



## FREEDOM NOW

P.O. Box 30126 • Bethesda, Maryland 20824-0126 • (301) 279-9536 (ph) • (301) 897-4771 (f) • [www.freedom-now.org](http://www.freedom-now.org)

VIA FAX AND POST

30 August 2004

Ms. Leïla Zerrougui  
Chairperson-Rapporteur  
Working Group on Arbitrary Detention  
Office of the High Commissioner for Human Rights  
United Nations Office at Geneva  
8-14 Avenue de la Paix  
1211 Geneva 10  
Switzerland

Dear Ms. Zerrougui:

Please find the enclosed "Response" to the letter submitted by Vietnamese Ambassador Ngo Quang Xuan on behalf of the Government of Vietnam in the matter of "Dr. Nguyen Dan Que, Citizen of the Socialist Republic of Vietnam v. Government of the Socialist Republic of Vietnam." Freedom Now had originally submitted a Petition on behalf of Dr. Que's brother, Dr. Quan Nguyen, on 3 June 2004. As you will note, some references in our response refer to that Petition.

We are very appreciative of the opportunity to respond in this case. In addition, we respectfully request that the Working Group issue a final "Opinion" in accordance with Resolution 1997/50, as affirmed by Resolutions 2000/36 and 2003/31, determining that the ongoing detention of Dr. Que is arbitrary.

If you need further information with respect to this matter, please contact us at [jgenser@freedom-now.org](mailto:jgenser@freedom-now.org).

With warm regards,

  
Jared Genser

  
Lauren K. Randall

  
Ellen Ginsberg

**President**

*Jared Genser, Esq.*  
Piper Rudnick LLP

**Board of Directors**

**Chair**

*Fani Cyd Geroff, Esq.*  
Akin Gump Strauss Hauer  
& Feld LLP

**Treasurer**

*Hillary Brill, Esq.*

**Secretary**

*Haylie Iseman, Esq.*  
Michael J. Eig & Associates

*Stephanie Genser, Esq.*

*Glenn Kaminsky, Esq.*

*Jeremy Zucker, Esq.*  
Hogan & Hartson LLP

**Board of Advisors**

*Professor Karima Bennouna*  
Rutgers University School of Law  
(Newark)

*Professor Jerome A. Cohen*  
New York University Law School

*Nuala Mole*  
AIRE Centre

*Professor A.W. Brian Simpson*  
Michigan Law School

*Professor Christopher McCrudden*  
Oxford University

**Response to the Government of the Socialist Republic of Vietnam in the Matter of  
Dr. Nguyen Dan Que**

The purpose of this submission is to (1) respond to the Reply filed by the Government of the Socialist Republic of Vietnam (“Government”) in the case of Dr. Nguyen Dan Que (“Dr. Que”);<sup>1</sup> and (2) bring to the Working Group’s attention the additional violations of Vietnamese and international law that have occurred since the filing of the original petition.

**I. Response to the Government’s Reply**

The Government’s Reply does not effectively respond to the Petition. The Reply states the description of facts in the Petition is “not true,” but does not offer evidence to refute Petitioner’s presentation of facts or analysis of law.<sup>2</sup> The Reply provides that the rights to freedom of opinion and expression are “guaranteed and strictly observed” in practice, but does not explain how the Government distinguishes between exercises of these rights that are protected and those that are considered criminal.<sup>3</sup> Further, the Reply discusses Vietnamese law alone, without acknowledging the Government’s obligations as a signatory to the International Covenant on Civil and Political Rights (“ICCPR”) to provide all citizens with the right to freedom of opinion and expression. (Petition, pp. 9-10).

In its Reply, the Government also fails to deny the specific charges that Dr. Que’s pre-trial arrest and detention violated fundamental freedoms and rights.<sup>4</sup> Therefore, the Petitioner urges the Working Group to deem these charges admitted as fact.<sup>5</sup> Specifically, the Government has failed to deny the following charges:

- The Government did not inform Dr. Que of the charges against him during his pre-trial detention, in violation of Article 14(3)(a) of the ICCPR. (Petition, p. 15).
- The Government held Dr. Que for over one year without ever bringing his case before a judicial authority for a determination of the lawfulness of his detention, in violation of Article 9 of the ICCPR, Article 10 of the Universal Declaration of Human Rights (“UDHR”), and Principle 11 of the Body of

---

<sup>1</sup> See Letter from Mr. Miguel de la Lama, Secretary, Working Group on Arbitrary Detention, United Nations High Commissioner for Human Rights, 3 August 2004, requesting Petitioner’s response to the Government of Vietnam’s Reply.

<sup>2</sup> See Letter to Ms. Leïla Zerrougui, Chairperson/Rapporteur, Working Group on Arbitrary Detention, 17 June 2004 (“Reply”).

<sup>3</sup> See *id.*

<sup>4</sup> *Id.*

<sup>5</sup> The Working Group has previously accepted as fact evidence presented in a Petition when that evidence was corroborated by reputable independent observers and was not disputed by a replying Government. See, e.g., Father Hillary Borna Awul and Others v. Sudan, Opinion No. 29/1999, Adopted 30 November 1999, at ¶ 21 (“The Working Group notes that in its reply, the Government of Sudan does not deny many of the charges leveled against it by the source”).

Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (“Body of Principles”). (Petition, p. 14).

- By failing to provide Dr. Que with access to counsel of his own choosing during his detention the Government failed to observe Article 14(3)(b) of the ICCPR and Principle 11 of the Body of Principles. (Petition, pp. 14-15).

As the Government notes in its reply, Dr Que was arrested for acts allegedly committed in violation of Article 80 of the Penal Code of the Socialist Republic of Vietnam. The Petition challenged the validity of Article 80 and the Government failed to deny these charges in its Reply. However, as discussed below, since the Petition and Reply were filed, Dr. Que has been charged and convicted of violating Article 258 of the Penal Code. The charges regarding Article 80 appear to have been dropped. Thus, while the Government failed to deny the charges regarding Article 80 in its Reply, this omission is essentially irrelevant given the recent developments in the case.

## **II. The Government of Vietnam Continues to Violate Dr. Que’s Fundamental Freedoms and Rights**

On Thursday, 29 July 2004, after sixteen months in prison, Dr. Que was brought to trial.<sup>6</sup> He was charged with violating Article 258 of the Penal Code of the Socialist Republic of Vietnam, which prohibits abusing “democratic freedom to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens.” Below is a brief statement of facts regarding Dr. Que’s trial, and an analysis explaining how Article 258 and the circumstances surrounding the trial demonstrate that Dr. Que is being held arbitrarily, in violation of both Vietnamese and international law.

### **A. Statement of Facts**

After being held *incommunicado* for 16 months in a Vietnamese jail without being informed of the charges against him or access to counsel of his choosing,<sup>7</sup> Dr. Que was finally brought to trial on 29 July 2004, in Ho Chi Minh City.<sup>8</sup> The trial, which lasted only half a day,<sup>9</sup> was closed to all outsiders except for Dr. Que’s family.<sup>10</sup> Dr. Que was also denied his right to counsel before and during the trial.<sup>11</sup>

Initially, when asked to make a statement to the court, Dr. Que said:

- He had committed no crime;
- There is no democracy or freedom in Vietnam and he was imprisoned merely for exercising his right to freedom of expression as guaranteed by the ICCPR and UDHR; and

---

<sup>6</sup> Vietnam Sentences Political Dissident, Associated Press, 29 July 2004.

<sup>7</sup> Press Release, Amnesty International, Vietnam: Appalling Sentence for Elderly Dissident (29 July 2004) at <http://www.freedom-now.org/documents/AmnestyPressRelease.swf>.

<sup>8</sup> Rights Groups Condemn Jailing of Vietnam Dissident, Reuters, 30 July 2004.

<sup>9</sup> Vietnam Sentences Political Dissident, Associated Press, 29 July 2004.

<sup>10</sup> Meeting with Dr. Quan Nguyen, 4 August 2004, relating information from Ms. Tam Van, Dr. Que’s wife who was allowed to attend the closed trial.

<sup>11</sup> Id.; see also Rights Groups Condemn Jailing of Vietnam Dissident, Reuters, 30 July 2004.

- The trial was not in accordance with international standards because he was denied access to counsel, the trial was closed to the public, and the judge was not independent and impartial.<sup>12</sup>

In response to this statement, the court immediately removed Dr. Que from the courtroom.<sup>13</sup> When he was brought back into the courtroom, Dr. Que twice repeated the statement. For making these statements, Dr. Que was removed from the courtroom and placed in an adjacent room with a one-way speaker so he could hear the proceedings.<sup>14</sup>

At the close of the trial, Dr. Que was convicted of “abusing democratic rights to infringe upon the interests of the State” and was sentenced to an additional 14 months in prison.<sup>15</sup> Upon sentencing Dr. Que, the court stated that by showing disrespect to the Government by his courtroom statements, he had forfeited his right to self-defense.<sup>16</sup>

## **B. Analysis**

The Government’s continued detention of Dr. Que constitutes an arbitrary deprivation of liberty falling within both Categories II and III of the classification of cases as defined by the Working Group.<sup>17</sup> This case meets the requirements of Category II based on the Government’s arbitrary deprivation of Dr. Que’s fundamental right to freedom of expression guaranteed by Article 19 of the ICCPR, to which Vietnam is a signatory, and his right to freedom of opinion embodied by Article 19 of the UDHR.<sup>18</sup>

This case also satisfies the requirements of Category III, because the Government of Vietnam did not observe international norms relating to a fair trial as embodied by Article 14 of the ICCPR, Article 10 of the UDHR, and the Body of Principles.<sup>19</sup>

### **1. The Government of Vietnam has Arbitrarily Detained Dr. Que Based on His Fundamental Right to Freedom of Opinion and Freedom of Expression**

When the initial petition in this matter was filed, it was believed that Dr. Que would be charged with violating Article 80 of the Penal Code of the Socialist Republic of

<sup>12</sup> Meeting with Dr. Quan Nguyen, *supra* note 10.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Vietnam Sentences Political Dissident*, Associated Press, 29 July 2004.

<sup>16</sup> Meeting with Dr. Quan Nguyen, *supra* note 10.

<sup>17</sup> “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law.” International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* 23 March 1976, at art. 9 (1) [hereinafter ICCPR]. “No one shall be subjected to arbitrary arrest, detention or exile.” Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at art. 9 (1948) [hereinafter UDHR].

<sup>18</sup> Vietnam ratified the ICCPR on 24 December 1982.

<sup>19</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) [hereinafter Body of Principles].

Vietnam, but at trial Dr. Que was convicted of violating Article 258. As discussed below, the analysis of Article 80 put forth in the original petition is equally applicable to Article 258. The Government's detention of Dr. Que pursuant to Article 258 of the Penal Code is arbitrary because it violates Article 19 of the ICCPR and Article 19 of the UDHR, which guarantee freedom of opinion and expression. Furthermore, Article 258 is incompatible with Article 69 of the Vietnamese Constitution, which similarly guarantees freedom of opinion and speech.

**a. Application of Article 258 of the Vietnamese Penal Code Violates Dr. Que's Right to Freedom of Opinion and Expression Guaranteed by 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."<sup>20</sup> Dr. Que was exercising the rights that Article 69 guarantees when he issued his "Communiqué on Freedom of Information in Vietnam," along with a statement of his support for the U.S. legislation known as the Freedom of Information in Vietnam Act of 2003, on 17 March 2003.<sup>21</sup>

The Government has detained Dr. Que based on his nonviolent human rights advocacy and his statements challenging the Government's restriction on his and other Vietnamese citizens' right to freedom of information. This directly contravenes the guarantees provided by Article 69 of the Vietnamese Constitution.<sup>22</sup> When Dr. Que disseminated through the Internet his statement regarding the lack of freedom of information in Vietnam, he acted fully within his rights. Additionally, the peaceful manner in which he expressed his views did not constitute a threat to Vietnam's national security. His fundamental right to freedom of opinion and expression was completely denied by the Government's actions in this case. The conviction of Dr. Que in response to such nonviolent expression of his opinions violates the protections set forth in Article 69.

---

<sup>20</sup> Constitution of the Socialist Republic of Vietnam, at Article 69.

<sup>21</sup> Vietnam: Imprisoned Journalist Offered Exile as a Condition for Release, BBC Monitoring Int'l Rep., 17 July 2003.

<sup>22</sup> As partial justification for this type of action, the Government has alleged previously 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 "Civil and Political Rights, Including the Question of Religious Intolerance," Report submitted by Mr. Abdelfattah at ¶ 9, Special Rapporteur, in accordance with Commission of Human Rights Resolution 1998/18, Addendum, Visit for Viet Nam, E/CN.4/1999/58/Add.2, 29 Dec. 1998 [hereinafter "Amor Report"]. 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 bases of these provisions, such as those under which Dr. Que was charged and convicted, are similarly incompatible. This Response assumes that Vietnam's Constitution and its application in this case are consistent with Vietnam's obligations under the ICCPR.

**b. Conviction Based on Article 258 Violates Dr. Que's Freedom of Opinion and Expression as Defined in Article 19 of the ICCPR**

Dr. Que's conviction under Article 258 of the Penal Code also contradicts Article 19 of the ICCPR, which guarantees that "[e]veryone shall have the right to hold opinions without interference" and "everyone shall have the right to freedom of expression." Moreover, "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."<sup>23</sup>

Dr. Que's activities fall within the realm of protected speech previously articulated by the Human Rights Committee and the Working Group. Such speech may not be legally curtailed unless such limitations are (1) provided by law, (2) the means address a legitimate end, and (3) are "necessary" to achieve a legitimate end.<sup>24</sup> Further, the right to freedom of opinion and expression that Article 19 guarantees may only be limited when the restriction is provided by law and is necessary "[f]or respect of the rights or reputations of others" and "[f]or the protection of national security or public order (*ordre public*), or of public health or morals."<sup>25</sup>

As noted above, the Human Rights Committee has held that laws such as Article 258 are valid only if they address a legitimate end with means necessary to achieve that end.<sup>26</sup> As a preliminary matter, the Government's claimed end is not legitimate. The notion of abusing freedom of speech to infringe upon the interests of the State is too vaguely defined for practical application.<sup>27</sup> The vagueness of this provision enables the Government to arbitrarily take action against those deemed to be political threats based on the exercise of their rights to freedom of opinion and expression. In this specific case, the Government alleges that Dr. Que infringed upon the interests of the State, but such a claim lacks detail or specificity.

In addition, even assuming that the Government's claimed end in the enactment of Article 258 is legitimate as applied in this case, the resulting restrictions on freedom of expression and opinion are not "necessary" to achieve this end. If the Government is to legitimately restrict speech, it must distinguish between the peaceful expression of opinion and the use of violence.<sup>28</sup> Article 258 does not make this distinction. Instead, the Government has created a legal structure, which unnecessarily imposes a severe limitation on citizens' exercise of freedom of opinion and expression. If an

---

<sup>23</sup> ICCPR, *supra* note 17, at art. 19 (1)-(2).

<sup>24</sup> See, e.g., *Robert Faurisson v. France*, Op. No. 550/1993, at ¶ 9.4.

<sup>25</sup> ICCPR, *supra* note 17, at art. 19 (3)(a)-(b).

<sup>26</sup> See, e.g., *Faurisson*, Op. No. 550/1993, at ¶ 9.4.

<sup>27</sup> The International Federation of Human Rights Leagues has stated that legislation punishing the "abuse of democratic freedoms [that] threaten the interests of the State" is merely an effort "to conceal a deliberate policy of suppression of all free expression." See "Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World" submitted by the International Federation of Human Rights Leagues, E/CN.4/2004/NGO/173, 10 March 2004.

<sup>28</sup> See, e.g., *Phuntsok Wangdu v. China*, Op. No. 14/2000, at ¶ 9.4.

individual is sent to prison for non-violently criticizing his own government, the right to freedom of opinion and expression is meaningless.

Based on the foregoing, the Government's interference with Dr. Que's right to freedom of expression and opinion is not consistent with the Vietnamese Constitution, the Penal Code of the Socialist Republic of Vietnam, or with Article 19 of the ICCPR and Article 19 of the UDHR. Therefore, his detention and arrest are arbitrary.

## **2. Dr. Que's Trial Failed to Meet Internationally Recognized Standards and Procedures as well as Those Guaranteed by Vietnamese Law**

As detailed in the Petition and summarized above, Dr. Que's arrest and pre-trial detention were arbitrarily based on the denial of his ability to exercise the fundamental freedoms of expression and opinion. The Government aggravated this injury by prosecuting Dr. Que in a manner that denied him his right to a fair and impartial trial.

### **a. Denial of a Public Hearing**

In its Reply, the Government indicated "the right of the defendant to a fair proceeding before the court shall be guaranteed in strict accordance with the law." However, when Dr. Que's trial actually occurred on 29 July 2004, it lasted little more than one-half of a day. Additionally, the trial was not open to the public or media. 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."<sup>29</sup> While the right to a public trial may be limited in certain circumstances, 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.<sup>30</sup> Quite to the contrary, the Government's closure of the trial was an attempt to avoid public condemnation and scrutiny of its prosecution and imprisonment of Dr. Que, an internationally known figure.

Such a trial procedure represents a violation of 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 Court shall try their hearings in public except in cases determined by law."<sup>31</sup>

---

<sup>29</sup> See, e.g., *Antero Oliva v. Peru*, Op. No. 22/1998, at ¶ 6 (c).

<sup>30</sup> 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." ICCPR, *supra* note 17, at Art. 14 (1).

<sup>31</sup> Constitution of the Socialist Republic of Vietnam, at Article 131.

## **b. Denial of Legal Counsel and Defense**

Reports indicate that Dr. Que was denied legal counsel, in violation of rights guaranteed by the ICCPR, the Body of Principles, the Vietnamese Constitution and the Criminal Procedure Code of the Socialist Republic of Vietnam. Article 14(3)(b) of the ICCPR embodies the right to legal counsel. The right to counsel is also recognized by Principles 17 and 18 of the Body of Principles. 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.” Finally, the right to be represented by counsel of one’s choosing is reflected in Articles 34 to 37 of the Criminal Procedure Code of the Socialist Republic of Vietnam.<sup>32</sup>

The denial of counsel in this case is consistent with Vietnam’s past practice with respect to trials of this nature. The Human Rights Committee has noted that the Government does not respect detainees’ right to legal counsel.<sup>33</sup> 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.<sup>34</sup> The Government’s entire denial of the right to counsel is an even graver offense.<sup>35</sup> The Working Group has strongly condemned proceedings of this nature on numerous occasions.<sup>36</sup>

In addition to violating Dr. Que’s right to counsel, the Government denied Dr. Que’s right to defend himself against the charges on which he was tried. According to Article 14(3) of the ICCPR, “[e]veryone shall be entitled to the following minimum guarantees . . . (d) To be tried in his presence and to defend himself in person or through legal assistance of his own choosing.” Dr. Que also had a right “to examine, or have examined, the witnesses against him.”<sup>37</sup> By removing Dr. Que from the courtroom after his opening statement, refusing to allow him (or other persons) to respond to the charges against him in the courtroom, and refusing to allow him (or other persons) to examine the witnesses against him, the Government denied Dr. Que his right to defend himself.

## **c. Denial of an Independent and Impartial Tribunal**

In its Reply, the Government guarantees that Dr. Que will have “a fair proceeding before the court” conducted “in strict accordance with the law.” However, there is no evidence that the half-day trial met this standard. Article 14 of the ICCPR provides that

---

<sup>32</sup> Article 34 of the Criminal Procedure Code of the Socialist Republic of Vietnam provides that “the accused is entitled . . . to defend himself or ask others to defend him.” Article 35 stipulates who can qualify to be a defender. Article 36 puts forth the rights and obligations of the defender. Article 37 provides that “the defender will be selected by the accused, the defendant or their lawful representative.”

<sup>33</sup> See Concluding Observations of the Human Rights Committee: Viet Nam, CCPR/CO/75/VNM, 26 July 2002, at ¶ 13 [hereinafter Concluding Observations].

<sup>34</sup> See *Makhbuba Kasymova*, Op. 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).

<sup>35</sup> See *Youssef Al-Rai and Ashaher Al-Rai v. Palestine*, Op. No. 14/1999, at ¶ 9.

<sup>36</sup> See, e.g., *James Mawdsley v. Myanmar*, Op. No. 24/2000, at ¶ 13.

<sup>37</sup> ICCPR, *supra* note 17, at art. 14 (3)(e).



“everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”<sup>38</sup> However, the Human Rights Committee has expressed deep apprehension about the quality and fairness of the Vietnamese judicial system.<sup>39</sup> 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.”<sup>40</sup> Furthermore, judges lack job security and are subject to discipline for “errors in judicial decision.”<sup>41</sup> These findings were echoed by the U.S. Department of State, which concluded that judges in Vietnam are selected “at least in part, for their political reliability.”<sup>42</sup> The State Department further found that in high-profile cases, the Government’s desired outcome is made clear to judges in advance.<sup>43</sup> The Government’s Reply in this matter offers no evidence to prove that Dr. Que’s trial was any different.

### III. Conclusion

The Government’s Reply supports the belief, recognized in the past by the Working Group and the Human Rights Committee, that the Government has not complied appropriately with its responsibilities as a signatory to the ICCPR, namely providing its citizens with the protections to which they are entitled on the basis of international law. Dr. Que is yet another case that demonstrates the Government’s willingness to deny these protections.

For the reasons stated in the Freedom Now Petition and reaffirmed herein, Dr. Que’s arrest, detention, trial, and sentencing violate guarantees provided by both Vietnamese and international law. Thus, Dr. Que should be immediately released from detention.

In the interim, we urge the Working Group to issue a final “Opinion” in accordance with Resolution 1997/50, as affirmed by Resolutions 2000/36 and 2003/31, confirming that the ongoing detention of Dr. Que is arbitrary.

---

<sup>38</sup> *Id.* at art. 14 (1)

<sup>39</sup> See Concluding Observations, *supra* note 33.

<sup>40</sup> *Id.* at ¶ 9.

<sup>41</sup> *Id.* at ¶ 10.

<sup>42</sup> U.S. Dep’t of State, 2003 Country Reports on Human Rights Practices: Vietnam (2004).

<sup>43</sup> *Id.*