



**URGENT APPEAL TO THE SPECIAL
RAPPORTEUR OF TORTURE**
for Nguyễn Ngọc Như Quỳnh

New York, October 6, 2017

Urgent Appeal prepared and submitted by:
The Human Rights Foundation Center for Law and Democracy

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INTRODUCTION

The Human Rights Foundation (HRF) submits this petition to the Special Rapporteur of Torture on behalf of Ngọc Như Quỳnh Nguyễn, a Vietnamese blogger who has been sentenced to 10 years in prison after being held incommunicado by the police for seven months.

I. Identity of the person subjected to torture

A. *Family Name:* Nguyễn

B. *First name:* Ngọc Như Quỳnh

C. *Sex:* Female

D. *Birth date and age:* July 18, 1979; 38 years old

E. *Nationality:* Vietnamese

F. *Occupation:* Freelance tour guide

G. *Identity card number:* 225 048 950

H. *Activities:* Ms. Quỳnh is a human rights defender and blogger. She co-founded and campaigned for the Vietnamese Bloggers Network; organized advocacy activities on topics of public interest, such as government transparency, State accountability, environmental protection, etc., and was the recipient of the 2015 Civil Rights Defender of the Year award from Civil Rights Defenders. Using her pen name “Me Nam” (Mother Mushroom), she uses the internet to voice her opinion about social, economic, political, and human rights issues.

I. *Residential address:* 24 Dang Tat Street, Vinh Phuoc ward, Nha Trang city

II. Circumstances surrounding torture

A. *Date and place of arrest and subsequent torture*

Nguyễn Ngọc Như Quỳnh was arrested on October 10, 2016 outside Song Lo prison in Phuoc Dong village, Khánh Hòa province. At the time of arrest, the police did not show any arrest warrant but instead read out a detention order and refused to provide Ms. Quỳnh’s family with a copy of the order. Following her arrest at the prison, the police took Ms. Quỳnh home and searched her house.

After that, she was handcuffed and taken away by the police again. On October 12, 2016, Ms. Quỳnh's immediate family received a notification of arrest and detention dated October 10, 2016 in the mail. After the arrest, Ms. Quỳnh was prevented from contacting her family and friends, and her mother was unable to obtain news of her whereabouts and her wellbeing until June 29, 2017, when they briefly met before her trial. Following the trial, Ms. Quỳnh was sentenced to 10 years in prison for "conducting propaganda against the state."¹

B. Identity of force(s) carrying out the initial detention and/or torture

It is believed that the forces carrying out the initial detention were the police officers from the Public Security Bureau of Khánh Hòa Province. The notification of arrest and detention was stamped with the official seal of the Public Security Bureau of Khánh Hòa Province or Khánh Hòa Police (CÔNG AN TỈNH KHÁNH HÒA- PA92) and carries the name and signature of its Deputy Head Mr. Truong Vinh Quang. The Khánh Hòa police online statement issued on October 11, 2016 states that the arrest was approved by the provincial procuracy.

During one of Ms. Quỳnh's mother's visits, Ms. Quỳnh told her mother briefly that she was unwell, but was abruptly stopped by prison guards from discussing "prison conditions," as it was against "prison rules." The guard threatened that Ms. Quỳnh's mother would not be able to continue having visits with Ms. Quỳnh if they continued to discuss the matter. From this incident, it is evident that the prison guards were involved in the ill-treatment of Ms. Quỳnh, or at the very least, accomplices in suppressing the truth of how Ms. Quỳnh was being treated.

C. Were any person, such as a lawyer, relatives or friends, permitted to see the victim during detention?

Despite the repeated requests of her lawyer to meet with his client in detention, Ms. Quỳnh was not permitted to see her lawyer for months while she was in pre-trial detention. She was only permitted to see her lawyer about ten days before her trial.

¹ Article 88 of the Vietnam Criminal Code is commonly used by the government to silent dissidents and human rights defenders. The article reads:

1. Those who commit one of the following acts against the Socialist Republic of Vietnam shall be sentenced to between three and twelve years of imprisonment:
 - a) Propagating against, distorting and/or defaming the people's administration;
 - b) Propagating psychological warfare and spreading fabricated news in order to foment confusion among people;
 - c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam.

Ms. Thi Tuyet Lan Nguyen, Ms. Quỳnh's mother, is now permitted to contact Ms. Quỳnh twice each month. One of these two permitted contacts is an in-person visit. The in-person visit must be pre-approved by the prison officials, and the visit itself is heavily monitored. During the visit, Ms. Quỳnh and her mother are only permitted to discuss minor health issues and the wellbeing of Ms. Quỳnh's children. Other than the two permitted contacts per month, friends and family have no other means of reaching Ms. Quỳnh.

D. Describe the methods of torture used

In her pre-trial detention, Ms. Quỳnh was denied necessities such as sanitary pads and underwear for seven months. In addition, the food that she was provided with was insufficient in both quantity and quality. She had stated that she was only allowed to eat spinach and contaminated fish for one week. For the entire duration of pre-trial detention, Ms. Quỳnh was kept in solitary confinement.

When Ms. Quỳnh's mother visited her on July 31, 2017 after the trial, her mother observed that Ms. Quỳnh was very pale and highly sensitive to light. She suspected that Ms. Quỳnh was confined to a dark space without daylight for a prolonged period of time. Ms. Quỳnh's mother also observed that Ms. Quỳnh's hands were very stiff, and upon asking, her daughter replied that she had been sick for two weeks. Ms. Quỳnh informed her mother that she was seen by doctors in the prison where she was kept, and was given medicine to take, but the doctors refused to inform her what kind of medicine she was receiving. Her mother inquired whether it would be possible to send her daughter's regular medication to the prison, but was told that the prison only allowed medication prescribed by doctors at the prison. Her mother was not given any information on what kind of medical treatment was given to her daughter either from the doctors or the prison personnel.

When Ms. Quỳnh's mother visited her on September 25, 2017, her mother again observed that her daughter was very weak and appeared to be sensitive to light.

Lastly, before she was arrested, Ms. Quỳnh was suffering from a tumor in her lower abdominal area. However, she has not been permitted to either access her medication or request a medical leave from the prison for follow-up medical examinations.

Both solitary confinement and lack of medical attention, when contributing to either mental or physical severe pain and suffering, constitute torture under Article 1(1) of the Convention against Torture (CAT). In this case, Ms. Quỳnh

was being punished for an act that she has done, and her pain and suffering were inflicted upon her by government actors, namely the prison officials.

E. What injuries were sustained as a result of the torture?

Evidently, Ms. Quỳnh has suffered from the ill-treatment in prison both physically and psychologically. Physically, Ms. Quỳnh sustained extreme sensitivity to light, weakened vision, and stiffness of hands. She also told her mother that she often felt her blood pressure dropping and had dizziness, which she had never experienced before her detention. However, as mentioned above, immediately after describing these symptoms to her mother, Ms. Quỳnh was interrupted by prison guards, who prevented her from discussing her well-being any further. Thus, a full description of the injuries sustained by Ms. Quỳnh as a result of the torture could not be provided at this time. However, her mother believes that her health is declining due to not being able to access her usual medication for her tumor.

F. What was believed to be the purpose of the torture?

It is believed that the torture Ms. Quỳnh sustained prior to her trial was used to coerce a confession. Following her trial, however, as she has already received her sentencing, the subsequent torture serves no other purpose than to invoke physical pain and emotional suffering.

G. Was the victim examined by a doctor at any point during or after his ordeal? If so, when? Was the examination performed by a prison or government doctor?

During their meeting on July 31, 2017, Ms. Quỳnh told her mother that she was seen by doctors in the prison and had been given medicine. However, it is not clear what kind of medical examination the doctors performed in prison, and Ms. Quỳnh was not informed about any results of her examination. Among the medication she was given, there were vitamins and other unidentifiable medication.

H. Was appropriate treatment received for injuries sustained as a result of the torture?

It is believed that no proper treatment was received by Ms. Quỳnh for the injuries sustained a result of the torture. She was seen by prison doctors but no known diagnosis or reports were issued regarding her health conditions. She told her mother that she did not know what kind of medication she was given by the doctors except for the vitamins, and the unidentifiable medications did not help to ease her physical pain and discomfort. Her mother was not permitted to send any medication to her.

- I. *Was the medical examination performed in a manner which would enable the doctor to detect evidence of injuries sustained as a result of the torture? Were any medical reports or certificates issued? If so, what did the reports reveal?*

It is not clear what kind of medical examination was performed by the doctor in prison and whether he or she detected any evidence of injuries. Her family was unable to obtain any information or reports regarding her health status either from the doctor or the prison personnel.

- J. *If the victim died in custody, was an autopsy or forensic examination performed and which were the results?*

Not applicable.

III. Remedial action

Were any domestic remedies pursued by the victim or his/her family or representatives? If so, what was the result?

Ms. Quỳnh wishes to appeal her conviction and sentence. However, she is unable to proceed at this time because the prison does not allow her to meet with her lawyer. Additionally, Vietnam does not possess an independent judiciary, and activists sentenced under Article 88 were unsuccessful in overturning their convictions.

The Working Group on Arbitrary Detention, which issued an opinion declaring Ms. Quỳnh's detention to be arbitrary in May 2017, had noted that provisions in the Vietnam Criminal Procedure Code failed to meet international standards, and that "such restrictive legal provisions [in the Vietnam Penal Code and Criminal Procedure Code] do not meet the strict tests of legality, legitimacy, proportionality and necessity under [...] international instruments."²

Based on the above, even if Ms. Quỳnh manages to establish communication with her lawyer to prepare her appeal, it is highly likely her appeal will be futile.

IV. Information concerning the author of the present report

A. *Family Name:* Park

² Human Rights Council, Working Group on Arbitrary Detention. "Opinions adopted by the Working Group on Arbitrary Detention at its seventy-eighth session, 19-28 April 2017: Opinion No. 27/2017 concerning Nguyen Ngoc Nhu Quỳnh (Viet Nam)," A/HRC/WGAD/2017/27, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/147/13/PDF/G1714713.pdf?OpenElement>.

B. *First Name:* Joy

C. *Relationship to victim:* Attorney authorized by Thi Tuyet Lan Nguyen, Ms. Quỳnh's mother, to author and submit this report.

D. *Organization represented:* Human Rights Foundation

E. *Present full address:* 350 5th Ave, #4202, New York, NY 10118, United States

Confidentiality waiver

In accordance with the Manual of Operations, in communications sent to governments, the source is normally kept confidential. The Manual of Operations also states that an information source may request that its identity be revealed. Accordingly, HRF waives its right to confidentiality and requests that its identity be revealed in the event that, as part of the procedure involving investigation of individual cases, an allegation letter is sent to the State of Cuba in connection with the information supplied herein.

Consent given by the victim

Nguyễn Ngọc Như Quỳnh, through her mother, has authorized Joy Park and Rachel Qi from HRF to submit this urgent appeal on her behalf to the U.N. Special Procedures of their choosing.