

Death Penalty

Submitted by: The Advocates for Human Rights and the World Coalition Against the Death Penalty

MECHANISM

Universal Periodic Review

SESSION

46th Session of the Working Group
for the UPR

DATE OF REVIEW

7 May 2024

Summary: Viet Nam continues to retain the death penalty and imposes the death penalty on crimes that do not amount to the “most serious” crimes, including drug-related crimes and economic crimes. At the end of 2022, there were more than 1200 people known to be under sentence of death. In Viet Nam, torture and other forms of ill-treatment of people in detention, as well as violations of the right to a fair trial, continue to raise serious concerns.

Viet Nam has failed to ratify important human rights treaties.

- Viet Nam has not yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights or the Optional Protocol to the Convention Against Torture.

Viet Nam does not limit the death penalty to the “most serious” crimes.

- Viet Nam has classified the use of the death penalty as a state secret. According to partial disclosures, however, courts continue to sentence hundreds of people to death yearly, with a 30% increase recorded between 1 October 2020 and 31 July 2021. Viet Nam maintains 11 lethal injection execution facilities, but the number of executions per year is unknown. As of the end of 2022, more than 1200 people were under sentence of death.
- Viet Nam authorizes the death penalty for crimes that do not meet the threshold of “most serious” under Article 6(2) of the ICCPR. In 2021, courts imposed 93 out of at least 119 (78%) new death sentences for drug-related offences. In 2022, courts imposed 80 out of at least 102 (78%) new death sentences for drug-related offences. Civil society reports state that in 2022, courts also sentenced people to death for economic crimes.

Viet Nam fails to uphold its obligations relating to the prohibition against torture and ill-treatment, as well as to the administration of justice and fair trial.

- Despite Viet Nam’s asserted commitment to prohibiting acts of torture and ill-treatment and holding perpetrators accountable, torture and other ill-treatment of people in detention remain widespread. Authorities use torture to extract confessions, including in capital cases.
- Judicial oversight of places of deprivation of liberty is often absent and authorities do not respect fair trial rights. For instance, authorities arrested Chan Van Kham, an Australian citizen, for “terrorism to oppose the people’s government” and reportedly held him in pretrial detention for 10 months and denied him access to his defense lawyer. Before trial, authorities did not inform him or his lawyer of the specific charges against him or of the evidence supporting those charges. The trial itself reportedly lasted only four and a half hours.

Recommendations

- Abolish the death penalty and replace it with a sentence that is fair, proportionate, and consistent with international human rights standards.
- Ratify the Second Optional Protocol to the ICCPR and the Optional Protocol to the Convention Against Torture.
- In the meantime, establish an official moratorium on executions and amend the Penal Code to limit the death penalty to the most serious crimes, defined as crimes in which the defendant had the intent to kill, and did in fact kill, consistent with Article 6 of the ICCPR.
- On at least an annual basis, publish official data on the use of the death penalty in Viet Nam, including the number of sentences imposed, number of executions carried out, and number of people under sentence of death, disaggregated by gender, nationality, ethnicity, crime of conviction, relationship to any codefendants or victims, date and court of sentencing, existence of any dependent children, current location (if applicable), date of execution (if applicable), and status of any appeals or requests for clemency.
- Extend an invitation to the Special Rapporteur on torture and facilitate her visit by authorizing confidential and unsupervised contacts with witnesses and other private individuals, including persons deprived of their liberty.
- End impunity for all perpetrators of torture by establishing an investigatory mechanism independent of law enforcement, mandating an independent investigation of any allegations of torture by law enforcement, and barring the admission of evidence obtained under torture in any criminal proceedings.
- Draw up and publish a national plan of action aimed at implementation of the Committee Against Torture's 2018 recommendations.
- Direct law enforcement to provide all persons accused of a crime with timely access to counsel, prior to any interrogation, including any person suspected of having committed a capital crime.
- Conduct credible, independent, and impartial investigations into all allegations of torture, prioritizing allegations raised by persons who are charged with crimes that are eligible for the death penalty.
- Ensure judicial oversight of deprivation of liberty and access to counsel before trial.
- Mandate that authorities promptly inform any person accused of a capital crime of the nature of the charges against them and ensure that they have access to counsel during any questioning and thereafter to assist in preparation for trial.
- Collaborate with civil society to ensure that all attorneys providing legal services to people at risk of being sentenced to death have comprehensive training on capital defense and mitigation as well as gender sensitization regarding coercive control, gender-based violence, and women in conflict with the law.
- Create a mechanism by which defendants may raise prior to trial the issue of inadmissibility of evidence obtained through torture and ensure that all judicial actors have adequate training and capacity to bar consideration of such evidence.
- Collaborate with civil society to provide training to all judges overseeing criminal proceedings to ensure that no court admits into evidence any statements obtained through torture, except to prove that a person committed torture.