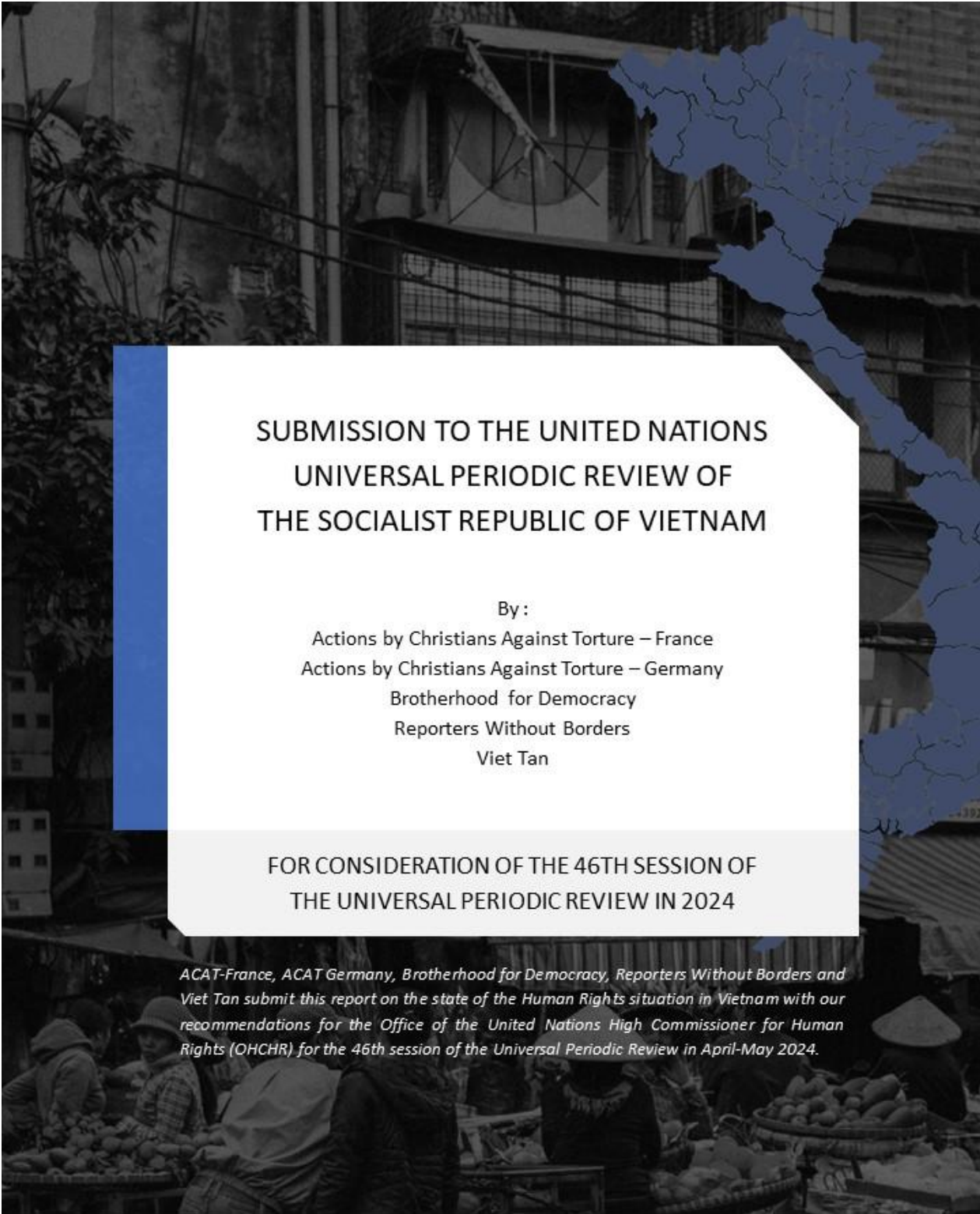




SUBMISSION TO THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW OF THE SOCIALIST REPUBLIC OF VIETNAM

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FOR CONSIDERATION OF THE 46TH SESSION OF
THE UNIVERSAL PERIODIC REVIEW IN 2024

ACAT-France, ACAT Germany, Brotherhood for Democracy, Reporters Without Borders and Viet Tan submit this report on the state of the Human Rights situation in Vietnam with our recommendations for the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the 46th session of the Universal Periodic Review in April-May 2024.



Using Law to Suppress Dissent

The Socialist Republic of Vietnam (SRV) has ratified numerous international texts and conventions that promote human rights and fundamental freedoms, such as the Universal Declaration of Human Rights in 1977, the International Covenant on Civil and Political Rights in 1982, the Covenant on Economic, Social, and Cultural Rights in 1982, and so forth. The latest convention adopted by Vietnam is the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment in 2015.

The 2013 Constitution of Vietnam is supposed to guarantee the fundamental freedoms of citizens, as articulated in Article 69, which states, "Citizens have the right to freedom of speech, press, the right to information; the right to assemble, form associations, and demonstrate in accordance with the law."

However, Article 4 of this same Constitution specifies that the Vietnamese Communist Party (VCP) "is the leading force of the State and society." This de facto excludes any other political entity from public life. All elections are organized by the Communist Party, with only candidates approved by it.

The VCP organizes and controls civil society through six umbrella organizations: the Fatherland Front, the Youth Union, the General Confederation of Labor, the Women's Union, the Veterans' Association, and the Farmers' Association. Although citizens are supposed to be free to establish associations, only those approved by the Fatherland Front can exist and operate legally.

The Penal Code of Vietnam contains several articles that severely and arbitrarily restrict the fundamental freedoms and political activism of Vietnamese citizens.

Article 109 - Activities against the People's Government stipulates that: "Anyone who creates or joins an organization that acts against the People's Government... shall be sentenced to 12 to 20 years of imprisonment, life imprisonment, or the death penalty." There is no clear definition of actions considered "against" the government. Everything is left to the discretion of the Ministry of Public Security to determine whether a particular action is against the government or not. Belonging to a human rights or pro-democracy organization - not approved by the Fatherland Front - is sufficient to be arrested and sentenced under Article 109.

Article 117 - Manufacturing, storing, disseminating information, materials, and objects with the aim of opposing the State of the SRV : this law is very vague, and Vietnamese authorities use it as a multifaceted net to arrest almost anyone who publicly expresses an opinion different from that of the VCP. There is no standard to differentiate freedom of expression from propaganda against the state. Everything is subject to the arbitrary judgment of the Ministry of Public Security. Many citizens are arrested and sentenced under Article 117 simply for exercising their right to freedom of expression by posting their political opinions on social media.

Article 331 - Abusing democratic freedoms to harm the interests of the State, the legitimate rights and interests of organizations and/or citizens: this law is the twin of Article 117. It allows for the arrest of anyone who "abuses freedom of expression, freedom of the press, freedom of religion, freedom of association, and other democratic freedoms." Once again, there are no criteria to define what constitutes abuse and what constitutes the normal exercise of the freedoms to which citizens are entitled.

The judicial system in Vietnam has no independence from the executive and legislative branches, as stated in Article 2 of the Constitution of Vietnam: The state powers are exercised uniformly, and there is a division of tasks and coordination among the state organs in the exercise of legislative, executive, and judicial powers. All judges, magistrates, and police officers are members of the VCP. Their primary task is to protect the regime before delivering justice. As a result, in all political trials, the court systematically follows the requisitions of the Ministry of Public Security. Sentences pronounced in political trials (Art. 109, 117, or 331) are increasingly severe.

Being a defense lawyer in Vietnam is extremely challenging, especially for those who defend political prisoners. In the case of political arrests, lawyers are not authorized to meet their clients during the investigation, nor access their files. The trial date is often announced just a few days before, leaving lawyers with extremely little time to prepare their clients' defenses. Lawyers can only meet their clients a few days before the trial, and their pleas are often disregarded.

The Vietnamese Bar is an organization supposed to defend lawyers against the judiciary, but the Bar is not independent and systematically aligns itself with the decisions of the Ministry of Justice. Many lawyers have lost their licenses or even been imprisoned for defending human rights, such as **Nguyen Van Dai, Le Quoc Quan, Le Cong Dinh, Le Tran Luat, Vo An Don**, and others. Some of those who continue to practice their profession are often monitored and harassed. After several years of defending political prisoners, lawyers Dang Dinh Manh and Nguyen Van Mieng chose to exile themselves to the United States in 2023¹. Their exile further reduces the number of lawyers willing to defend political prisoners.

Crackdown against activists and human rights defenders

Since the Cybersecurity Law went into effect at the beginning of 2019, the authorities have used social media posts from platforms like Facebook to arrest and imprison activists. Music teacher **Nguyen Nang Tinh** was sentenced to 11 years in prison on November 15, 2019, for sharing information online about political prisoners, environmental disasters, and street demonstrations². Mr. Tinh is among ten other individuals detained in 2019 because of their online postings.

The authorities have also targeted foreign nationals of Vietnamese descent. Two Vietnamese-Americans (**William Nguyen** and **Michael Nguyen**, not related), and one Vietnamese-Australian (**Chau Van Kham**)³ were detained. The government alleges these individuals were in the country for political reasons, but they were engaged in expression of freedoms protected by international treaties that the Vietnamese government has signed.

At the beginning of 2020, the Hanoi regime heavy-handedly asserted its authority against the local residents of Dong Tam⁴. On January 9, a police force of several thousand were sent to the area. One civilian was killed in the police raid and three policemen died under questionable circumstances during the process. Among those killed was **Le Dinh Kinh**, a

¹ <https://lawyersforlawyers.org/en/vietnamese-lawyers-dang-dinh-manh-dao-kim-lan-and-nguyen-van-mieng-forced-to-flee-their-country/>

² <https://www.hrw.org/news/2019/11/14/vietnam-activist-facing-prison-term-facebook-posts>

³ <https://www.abc.net.au/news/2023-07-11/chau-van-kham-released-prison-vietnam-returns-australia/102586350>

⁴ <https://www.rfa.org/english/news/vietnam/dongtam-clash-01092020092028.html>

respected 84-year-old land rights activist protecting the residents' land from government seizure. The authorities blocked off access to Dong Tam as well as shut off internet and phone connections to prevent media reports from investigating the incident. They later arrested 29 family members of Mr. Kinh for the death of the policemen. In a speedy trial without proper legal counsel for the defendants, two of Mr. Kinh's sons were sentenced with the death penalty.

In May 2021, Land rights defenders **Can Thi Theu** and her son **Trinh Ba Tu** were sentenced to 8 years' imprisonment and 3 years' probation under article 117. In December 2021, her 2nd son **Trinh Ba Phuong**, was sentenced to 10 years' imprisonment for covering up the Dong Tam attack in January 2020⁵.

Hanoi has expanded its repression tactics by detaining individuals speaking up about social injustice and environmental degradation. For example, five monks and a volunteer from an independent Buddhist community (**Thien Am Ben Bo Vu Tru**)⁶ were arrested and sentenced to a total of 23.5 years of prison for "abusing democratic freedoms." On the other hand, Vietnamese authorities used charges of "tax evasion" to arrest and imprison several environmental activists such as **Nguy Thi Khanh, Bach Hung Duong, Dang Dinh Bach, Mai Phan Loi**⁷. Some of them were board members of a network established to monitor the implementation of the European-Vietnam Free Trade Agreement (EVFTA).

Throughout 2022, a large number of activists were arrested and jailed. The government targeted political critics such as prominent writer and activist **Pham Doan Trang**, who lost her appeal against a 9 year jail sentence, and blogger **Le Van Dung**, who was sentenced to 5 years in prison.

On January 1, 2023, Vietnam joined the UN Human Rights Council after an intense lobbying effort within the international community. Some hoped that this would lead to improvements in the respect for human rights in Vietnam, while others raised alarms about the cynicism of the situation. Indeed, the situation of human rights defenders in Vietnam deteriorated during the year 2023. The Vietnamese regime no longer confines itself to silencing and imprisoning those who criticize its policies through laws that only a dictatorship could invent, such as Article 117 (propaganda against the state and the Communist Party) or Article 331 (abuse of democratic freedoms).

Some members of civil society, who were previously authorized to work legally in Vietnam, are now also victims of the crackdown. Under the pretext of tax evasion and other trivial reasons, several of them have been arrested and sentenced to several years in prison, including **Hoang Thi Minh Hong**⁸, an environmental activist and founder of the NGO Change. **Ngo Thi To Nhien**, an energy expert leading the Vietnam Initiative for Energy Transition (VIET), was arrested in late September and awaits her trial. Nhien was involved in the implementation of a \$15 billion plan funded by a group of Western countries and international institutions to assist Hanoi in achieving carbon neutrality by 2050.

Press freedom's situation

⁵ <https://www.france24.com/en/live-news/20211215-vietnamese-pair-jailed-for-facebook-posts-on-deadly-land-dispute-clash>

⁶ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27938>

⁷ <https://www.voanews.com/a/vietnam-four-climate-activists-are-political-prisoners-report-says/7061122.html>

⁸ <https://www.theguardian.com/world/2023/sep/28/vietnam-jails-leading-climate-activist-hoang-thi-minh-hong-for-tax-evasion>

Vietnam, world's third-largest jail for journalists and press freedom defenders

Following its previous UPR in 2019, the Vietnamese government accepted recommendations to “develop measures to protect reporters and journalists from all forms of discrimination and violence” (38.172), to “lift restrictions on freedom of expression, and particularly online freedom, in line with Viet Nam’s obligations under international law” (38.184), and to “ensure freedom of expression, including online, and promote actions to ensure the freedom and independence of the media” (38.195).

Despite its commitments, Vietnam is the world's third-largest jail for journalists and press freedom defenders, following China and Myanmar, with at least 39 detained, according to Reporters Without Borders (RSF). It ranks 178th out of 180 in the 2023 RSF Press Freedom Index, its lowest position since the release of this index in 2002.

Although freedom of the press is enshrined in Article 25 of the Socialist Republic of Vietnam’s constitution, official media are strictly controlled, and plans to set up independent media networks to disseminate free information to the Vietnamese public are widely repressed. Journalists who stray from the Vietnamese Communist Party line are almost systematically accused of “activities aimed at overthrowing the government”, “abusing the rights to freedom and democracy”, or “making, storing, distributing or disseminating information, documents, and items against the Socialist Republic of Vietnam”, a broad charge that carries a maximum sentence of 20 years in jail.

Crackdown on independent journalists and bloggers

Since 2019, the Vietnamese government has stepped up its crackdown on the Independent Journalists Association of Vietnam (IJAVN). On 5 January 2021, three of its prominent members were convicted of “propaganda against the State” under Article 117 of the Penal Code. IJAVN president **Pham Chi Dung** was sentenced to 15 years in prison, while the association's vice-president **Nguyen Tuong Thuy** and member **Le Huu Minh Tuan** were each sentenced to 11 years⁹. **Pham Chi Thanh**, journalist and co-founder of the IJAVN, was also sentenced in July 2021 to five and a half years in prison under the same charges. All these journalists have been targeted for publishing articles on the human rights situation and corruption in the country.

The judicial harassment of prominent reporter **Pham Doan Trang** is the emblematic illustration of the Vietnamese regime's repression of professional journalists. Laureate of an RSF Press Freedom Prize in 2019, Pham was arrested on 6 October 2020, kept in pre-trial detention for more than a year, and sentenced in December 2021 to a nine-year jail sentence for allegedly publishing “mendacious” articles and statements in the media. Founder of the independent online magazine *Luật Khoa* and editor of *The Vietnamese*, her work focused on providing free and independent information to the Vietnamese public.

The Vietnamese authorities have also stepped up their crackdown on political commentator and bloggers, such as **Nguyen Lan Thang**, arrested in July 2022 and sentenced nine months later on 12 April 2023 to six years in prison plus two years of probation on the charge of “defaming the party and state” for giving 12 interviews to the BBC's Vietnamese services regarding the country's socio-political situation, as well as publishing articles critical of the government on social media. Another blogger and former reporter, **Tran Thi Tuyet Dieu**, was arrested in August 2020 and sentenced in April 2021 to eight years in prison for discussing sensitive subjects for the Vietnamese Communist Party, such as political corruption, environmental pollution and human rights abuses.

⁹ <https://rsf.org/en/vietnam-three-ijavn-journalists-given-total-37-years-prison>

Strengthening of the legislative arsenal against the right to information

Since the Law on Cybersecurity came into force in 2019, the Vietnamese authorities have strengthened their legislative arsenal to repress the right to information, particularly in the digital space. In 2020, the government adopted decrees No. 15/2020/ND-CP and No. 119/2020/ND-CP, which mandate heavy fines for vaguely defined violations such as “posting information that is not suitable to the interests of the country and the people” or “disseminating reactionary information” online. Decree No. 15/2020/ND-CP provides fines for offenses committed on social networks, which are vaguely defined and open the way to arbitrary procedures. In January 2022, the authorities amended these two decrees to increase the fines imposed on the media for the publication of “false information.”

In August 2022, the authorities issued Decree No. 53/2022/ND-CP, which details the implementation of the Cybersecurity Law. Its Article 26 specifies that foreign technology companies failing to comply with government requests to remove user content and data will be obliged to localize their data in the country and open local offices upon orders by the Minister of Public Security, giving the Vietnamese authorities important leverage over foreign companies.

In July 2023, the Vietnamese government published a draft decree to replace Decree No. 72/2013/ND-CP aimed at strengthening the regime's control over Internet users by broadening its scope. Among other things, it includes provisions to oblige foreign and local social media networks to confirm the identities of their users, which is likely to abolish anonymity on the Internet and make it easier to track down government critics. The draft decree also requires foreign companies to proactively monitor content and provide the government with platform research and analysis tools.

Curtailing the online freedom of expression

On the global stage, governmental regulation of social media remains a complex terrain, and Vietnam is no exception to this trend. The country introduced new cybersecurity legislation in 2019, aimed at controlling content that criticizes the government. Additionally, in 2022, regulations were put in place requiring foreign companies to store data within Vietnam's borders. However, the enforcement of these regulations remains inconsistent at present.

In tandem with governmental efforts, social media platforms have established their own sets of rules and conduct. For instance, Facebook has outlined its Community Standards which delineate what types of content are not permitted. Profiles, pages, and groups found in violation of these guidelines face penalties that impact their visibility, monetization capabilities, and, for repeat offenders, potential bans.

A decade ago, the advent of Facebook in Vietnam marked a transformative moment, as described by early employees of the company in Asia. It provided a platform for people across the country to engage directly in discussions about current events. Users were able to shed light on issues such as police misconduct and government inefficiencies, challenging the narratives propagated by the ruling Communist Party. One of the former Facebook employees reminisced, "It felt like a liberation, and we were part of it."

However, as Facebook's popularity surged in Vietnam, making it the company's seventh-largest market worldwide, the government began to assert greater control. Since then, Meta, the parent company of Facebook, has made repeated concessions to Vietnam's authoritarian regime. This has involved the regular censorship of dissenting voices and the removal of individuals perceived as threats by the government, according to four former Meta employees, human rights organizations, industry experts, and lobbyists.

According to two former employees in Asia, Meta has internally compiled a list of VCP officials who are to be shielded from criticism on Facebook. This list, which is kept confidential even within the company and has not been publicly disclosed until now, is part of the guidelines for overseeing online content. It was heavily influenced by Vietnamese authorities, the former employees revealed. They noted that such a list of names is unique to Vietnam within East Asia¹⁰.

Presently, the government is advocating for even more stringent controls. Meta is gearing up to further restrict content after being informed by officials in recent months that it would otherwise be required to store data on servers located within Vietnam. This has raised concerns about privacy and information security, according to individuals familiar with the company's internal deliberations.

Meta has been documenting government requests for censorship in Vietnam since 2017, as per its transparency reports. As of June 2022, it had blocked over 8,000 posts in the country, with most purportedly containing content critical of the Communist Party and the Vietnamese Government, or containing information that distorts, defames, or insults organizations or individuals, the reports state.

It's worth noting that Meta is not the only platform that removes sensitive content in Vietnam. Since 2019, Google, which owns YouTube, has received over 2,000 government requests to take down content in Vietnam, and it has complied with the majority of them, according to company data. TikTok has reported removing or restricting over 300 posts in the country last year for violating local laws.

Force 47 & Trolls

Groups like Force 47 are trained in tactics aimed at reporting Community Standard violations with the ultimate goal of getting a page or profile temporarily or permanently banned.

One frequently employed method involves orchestrating mass reports on profiles and pages, citing reasons ranging from incitement of violence to endangering public safety or engaging in spam-like behavior. This can have the detrimental consequence of flagging these pages within Facebook's automated system for violating community guidelines, potentially resulting in a significant reduction in a page's reach or the complete banning of a profile or page. Pages managed by citizen journalists and activist groups, such as Viet Tan's Facebook page, have often been targeted in this manner, leading to multiple strikes affecting "Page Quality".¹¹

Over the past five years, pro-government trolls have become a persistent force aligned with the regime, operating relatively freely on major platforms like Facebook and YouTube. As speech regulations tighten in countries like India, Turkey, and Thailand, and platforms show less inclination to push back, these trolls consistently and effectively harass activists and

¹⁰ <https://www.washingtonpost.com/world/2023/06/19/facebook-meta-vietnam-government-censorship/>

¹¹ <https://viettan.org/en/stopvntrolls/>

journalists posting on Facebook. This sets a troubling precedent for how censorship can thrive within social media, even transcending national boundaries.

The automated content monitoring systems employed by Facebook have become the focal point of cyber army attacks. Content is mass-reported for infractions like hate speech, bullying, and harassment, even if these claims are unfounded. Profiles and pages are then flagged by the system due to these "false positive" community standard violations. Consequently, posts are removed and pages are sometimes banned. The appeal process, unfortunately, offers little recourse, consisting solely of a button that triggers a review request without allowing input from the page's administrators. The decision is then either upheld or reversed.

Cyber attacks and hacking

Vietnamese government agents attempted to deploy spyware on the mobile phones of members of Congress, American policy experts, and U.S. journalists this year in a bold campaign highlighting the swift spread of advanced hacking tools. This revelation comes from a forensic examination of links shared on Twitter and documents discovered by a consortium of news outlets, including The Washington Post.¹²

Among the targets were two highly influential figures in foreign policy on Capitol Hill: Representative Michael McCaul and Senator Chris Murphy. Additionally, Asia experts affiliated with Washington think tanks and journalists from CNN, including Jim Sciutto, the outlet's chief national security analyst, and two reporters based in Asia, were also targeted. In Europe, the president of the European Parliament, Roberta Metsola, is also a victim of this espionage.¹³

The spies utilized the social network X, previously known as Twitter, in an attempt to entice the politicians and others to visit websites designed for the installation of hacking software known as Predator, according to the investigation.

Vietnam has been implicated in previous hacking campaigns, including those against human rights activists in various countries. It has also employed commercial spyware programs in the past. In 2020, the University of Toronto's Citizen Lab reported the detection of a Vietnamese deployment of a hacking program from Circles, a company founded by Israeli military hacking veteran and entrepreneur Tal Dilian, similar to Cytrox and Intellexa.

¹² <https://www.washingtonpost.com/technology/2023/10/09/vietnam-predator-hack-investigation/>

¹³ <https://www.amnesty.org/fr/latest/news/2023/10/global-predator-files-spyware-scandal-reveals-brazen-targeting-of-civil-society-politicians-and-officials/>

Transnational repression

The repression of dissent is not limited to within Vietnam's borders. Hanoi also engages in transnational repression with at least two cases of kidnappings of opponents since 2019.

In January 2019, journalist **Truong Duy Nhat** was also allegedly abducted in Thailand by Vietnamese security agents while seeking asylum¹⁴. The Vietnamese authorities subsequently sentenced him to 10 years of imprisonment for “abusing his position and power while on duty”.

On April 14, 2023, blogger **Duong Van Thai**'s is the second known case in which Vietnamese agents reportedly abducted a Vietnamese refugee in Thailand and forcibly returned the individual to Vietnam to face persecution for their writings¹⁵. Duong Van Thai fled to Thailand in 2018 and applied for refugee status, waiting to be relocated to a third country under the UN Refugee Resettlement program.

These reported abductions, followed by arbitrary detention, are a clear violation of international refugee law and human rights law. These acts of transnational repression are also conducted as a means for repressive regimes to continue to silence and threaten the freedom of expression of dissident voices, even beyond national borders.

Freedom of Religion's situation

The Vietnamese constitution does stipulate basic rights such as freedom of the press, freedom of expression, freedom of assembly and freedom of religion or belief. However, these basic rights are clearly restricted by state restrictions and special powers of the authorities. Basically, one must therefore state the situation of Christians in Vietnam: While faith communities in cities such as Ho Chi Minh City or Hanoi suffer less from state repression, they experience considerable discrimination by the local authorities, especially in more remote areas in the south and north of Vietnam. This includes disputes over church ownership of land. The abrupt destruction and demolition of churches and monasteries are repeatedly part of state repression.

In addition, the work of Catholic priests and catechists among the indigenous peoples, who are considered separatist by the Vietnamese government, is hindered. In this way, the conversion of indigenous people to Christianity, which has progressed in recent decades, is to be stopped. Priests and believers protesting against the increasing environmental pollution or opposing the widespread corruption in the country were also being prosecuted by the police. Bishop Meier attributed the reason for all these restrictions to the communist leadership's adherence to one principle: "Religious activities are only allowed under the control of the state. The Communist Party of Vietnam's claim to power is consistently enforced.

The Socialist Republic of Vietnam stands in the tradition of an understanding of the state and society propagated by Lenin, which subordinates all state, economic and social activities to the claim of the Communist Party to lead and shape them. This means that journalists,

¹⁴ https://www.voanews.com/a/press-freedom_hanoi-court-hands-vietnamese-blogger-10-year-prison-sentence/6185578.html

¹⁵ <https://thediplomat.com/2023/04/vietnamese-blogger-reportedly-kidnapped-in-bangkok/>

bloggers and internet groups who openly question this principle and insist on their right - formally guaranteed by the constitution - to freedom of expression and organization face arbitrary arrests and prison sentences of several years.

Civil society groups are constantly challenged to consolidate and, whenever possible, expand their scope for action. They must also always take into account all the wider political implications of their actions and live up to the sometimes very high expectations of their supporters.

However, as Vietnam's political and social system, which gives absolute priority to stability and unity, has little experience, means and ways to deal constructively with such conflicts, this state of affairs is worrying for civil society. Conflicts that have been smoldering for a long time can suddenly escalate and an end to the conflicts is usually not reached through a peaceful settlement or a compromise acceptable to both sides, but through massive intervention by the state repressive apparatus.

Police monitor, harass, and sometimes violently crack down on religious groups operating outside government-controlled institutions. Unrecognized religious groups—including Cao Dai, Hoa Hao, Christian, and Buddhist groups—face constant surveillance, harassment, and intimidation. Followers of independent religious groups are subject to public criticism, forced renunciation of faith, detention, interrogation, torture, and imprisonment. As of September 2021, Vietnam acknowledged that it had not officially recognized about 140 religious groups with approximately 1 million followers.

Police violence and bad treatment in prison

The Vietnamese government received only one recommendation related to unnecessary or excessive use of force by its police, for the first time, in the last UPR (No. 38.157). Yet, Vietnam recorded several cases of alleged police brutality in the last few years, even though the country has ratified CAT in 2015. Furthermore, in 2018, in its consideration of the initial report of Vietnam, the Committee against torture stated that it had received “*several reports indicating that torture, police brutality and deaths in custody remained prevalent in the country*”.¹⁶ Subsequently, it seems like the Vietnamese government does not fulfill its commitments regarding the Convention. The State party did not reply on this point.

Unnecessary or excessive use of force

On January 9, 2020, more than 3000 police officers were deployed around Dong Tam Commune to fire shots at Le Dinh Kinh's residence in Hoanh Village over a land dispute in the area that started in 1980¹⁷. He got killed, and twenty-nine villagers were arrested and convicted in a trial a year later. Two of them, **Le Dinh Cong** and **Le Dinh Chuc**, Lê Đình Kinh's sons, received a death sentence. These arrests and detentions violated international human rights standards, especially regarding police use of force. Many human right defenders - like Pham Doan Trang, who actively reported the truth on this case - have also been targeted for their statements or reports on the Dong Tam attacks.

Bad treatment in prison

¹⁶ <https://www.ohchr.org/en/press-releases/2018/11/committee-against-torture-considers-initial-report-viet-nam?LangID=E&NewsID=23895&ref=thevietnamese.org>

¹⁷ <https://safeguarddefenders.com/sites/default/files/Dong%20Tam%20report.pdf>

The Vietnamese government received 7 recommendations coming from 11 countries related to the prohibition of torture and cruel, inhuman or degrading treatment during the investigation process and detention torture is still happening in the country, particularly in prisons (No. 38.2, .6, .18, .27, .32, .147, .148). Still, torture is happening in prisons. Since the last UPR, several political prisoners died of so-called “*mysterious deaths*” (according to the authorities) or are dying in prison, as a result of torture and prison authorities denying them their right to health care.

Do Cong Duong was a citizen journalist, working mainly on land rights issues. He was in good health before his arrest in 2017, but he died in prison in August 2022. **Phan Van Thu** was the leader of a buddhist sect that became outlawed. He was sentenced to life in prison in 2012. His right to be released on medical grounds was denied. He finally died in prison in November 2022. **Huynh Huu Dat** was a pro-democracy activist. While in prison, he lacked proper healthcare although he reportedly suffered from cancer and an unknown liver condition. He died in November 2022. **Dao Quang Thuc** was a pro-democracy activist. He officially died in December 2019 in prison because of a brain hemorrhage and lung infection. **Doan Dinh Nam** was a member of a buddhist sect that became outlawed by the current Vietnamese government. He suffered from poor health condition. He died in October 2019, reportedly on kidney’s failure. All of them were victims of torture.

Psychiatric hospitals are also places of torture for political prisoners. **Le Anh Hung** is a journalist and pro-democracy activist who has been sent to a psychiatric facility twice, against his will. **Trinh Ba Phuong** is a land rights activist who was kept in the Central Psychiatric Evaluation Center during a month against a month, kept in a small cell and under constant watch by the police. He was then sent back to prison.

Death penalty

The Vietnamese government received 9 recommendations regarding the use of death penalty in the last UPR, coming from 27 countries (38.5, .140, .141, .142, .143, .144, .146, .290, .291). They supported only one of them: “*restrict the use of the death penalty to crimes that meet the threshold of “most serious crimes” under international Law*” and simply noted all the recommendations aiming at a moratorium on the death penalty, its abolition or the ratification of the Second Optional Protocol to the ICCPR.

Moreover, the number of executions is still a national secret in Vietnam, despite a strong and unanimous condemnation by the international community on this matter. It is estimated that around 1200 people are currently being sentenced to death in Vietnam. Since 2017, the Vietnamese government stopped disclosing its execution figures. The unknown of this situation is worrying. In 2023, from the 14th to the 18th of August and from the 21st the 25th of August, information revealed that during these two periods alone, twelve death sentences have been handed down by Vietnamese courts, suggesting that the numbers of death sentences issued during the year might have been much higher. It also strongly suggests that the Vietnamese government does not intend to abolish the death penalty.

According to article 40 of the Vietnamese penal code, “*death 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 Code".¹⁸ However, these provisions are vague, and they cover a wide range of crimes: there is no guarantee that they will meet the "*most serious crime*" criteria. In fact, a lot of death penalty sentences in Vietnam are the result of miscarriages of justice.

Many individuals have unjustly been on death row for years, which is a form of torture. The cases of Lê Đình Công, Lê Đình Chức, Nguyễn Văn Chưởng and Hồ Duy Hải show how bad investigations procedures, violation of rights to fair trial lead to miscarriages of justice and eventually to death sentences.

Le Dinh Cong and **Le Dinh Chuc** have been sentenced to death for their role in the killing of three policemen during the Dong Tam attacks, although investigators have yet to carry out any forensic investigation of the crime scene which have been refused by lawyers defending the rights of the policemen, the Procuracy and the court during the first trial.

Nguyen Van Chuong was arrested and imprisoned in 2007, accused of the murder of a high-ranking police officer and wrongfully convicted, since the only evidence used to convict him and two other individuals arrested with him was their alleged confessions obtained under extreme duress. Moreover, **Nguyen Van Chuong** had strong alibi witnesses to prove his innocence. It has been revealed that some witnesses were coerced by the authorities into changing their testimonies.

Ho Duy Hai was sentenced to death in December 2008 after being convicted of plundering property and for the murder of two sisters. These events occurred in January 2008 but Hai was implicated two months after, because he knew them and could not provide an alibi the night of the murders. He claimed police beat and tortured him into falsely confessing.

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[https://www.policinglaw.info/assets/downloads/2015_Criminal_Code_of_Vietnam_\(English_translation\).pdf](https://www.policinglaw.info/assets/downloads/2015_Criminal_Code_of_Vietnam_(English_translation).pdf)

Recommendations

1. Ratify the optional protocol of the ICCPR to allow the Human Rights Committee to receive individual complaints with regards to the Vietnamese government failing to meet standards in relation to ICCPR.
2. Implement measures in line with Article 19 of the ICCPR, and take effective steps to guarantee a free, uncensored press as guaranteed in Article 25 of the Constitution of the Socialist Republic of Vietnam, which guarantees “freedom of speech [and] of the press.”
3. Immediately release all 39 journalists and press freedom defenders detained in connection with their reporting and stop abducting, arresting, detaining, mistreating them, in accordance with international norms, especially the International Covenant on Civil and Political Rights.
4. End all legal harassment and intimidation of journalists and strive to protect journalists from all forms of violence, pressure, discrimination, unfair legal proceedings and all attempts aimed at preventing them from accomplishing their mission or weakening their ability to do so in accordance with international norms, especially the ICCPR.
5. Remove ambiguous provisions of the 2015 Penal Code (Articles 109 - Subversion, 117 - Propaganda against the Vietnam state, and 331 - Abuse of democratic freedoms) which have frequently been used to arrest and sentence journalists, bloggers, and human rights defenders to lengthy prison terms, and provisions within the 2016 Press Law which state that the role of the press is to be the “voice of the Party”.
8. Immediately release all people sentenced under these ambiguous laws.
7. Remove provisions of the 2016 Press Law which stipulate that the role of the press is to be the “voice of Party and state agencies” and which prevent citizens from setting up press outlets, effectively banning private media.
8. Allow journalists to report on politically sensitive news and include perspectives that are critical of the state to produce balanced news articles.
9. Dismantle Force 47 to prevent any form of online harassment or intimidation
10. Ensure that the treatment of prisoners fully adheres to the conditions set out in the ‘Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment’, adopted by the UNGA resolution 43/173 of 9 December 1988.
11. Abolish the death penalty.