An Khanh-Thu Duc, Ho Chi Minh City, was arrested on 6 November 1994 on the way to Lien Tri Pagoda, Ho Chi Minh City, by the Thu Duc (Cong An) Security Police, which showed no warrant or any other order by a Government authority. After having been detained at the Security Interrogation Centre at 3C Ton Duc Than Street, District No. 1, Ho Chi Minh City, he was transferred to re-education camp Z30A K3, Xuan Loc, Dong Nai province, where he is currently being detained. He is accused of having established the Buddhist Sangha Movement for the Propagation of the Faith in March 1993 and of having set up the Cultural and Humanitarian Affairs Office in August 1994; of having turned over to a group of experts visiting Viet Nam a copy of comments made by Thich Quang Do on the errors committed by the Vietnamese Communist Party against the nation in general and against Buddhism in particular; of having organized a humanitarian assistance mission of the Unified Buddhist Church of Viet Nam for victims of the flooding in the Mekong Delta (October 1994, 300 dead, 500,000 homeless) and of having requested foreign funding for that purpose; of having certain documents and reviews in his possession (article 81, paragraph 1, of the Penal Code on attempts to undermine national unity); and of inciting division between believers and non-believers (article 205 (a) of the Penal Code on abuse of democratic rights to harm the interests of the State, social organizations or

citizens). He was tried in first instance on 15 August 1995 and sentenced to five years' rigorous imprisonment; his trial on appeal, which was held on 28 October 1995, upheld the sentence in first instance;

(b) Buu Hoa Ho (religious name: Thich Nhat Ban), born on 15 March 1937, bonze of the Unified Buddhist Church of Viet Nam, residing at Hill Area 47, Long Khanh, Tam Phuoc, Long Thanh, Dong Nai province, was arrested on 6 November 1994 on the way to Lien Tri Pagoda, Ho Chi Minh City, by the Thu Duc (Cong An) Security Police, which showed no warrant or any other order by a Government authority. After having been detained at the Security Interrogation Centre at 3C Ton Duc Thang Street, District No. 1, Ho Chi Minh City, he was transferred to re-education camp Z30A K3, Xuan Loc, Dong Nai province, where he is now being detained. He was accused of having actively assisted Thich Khong Tanh to write, copy and distribute documents since 1994, of denouncing religious repression and of criticizing dignitaries of the Buddhist Church of Viet Nam (EBV, State church); of having joined the Sangha Buddhist Movement for the Propagation of the Faith in April 1994 and the Cultural and Humanitarian Affairs Office in August 1994; of having organized a humanitarian assistance mission of the Unified Buddhist Church of Viet Nam for victims of flooding in the Mekong Delta (article 81, paragraph 1, of the Penal Code on attempts to undermine national unity; article 205 (a) of the Penal Code on abuses of democratic rights to harm the interests of the State, social organizations or citizens). He was tried in first instance on 15 August 1995 and sentenced to four years' rigorous imprisonment. His trial on appeal, which was held on 28 October 1995, upheld the sentence in first instance.

6. In the light of this information collected by the Working Group, which was not challenged by the Government, the Working Group notes that the offences of which Buu Hoa Ho (religious name: Thich Nhat Ban) and Ngoc An Phan (religious name: Thich Khong Tanh) are accused are manifestations of freedom of opinion, conscience and, in particular, religion which, as fundamental freedoms, are expressly guaranteed by articles 18 and 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The deprivation of liberty of Buu Hoa Ho and Ngoc An Phan is thus arbitrary because it is contrary to articles 18 and 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and comes under Category II of the categories applicable to the consideration of cases submitted to the Working Group.

7. Having stated this opinion, the Working Group requests the Government:

(a) To take the necessary steps to remedy the situation, in accordance with the standards and principles set forth in the Universal Declaration of Human Rights, and to take the appropriate initiatives with a view to becoming a State party to the International Covenant on Civil and Political Rights;

(b) To study the possibility of amending its legislation in order to bring it into line with the Universal Declaration and the other relevant international standards it has accepted.

Adopted on 15 May 1998.