

URGENT ACTION

10 YEAR DEATH ROW CASE PUSHED FOR EXECUTION

Ho Duy Hai was sentenced to death in December 2008 after being convicted of plundering property and murder. In 2015, the Committee on Judicial Affairs of the National Assembly urged for review of his case after it found that the conviction was the result of serious procedural errors in his proceedings. On 7 December 2017, the Chief of Long An's Procuracy pushed for acceleration of his execution in a televised speech.

Ho Duy Hai was arrested in March 2008 and nine months later convicted by the People's Court of Long An of plundering property and murder, a 5-year prison and death sentence respectively, resulting in a combined death sentence. He has been detained in Long An Temporary Detention Centre in Long An province, South Viet Nam.

After Long An Prison had initially denied Ho Duy Hai's mother access to Ho Duy Hai in prison, the General Directorate VIII of the Ministry of Public Security confirmed on 27 February 2015 her right to visit him. While at first only allowed to see him for 15 minutes she is now allowed to speak with him for 30 minutes, once a month, and their conversation is overheard by at least 10 prison guards standing in the back of the room. She continues to be forced to sign a document pledging not to talk about the case. Despite concerns of a serious deterioration of his health and resulting drastic loss of weight, Ho Duy Hai has not been treated by a doctor since his detention. Since his appeal hearing on 28 April 2009, his lawyers continue to be denied access to him in prison.

Ho Duy Hai's execution date was scheduled on 5 December 2014, but the then President of Viet Nam, Truong Tan Sang, halted his execution one day before it was due to be carried out. On 10 February 2015, the Committee on Judicial Affairs of the National Assembly, responsible for investigating allegations of miscarriages of justice, issued a report after having re-investigated his case, concluding that both the First instance and Appeal's Court's convictions had disregarded his alibis and exculpatory evidence and were based on serious violations of criminal procedural law. It urged his case be reviewed on appeal in line with Art. 273 of the Criminal Procedure Code.

On 7 December 2017, the Chief of Long An's Procuracy once more pushed for his execution during a provincial council meeting attended by State and provincial officers, alleging that any delay of his execution "affected local security". The provincial Chief's recommendation needs approval at State level for an execution to go ahead.

Please write immediately in Vietnamese, English or your own language, calling on Viet Nam's authorities to:

- Quash Ho Duy Hai's conviction and death sentence, which resulted from proceedings that did not meet international standards for a fair trial and which he could not appeal to the Supreme People's Court;
- Ensure that he is protected from torture and other ill-treatment and is allowed frequent and regular access to his family, his lawyer and adequate medical care and is granted a fair retrial without resort to the death penalty;
- Immediately establish a moratorium on all executions with a view to abolishing the death penalty, in line with six UN General Assembly resolutions adopted since 2007.

PLEASE SEND APPEALS BEFORE 24 APRIL 2018 TO:

State President

Trần Đại Quang
Số 2 Hùng Vương, Ba Đình, Hà Nội
Fax: +844 437 335 256
Email: webmaster@president.gov.vn
Salutation: Your Excellency

Minister of Public Security

To Lam
44 Yết Kiêu St. Hoàn Kiếm District Hà
Nội, Việt Nam
Fax: + 844 3823 1872
c/o Ministry of Foreign Affairs
Email: ttl.mfa@mofa.gov.vn
Salutation: Dear Minister

Copies sent to:

Prime Minister
Nguyễn Xuân Phúc
Prime Minister's Office
Hà Nội, Việt Nam
Email:
nguoiiphatngonchinhphu@chinhphu.vn

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY MR THAO VAN NGUYEN
Embassy of the Socialist Republic of Vietnam, 12-14 Victoria Road W8 5RD, 020 7937 1912, Fax 020 7565 3853,
vanphong@vietnamembassy.org.uk www.vietnamembassy.org.uk

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

On 1 December 2008, the People's Court of Long An convicted Ho Duy Hai of plundering property (Art. 133 of the 1999 Criminal Code) and of murder (Art. 93 of the 1999 Criminal Code) of two female employees of the local Cau Voi Post Office in Ho Chi Minh City and sentenced him to death. Article 55(1)(d) of the Penal Code states that where sentences for multiple crimes include a death sentence, the combined sentence shall be death sentence. On 28 April 2009, the Court of Appeal of the Supreme People's Court in Ho Chi Minh City upheld his conviction and death sentence.

Ho Duy Hai has asked his mother repeatedly to petition for a prison transfer from Long An Prison, which, in combination with his deteriorating health and loss of weight, led his mother to believe that he was being ill-treated inside Long An Prison.

Torture and other ill-treatment, including incommunicado detention, prolonged solitary confinement, beatings, withholding of medical treatment, are absolutely prohibited under international law but remain common practices by Viet Nam's state authorities. Prison conditions in Viet Nam are harsh, with prisoners being denied adequate food and medical care, falling short of minimum standards set out in the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) and other international standards.

Official statistics on the use of the death penalty remain classified in Viet Nam as a state secret. Death sentences continue to be handed down for drug-related offences and economic crimes, such as embezzlement. In 2017, reports of executions by media are rare, but Amnesty International believes that scores of executions continue to be carried out yearly. A report of the Viet Nam's Ministry of Public Security released in February 2017 revealed for the first time that Viet Nam has secretly been the world's third biggest executioner, with 429 prisoners having been executed between 6 August 2013 and 30 June 2016. The report does however not contain any breakdown of figures by year. The report also stated that five new lethal injection centres were to be built since 2013. More than 600 persons were believed to be under sentence of death at the end of 2017.

In 2015, the National Assembly approved amendments to Viet Nam's Penal Code, which came into force on 1 January 2018. Article 40 of the new Penal Code reads that the "[d]eath sentence is a special sentence imposed upon people committing extremely serious crimes that infringe national security, human life, drug-related crimes, corruption-related crimes and some other extremely serious crimes defined by this document". While the amendments reduced the scope of the death penalty for some offence, murder, embezzlement and drug-related offences, the crimes most commonly punished by death, therefore remain untouched by the amendments. The Criminal Code does not impose mandatory death penalty and explicitly states alternative penalties, e.g. life imprisonment. Courts are instructed to take into account all aggravating and extenuating circumstances in sentencing, providing them with the discretion to resort to less severe alternatives. Drug-related offences and economic crimes do not meet the threshold of the "most serious crimes" to which the use of the death penalty must be restricted under international law in countries that have not yet abolished.

Viet Nam has ratified the Convention Against Torture and is a signatory to the International Convention on Civil and Political Rights (ICCPR); Viet Nam has however failed to ratify any of the Optional Protocols to the ICCPR. Amnesty International opposes the death penalty in all cases without exception regardless of the nature or circumstances of the crime; guilt, innocence or other characteristics of the individual; or the method used by the state to carry out the execution.