



VIETNAM'S UPR 2019

December 10, 2018

In the Universal Periodic Review at the UN Human Rights Council in 2014, Vietnam received 37 recommendations relating to civic space. Of these, 29 of the recommendations were accepted and eight were noted. However, Vietnam has only partially implemented six recommendations and failed to implement the remaining 31. The government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination and acute implementation gaps were found with regard to the rights to the freedoms of association, peaceful assembly and expression and the protection of human rights defenders (HRDs) and bloggers.

Legal Provisions

- Use of vaguely defined national security offences of which HRDs are charged. The authorities routinely invoke article 79 (109) on “activities aiming to overthrow the people’s administration;”¹ article 87 (116) on “undermining national unity policy;” article 88 (117) on “conducting propaganda against the State;” and article 89 (118) on “disrupting security.” Two further provisions that are also regularly used in cases involving activists are article 245 (318) on “Causing public disorder;” and article 258 (331) on “Abusing democratic freedoms to infringe upon the interests of the State.”
- Use of other laws such as Press Law and Publication Law to silence dissent (inciting people against the nation and undermining national unity is forbidden – Article 10). Decree 72 and Decree 174 regulate Internet use and forbid sharing information considered sensitive on social media networks such as Facebook. Monetary fines up to US\$5,000.
- In June 2018, a new Cybersecurity Law was passed by the National Assembly, which aims to tighten the government’s control of information and silence its critics on the Internet. The law will give the government powers to force technology companies to open offices there, hand over vast amounts of data, including personal information, censor users’ posts, and remove any posts that are deemed objectionable within 24 hours. The law will be in effect on January 1, 2019.

Suppression of NGOs

- Association in the form of political organization or party is strictly banned. As well as independent labor unions.
- Decree 45 (2010) states the only groups in Vietnam permitted to conduct advocacy work and comment on the formulation of policy are the major national umbrella organizations closely affiliated with the Communist Party of Vietnam (CPV).
- Draft law proposed to the National Assembly in October 2016 outlawed dozens of unregistered CSOs, created a complex process of registration and prohibited organizations from receiving funding from foreign donors.
- Protests must be registered under harsh requirements.

Growth of Civil Society

- First mass protests over territorial disputes with China held in Saigon and Hanoi in 2011. Mass protests surrounding the 2016 ecological disaster caused by a toxic spill from the Formosa steel plant as well as the June 2018 mass protests against special economic zones (SEZ) and the Cybersecurity Law.
- Establishment of unregistered civil society organizations despite suppression.

Continuing Harassment and Imprisonment of HRDs:

- **Tran Huynh Duy Thuc**, ICT entrepreneur and blogger, sentenced to 16 years for “conducting activities aimed at overthrowing the people’s administration” in January 2010.
 - **Hoang Duc Binh** was sentenced to 14 years after being convicted on two separate charges under the 1999 Penal Code, under article 257 for “resisting officers acting under their duty” and article 258 for “abusing freedoms and democratic rights.”
 - **Tran Thi Nga**, blogger, convicted of “anti state propaganda” on 25 July 2017 and sentenced to 9 years’ imprisonment for sharing articles and videos online highlighting ongoing rights abuses tied to environmental crises and political corruption.
- Exiled HRDs: Bloggers Dieu Cay and Ta Phong Tan were released early in 2014 and 2015, respectively, but forced into exile in the USA; Catholic activist Dang Xuan Dieu was released in 2017 and forced to exile to France; Nguyen Van Dai and Le Thu Ha were released in June 2018, two months after they had been given a 15-year and 9-year prison sentence, respectively, but were forced into exile in Germany, and recently in October 2018, Mother Mushroom was forced into exile in the USA, fifteen months after she had been given a 10-year prison sentence.

¹ The article numbers in parenthesis are the updated article numbers as reflected in the Amended Vietnam Penal Code 2015, which came into effect on 1 January 2018.

- 165 remain in prison for exercising their civil and political rights². 56 HRDs were arrested in 2018³.
- There are at least 100 HRDs who have travel bans imposed on them and are unable to leave Vietnam. Many face daily harassment and persecution including physical assault.
- Peaceful protesters are subject to brutal suppression, continuous surveillance and harassment. Authorities cracked down heavily on Formosa, SEZ and Cybersecurity Law protests, using teargas and excessive force to prevent and punish participation, resulting in a range of human rights violations, including torture and other cruel, inhumane or degrading treatment or punishment.

Recommendations:

1. Repeal or amend provisions in the Penal Code to ensure that ambiguous provisions relating to national security are clearly defined or removed, notably articles 79 (109), 87 (116), 88 (117), 89 (118), 91 (121), 257 (330) and 258 (331), so they cannot be applied in an arbitrary manner to stifle legitimate and peaceful dissent and the freedom of expression.
2. Amend or repeal Decree 45 and remove all other arbitrary restrictions on the freedom of association and the establishment of independent civil society organizations in line with international standards (ICCPR Art. 21,22).
3. Amend or repeal legislation related to the freedom of expression and information, and related to privacy and surveillance, in line with international standards (ICCPR Art. 17,19,20), with special concern for the Press Law, Law on Publications, and Cybersecurity Law, as well as Decree No. 72/2013/ND-CP (management of internet services and information); and Decree No.174/2013/ND-CP (penalties for violation of post, telecommunication, information technology, and radio).
4. Ensure that civil society activists, HRDs, journalists and bloggers are provided with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks on and harassment and intimidation against them and bring the perpetrators to justice.
5. Ensure independent and effective investigation and remedy for arbitrary detention and physical or mental abuse by the state, with special attention to the protection of HRDs.
6. Unconditionally and immediately release all HRDs, including journalists and bloggers, detained for exercising their fundamental rights to the freedoms of association, peaceful assembly and expression, and drop all charges against them.

² As of December 10, 2018: Vietnamese Political Prisoner Database, the 88 Project. Accessed at: <https://vietnamprisoners.info/>

³ Ibid