



**Submission to the Universal Periodic Review of Vietnam  
32<sup>nd</sup> session, January 2018**

**Summary**

Since the last periodic review in 2014, the government of Vietnam has shown little interest in improving its human rights record. It continues to restrict basic freedoms of expression, association, assembly, and religion. It owns and controls all media in the country, blocks or shuts down critical websites, and prosecutes those using social media to criticize the government and ruling Communist Party of Vietnam (CPV). The CPV monopolizes the leadership of all public institutions and uses them to maintain its hold on power. Since the CPV came to power in 1954, it has never allowed free and fair elections. Vietnam's National Assembly is almost entirely comprised of CPV members selected by the party itself. The courts and all ministries are under CPV control. Independent trade unions are prohibited and social organizations, religious groups, and civil society are tightly regulated.

**Freedom of Expression and Political Prisoners**

Vietnam frequently uses vaguely worded and loosely interpreted provisions in its penal code and other laws to imprison peaceful political and religious activists. These include "Carrying out activities aimed at overthrowing the people's administration" (article 109), "Undermining the unity policy" (article 116), "Making, storing, disseminating or propagandizing information, materials and products that aim to oppose the State of the Socialist Republic of Vietnam" (article 117), and "Disrupting security" (article 118). Vietnam also uses other articles in the penal code to target rights campaigners, including "Abusing the rights to democracy and freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or individuals" (article 331) and "disrupting public order" (article 318). Vietnam currently holds in prison at least 136 people for expressing critical views of the government, taking part in peaceful protests, participating in religious groups not approved by the authorities, or joining civil or political organizations that the CPV deems to be a threat to its monopoly on power. During the first six months of 2018 alone, the government convicted and imprisoned at least 26 rights bloggers and activists under various abusive laws.

During its previous UPR in 2014, Vietnam had accepted recommendations to "ensure that the 1999 Penal Code and 2003 Criminal Procedures Code, and their implementation are consistent with its international human rights obligations" (143.34) and "amend the provisions concerning offences against national security which could restrict freedom of expression, including on the Internet, particularly article 79, 88, and 258 of the Penal Code, to ensure its compliance with Vietnam's international obligations, including ICCPR" (143.157).

However, instead of repealing these abusive laws, in June 2017 the National Assembly passed a revised penal code that extends even wider liability to rights bloggers and activists and those who assist them. Among these are new clauses that criminalize unspecified actions in preparation for committing an offense. For example, a new clause in article 109 (previously article 79), and article 117 (previously article 88) provides that whoever "takes actions in preparation of committing this crime shall be subject to between one and five years of imprisonment." Similarly, those who take actions in preparation of

“undermining the unity policy” (article 116, previously article 87) or “disrupting security” (article 118, previously article 89) “shall be subject to between six months and three years of imprisonment.” This means that one can be imprisoned just for preparing to criticize the state or preparing to join an independent political or religious group disapproved by the government. Instead of repealing or reforming these over-broad laws, in line with accepted UPR recommendations, Vietnam did the opposite, by making them apply more widely. The revised penal code, which went into effect on January 2018, also holds lawyers criminally responsible if they fail to report their own clients to authorities for a number of crimes, including national security violations (article 19).

During its previous UPR in 2014, Vietnam also accepted a recommendation to “guarantee the right to family visits and legal assistance, in particular during police inquiries” (143.137). But Vietnam’s Criminal Procedure Code stipulates that the Procurator of the People’s Supreme Procuracy can decide to hold a suspect for violation of national security in detention until investigation is concluded (article 173, clause 5), and can restrict the detainee’s access to legal counsel until after investigation is concluded (article 74). In practice, this means that those who are suspected of violating national security can be and are held in police custody without access to a lawyer as long as the authorities see fit. Prominent rights activist Nguyen Van Dai and his colleague Le Thu Ha were arrested in December 2015 and held for almost 2 years without access to lawyers until late 2017. In April 2018, the two were convicted and sentenced to 15 years and 9 years in prison respectively. In large part due to international pressure, Nguyen Van Dai and Le Thu Ha were sent to exile in Germany two months later. As of June 2018, Human Rights Watch documents at least 16 rights activists still held in police custody without trial, some since November 2016 such as Nguyen Van Duc Do and Luu Van Vinh.

#### Recommendations:

- Immediately release all people imprisoned for simply expressing critical views of the government, or for joining political or religious groups disapproved by the government;
- Repeal articles 109, 116, 117, 118 and 331 and bring its penal code in conformity with the International Covenant on Civil and Political Rights (ICCPR);
- Repeal article 74 and article 173 of the Criminal Procedure Code and allow all people detained for any alleged violations to have immediate access to legal counsel upon being arrested.

#### **Access to Information and Media Freedom**

During its previous UPR in 2014, Vietnam accepted recommendations to ensure freedom of the press and the Internet including to “ensure that any law governing the Internet is in compliance with the international human rights obligations of Viet Nam as a State party to ICCPR” (143.4); “Actively promote steps to guarantee freedom of expression, as well as the freedom and independence of the press, including on the Internet” (143.146); revise “Decree 72” to “ensure their consistency with international human rights obligations” (143.154); ensure “that laws concerning the Internet comply with the freedom of expression and information” (143.148); and many other recommendations to guarantee freedom of expression both online and offline including 143.158, 143.159, 143.164, 143.165, 143.171.

But the Vietnamese government continues to prohibit independent or privately-owned media outlets to operate. It exerts strict control over radio and TV stations and printed publications. Criminal penalties apply to those who disseminate materials deemed to oppose the government, threaten national security, or promote "reactionary" ideas. The authorities block access to politically sensitive websites, frequently attempt to shut down blogs, and require internet service providers to remove contents or social media accounts arbitrarily deemed politically unacceptable.

In June 2018, the National Assembly passed an overly broad and vague cyber security law that gives authorities wide discretion to determine when expression must be censored as “illegal.” Under this new law, which will come into effect in January 2019, service providers must take down offending content within 24 hours of receiving a request from the Ministry of Information and Communications or the Ministry of Public Security. Requirements that internet companies store data locally, “verify” user information, and disclose user data to authorities without requiring a court order also threaten the right to privacy and could facilitate further suppression of online dissent or activism.

The Vietnamese authorities have recently stepped up their crackdown against online dissidents and rights activists. In July 2017, the information and communications minister, Truong Minh Tuan, reported that “Google and Facebook had removed 3,367 clips with bad and poisonous content after being requested to do so by the Ministry of Information and Communications. Facebook removed more than 600 accounts that have violating content.”

The government has mobilized a massive army of paid “collaborators on social opinions” (*Cong tac vien du luan xa hoi*), often referred to as “public opinion shapers” (*du luan vien*), whose job is to promote official propaganda and to combat views deemed hostile to the ruling party and government. Separately, Colonel General Nguyen Trong Nghia reported in December 2017 that Force 47, a military task force founded in early 2016 to combat online opinions critical of the regime, has over 10,000 members “ready to combat erroneous views every hour, minute and second of the day.”

#### Recommendations:

- Bring media laws into compliance with article 19 of the ICCPR;
- Allow the publication of uncensored, independent, privately-run newspapers and magazines;
- Remove filtering, surveillance, and other restrictions on internet usage and release people imprisoned for peaceful dissemination of their views over the internet;
- Revise the Law on Cyber Security and bring it into compliance with international human rights standards, including the ICCPR.

#### **Freedom of Assembly and Association**

During its previous UPR, Vietnam accepted recommendations to respect and promote or take measures to ensure freedom of association and/or assembly (143.144; 143.145; 143.147; 143.171; 143.172; 143.175), but the government continues to prohibit the establishment or operation of independent labor unions, human rights organizations, and political parties. Independent union organizers face harassment, intimidation, and retaliation. The authorities convicted and sentenced labor activists Truong Minh Duc to 12 years in prison in April and Hoang Duc Binh to 14 years in February 2018. Authorities require approval for public gatherings and systematically refuse permission for meetings, marches, or public assemblies they deem to be politically unacceptable. In June 2018, many people were reportedly harassed, detained and assaulted for participating in demonstrations throughout Vietnam to protest against the draft law on special economic zones.

#### Recommendations:

- Immediately recognize independent labor unions;
- Ratify ILO Conventions No. 87 (Freedom of Association and Protection of the Right to Organize) and No. 98 (Right to Organize and Collective Bargaining);

- Bring legislation regulating public gatherings and demonstrations into conformity with the rights of free assembly and association in articles 21 and 22 of the ICCPR.

### **Restriction on the practice of religion and belief**

The government restricts religious practice through legislation, registration requirements, harassment, and surveillance. Religious groups are required to gain approval from and register with the government as well as operate under government-controlled management boards. While authorities allow many government-affiliated churches and pagodas to hold worship services, they ban religious activities they arbitrarily deem contrary to the “national interest,” “public order,” or “national unity.”

The police monitor, harass, and sometimes violently crack down on religious groups operating outside government-controlled institutions. Unrecognized branches of the Cao Dai church, Hoa Hao Buddhist church, independent Protestant and Catholic house churches, Khmer Krom Buddhist temples, and the Unified Buddhist Church of Vietnam face constant surveillance, harassment, and intimidation. Followers of independent religious group are subject to public criticism, forced renunciation of faith, detention, interrogation, torture, and imprisonment. In January and February 2018, authorities tried and convicted at least 10 [independent Hoa Hao Buddhist activists](#) sentencing them to many years in prison for criticizing the government and staging a public protest against religious repression.

On June 22, 2018, men in civilian clothes broke into the house of Cao Dai religious activist Hua Phi in Lam Dong province, [beat him and cut off his beard](#).

[Montagnards in the Central Highlands](#) are subjected to [constant surveillance and other forms of intimidation, public criticism, arbitrary arrest, and mistreatment in security force custody](#). In detention, the authorities question them about their religious and political activities and any efforts to flee Vietnam.

### **Recommendations:**

- Allow all religious organizations to freely conduct religious activities and govern themselves. Churches and denominations that do not choose to join one of the officially authorized religious organizations with government-sanctioned boards should be allowed to operate independently;
- End harassment, forced denunciation of faith, arrests, prosecutions, imprisonment, and ill-treatment of people because they are followers of disfavored religions, and release anyone currently being held for peaceful exercise of the rights to freedom of religion and belief, expression, assembly and association.

### **Police Brutality**

[Police throughout Vietnam have been abusing people in their custody](#), in some cases leading to death. In many of these cases, those killed were being held for minor infractions. A number of survivors said they were beaten to extract confessions, sometimes for crimes they maintained they did not commit. Although the government promised improvements after [Human Rights Watch published its findings of police brutality in September 2014](#), it appears that officers who have committed serious, even lethal, transgressions have only rarely faced the serious consequences the law requires.

In November 2014, Vietnam ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. In November 2015, the National Assembly passed a revised criminal procedure code that requires video with sounds or tape during interrogations of suspects at detention centers or investigation headquarters, effective in January 2018.

Despite these measures, cases of abuse are rife. In May 2017, police in Vinh Long province arrested Nguyen Huu Tan for allegedly conducting propaganda against the state. After his arrest, the police informed his family that he committed suicide by using a knife to cut his own throat. He allegedly found that knife in the bag of an investigator who left the room momentarily. [His family protested the cause of death](#), pointing out many discrepancies between what they saw on Nguyen Huu Tan's body and a blurry police video recording. In August 2017, [Tran Anh Doanh reported that](#) the police of Son Tay town (Hanoi) arrested him for suspected theft. During several hours of detention, the police allegedly beat him severely and forced him to admit guilt. In a different incident, in September 2017, Vo Tan Minh (arrested in April 2017 for possessing a small amount of heroin) [died in the custody of the police of Phan Rang-Thap Cham](#) (Ninh Thuan province). According to his family, there were bruises on his back, legs, and arms. The police initially alleged that Vo Tan Minh was involved in a fight, but later suspended five police officers and opened a case of "using corporal punishment." In November 2017, police in Tien Giang province arrested 29 year-old Nguyen Ngoc Nhan for allegedly possessing illegal drugs. He died a couple of hours later in police custody. The police claimed that he died from a heart attack, but his family provided state media photos of the victim with [many bruises all over his body](#).

#### Recommendations:

- Establish an independent police complaints commission to accept complaints from the public and to provide oversight over the "internal affairs" or "professional responsibility" unit of the police. The commission should be a statutory body with the legal authority to bring prosecutions or impose discipline if the internal affairs or professional responsibility unit fails to do so in cases in which credible allegations have been made;
- Amend the Criminal Procedure Code to facilitate the presence of lawyers or legal counsel immediately after arrest or detention so that:
  - Lawyers or legal counsel only need to present their identity card and a certified copy of their license to meet their clients;
  - Lawyers or legal counsel may meet their clients in private and for as long as necessary;
  - Lawyers or legal counsel must be present at all interrogation sessions between police and detainees.