PETITION TO:

UNITED NATIONS

WORKING GROUP ON ARBITRARY DETENTION

Mr. Tamás Ban (Hungary)
Ms. Manuela Carmen Castrillo (Spain)
Mr. Seyed Mohammad Hachemi (Iran)
Ms. Soledad Villagra (Paraguay)
Ms. Leila Zerrougui (Algeria)

COMMISSION ON HUMAN RIGHTS
ECONOMIC AND SOCIAL COUNCIL

In the Matter of
Father Thadeus Nguyen Van Ly,
Citizen of Vietnam

v.

Government of the Socialist Republic of Vietnam

Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, and 2003/31

Submitted By:

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25 SEPTEMBER 2003
MODEL QUESTIONNAIRE

I. IDENTITY OF THE PERSON ARRESTED OR DETAINED

1. Family Name: Ly

2. First Name: Thadeus (Nguyen Van)

3. Sex: Male

4. Birth date or age (at time of detention): 14 May 1946

5. Nationality/Nationalities: Citizen of Vietnam

6. Identity documents (if any): Male ID No: 190061567

7. Profession and/or activity (if believed to be relevant to the arrest/detention): Father Thadeus Nguyen Van Ly is a Roman Catholic priest who is a peaceful advocate for religious freedom.

8. Address of usual residence: Just weeks before the initial administrative detention on 26 February 2001, Father Ly was transferred from Nguyet Bieu to the parish of An Truyen, also in the province of Thua Thien Hue.

II. ARREST


2. Place of arrest: An Truyen Parish, Phu An Village in Phu Vang District

3. Forces who carried out the arrest or are believed to have carried it out: Phu Vang District Police

4. Did they show a warrant or other decision by a public authority? Unknown. The Chairman of the People’s Provincial Executive Committee issued two decrees concerning Father Ly. The first decree, Decree 401/QD-UB, was issued on 26 February 2001 for the Administrative
Detention of Father Ly. The second decree, Decree 961/QD-UB, was issued on 9 May 2001 ordering that Father Ly "shall not carry any religious responsibility and functions" during the administrative detention.

5. **Authority who issued the warrant or decision:** The Chairman of the People’s Provincial Executive Committee of the Thua Thien Hue Province

6. **Relevant legislation applied (if known):** Law of the Organization of the People’s Council and the People’s Executive Committee dated 21 June 1994; Codes of Penalties for Administrative Violations dated 06 July 1995; Decree 31/CP dated 14 April 1997 by the Government on Administrative Arrest; Recommendation of the Provincial Council in Report No. 01/TTr-HDTV dated 17 February 2001; Recommendation of the Chairman of the People’s District Executive Committee, Phu Vang District in Report No. 06/BC-UB dated 14 February 2001 on Administrative Arrest.

### III. DETENTION

1. **Date of detention:** Father Ly has been detained since his initial administrative detention on 26 February 2001.

2. **Duration of detention:** The Government has detained Father Ly for over two years.

3. **Forces holding the detainee under custody:** Vietnamese security forces

4. **Places of detention (indicate any transfer and present place of detention):** We believe that the Government imprisoned Father Ly in Ba Sao, a hard labor camp, in the Nam Ha province. However, another report states that the Government is detaining Father Ly in the “Nam Ha” prison in the same province.

5. **Authorities that ordered the detention:** The Thua Thien Hue Provincial People’s Court sentenced Father Ly to prison for two years for violating the terms of his administrative detention, thirteen years for “damaging the

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2 An unofficial translation of Decree 401/QD-UB is attached at Exhibit B.
3 An unofficial translation of Decree 961/QD-UB is attached at Exhibit C.
4 An unofficial translation of Decree 31/CP is attached at Exhibit D.
Government’s unity policy,” and five years of administrative probation upon release from prison.

6. **Reasons for the detention imputed by the authorities:** The Government alleges that Father Ly committed acts undermining national unity and violating his administrative detention.

7. **Relevant legislation applied (if known):** Articles 87 and 269 of the Vietnamese Penal Code.

**IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY.**

The Statement of Facts set forth in Part A of this section provides details regarding the detention, arrest and trial of Father Thadeus Nguyen Van Ly. The analysis set forth in Part B of this section sets forth the specific basis upon which Father Ly asserts that his detention is an arbitrary deprivation of liberty.

A. **Statement Of Facts**

1. **Freedom Of Religion In Vietnam**

   The majority of the Vietnamese population are practicing Buddhists. However, there are an increasing number of other religions within the country, including approximately 8 million Roman Catholics, as well as Protestants, Muslims, and affiliates of the indigenous churches Cao Dai and Hoa Hoa. Article 70 of the Constitution of the Socialist Republic of Vietnam (hereinafter “Vietnam”) provides for freedom of belief and religion, maintains equality of all religions before the law, and protects the places of worship of all faith and religions. Despite these guarantees, the practice of religion has been strictly controlled by the Government of Vietnam.

   The Government of Vietnam officially allows differing practices as long as religious groups abide by stringent control mechanisms, including a requirement that all religious organizations be affiliated with the Communist Party’s Fatherland Front. Religious groups must seek permission from the government concerning all aspects of their functioning and existence.\(^5\)

   Permission must be granted to ordain and promote religious leaders, hold meetings/seminars, make repairs or construct places of worship, engage in charitable activity and conduct religious

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education.\textsuperscript{6} Travel by religious leaders is restricted by the Government and sermons and speeches are often censored.\textsuperscript{7}

Vietnamese government officials have indicated that allowing differing peaceful religious activities is destructive to the communist goals of the state. When people or groups attempt to function outside of the state sanctioned regime they have often faced harassment, arrest and long prison terms. Even those organizations that follow the State imposed standards find themselves barely functioning due to the limitations on training and the difficulty in ordaining new clergy. Religious dissidents have routinely been subjected to surveillance by local authorities, which can also include the denial of publishing rights, interception of mail, and blocking of telephone lines.\textsuperscript{8}

Awareness of Vietnam’s severe restrictions on the exercise of religion was heightened by the October 1998 visit and subsequent Report of Professor Abdelfattah Amor, the United Nations Special Rapporteur on Religious Intolerance.\textsuperscript{9} The Human Rights Commission had requested Government permission for such a visit since 1995. During the visit, the scope of the investigation sought by the Special Rapporteur was limited by the Vietnamese Government, and the Special Rapporteur was prevented from meeting with certain religious prisoners and dissidents. Upon the March 1999 release of the Report of the Special Rapporteur, which severely criticized the handling of these matters in Vietnam, the Government of Vietnam reacted angrily, including one official’s statement at a press conference that “individuals or organizations which come to conduct activities concerning human rights or religion and interfere with the internal affairs of the country will no longer be accepted.”\textsuperscript{10}

In April of 1999, the Government issued a new decree purportedly further guaranteeing freedom of religion in Vietnam.\textsuperscript{11} In fact, the decree provides for extensive additional Government regulation of religion, including a specific prohibition against religious organizations that conduct activities contrary to “structures authorized by the Prime Minister,”


\textsuperscript{7} See HRW 2000, supra note 5, at part III, page 6/11.

\textsuperscript{8} See Id., at part III, pages 2-6/11.


\textsuperscript{10} See Ly AI 2001, supra note 6, at page 7/9.

likely directed toward religious leaders who have also advocated for political changes in Vietnam.  

It is within this context that Father Ly has attempted to exercise his Roman Catholic beliefs and speak out peacefully against limitations placed upon his expression of these beliefs by the Government.

2. **Background Information On Father Thadeus Nguyen Van Ly**

Father Ly was born on 15 May 1946 in the Quang Tri province of Vietnam. As an adult, Father Ly committed himself to the Roman Catholic faith and became an ordained priest in 1974. In attempting to practice his religion Father Ly discovered the many legal and political barriers to free worship in Vietnam. The Government of Vietnam has repeatedly arrested, harassed, and jailed Father Ly for his advocacy of religious freedom. In 1977, as a response to the Government’s arrest of several Buddhist monks in Ho Chi Minh City, as well as its oppression of Catholics, Father Ly distributed several critical statements made by Monsignor Phillippe Nguyen Kim Dien, then the Archbishop of Hue, including a statement that Catholics were treated by the Government as “Second Class Citizens.” Father Ly, who at the time was a teacher at a seminary and secretary to Archbishop Dien, was arrested for this action and detained for 1 year. 

Upon release Father Ly continued to actively practice Roman Catholicism, despite the Government’s effort to prohibit him from doing so. Part of this practice included in August 1982 organizing and attempting a pilgrimage to La Vang, a site holy to the Vietnamese Catholics dating back to 1800. Father Ly led this pilgrimage despite having been denied permission by the Government. Soon after, in November of 1982 he was arraigned and charged with leading the illegal pilgrimage. The government expelled him from his Doc So parish and ordered him to return to his birth place. Father Ly refused, insisting he would leave only upon the instructions of his superior, Archbishop Dien. This incident culminated in the police surrounding his parish and attempting to physically remove him. Father Ly used a voice amplifier and instructed the citizens to demand religious freedom. He remained within the parish until 18 May 1983, when hundreds of police forcibly removed him. As a result of his actions he was sentenced to 10 years imprisonment for “opposing the revolution and destroying the people’s unity.”

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12 See Id. See also HRW 2000, supra note 5, at Part III, page 2/11.


14 Sources conflict regarding whether Father Ly was formally charged for these actions. Amnesty International reports that he was detained without charge or trial. See Id. The Vietnam Federation of Canada indicates that Father Ly was convicted, sentenced to 20 years and sent to a labor camp near Hue. See “Vietnamese Bulletin, Oct-Dec 2001”, Vol. 17, No. 4, available at www.viethomefederation.ca/. Both sources confirm that he was released within one year.

Father Ly remained in prison for more than nine years and until nearly the end of his sentence. Upon his release in July 1992, Father Ly was banned from conducting religious activities and was placed under governmental surveillance. Since his release, Father Ly has continued to express his views calling for full realization of human rights in Vietnam. For example, in 1994 he released a “10-Point Statement of the State of the Catholic Church in Hue Diocese,” which criticized the state’s appropriation of church property, the lack of places in seminaries for men to train to be priests, and the interference of the state in church teachings. He also peacefully confronted the Government over the issue of whether villagers could cultivate disputed church land.

In 1997 Father Ly was moved into exile to the small parish of Nguyet Bieu in central Vietnam, where he continued to strive for religious freedom. Father Van Ly continued to express his views peacefully, for example by hanging a banner from his church with the words, “We need Religious Freedom.” This sign was removed by the police and replaced by Father Ly approximately three different times. Father Ly was repeatedly subject to harassment by government authorities, including having his telephone line periodically cut off. In late 2000, immediately following a visit to Vietnam by U.S. President Clinton, Father Ly re-issued his “10-Point Statement” followed by additional appeals for more religious freedom, return of church property, the end of state interference in religious affairs, and the release of prisoners detained because of religious beliefs. Finally, in February of 2001, Father Ly was transferred again, this time to the parish of An Truyen, also in Hue, in attempt to isolate him from his supporters and prevent him freely expressing his political and religious beliefs.

3. Father Ly’s Arrest And Detention On 17 May 2001

Father Ly has drawn attention both in Vietnam and internationally to the lack of religious liberty in Vietnam. In this regard, Father Van Ly was formally invited to testify before the United States Commission on International Religious Freedom but could not attend personally because he was denied permission to leave Vietnam. Instead he submitted written testimony, which was read into the Commission record on 13 February 2001.

On 26 February 2001, in response to Father Ly’s testimony, the Government issued an order for his administrative detention, the functional equivalent of house arrest. The arrest

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16 The Commission on International Religious Freedom is a body of the U.S. government which reports and issues recommendations to the President of the U.S., the Secretary of State, and both Houses of Congress. See www.uscirf.gov.

17 In this testimony, among other things, he urged the United States to place pressure on Vietnam and to reject a U.S.-Vietnamese trade pact as a result of ongoing human rights abuses in Vietnam. See United States Commission On International Religious Freedom, Testimony of Rev. Thaddeus Nguyen Van Ly, available at http://www.uscirf.gov/hearings/13feb01/thaddPT.php3 [hereinafter “Testimony”]. Father Ly’s Testimony is attached at Exhibit F.

18 See Decree of the Chairman of the People’s Provincial Executive Committee, Administrative Arrest, No. 401/QD-UB Hue, 26 February 2001, unofficial translation attached at Exhibit B. Persons under administrative detention may

(footnote continued to next page)
order specified that the detention would last for twenty-four months from the time Father Ly reported to the proper authorities and that the detention was to serve as an opportunity to "educate" Father Ly and allow him to correct his mistakes.\textsuperscript{19} As grounds for issuance of the detention order, the Government alleged that Father Ly had "committed actions in violation of the laws and harmful to the national security."\textsuperscript{20} On 5 March 2001, the Government publicly stated that it had placed Father Ly under administrative detention for "slandering" the Communist party and "distorting" the Government’s policy on religion.\textsuperscript{21}

On 9 May 2001, the Government issued a second decree suspending Father Ly’s ability to "carry on any religious responsibility and functions" during the term of his detention.\textsuperscript{22} Finally, early in the morning of 17 May 2001, a large number of policemen, possibly up to 600, surrounded and then stormed An Truyen church to arrest Father Ly as he prepared for mass.\textsuperscript{23} After the arrest, Father Ly was detained and denied access to legal counsel.

Since the arrest, Father Ly’s parishioners have been threatened by police, and some have been interrogated or arbitrarily detained.\textsuperscript{24} Furthermore, one month after Father Ly’s arrest, in June 2001, Father Ly’s nephews Nguyen Vu Viet, age 27, and Nguyen Truc Cuong, age 36, and his niece, Nguyen Thi Hoa, age 44, were arrested and accused of being in contact with

\textsuperscript{19} See Id. On the afternoon of 27 February 2001, approximately 200 Vietnamese police surrounded Father Ly’s parish while a group of seven Communist party representatives entered the parish to announce Decree 401/QD-UB. Father Ly immediately objected to the Decree, with nearly 200 witnesses present. That same day, the Interfaith Committee for Religious Freedom, a multifaith entity with which Father Ly was affiliated issued a statement formally demanding the revocation Decree 31/Cp, on which basis persons accused of opposing the Government have been subject to imprisonment or arbitrary detention without trial. See Ly AI 2001, supra note 6.

\textsuperscript{20} Decree 401/QD-UB, supra note 18.

\textsuperscript{21} Associated Press, Vietnam detains Catholic priest for testimony against U.S. trade pact, 5 March 2001; Steve Kirby, Vietnam punishes priest who dared to speak out to US freedoms panel, Agence France Presse, 4 March 2001. On 9 April 2001, Lars Rise, a member of Norway’s Parliament traveling in Vietnam as a tourist, visited Father Ly. According to reports, during the meeting over 100 police surrounded Father Ly’s church, which was under surveillance at the time. Upon leaving, Rise was arrested and interrogated by the Vietnamese authorities for six hours as well as five hours on 10 April, before being formally escorted out of the country. See “Vietnam expels Norwegian lawmaker for visits to dissident religious leaders,” 17 April 2001, Associated Press Worldstream.

\textsuperscript{22} See Decree of the Chairman of the People’s Provincial Executive Committee, No. 961/QD-UB Hue, 9 May 2001, unofficial translation attached at Exhibit C.


\textsuperscript{24} See International Society for Human Rights (ISHR), “Father Tadeo Nguyen Van Ly”, available at www.ishr.org/appeals/nguynvanly.htm. In its report, ISHR alleges that at least two of Father Ly’s parishioners were tortured or maltreated while under arrest.
"reactionary" organizations in the United States concerning the religious situation in Vietnam, as well as the detention of Father Ly. They were also accused of accepting money from foreign organizations, receiving documents from the same organizations “to propagate and distort the religious policy of the Party and the Government,” and providing Father Ly with “supplies” in prison. After a closed trial lasting three hours, Viet, Cuong and Hoa were convicted of violations under Article 80 of the Vietnamese Penal Code, which relates to espionage, and sentenced to five, four and three years imprisonment respectively.

4. Trial And Sentencing Of Father Ly In October/November 2001

On 19 October 2001, the Thua Thien Hue Provincial People’s Court convicted Father Ly after a one day, closed trial. Father Ly, who was denied access to counsel, was sentenced to two years in prison for violating the terms of his administrative detention, thirteen years in prison for “damaging the Government’s unity policy,” and five years of administrative probation upon release from prison.

Vietnamese human rights organizations report that Father Ly is being held in a small, isolated cell at a hard labor camp in the Nam Ha province. Furthermore, the Government denies Father Ly contact with other prisoners and prohibits guards from speaking with him. The Government severely limits time provided to Father Ly outside his cell, generally denies him the use of pen and paper, except for allowing a monthly correspondence, and refuses to give him items brought to him in prison, including Christian books and some food items.

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26 Id. The organizations the three individuals allegedly were in contact with are the Committee for Religious Freedom in Viet Nam and Radio Que Hong, both United States-based organizations. Both organizations have sought to promote human rights activities in Vietnam through nonviolent means.


28 Sources differ regarding the precise length of the trial, which was not open to the public or media, but it was certainly not longer than one day. Some sources assert that the trial lasted “two hours” or a “half-day.”


31 See Id.

32 See Id. On 17 July 2003, the Vietnamese Government announced that a court in the Ha Nam province had reduced Father Ly’s sentence from fifteen years in prison to ten years. See “Vietnam cuts prison term for jailed

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B. Analysis

The Government’s detention of Father Ly constitutes an arbitrary deprivation of liberty, falling within both Category II and III of the classification of cases as defined by the United Nations Working Group on Arbitrary Detention ("Working Group").

This case meets the requirements of Category II based on the Government’s arbitrary deprivation of Father Ly’s liberty as a result of his exercise of his fundamental right to freedom of opinion embodied by Article 19 of the Universal Declaration of Human Rights ("UDHR") and freedom of expression guaranteed by Article 19 of the International Covenant on Civil and Political Rights ("ICCPR"), to which Vietnam is a signatory. Furthermore, the Government of Vietnam denied Father Ly his fundamental right to free exercise of religion, guaranteed by Article 18 of the UDHR and Article 18 of the ICCPR.

This case also satisfies the requirements of Category III, because the Government of Vietnam did not observe international norms relating to a fair trial, embodied by Article 14 of the ICCPR, Article 10 of the UDHR, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("Body of Principles"), when it arbitrarily deprived Father Ly of his liberty.

1. The Government Of Vietnam Has Arbitrarily Detained Father Ly Based On His Exercise Of His Fundamental Right To Freedom Of Opinion And Freedom Of Expression

The Government’s detention of Father Ly, pursuant to Decrees 31/CP and 401/QD-UB,
and arrest pursuant to Articles 87 and 269 of the Vietnamese Penal Code, is arbitrary as a result of the fact that it violates Article 19 of the UDHR and Article 19 of the ICCPR, which guarantee freedom of opinion and expression. Furthermore, as applied by the Government in this case, Decrees 31/CP and 401/QD-UB and Articles 87 and 269 of the Penal Code contradict Article 69 of the Vietnamese Constitution, which similarly guarantee freedom of opinion and speech.\footnote{In its 2002 Concluding Observations regarding Vietnam's compliance with its responsibilities in implementation of the ICCPR, the Human Rights Committee noted that its concern "that certain constitutional provisions would appear to be incompatible with the [ICCPR] and the Vietnamese Constitution does not enumerate all [ICCPR] rights, nor the extent to which they may be limited and the criteria used." Concluding Observations of the Human Rights Committee: Viet Nam, ICCPR/CO/75/VNM, 26 July 2002 (hereinafter "Concluding Observations"). While we share the concerns of the Commission in this regard, this Petition assumes an interpretation of Vietnam's Constitution that is consistent with Vietnam's obligations as a signatory to the ICCPR.}

\subsection*{a. Through The Use Of 1997 Decree 31/CP And Articles 87 And 269 Of The Vietnamese Penal Code, The Government Of Vietnam Violated Father Ly's Right To Freedom Of Opinion And Expression Enshrined In Article 69 Of The Vietnamese Constitution}

Article 69 of the Vietnamese Constitution provides that all citizens "shall enjoy freedom of opinion and speech, freedom of the press, the right to be informed, and the right to assemble, form associations and hold demonstrations in accordance with the provisions of the law."\footnote{Constitution of the Socialist Republic of Vietnam, at Article 69.} Father Ly was acting upon the guarantees provided by Article 69 when, on 13 February 2001, he presented testimony to the United States Commission on International Religious Freedom (hereinafter "CIRF") and implored the U.S. to apply pressure on the Government of Vietnam by refusing to ratify a proposed bilateral trade agreement.\footnote{See Testimony, note 17, above.}

In direct response to the statements made by Father Ly to the CIRF, and in contravention of his rights under Article 69, the Government placed him under house arrest. As described in more detail above, on 26 February 2001, the People's Provincial Executive Committee of the Thua Thien Hue Province issued Decree 401/QD-UB, administratively detaining Father Ly for a twenty-four month period. This decree was issued pursuant to authority granted by 1997 Decree 31/CP, the "Regulation on Administrative Probation."\footnote{See Decree 31-CP of 14 April 1997 of the Government issuing the regulation on administrative probation, unofficial translation attached at Exhibit D.}

Articles 1 and 2 of Decree 31/CP provide for Governmental authority, absent any court action, to place individuals who contravene national security, as defined by offenses listed in Chapter 1 of the Vietnamese Penal Code, under house arrest, when such individuals actions are not serious enough to be examined for penal liability.\footnote{See Id.} Chapter 1 of the Penal Code lists 28
"vaguely-worded offenses," including treason, espionage, betraying state secrets, sabotaging socio-economic policies, propaganda against socialism, and threatening the policy of national unity.41 House arrest as defined in Decree 31/CP subjects detained individuals to police surveillance and the monitoring and direction of the local authorities and forces the persons concerned to live and work without leaving a location determined by the authorities, generally a town or small region.42

The Government placed Father Ly under house arrest in the village of Phu An where he was living. In Decree No. 401/QD-UB, the Government vaguely alleged that Father Ly had violated laws and threatened national security.43 The Government further alleged that the detention was necessary to educate Father Ly and create conditions for Father Ly to correct his mistakes.44 However, no specific evidence of any violations of Vietnamese law were presented and no hearing was held.

During the period of detention, Father Ly and his parishioners were constantly harassed and his ability to communicate, by mail, telephone or internet, was severely restricted. Father Ly was formally arrested on 17 May 2001, and charged under Article 269 of the Vietnamese Penal Code with violating the administrative probation order that had been issued against him – Decree 401/QD-UB.45 Father Ly was also charged under Article 87, within the national security chapter of the Penal Code, with “undermining the unity” of the state of Vietnam.46

The detention of Father Ly based on his nonviolent religious activities and his presentation of testimony to the CIRF regarding Vietnam’s oppression of the religious freedom of Roman Catholics and those of other faiths is directly contrary to the guarantees provided by

41 See Amor Report, supra note 9, at ¶ 26.
43 See Decree 401/QD-UB, supra note 18.
44 See Id.
45 Article 269 of the Vietnamese Penal Code (Failing to execute administrative decisions of competent State agencies on sending offenders to establishments for reeducation, medical treatment or administrative probation) provides that “[t]hose who deliberately refuse to execute administratively sanctioned for reeducation, medical treatment, or administrative probation despite the application of necessary coercive measures, shall be sentenced to between six months and three years of imprisonment.”
46 Article 87 of the Vietnamese Penal Code (Undermining the unity policy) provides that: “1. Those who commit one of the following acts with a view to opposing the people’s administration shall be sentenced to between five and fifteen years of imprisonment: a. Sowing division among people of different strata, between people and the armed forces or the people’s administration or social organizations; b. Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities; c. Sowing division between religious people and non-religious people, division between religious believers and the people’s administration or social organizations; d. Undermining the implementation of policies for international solidarity. 2. In the case of committing less serious crimes, the offenders shall be sentenced to between two and seven years of imprisonment.”
Article 69 of the Vietnamese Constitution. When Father Ly presented testimony to the CIRF concerning his opinions on religious freedom in Vietnam, he acted fully within his rights. Further, the non-violent manner in which he expressed his views presented no threat to the national security of Vietnam. His fundamental right to freedom of opinion and expression was wholly denied by the actions of the Government in this case. The Government’s arrest and detention of Father Ly in response to his peaceful expression of his opinions contravenes the protections set forth in Article 69.

b. Through The Use Of 1997 Decree 31/CP And Articles 87 And 269 Of The Vietnamese Penal Code, The Government Violated Father Ly’s Right To Freedom Of Opinion And Expression As Defined In Article 19 Of The ICCPR

The arrest of Father Ly pursuant to Decrees 31/CP and 401/QD-UB and Articles 87 and 269 of the Vietnamese Penal Code, as applied in this case, contradicts Article 19 of the ICCPR. Father Ly’s expression of his opinions is a form of speech protected by Article 19, which states that “[e]veryone shall have the right to hold opinions without interference" and “[e]veryone shall have the right to freedom of expression.” Furthermore, “this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Father Ly’s activities fall within the realm of protected speech identified by the Human Rights Commission and the Working Group that may not be legally curtailed unless a law addresses a legitimate governmental end and the means chosen are necessary for its achievement. The ICCPR recognizes that there are circumstances when expression may be curtailed, if such limitations are (1) provided by law, (2) the means address a legitimate end, and (3) are “necessary” to achieve a legitimate end. The ICCPR specifically provides that a Government may restrict the right to freedom of opinion and expression when the restriction is provided by law and is necessary “[f]or respect of the rights or reputations of others” or “[f]or the protection of national security or of public order (ordre public), or of public health or morals.”

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47 As partial justification for this type of action, the Government has in the past alleged that the guarantees provided elsewhere in the Constitution are subject to Article 51 of the Constitution which states that “[t]he citizen’s rights are inseparable from his duties” and Article 4 which provides that the Communist Party of Vietnam is the “force leading the State and society.” See Amor Report, supra note 9, at ¶ 9. If the Working Group is of the view that application of Articles 4 and 51 in this manner is incompatible with Vietnam’s ICCPR obligations, it certainly follows that laws enacted on the basis of these provisions, such as those under which Father Ly was charged and convicted, are similarly incompatible. As noted above, this Petition assumes that Vietnam’s Constitution and its application in this case are consistent with Vietnam’s ICCPR obligations.

48 ICCPR, supra note 33, at Art. 19 (1)-(2).


51 ICCPR, supra, note 33, at Art. 19 (3)(a)-(b).
In enacting and enforcing Decrees 31/CP and 401/QD-UB and Article 87, the Vietnamese Government has created a legal structure which purports to protect national security and unity. In actuality, it imposes a severe limitation on the exercise of freedom of opinion by its citizens. In his 1998 Report, the Special Rapporteur on Religious Intolerance expressed his concern at the “extraordinary powers conferred on the security services with regard to citizens, who can be deprived of their freedom for offenses which give rise to serious reservations as to wording and content. Such offenses could cover religious activities that are fully legitimate under international law.”  

In addition, as recently as 2002, the Human Rights Commission has expressed its concern about the use of Decree 31/CP “since it provides for persons to be kept under house arrest for up to two years without the intervention of a judge or judicial officer.”

Laws such as Decrees 31/CP and 401/QD-UB and Article 87 are only valid if they address a legitimate end with means necessary to achieve such an end. As an initial matter, the Government’s claimed end is not legitimate. While on its face, the claimed end -- protecting national unity or national security -- appears legitimate, it is too vaguely defined to have any practical application. As a result of this overbreadth, it is subject to manipulation for political reasons. The vagueness of this provision enables the Government to arbitrarily take action against those deemed to be political risks based on their exercise of their rights to freedom of opinion. In this specific case, the Government alleges that Father Ly jeopardized national unity, but such a claim lacks detail or specificity, and is wholly unsupported by the facts of this case.

In addition, even assuming the Government’s claimed end in the enactment of Decrees 31/CP and 401/QD-UB and Article 87 is legitimate as applied in this case, the resultant restrictions on freedom of expression and opinion are not “necessary” to achieve such end. If the Government is to legitimately restrict speech, it must distinguish between the peaceful expression of opinion and the use of violence. None of these laws make such a distinction. In the report on its 1995 mission to Vietnam, the Working Group observed that “the characterization of offences as crimes against national security … draw no distinction on the grounds of the use or non-use of violence or of incitement or non-incitement to violence. The Working Group notes that the present wording of [such offenses] is so vague that it could result in penalties being imposed not only on persons using violence for political ends, but also on persons who have merely exercised their legitimate right to freedom of opinion or expression.”

52 See Amor Report, supra note 9, at ¶ 19.
53 See Concluding Observations, supra note 36, at ¶ 8.
54 See Mpandanji, supra note 49.
56 Working Group on Arbitrary Detention: Visit to Vietnam, 18 January 1995, E/CN.4/1995/31/Add.4, at ¶ 58. While the Working Group's discussion focused on Article 73, the same analysis is applicable to other Articles in the same Chapter and elsewhere in the Vietnamese Penal Code, including in particular the similarly-vague Article 87 at issue in this matter. See Tran Van Luong, Opinion No. 13/1999 (“Article 73 of the Penal Code, which is part of Vietnam's national security legislation, draws no distinction as to the use or other of violence or incitement to

(footnote continued to next page)
Father Ly has never advocated nor used violence as a means of expressing his opinions, political or otherwise, and is precisely the type of individual of concern to the Working Group in this regard.

Based on the foregoing, the Government’s interference with Father Ly’s right to freedom of expression and opinion is not consistent with the Vietnamese Constitution, nor with Vietnam’s obligations pursuant to Article 19 of the UDHR and Article 19 of the ICCPR. Therefore his detention and arrest are arbitrary.

2. The Government Of Vietnam Has Arbitrarily Detained Father Ly Based On The Exercise Of His Belief In Roman Catholicism

The Government’s imprisonment of Father Ly violates Article 70 of the Vietnamese Constitution and Article 18 of the ICCPR. Article 18 of the ICCPR states that “[e]veryone shall have the right to freedom of thought, conscience and religion.” Furthermore, “[t]his right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”

a. The Government has Violated Father Ly’s His Right To Freedom Of Belief And Religion As Guaranteed By Article 70 Of The Vietnamese Constitution

Article 70 of the Vietnamese Constitution states that “[t]he citizen shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law.” The Government’s detention and conviction of Father Ly is a response to his efforts to practice and promote Roman Catholicism. The Government has used mechanisms of law, media and force to thwart Father Ly’s free practice of Roman Catholicism ever since his ordination as a priest.

As noted above, the Government has repeatedly suppressed Father Ly’s ability to express and practice his religious beliefs. In 1982, Father Ly was prohibited by the Government from

(footnote continued from previous page)

violence. Moreover, the wording of the article is so imprecise that it could result in penalties being imposed . . . on persons who have merely exercised their legitimate right to freedom of opinion or expression . . .”). See also Do Trung Hieu and Tran Ngoc Nghiem, Opinion No. 3/1996 (finding that Article 205 of Vietnamese Penal Code, which punishes any person who abuses democratic freedoms to jeopardize the interests of the state and social organizations, defective and inconsistent with Article 19 of the ICCPR based on being “vague and imprecise”); Ngoc An Phan, Opinion No. 7/1998 (similar discussion of Article 81 of Penal Code on attempts to undermine national unity); Thich Quang Do, Opinion No. 11/2001 (same).

57 ICCPR, supra note 33, at Art. 18 (1).
58 Id., at Art. 18 (1).
undertaking a peaceful pilgrimage to La Vang, a site holy to the Vietnamese Catholics dating back to 1800. When Father Ly led this pilgrimage despite having been denied official permission, he was charged and punished under Vietnamese law.

The Government further interfered with Father Ly’s free exercise of his religion when it expelled him from his Doc So parish and ordered him exiled. Father Ly indicated that he would only leave if he was asked to by his church superior, Archbishop Dien. This incident culminated in the police surrounding his parish and attempting to physically remove him. Father Ly calmly instructed his followers to continue to demand religious freedom, even as hundreds of police forcibly removed him. As a result of his actions he was sentenced to 10 years imprisonment for “opposing the revolution and destroying the people’s unity.”

Upon his release in July 1992, the Government banned Father Ly from conducting religious activities and he was placed under governmental surveillance. The Government attempted to further stop Father Ly’s exercise of religion through intensive public denunciation campaigns against him and through the continuous detention and harassment of his relatives and followers.

In 2001, the Government refused to allow Father Ly to leave Vietnam to testify to the U.S. Commission on International Religious Freedom. Father Ly was forced to submit written testimony in which he recounted the Government’s repeated and aggravated interference with religious belief and practice as well as the increasing need for the international community to apply pressure encouraging religious freedom and reform. Soon after Father Ly’s testimony, the Government reacted by issuing Decree 401/QD-UB, placing Father Ly under house arrest. The Government announced that it was punishing Father Ly for “slandering” the Communist party and “distorting” its views on religion.

In the months following the administrative detention order Father Ly was banished by the government to Phu An Village, an isolated community in rural Vietnam. Furthermore, on 9 May 2001, with reference to the previous decree, the Government issued Decree 961/QD-UB, which prohibited Father Ly from “carrying on any religious responsibility and functions” during the

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61 Multiple articles demeaning Father Ly have been released by the official Vietnam News Agency and placed in regional papers.
62 In his testimony, Father Ly claimed “[f]reedom of religion will be absent for as long as the Vietnamese government hangs on to its Communist ideology.” Furthermore, he described the Government’s mutation of different “Churches” by its oppressive policy. Essentially, the Government has defined what acceptable religious practice is.” See Testimony, supra note 17.
63 See Decree 401/QD-UB, supra note 18.
64 See Associated Press, Vietnam detains Catholic priest for testimony against U.S. trade pact, 5 March 2001; Steve Kirby, Vietnam punishes priest who dared to speak out to U.S. freedoms panel, Agence France Presse, 4 March 2001.
period of his detention. Soon after, on 17 May 2001, Father Ly was performing a morning service in An Truyen parish when over 600 Vietnamese police surrounded the parish, forcibly arresting him. Among other things, he was charged with violating Decree 401/QD-UB.

The actions described above, which are part of a Government-orchestrated campaign to suppress Father Ly’s peaceful advocacy for religious freedom in Vietnam, are directly contrary to the guarantees provided in Article 70 of the Vietnamese Constitution with respect to freedom of belief and religion. In issuing decrees 401/QD-UB and 961/QD-UB the Government failed to protect Father Ly’s ability to exercise his fundamental religious rights as enshrined in Article 70. In fact, Father Ly’s efforts to peacefully support the exercise of all religious beliefs in Vietnam, not limited to his own Roman Catholic faith, have been consistently restricted by the Government in a manner not consistent with Vietnam’s obligation to protect the fundamental rights of its citizens.

b. The Government has Violated Father Ly’s His Right To Freedom Of Thought, Conscience, And Religion As Guaranteed By Article 18 Of The ICCPR

As indicated above, Article 18 of the ICCPR codifies the fundamental right to freedom of thought, conscience and religion. Similar to other freedoms set forth in the ICCPR, this freedom may only be limited under narrow circumstances. A limitation is legitimate when the limitation is “prescribed by law and [is] necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.” The Vietnamese Government’s limitation on religion, as evidenced by their actions in this case, does not meet this stringent requirement because the means chosen have not been narrowly tailored for its achievement. The Government has enacted a series of vague and overreaching laws that can be arbitrarily used in any circumstance where the Government decides to curtail religious activities.

As described above, the Government has failed to meet its obligation to respect and ensure Father Ly’s right to freedom of thought, conscience, and religion through its systematic attack on Father Ly’s efforts to practice Roman Catholicism and to advocate for reform. In the current detention of Father Ly, the Government issued an administrative detention order as a consequence of Father Ly’s advocacy for religious reform. Furthermore, the Government

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65 See Decree 961/QD-UB, supra note 22.

66 Article 70 of the Vietnamese Constitution overtly limits the scope of the religious freedom guarantee by stating that no one may “misuse belief and religion to contravene the law and State policies.” As discussed in note 36, above, Vietnam’s implantation of this provision, as evidenced by its actions in this case, including the issuance of Decrees 401/QD-UB and 961/QD-UB, raises serious concerns regarding Vietnam’s compliance with its obligation to uphold Article 18 of the ICCPR. See Amor Report, supra note 9, at ¶ 9 (“The Special Rapporteur has some queries about [Article 70], which establishes the principle of the policies of the State, a vague and extendable concept that could be potentially restrictive of religious freedom and its manifestations ... [this article] is likely to impede freedom of religion or even reduce it to very little indeed.”). As noted above, however, this Petition assumes an interpretation of Vietnam’s Constitution that is consistent with Vietnam’s ICCPR obligations.

67 ICCPR, supra note 33, at Art. 18 (3).
prevented Father Ly from religious worship by forcibly removing him from his parish during the morning service. These actions denied Father Ly’s rights as guaranteed to him by Article 18 of the ICCPR.

Repeatedly over the last several years, the Working Group has recognized arbitrary deprivations of liberty based on the actions of the Government of Vietnam in suppressing religious activity under the pretext of laws designed to protect the national security of the State. Members of various religious faiths who have peacefully advocated for the free practice of their beliefs, without undue involvement of Vietnamese Government authorities, have been detained, placed under house arrest and formally imprisoned on the basis of Article 87 of the Penal Code, described above, and other similar Articles related to national security and “national unity.”68 Suppression of religious activity of this nature, particularly in a manner as draconian as Decree 961/QD-UB, cannot be justified. The peaceful actions of religious figures such as Father Ly pose no legitimate threat to the national security of the State.

Based on the foregoing, the Government’s failure to uphold Father Ly’s right to freedom of thought, conscience and religion is not consistent with the Vietnamese Constitution, nor with Vietnam’s obligations pursuant to Article 18 of the ICCPR. Therefore his detention and arrest are arbitrary.

3. The Government’s Detention Of Father Ly Is Arbitrary Because He Was Denied The Right To A Fair Trial In Accordance With International Norms As Set Forth In The UDHR, The ICCPR, And The Body Of Principles

As described above, the initial administrative detention, or house arrest, of Father Ly was arbitrary based on its denial of his ability to exercise fundamental freedoms of opinion and religion. The Government aggravated this injury by prosecuting Father Ly in a manner that further denied him of his right to a fair and impartial trial.

a. Denial Of A Public Hearing

Father Ly was convicted after a one day trial held in closed session. Such a trial procedure represents a violation the right to a “fair and public hearing” guaranteed specifically by Article 14 (1) of the ICCPR and Article 10 of the UDHR. The Vietnamese Constitution also recognizes the right to a public trial. Article 131 of the Constitution states, in relevant part, that “[t]he People’s Courts shall try their hearings in public, except in cases determined by law.”69

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68 See, e.g., Thich Quang Do, Opinion No. 11/2001, supra note 56.

The Thua Thien Hue Provincial People’s Court convicted Father Ly after a one-day, closed trial, thereby undermining the fairness of the proceeding.\textsuperscript{70} The Working Group has condemned such “faceless” courts, holding that “such trials . . . constitute such a serious violation of the rules of due process as to confer on the deprivation of liberty an arbitrary character.”\textsuperscript{71} Father Ly’s trial is a clear interference with the right to a public trial.

Admittedly, the right to a public trial is limited. The Government may exclude the press or public from a trial “for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.”\textsuperscript{72}

Here, however, the Government did not close the trial to safeguard a legitimate end. The subject matter did not implicate issues offensive to morals or public order, nor were state secrets or other sensitive national security information likely to be compromised. Moreover, the court did not close its doors in the interests of justice. The Government’s closure of the trial is a thinly veiled effort to avoid public condemnation and scrutiny of its prosecution and imprisonment of Father Ly, an internationally-known figure. If anything, closure of Father Ly’s trial prejudiced not the state but actually Father Ly’s ability to have a fair trial.

b. Denial Of Legal Counsel And The Opportunity To Prepare And Present A Defense

Father Ly was denied legal counsel and the opportunity to prepare a defense, in violation of rights guaranteed by the ICCPR, the Body of Principles and the Vietnamese Constitution. Article 14 (3)(b) of the ICCPR embodies the right to prepare a defense and to legal counsel.\textsuperscript{73} The right to counsel and to prepare a defense is also recognized by Principles 17 and 18 of the Body of Principles.\textsuperscript{74} Furthermore, Article 132 of the Vietnamese Constitution provides, in relevant part, that “[t]he right of the defendant to be defended is guaranteed[,] [t]he defendant can either conduct his own defense or ask someone else to do it.”\textsuperscript{75}

\textsuperscript{70} As noted, the specific length of the trial is unclear. However, all sources confirm that the trial was closed to the public. See note 28, above.
\textsuperscript{71} See, e.g., Antero Oliva v. Peru, Opinion No. 22/1998, at ¶ 6 (c).
\textsuperscript{72} ICCPR, supra note 33, at Art. 14 (1).
\textsuperscript{73} Everyone shall be entitled, in full equity, “[t]o have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing.” ICCPR, supra note 33, at Art. 14 (3)(b).
\textsuperscript{74} Body of Principles, supra note 35, at Principles 17 and 18.
\textsuperscript{75} Constitution of the Socialist Republic of Vietnam, at Article 132.
The court convicted Father Ly without affording him the protection of legal representation or the opportunity to present a defense. The Working Group has strongly condemned similar proceedings. In *James Mawdsley v. Myanmar*, the Working Group stated that “[t]he allegations un-rebutted, demonstrate the violation of all norms of fair play and justice . . . his trial was a mockery of all legal principles applicable in jurisdictions where the rule of law prevails.” In that case, the Government of Myanmar failed to inform Mr. Mawdsley of his arrest and he was detained incommunicado without legal or other representation.

Similarly, the trial of Father Ly mocks the rule of law. The Government denied Father Ly legal counsel or representation before and during the trial. The Government closed the trial to the public. Furthermore, according to reports the Government did not even permit Father Ly to defend himself. However, a full account cannot be provided because of the shroud of secrecy surrounding the trial. The Working Group has previously held that the right to engage a lawyer of one’s choosing is essential, and if violated casts doubt on the fairness of the entire trial. The Government’s entire denial of the right to counsel is an even more grave offense.

The Government presented no legitimate reason to deny Father Ly legal representation and the opportunity to prepare a defense. As a result, the Government did not meet its obligation to respect and ensure Father Ly’s right to legal representation and his right to prepare and present a defense.

c. Denial Of An Independent Court And Without The Presumption Of Innocence

Father Ly was tried before a partial tribunal and was not granted the presumption of innocence required by international law. The ICCPR and the UDHR both contain the right to a hearing in an independent and impartial tribunal. Article 130 of the Vietnamese Constitution provides that “[d]uring a trial the judges and assessors are independent and shall obey the law.”

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76 This fact is consistent with Vietnam’s past practice. The Human Rights Committee has noted that the Government does not respect the right of detainees to legal counsel. See Concluding Observations, supra note 36, at ¶ 13.


78 See *Makhbubaa Kasymova*, Opinion No. 32/2000, at ¶ 10 (Government of Uzbekistan failed to provide notice of the trial As a result, Ms. Kasymova did not engage a lawyer or otherwise prepare a defense).


80 Article 14 (1) of the ICCPR states, in relevant part, that “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.” ICCPR, supra note 33, at Art. 14 (1). See also UDHR, supra note 33, at Art. 10 (“Everyone is entitled to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”).

Furthermore, the ICCPR, the UDHR, and the Body of Principles specifically note the right to be presumed innocent until proven guilty.  

One of the purposes of a public trial is to legitimize the judgment. Exposing the judicial process to the public provides an inherent safeguard for the accused. Public scrutiny creates an incentive for the courts to follow the rule of law. In the context of Vietnam, the Human Rights Committee has expressed deep apprehension about the quality and fairness of the judicial system in its consideration of the Government’s periodic report regarding the issue of fundamental rights in Vietnam. For example, the Committee noted that the judiciary is susceptible to political pressure and the “Supreme People’s Court is not independent of Government influence.” Furthermore, judges lack job security and are subject to discipline for “errors in judicial decision.” In addition, the Committee is concerned that the “judiciary seeks the opinion of the National Assembly’s Standing Committee in regard to the interpretation of laws and that the Standing Committee is responsible for setting criteria and instructions which are binding for the judiciary.” In other words, the accused is denied real guarantees of judicial independence and impartiality.

Moreover, there is no basis to presume that the Government extended the presumption of innocence to Father Ly. Based on its statements and actions in this case, it is clear that the Government condemned Father Ly to prison long before the trial.

For the reasons stated above, Father Ly was denied his right to a fair and impartial trial and his detention on this basis is arbitrary.

4. Conclusion

For the reasons stated herein, Father Ly’s detention and arrest violate guarantees found in both Vietnamese and international law. His case qualifies for Category II and Category III consideration by the Working Group. Father Ly should be immediately released from detention. Pending this result, Father Ly’s conviction should be expunged and a new trial should be

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82 “Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law.” ICCPR, supra note 33, at Art. 14 (2). “Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.” UDHR, supra note 59, at Art. 11 (1). “A detained person suspected of or charged with a criminal offense shall be presumed innocent and shall be treated as such until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.” Body of Principles, supra note 35, at Principle 36 (1).

83 See Concluding Observations, supra note 36.

84 Id. at ¶ 9.

85 Id. at ¶ 10.

86 Id. at ¶ 9.
conducted in a manner that conforms to the internationally-recognized rights and fundamental freedoms discussed above and embodied in the ICCPR, UDHR, and Body of Principles.

V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN.

The Thua Thien Hue Provincial Court convicted Father Ly after a two-hour, closed trial. Father Ly was not permitted to defend himself or use a lawyer. Unfortunately, we cannot provide a complete description of the trial or discuss any internal steps Father Ly might have already attempted because of the shroud of secrecy surrounding his conviction and imprisonment.

We submit that based on what is known, the Government is likely to deny any real access to internal justice. Father Ly did not receive a fair trial, and subsequent appeals are futile in this situation. Father Ly’s only real opportunity to appeal the actions of the Government will come through external means.

VI. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER, IF POSSIBLE).

Glenn Kaminsky
Jared Genser
Stephanie Genser
Freedom Now
P.O. Box 30126
Bethesda, Maryland 20824-0126
United States of America
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Fax:  (001) 301-897-4774
gkaminsky@freedom-now.org
Exhibit A

AUTHORIZATION OF REPRESENTATION

I, [NAME], hereby authorize Freedom Now to represent Father Van Ly to pursue legal, political, and public relations efforts on his/her behalf. I am the sister of Father Thaddeus Nguyen Van Ly.

[Signature]

Date: 9/12/07

RECEIVED TIME Sep. 10, 10:44AM
PRINT TIME Sep. 10, 11:36AM
Exhibit B

Socialist Republic of Vietnam
Independence - Freedom - Happiness
People's Provincial Executive Committee
Thua Thien Hue Province

No. 401/QD-UB Hue, February 26, 2001

Decree of the Chairman of the People's Provincial Executive Committee
Administrative Arrest
***
The Chairman of the People's Provincial Executive Committee

" In accordance to the Law of the Organization of the People's Council and the People's Executive Committee dated June 21, 1994;
" In accordance to the Codes of Penalties for Administrative Violations dated July 06, 1995
" In accordance to the Decree 31/CP dated April 14, 1997 by the Government on Administrative Arrest;
" On recommendations of the Provincial Consultative Council in Report No. 01/TTr-HDTV dated February 17, 2001 and on recommendations of the Chairman of the People's District Executive Committee, Phu Vang District, in Report No. 06/BC-UB dated February 14, 2001, on Administrative Arrest;

Decree

Article 1: Apply Administrative Arrest to the following person:

Name: Nguyen Van Ly, Male, ID No. 190061567
Alias: None
Born: On May 15, 1946 at Ba Binh, Vinh Chap Village, Vinh Linh District, Quang Tri Province.
Origin: Ba Binh, Vinh Chap Village, Vinh Linh District, Quang Tri Province.
Approved residential location: Truyen Nam Hamlet, Phu An Village, Phu Vang District, Thua Thien Hue Province.
Current residence: Truyen Nam Hamlet, Phu An Village, Phu Vang District, Thua Thien Hue Province.
Ethnic group: Vietnamese, Religion: Roman Catholic
Education: 12/12
Profession: Priest.
Workplace: An Truyen Parish, Phu An Village, Phu Vang District
Reason for Administrative Arrest: Citizen Nguyen Van Ly has had activities, which violate laws and threaten national security, but in considering that time is required to educate and to create conditions for Mr. Ly to correct his mistakes, an Administrative Arrest under current provisions shall apply.
Article II: The term of the Administrative Arrest shall be 24 months, from the time Mr. Nguyen Van Ly presents himself to the People's Village Executive Committee, Phu An Village.

Location for the implementation of the Administrative Arrest: Truyen Nam Hamlet, Phu An Village, Phu Vang District, Thua Thien Hue Province.

Article III: Mr. Nguyen Van Ly shall bear the responsibility of complying to all measures determined under the Administrative Arrest Decree and shall have the rights to appeal within 10 days after receiving this Decree.

Article IV: This decree shall be effective from February 27, 2001.

Article V: The Chief of Staff of the People's Provincial Executive Committee, the Chairman of the People's District Executive Committee, Phu Vang District, The Chief of Police, Phu Vang District, the Chairman of the People's Village Executive Committee, Phu An Village and Mr. Nguyen Van Ly shall bear the responsibility of implementing this decree.

For The Chairman of the People's Provincial Executive Committee, Thua Thien Hue Province, Vice-Chairman

Signature

Nguyen Xuan Ly

Unofficial Translation obtained from Amnesty International
http://web.amnesty.org/library/print/ENGASA410052001
Exhibit C

The People’s Provincial Executive Committee  Socialist Republic of Vietnam
Thua Thien – Hue  Independence-Freedom-Happiness
No. 961 / QD-UB  Hue, 09 May, 2001

Decree by the Chairman of the People’s Provincial Executive Committee
“Re: Suspension of Reverend Nguyen Van Ly’s religious responsibility and functions during the
Administrative Detention term”

The People’s Provincial Executive Committee

In reference to the Organization Bylaws of the People’s Provincial Council and the People’s
Provincial Executive Committee dated 21/06/1994;

In reference to Article 16, Chapter II, Decree No. 26/CP dated 19/04/1999 by the Government
“on religious activities”;

In reference to Decree No. 401/QD/UB dated 26/02/2001 by the Chairman of the People’s
Provincial Executive Committee / Thua Thien-Hue on the Administrative Detention of Reverend
Nguyen Van Ly;

Decree

Article I: Reverend Nguyen Van Ly “shall not carry any religious responsibility and functions”
at the An Truyen parish, Phu An village, Phu Vang district and in the entire province of Thua
Thien – Hue during the term of the Administrative Detention, according to Decree No. 401/QD-
UB dated 27/02/2001 by the Chairman of the People’s Provincial Executive Committee / Thua
Thien-Hue.

Article II: This Decree shall become effective from the date it is signed.

Article III: The Chief of the Office of the People’s Provincial Executive Committee, The
Chairman of the Religious Affairs Committee, the Chairman of the People’s Executive
Committee of Phu Vang district, , the Chairman of the People’s Executive Committee of Phu An
village, responsible organizations and Reverend Nguyen van Ly shall implement this Decree.

On the behalf of the People’s Provincial Executive Committee / Thua Thien-Hue
For the Chairman
Vice Chairman
Signed and sealed
Le Viet Xe

Unofficial Translation obtained from the International Committee for Religious Freedom in
Vietnam (http://www.tudotgvn.org/English/Decree_961.html)
Exhibit D

Decree No. 31-CP of April 14, 1997 of the Government issuing the regulation on administrative probation

THE GOVERNMENT
Pursuant to the law on Organization of the Government of September 30, 1992;

Pursuant to the Ordinance on the Handling of Administrative Violations of July 6, 1995

At the proposal of the Minister of the Interior

DECREES:
Article 1
To issue together with this Decree the "Regulation on Administrative Probation".

Article 2
This Decree takes effect after 15 days from the date of its signing. The earlier stipulations on administrative probation are now annulled.

The Minister of Interior shall uniformly direct and assist the Government in guiding and supervising the implementation of this Decree.

Article 3
The Ministers, the Heads of the ministerial-level agencies, the Heads of the agencies attached to the Government, the Presidents of the People's Committees of the provinces and cities directly under the Central Government shall have to implement this Decree.

REGULATION ON ADMINISTRATIVE PROBATION
(issued together with Decree No.31-CP of April 14, 1997 of the Government)

CHAPTER 1
GENERAL PROVISIONS
Article 1
Administrative probation is an administrative measure to compel persons who commit offenses as prescribed in Article 2 of this Regulation to reside and work for their living in certain localities and place themselves under the management and education by the local administration and people.

The probationary period ranges from 6 months to 2 years.

Article 2
The administrative probation is imposed on persons who commit offenses against the national security as prescribed in Chapter 1 of the Part on Offenses of the Penal Code which are,
however, not serious enough to be examined for penal liability. (see note)

The administrative probation shall not apply to persons under 18 years of age.

Article 3
The administrative probation must be applied to right objects, within the competence and in accordance with procedures and order prescribed in the Ordinance on the Handling of Administrative Violations and this Regulation.

All acts of infringing upon the life, health, honor and dignity of the administrative probationer are strictly forbidden.

Article 4
Decisions on administrative probation shall be executed at the places of residence of probationers. In cases where probationers are deemed not to be allowed to reside in areas which are important and crucial to the national politics, economy, security and defense or in areas they have conditions to relapse into offenses detrimental to the national interests, the Presidents of the People's Committees of provinces and cities directly under the Central Government (commonly referred to as the provincial level) shall decide to put them on administrative probation at other places but still within the same provinces or cities. Upon completing the execution of probation decisions, the probationers can return to their former places of residence.

The People's Committee of districts, provincial capitals and cities (commonly referred as the district level) where the person under administrative probation resides are responsible to create favorable conditions for the probationer to make his/her living.

CHAPTER II
PROCEDURES FOR CONSIDERING, DETERMINING AND ISSUING ADMINISTRATIVE PROBATION DECISIONS AND REDUCING THE ADMINISTRATIVE PROBATION TERMS

Article 5
The Presidents of district People's Committees shall have to make dossiers on persons who should be put on administrative probation, then submit them to the Presidents of provincial People's Committees for decision.

The district police agencies and the People's Committees of communes, wards and townships (commonly referred to as the commune level) where persons who need to be put on administrative probation reside shall have to help the Presidents of district People's Committees in gathering documents and making such dossiers.

Article 6
An administrative probation dossier shall compromise:

Summarised curriculum vitae of the person who needs to be put on administrative probation;
Records on offenses committed by the person who needs to be put on administrative probation;
Comments of the People's Committee of the commune where the person who needs to be put on
administrative probation resides;
Comments of the district chapter of the Fatherland Front;
Comments of the district police;
Proposal of the President of the district People's Committee.

Article 7
Within 10 days from the date of receiving dossiers handed by the district police, the President of
the People's Committee shall have to consider and make a written proposal and submit it to the
president of the provincial People's Committee.

Article 8
The President of the provincial People's Committee shall set up a Consulting Council composed
of representatives of the provincial police command, the justice service and the provincial
chapter of the Fatherland Front. The representatives of the provincial police command shall act
as standing member of the Consulting Council.

Article 9
The standing member of the Consulting Council shall have to prepare necessary documents,
convene and chair the council's meetings, make minutes thereon and write a proposal for
decision on the administrative probation to the President of the provincial People's Committee.

Article 10
Within 30 days from the date of receiving the documents the Consulting Council meets to
examine the dossier and make a report to be submitted to the President of provincial People's
Committee for decision. The report submitted to the President of provincial People's Committee
must clearly state the full name, date of birth, place of residence, occupation and summarized
record on the offenses committed by the person who needs to be put on administrative probation,
comments and conclusion of the Consulting Council, the time limit and place for enforcing the
probation decision.

If necessary the meeting may be postponed so as to further clarify the dossier on the person who
needs to be put on administrative probation.

The Consulting Council shall work collectively. Meetings of the Consulting Council shall be
attended by a representative of the provincial People's Procuracy. The minutes of the meetings
must record the comments made by the Council's members and the representative of the People's
Procuracy.

Article 11
The President of provincial People's Committee shall consider and issue the decision on
administrative probation within 10 days from the date of receiving the written proposal on
administrative probation from the Consulting Council.
In cases where the administrative probationer has to carry out the decision in another place, before issuing the probation decision, the President of the provincial People's Committee shall urge the President of the People's Committee of the district where the probation decision is to be enforced to prepare necessary conditions for the administrative probationer to execute the decision.

The administrative probation decision must clearly state the date of the issue, the full name and position of the decision-issuing person, the full name, date of birth, occupation, place of residence of the administrative probationer, reason(s), clause(s) and title of the legal document applied, the time limit and place for enforcing the decision, the right of the probationer to make complaints, place and time limit for making complaints.

Article 12
Within 3 days from the date of signing the administrative probation decision, the President of the provincial People's Committee shall have to send copies of such decision to the probationer, the provincial People's Procuracy, the district People's Committee and police agency and the People's Committee of the commune where the probationer resides and where he/she executes the administrative probation decision.

Article 13
An administrative probationer, when he has executed half of the probation term and if he has made marked progress or has made recorded achievements as defined below, may be re-examined by the President of the provincial People's Committee on proposal of the President of the district People's Committee for reducing the probation term.

An administrative probationer who has made marked progress is the one who sincerely repents his/her offenses, actively participates in labor and study, strictly abides by provisions of law and the Regulation on Administrative Probation.
An administrative probationer is considered having recorded achievements if he/she has denounced acts of offense committed by other persons, helped the police in investigating and detecting crimes, made technical innovations applicable for production, saved the life of another person from a dangerous circumstance or protected the State, collective or individual property from storms and floods, fires or epidemics.
The reduction shall not exceed one third of the probationary term.

Article 14
The provincial police agency and the President of the People's Committee of the commune where the probationer resides shall have to assist the President of the district People's Committee in considering and writing report to be submitted to the President of the provincial People's Committee for considering the reduction of the probationary term for the probationer.

The provincial police chief shall have to assist the President of the People's Committee of the same level in considering the reduction of the probationary term at the proposal of the President of the People's Committee of the district where the probationer executes the probation decision.
CHAPTER III
SPECIFIC PROVISIONS REGARDING ADMINISTRATIVE PROBATIONERS

Article 15
Within 5 days from the date of receiving the administrative probation decision, the probationer shall have to present himself/herself to the People's Committee of the commune where he/she executes the probation decision. The probationary term shall be calculated from the date the probationer presents himself/herself.

The commune People's Committee shall have to notify the administrative probationer of the decision and the content of the Regulation on Administrative Probation for execution.

If the administrative probationer fails to present himself/herself in time without plausible reason(s), the commune People's Committee shall summon him/her to its office, make a record thereof and force him/her to execute the decision.

Article 16
The administrative probationer shall have to strictly obey the laws of the state and the Regulation on Administrative Probation and be entitled to study and work so as to become a good person.

Article 17
During the probationary period, the administrative probationer must reside and work for his/her living at the commune, ward or township where the administrative probation decision is enforced and shall be subject to the management and education by the local administration and people, be allowed to travel only within the area where he/she is put on the probation. The probationer who wishes to travel outside the commune, ward or township with plausible reason(s) shall have to apply for permission and comply with the following regulations:

The President of the commune People's Committee shall issue permits for the travels within the district or provincial town;
The President of the district People's Committee shall issue permits for the travels within the province or city directly under the Central Government.
The President of the provincial People's Committee shall issue permits for the travels outside the province or city directly under the Central Government.
In cases where the administrative probationer travels outside the place where the probation decision is enforced and needs to stay in the place of his/her destination, each travel must not exceed 5 days and the total of travel days must not exceed one-fifteenth (1/15) of the probationary duration.

In cases where the administrative probationer has to travel daily to a certain place for study or labor or for other plausible reasons, the President of the local People's Committee shall consider and monthly issue the permit.
The permit issued by the President of the People's Committee to the administrative probationer must clearly state the time limit, the destination and permitted travel route.

After obtaining the permit from the President of the People's Committee, the administrative probationer shall have to strictly comply with the provisions defined in the permit; in case of a temporary residence, he/she must present himself/herself and immediately produce such permit to the People's Committee of the commune where he/she arrives. Upon the expiry of the temporary residence period, the administrative probationer shall have to get the certification of the President of the commune People's Committee for such temporary stay.

If the probationer leaves the place where the probationer decision is enforced without permission, the period of his/her absence from such place shall not be calculated into the duration of executing the administrative probation decision.

Article 18
Once a month the administrative probationer shall have to present himself/herself and report the execution of the administrative probation decision to the People's Committee of the commune where the probation decision is enforced.

The administrative probationer must present himself/herself when requested by the commune People's Committee at its office. If he/she fails to present himself/herself without plausible reasons, the commune People's Committee shall summon him/her to its office, make a record and request him/her to write self-criticisms.

Article 19
The administrative probationer is not allowed to hold leading positions in administrative agencies, social or mass organizations and is not allowed to practice special businesses or a number for other professions with which the probationer shall have conditions to commit offenses.

Article 20
The administrative probationer shall have the right to make complaints or denunciations against acts of violating the regulations on administrative probation by probation officer(s) and/or agencies as prescribed in the Ordinance on the Handling of Administrative Violations.

Article 21
An administrative probationer who violates the regulation on administrative probation or commits other offenses shall, depending on the nature and seriousness of the violation, be subject to an administrative sanction or examined for penal liability.

CHAPTER IV
RESPONSIBILITY OF AGENCIES ENFORCING ADMINISTRATIVE PROBATION DECISIONS
Article 22
The People's Committee of the commune where the probationer executes the decision shall have
to manage, educate and create favorable conditions for the probationer to make his/her living and
once every three months write a report to the district People's Committee on the management and
education of the administrative probationer who is observing the probation regulations in its
locality.

The commune police shall help the commune People's Committee in making record dossiers and
coordinate with the local organization and people as well as the family of the probationer in
managing and educating the probationer.

Article 23
The district People's Committee shall have to direct and supervise the commune People's
Committee in implementing the regulations on administrative probation and once every three
months report to the provincial People's Committee on the execution of the administrative
probation.

Article 24
The provincial People's Committee shall have to direct and supervise the lower-level People's
Committee in implementing the regulations on probation and annually report to the Ministry of
the Interior on the execution of the administrative probation in its locality.

Article 25
The police agency shall have to help the People's Committee of the same level with enforcing the
administrative probation decisions of the President of the provincial People's Committee.

The probation dossiers shall be kept by the police.

Article 26
Upon the expiry of the probationary term, the commune People's Committee shall issue papers
certifying the completion of the execution of the probation decisions to the probationers, and at
the same time send copies to the district People's Committees and the Presidents of the provincial
People's Committees.

Article 27
Agencies and persons competent to enforce the administrative probation decisions must strictly
comply with the regulations on probation and must not hamper or obstruct the daily life of the
probationers. If they commit offenses, they shall, depending on the nature and seriousness of the
violations, be disciplined or examined for penal liability. If they cause material damages to the
administrative probationer, they shall have compensate them.

Article 28
The Ministry of the Interior shall have to guide and supervise the implementation of the Regulation, issue forms of decision, certification, permit, summon and other forms involving the application of the administrative probation.

On behalf of the Government
The Prime Minister

VO VAN KIET

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Unofficial translation from the Vietnamese original
Exhibit E

Decree No. 26/1999/ND-CP of April 19, 1999
on religious activities

THE GOVERNMENT
Pursuant to Article 70 of the 1992 Constitution of the Socialist Republic of Vietnam;
Pursuant to the Law on Organization of the Government of September 30, 1992;

To ensure the freedom of belief and religion of citizens, creating conditions for religions
organizations to operate according to law;

At the proposal of the Head of the Government Committee for Religions Affairs,

DECREES

CHAPTER 1
GENERAL PROVISIONS

Article 1
The State of the Socialist Republic of Vietnam ensures the freedom of belief and religion and the
freedom of non-belief and non-religion.

Discrimination on belief and religious grounds is strictly forbidden.

Article 2
Religious and non-religious citizens are equal before law, enjoy all citizen's rights and have the
responsibility to discharge all citizen's obligations.

Article 3
Religious activities must obey the law of the State of the Socialist Republic of Vietnam. Article
4. Religious activities in the legitimate and lawful interests of the believers are assured.

Religious activities in the interests of the Motherland and the people are encouraged. Article 5.
All acts of violation of the freedom of belief and religion, all acts of misusing belief and religion
to oppose the State of the Socialist Republic of Vietnam, prevent believers from discharging
their citizen's obligations, sabotage the cause of unity of the entire people, and harm the healthy
culture of the nation, and all superstitious practices shall be dealt with according to law.

CHAPTER 2
SPECIFIC STIPULATIONS

Article 6
Every citizen has the freedom to embrace or not to embrace a religion and to quit or change
his/her religion.
Article 7
1. Religious believers have the right to carry out religious activities not contrary to the undertakings, policies and laws of the State, to conduct rites of worship and prayers at the family, take part in religious activities, study religious teachings and ethics, and attend to religious rites at the places of worship.

2. Religious believers must not misuse belief and religion to act in contravention of law and must not engage in superstitious activities.

Article 8
1. Religious organizations which have set their principles, objectives and lines of activity, have an organizational structure conforming to law and are permitted to carry out their activities by the Prime Minister shall be protected by law.

2. Religious activities at the places of religious worship (sessions of prayers, services, sermons, study of religious preachings) which are registered on an annual basis and conducted within the enclosure of the places of worship shall not be subject to request for permission.

3. Religious activities which are held beyond the enclosure of the places of worship or are not registered on an annual basis must be permitted by the competent State agency.

4. Religious organizations are entitled to raise their own financial resources from the voluntary support of individuals and organizations and from other sources of lawful income.

The organization of collections must be permitted by the Chairman of the Provincial People's Committee. Coercing religious believers into contribution is strictly forbidden. The management and utilization of the financial resources obtained from the above sources shall be conducted according to stipulations of law.

5. Religious organizations which act at variance with the principle, objective, line of worship and organizational structure permitted by the Prime Minister shall have their operations suspended. The individuals responsible for these violations shall be dealt with according to law.

Article 9
Meditation sessions of priests in the diocese, or of priests coming from various establishments and orders of Catholicism, the spiritualization of ministers and missionaries of Protestantism, and purification sessions of Buddhist bonzes and nuns, and similar religious activities of other religions shall be conducted according to the regulations issued by the provincial-level State management agency on religion.

Article 10
1. Congresses and conferences of religious organizations at national level or related to many provinces and centrally-run cities must be permitted by the Prime Minister.
2. Congresses and conferences of religious organizations at local level must be permitted by the Chairman of the provincial People's Committee.

Article 11
1. The State protects the places of worship of religious organizations.

2. Religious organizations have the responsibility to preserve and recondition the places of worship.

3. Houses, land and other assets which have been transferred by religious organizations and individuals to State agencies for management and use in implementation of the policy of the State of the Democratic Republic of Vietnam, the Provisional Revolutionary Government of the Republic of South Vietnam and the State of the Socialist Republic of Vietnam, or which have been offered or donated to the State, come under the ownership of the State of the Socialist Republic of Vietnam.

Article 12
1. The repairs and reconstruction at the places of worship which are classified as historic or cultural relics or places of scenic beauty shall comply with the stipulations of the "Ordinance on the use of historical and cultural relics and places of scenic beauty" of March 31, 1984.

2. Minor repairs and retouches that do not change the structure or architecture of the construction at the places of worship shall be conducted by the worshipping establishment itself after notifying the Chairman of the People's Committee of the local commune.

3. Major repairs which change the structure or architecture of the construction at the places of worship, the restoration of worshipping places abandoned or destroyed by war, natural disasters, and accidents; the establishment of places of worship and the building of worshipping constructions (houses, statues, stelae, monuments, towers and other constructions for worshipping purposes) must be permitted by the Chairman of the People's Committee of provincial level.

4. The organization of collections to create financial resources for the building and repair of the place of worship must obtain the permission of the Chairman of the People's Committee of provincial level.

Article 13
Normal religious practice is assured at the classified religious worshipping places as stipulated in the "Ordinance on the protection and use of historical and cultural relics and places of scenic beauty" of March 31, 1984.

Article 14
1. The printing and publication of bibles, religious books and other publications, the production, business and export-import activities in religious cultural articles, products used in religious
practice shall be carried out according to regulations of the State on printing, publication, production, business and import-export of cultural products and goods.

2. It is forbidden to print, produce, deal in, circulate and store books, magazines and cultural products with contents which oppose the State of the Socialist Republic of Vietnam, which cause religious division and disruption of solidarity among the people.

Article 15
1. Religious dignitaries and clergy have the right:

- To carry out their religious functions and roles within the domain of their responsibility which have been approved by the competent State agency;

- To be considered for reward by the State for services rendered to the building of the all people solidarity, national construction and defense;

- To enjoy all political, economic, cultural and social rights of a citizen.

2. Religious dignitaries and clergy have the obligation:

- To carry out exactly their functions and roles in the domain of their religious responsibility already approved by the competent State management agency and have to bear responsibility before law for all their religious activities within this area of responsibility.

- To encourage the faithful to execute properly the policies and laws of the State.

Article 16
Persons assuming wrongfully the name of religious dignitaries and clergy shall be sanctioned administratively or examined for penal liability.

Persons who are serving prison terms or who are under administrative probation are not allowed to carry out religious functions or roles. The restoration of the religious functions or roles of those who have completed the term of these sanctions must be proposed by the religious organization that manages them and approved by the competent State management agency.

Article 17
1. Religious dignitaries and clergy can conduct economic, cultural and social activities like any other citizen.

2. Religious dignitaries, clergy and organizations shall conduct charity activities according to prescriptions of the State. The charity establishments sponsored by religious dignitaries, clergy and organizations shall operate under the guidance of competent State agencies.

Article 18
1. The opening of schools to train religious dignitaries and clergy must be permitted by the Prime Minister.

2. The organization and activities of the schools training religious dignitaries and clergy shall conform to the prescriptions of the Government Committee for Religious Affairs and the Ministry of Education and Training.

3. The schools training religious dignitaries and clergy shall carry out the regulations, policies and laws of the State under the guidance, supervision and inspection of the specialized agencies of the State and provincial People's Committees.

Article 19
1. Religious orders (or similar forms of collective religious practice) shall have to ask for permission and obtain the approval of the competent State agency to conduct their activities.

2. The admission of individuals into monastic life shall conform with the stipulations of the Government Committee for Religious Affairs.

Article 20
1. The bestowal of religious titles of the Most Venerable in Buddhism, Cardinal, Bishop and Curate in Catholicism and equivalent titles and posts in other religions must be approved by the Prime Minister.

2. The investing of religious dignitaries and clergy not covered by Clause 1 of this Article must be approved by the Chairman of the provincial People's Committee.

Article 21
The appointment and transfer of dignitaries and clergy and professional religious activists including those elected by followers shall have to be approved by the Chairman of the People's Committee in charge of administrative management of the concrete area of operation of these persons.

Article 22
1. Religious organizations and individuals shall have to report to the Government Committee for Religious Affairs on the instructions of foreign religious organizations and individuals and shall carry out these instructions according to the agreement of the Government Committee for Religious Affairs.

2. Religious dignitaries and clergy who are invested, promoted and appointed by foreign religious organizations and individuals shall have to be approved by the Prime Minister.

Article 23
International activities of religious organizations and individuals shall have to comply with law and conform with the foreign policy of the State of the Socialist Republic of Vietnam on the
basis of respect for national independence and sovereignty, peace, stability, cooperation and friendship.

Article 24
1. Religious organizations and individuals in Vietnam that want to invite foreign religious organizations and individuals into this country must obtain the approval of the Government Committee for Religious Affairs.

2. Organizations and individuals in Vietnam that take part in the membership of foreign religious organizations or in religious activities or activities related to religions in foreign countries must comply with the regulations of the Government Committee for Religious Affairs.

Article 25
1. Foreigners who legally reside in Vietnam are allowed to carry out religious activities according to Vietnamese law. The gathering into separate groups to conduct religious activities at the places of worship must be permitted by the Chairman of the provincial People's Committee.

2. Foreign organizations and individuals including religious organizations and individuals that enter Vietnam to conduct activities outside the religious domain are not allowed to organize and operate or take part in organizing and operating religious activities and to propagate religion.

Article 26
1. Aid activities of foreign religious organizations or related to foreign religions shall have to conform with the current policy and regime of aid management and to go through the agencies entrusted by the Vietnamese Government with the management of aid.

2. Religious organizations and individuals in Vietnam that want to receive purely religious aid must obtain permission from the Prime Minister.

CHAPTER 3
IMPLEMENTATION PROVISIONS

Article 27
This Decree replaces Decree № 69/H$BT of March 21, 1991 of the Council of Ministers (now the Government) and takes effect 15 days after its signing. The earlier stipulations which are contrary to this Decree are now annulled. Article 28. Ministers, Heads of ministerial-level agencies; Heads of the agencies attached to the Government, Chairmen of the People's Committees of provinces and centrally-run cities shall have to implement this Decree.

Article 29
The head of the Government Committee for Religious Affairs shall guide, promote and inspect the implementation of this Decree.

For and on behalf of the Government
Prime Minister

PHAN VAN KHAÍ

(signed and sealed)

Unofficial translation from the Vietnamese original


Downloaded from the official website of the Communist Party of Vietnam
http://www.cpv.org.vn
Exhibit F

Testimony of Rev. Thaddeus Nguyen Van Ly
Before the U. S. Commission on International Religious Freedom
Senate Dirksen Office Building, Room 124, Washington D.C.
February 13, 2001

Committee for Religious Freedom in Vietnam
1336 North Capitol
Washington, DC 20001
Tel: 301-365-2489

Ladies and gentlemen,

It is a great honor to be perhaps the first Vietnamese Roman Catholic priest living under a communist regime to testify before your Commission at a location that represents the ideals of democracy. I would like to send my greetings of the New Millennium to you and to the people of the United States.

In the opening statement of the Declaration of Independence of the Democratic Republic of Vietnam on September 2, 1945, Ho Chi Minh tried to win your nation's support by solemnly quoting the second paragraph of Declaration of Independence of the United States: "All men are created equal. They are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."

In less than 250 years since her independence, your country has become the shining example of freedom and independence-anyone who wants to know what freedom and independence are only needs to visit your country and her people.

As an eyewitness living in Communist Vietnam for more than 25 years, I would like to boldly and frankly present my ideas on three issues as your invitation letter has suggested.

I. The realities of the religions in Vietnam in the new millennium.

In order to achieve independence, liberty and happiness for the Vietnamese people, Ho Chi Minh chose Communism. This is a fundamental contradiction because Communism calls for a dictatorial regime that does not tolerate the concept of true liberty. Freedom of religion will be absent for as long as the Vietnamese government hangs on to its Communist ideology.

Since their victory of April 30, 1975, the Vietnamese Communists have extended its oppressive policy toward the different religions to South Vietnam. Laws and decrees have been promulgated to confine, restrict, or ban religious activities. The government has falsely accused clergy members and lay people as a pretext to detain and imprison those who protest its oppressive policy, or those who teach catechism, lead a church choir, or join a seminary. They are banished
to concentration camps for years. This policy has been on-going for nearly 50 years (from 1954 to 2001).

The government has used many ruses to divide and politicize the Cao Dai, Catholic and Protestant Churches; to split the Buddhist Church in two—the Unified Buddhist Church of Vietnam (UBCV) and the Buddhist Church of Vietnam (BCV); and to set up the puppet Hoa Hao Buddhist Committee of Representatives, which consists of mainly Communist cadres, to claim leadership over five million Hoa Hao Buddhists. The government has requisitioned for its arbitrary use numerous facilities and properties belonging to the different Churches. With regard to the Catholic Church, the communists have severely restricted her fundamental rights. The many petitions issued by the Catholic Bishops Conference of Vietnam (CBCV) since 1980 have unmasked the Government's policy. This I have analyzed in my Ten-Point Proclamation released on November 24, 1994 and the follow-up proclamation dated November 24, 2000, which I have sent to your Commission. Following is the summary of the points made in those two statements.

1. The Vietnamese Communists have brutally interfered with CBCV's authority to organize its annual Pastoral Assembly: the Bishops must apply for permission to organize and the Assembly's agenda must be pre-examined by the Government. After the Assembly, the minutes must be submitted to the Government. All reports from the Assembly must be vetted by the Government before they can be released to the Catholic community and the public.

2. The Vietnamese communists have brutally interfered with CBCV's authority to appoint bishops and ordain of priests. The Holy See had to negotiate with the Vietnamese Government for years on each bishop appointment. The Government often rejects candidates selected by the Church and only accepts those they are pleased with. The Government counts on The Vatican having to yield eventually so as to prevent excessive harm to dioceses facing extended absence of a bishop. The dioceses of Hung Hoa, Hai Phong, and Bui Chu ... have not had a bishop for more than eight years and The Vatican is not allowed to appoint any.

Anyone intending to join a seminary or any candidate for priesthood elected by the Church must have the approval of and their background examined by the Public Security Police. These candidates must prove their docility and show no sign of resisting the regime. The police give special preference to those agreeing to serve as informants for the Government within the seminary. An applicant's chance would increase if he can afford to bribe the authorities. Applicants having family members who worked for defunct Republic of Vietnam or holding nonconformist views stand no chance of being approved for admission into a seminary or priesthood regardless of their qualifications and moral virtues and regardless of the Church's support. I know many young men who have repeatedly passed the Church-administered entrance exam with top scores but have not been approved for admission into any seminary. Any bishop intending to ordain a seminarian into priesthood or to assign a priest to a mission must ask for permission and negotiate with the Government in a protracted process, which in some cases has taken nearly 20 years without results. The approval criteria imposed by the Government has nothing to do with the moral quality that the Church requires of candidates for priesthood. As a result, the number of newly ordained priests has drastically decreased and is currently insufficient to meet the Church's pastoral needs. Aging priests die or retire without successors.
Many priests in rural regions have to minister more than ten parishes, all distant from each other. There is hardly normal religious life in these parishes. It is very difficult for priests to change their residence for new assignments.

3. Groups of faithful in new economic zones or in remote areas are anxious to have mass for Christmas and Easter each year but their most basic spiritual need is rarely met. The atheist Government wants these people not to think of religion, which it considers harmful and dangerous.

4. A Mass that brings together the faithful from different places and priests desiring to say mass in places other than their usual assigned location must have prior government permission.

5. The Government still keeps many priests, clergy members, and lay people in prison or under house arrest. (Committee for Religious Freedom in Vietnam has made this list available to your Commission.)

6. The Government brutally violates the Church's freedom of the press. No local or national publication of the Church is allowed. As a result, The Church cannot fulfill its evangelical duties. Before 1975, there were more than a dozen Catholic newspapers and magazines in South Vietnam. Today there are only two weekly magazines, Cong Giao & Dan Toc (The Catholics & The People) and Nguai Cong Giao Viet Nam (The Vietnamese Catholics), which are created and financed by the Government. CBCV's only publication is the newsletter Ban Tin Hiep Thong (The Communion News), of which the first six issues were "illegal." The Government gave the Church temporary permission to publish issues 7-9 from February to September 2000. In October 2000, the government rescinded its permission and discontinued this only publication of The Church. There is no freedom of speech in my country. Churches of course have none. This kind of statement that I am presenting to you cannot be circulated in Vietnam because no photocopying store or printing shop would dare to reproduce it. Nobody dares to keep it, fearing for his own life and the safety of his family. Those who dare must be prepared for martyrdom. In fact, on February 7 the public security police searched two of my assistants and found a floppy disk containing a draft of this statement. These two brave young men were detained overnight at the police station for extensive questioning.

7. The Government forces all students from all grades and in college to study and love Socialism while in fact nobody likes to teach or study it. Only the three million communist party members and the five million members of the Communist League of Youth should study this ideology if they still believe in it. Forcing the entire Vietnamese nation to study a bankrupt ideology that has caused them so much suffering is outright unconscionable.

8. The Communist Government has, since 1954 in North Vietnam and since 1975 in South Vietnam, seized or requisitioned thousands upon thousands of Church facilities used for education, charity, and medical service. Consequently the Church has no means to train seminarians, providing education and human services to the poor, the sick, the handicapped and the orphans, and it is extremely difficult for Church members to deliver service in a government facility. For example, the Pius X Papal Institute in Da Lat, run by the Jesuits, had been an
outstanding college for priesthood formation until its confiscation in 1976 by the Government, which turned it into a training school for Communist cadres. The Hoan Thien Minor Seminary at 11 Dong Da, Hue, offering high school-level training to seminarians, was taken by force by the Government in December 1979; all three priests teaching at the seminary and more than 80 seminarians were evicted. These are but a few examples.

Faced with this extremely cruel policy of the Vietnamese Communist Government to strangle religions, the Churches in Vietnam have unceasingly demanded religious freedom. Their non-violent and persistent campaign will continue until the Vietnamese people have full religious freedom, which anyone else in the civilized world has. This campaign has the following objectives.

1. The Government must fully respect the right of all citizens to true religious freedom and the right of Churches to select, train, and appoint their own priests, clergy members and dignitaries. The Government must stop its practice of listing the religious affiliation of citizens on their identity cards and personal documents so that no citizen will be discriminated against and be able to freely practice his or her faith. 2. The Government must return all facilities and properties it has confiscated or requisitioned from the Churches, even when documentary evidence of ownership was lost in the war if local people can confirm the rightful owner of these facilities and properties.

3. The Government must abandon the ruses and schemes it has used to oppress and destroy religions. Its interference in Church affairs must cease. Committees created by the government but dressed up as religious institutions in order to serve the Government's anti-religion policy must be disbanded.

4. The Government must unconditionally release all clergy members, priests, officials and dignitaries of the Churches and lay people who are currently in prison or under administrative detention because of their faith.

5. The Government must fully respect every and each article of the International Covenant on Civil and Political Rights, of which the Vietnamese Communist Government became a signatory on September 24, 1982.

II. Effects of the Bilateral Trade Agreement on human rights and religious freedom in Vietnam

I am only a priest, not a specialist in economics and politics. I speak as a Vietnamese citizen with a deep love for my country and my people.

Vietnam needs the Bilateral Trade Agreement (BTA) for her economic development. In principle I dearly want my country to have the trust of other countries, among them the United States, so that my country may achieve prosperity and my people may have a better life and fully realize their potentials.
However for as long as the Vietnamese Communists keep their dogmatic and totalitarian rule and disregard the fundamental freedoms of the people as I have presented above, by trading with Vietnam the United States and other countries would only strengthen the Communists' grips on power; the BTA may end up benefiting only the governing minority while prolonging the suffering of the entire people; the vast majority of the common people like us may at best receive small crumbs trickling down from the top but in return must endure our fate of the exploited and disenfranchised for so much longer.

In regard to the ratification of the BTA, I urgently warn the US Congress not to trust the Vietnamese Communists' promise of good faith. The United States and many other countries have had bitter experiences dealing with their broken promises in the past.

The Vietnamese Communists have signed many international accords and agreements on human rights but have never intended to respect them. Their intention is to deceive the international community. For example, Vietnam became signatory to the International Covenant on Civil and Political Rights in 1982 but does not abide by Articles 18 and 19 of this covenant which call for the respect for the freedoms of thought, speech, and religion. If international human rights institutions allow themselves to fall victim to such deception, they will contribute to the following dire consequences: (1) the Vietnamese Government will exploit their signing the document to falsely claim that there are human rights in Vietnam; (2) these international institutions will lose their credibility as they prove to be so easily deceived; and (3) these institutions unknowingly prolong the Communist oppression of the Vietnamese people-this in fact constitutes a major crime against my people.

Therefore, if the United States and other countries truly sympathize with my ill-fated people and truly care about human rights, especially the right to religious freedom, of the Vietnamese people, you must not help the Communist Government prolong its totalitarian rule. Instead, the United States and other countries should suspend all agreements harmful to the Vietnamese people and do everything in your capacity to put pressure on the Vietnamese Government to allow freedom and democracy to dawn on our country.

III. What can be done to help improve freedom of religion in Vietnam in the near term, and in the long term?

The Vietnamese Communists have idolized Ho Chi Minh, turning him into a "god" and creating a new religion revolving around him. The Communist Government wants to suppress all other religions and replace them with this new religion in order to unify the Vietnamese people behind it. In fact, Ho Chi Minh had made significant contributions to our national struggle for independence but at the same time had committed serious crimes against the Vietnamese people. One basic endeavor that the international community needs to undertake is to unravel the harmful myths woven by the Communists around this historical figure.

In the short term, the United States and other countries should help the Churches in Vietnam achieve greater independence from the government, should show by example how freedom of religion is respected in the free world, and should expose the oppression that the Vietnamese
Government has imposed on the Churches. At first, the Vietnamese Communists may feel that such independence would clash with its totalitarian power but with time it may realize that the power to control and interfere with Church affairs, such as the appointment of priests, should have never been theirs to start with.

The Vietnamese people will not enjoy religious freedom for as long as the Communist regime remains in place. Therefore if the United States and other countries truly desire to see the return of religious freedom to the Vietnamese people, they will need to create favorable conditions for the early demise of the Communist regime.

Ladies and gentlemen,

This is a precious opportunity to speak on behalf of my people, of the different Churches, and of the Catholic Church in particular. I would like to extend my gratitude to you, to the US Congress, and the American people, including some two million Vietnamese-Americans, for having given me such an opportunity.

May God bless you, your families, your colleagues, the American people, and your beautiful country. Thank you.