

## Vietnam: Reform Criminal Law to Respect Rights

### Assembly Should Overhaul Laws Recently Used to Silence Blogger ‘Mother Mushroom’

New York) – Vietnam’s National Assembly should reform the criminal law to respect basic rights to freedom of expression, association, assembly, and religion, Human Rights Watch said today. The National Assembly is considering revisions to the penal code during its session scheduled from October 20 to November 22, 2016. The laws were used in October’s arrest of prominent blogger Nguyen Ngoc Nhu Quynh, known as “Mother Mushroom.”

#### EXPAND

The National Assembly at Ba Dinh hall in Hanoi, Vietnam on July 20, 2016.

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“Many articles related to national security in Vietnam’s laws are vaguely defined and often used arbitrarily to punish critics, activists, and bloggers,” said Brad Adams, Asia director. “The National Assembly should take this opportunity to strip provisions that have created so many political prisoners and bring Vietnam’s laws in line with international standards.”

Vietnam’s penal code includes crimes related to “activities aiming to overthrow the people’s administration” (penal code article 79, penalty up to death sentence); “undermining national unity policy” (article 87, penalty up to 15 years in prison); “conducting propaganda against the State of the Socialist Republic of Vietnam” (article 88, penalty up to 20 years); “disrupting security” (article 89, penalty up to 15 years); and “abusing the rights to freedom and democracy to infringe upon the interests of the state, the rights and interests of individuals” (article 258, penalty up to 7 years).

In November 2015, the National Assembly passed revisions to the penal code. Instead of repealing articles contrary to human rights standards, lawmakers introduced even harsher provisions, such as adding a new punishment to several of these articles that states, “The person who takes actions in preparation of committing this crime shall be subject to between one and five years of imprisonment.”

“It’s bad enough for Vietnam to use vague laws to imprison peaceful critics and activists,” Adams said. “But it’s even more outrageous to lock up someone for five years just because the government arbitrarily decides that they are preparing to criticize the government.”

#### “Mother Mushroom”

The most recent example of the government using one of its national security laws to punish peaceful critics is the October 10, 2016 arrest of blogger Nguyen Ngoc Nhu Quynh at her home in Nha Trang. She was charged her with “conducting propaganda against the state” for her blog and Facebook posts.

Nguyen Ngoc Nhu Quynh, 37, blogs under the penname Mother (of) Mushroom (Me Nam), named after her 10-year-old daughter whom she calls “Mushroom,” and recently under the penname Mother (of) Mushroom (&) Bear (Me Nam Gau), after her 2-year-old son whom she calls “Bear.” With the motto, “Who will speak if you don’t,” Nguyen Ngoc Nhu Quynh wrote on social and political issues including land confiscation, police brutality, and freedom of expression. She voiced her support for fellow dissidents and publicly campaigned for the release of many political prisoners including Tran Huynh Duy Thuc, Nguyen Ngoc Gia, Nguyen Hoang Quoc Hung, and Nguyen Huu Vinh (known as Anh Ba Sam). Above all, she advocated for an environment of freedom from fear.

The morning before she was arrested, Nguyen Ngoc Nhu Quynh went with Nguyen Thi Nay, the mother of political prisoner Nguyen Huu Quoc Duy, to try to visit him in prison.

In September 2009, the police took Nguyen Ngoc Nhu Quynh from her home in the middle of the night and questioned her about blog postings that criticized government policies on China and its disputed claims to the Spratly and Paracel Islands. She was released after nine days but remained under intrusive surveillance by police, who continued to pressure her to shut down her blog.

Nguyen Ngoc Nhu Quynh participated in numerous public protests that advocated for human rights and a clean environment. She was subject to constant police harassment, intimidation, interrogation, and put under house arrest on numerous occasions to prevent her from attending important events. Police detained her twice in 2014 to prevent her from flying to Hanoi to attend meetings at the Australian Embassy in July and at the Canadian and Norwegian Embassies in November. In March 2015, police detained her again to prevent her from going to Hanoi to attend a meeting at the German Embassy. In July 2015, she reported being assaulted by men in civilian clothes in front of police officers for participating in a sit-down protest to campaign for the release of political prisoners. Nguyen Ngoc Nhu Quynh received the Hellman Hammett grant from Human Rights Watch in 2010 for writers defending free expression.

State media reported that the police alleged that the evidence against Nguyen Ngoc Nhu Quynh for anti-state blogging included a file named “Stop police killing civilians.” The file included data on 31 cases of people who died in police custody, which she and others had collected from state media. The police claimed that the file “bears a hostile viewpoint against the people’s police force. The document makes the readers misunderstand the nature of the problem, offends and lowers the prestige of the people’s police force, and harms the relationship between the people and the police force.” Many cases summarized in “Stop police killing civilians” had been documented and published by Human Rights Watch, such as the violent deaths in police custody of Nguyen Quoc Bao, Nguyen Van Khuong, Trinh Xuan Tung, Tu Ngoc Thach, and Y Ket Bdap. According to Vietnam’s Ministry of Public Security, reported by state media, from October 2011 to September 2014 there were 226 cases of death in detention facilities.

The police claimed that during the search of Nguyen Ngoc Nhu Quynh’s house they found many documents providing evidence of crimes. Among these documents were slogans such as “Fish need water; the country needs transparency” (Ca can nuoc sach; Nuoc can minh bach); “Take legal action against Formosa” (Khoi to Formosa); “No Formosa”; “Formosa Get Out”; and anti-China claims over the disputed Spratly and Paracel Islands such as “No to Chinese Expansionism.” The police said that in addition to her Facebook and blog posts, other “crimes” she committed were to give interviews to CNN and Radio Free Asia.

After arresting her, the police announced that Nguyen Ngoc Nhu Quynh would be detained temporarily for four months. Under the criminal procedure code, in cases related to national security, defense lawyers can only participate in the procedure after the investigation is concluded (article 58). The investigation period can last as long as two years (article 119), meaning an accused may be detained for up to two years without access to legal counsel.

Vietnam’s donors and trade partners should urge the government to amend the penal code and the criminal procedure code to ensure all forms of peaceful expression are protected and that the rights of criminal suspects are respected.

“The Vietnamese authorities are using ridiculous charges to shut up ‘Mother Mushroom,’” Adams said. “The National Assembly needs to reform the criminal law so that peaceful critics like her can’t be held without charge for two years without a lawyer or otherwise be subject to the injustices of Vietnam’s current criminal justice system.”