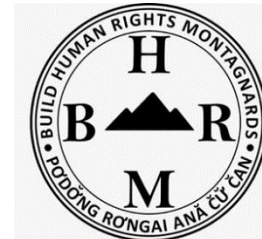




Junior Sacerdotal Council of Cao Dai Religion



Disinformation: threat to religious and indigenous communities and to human rights defenders in Vietnam

Joint Submission to
the UN Special Rapporteur on Freedom of Expression
February 15, 2021

Jointly prepared by:

Boat People SOS, Buddhist Solidarity Association, Build Human Rights for Montagnards, Hmong United for Justice, Independent Journalists Association of Vietnam, Junior Sacerdotal Council of Cao Dai Religion, Montagnards Stand for Justice, Vietnam Coalition Against Torture, Vietnamese Women for Human Rights

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Introduction

This joint submission was collectively prepared by the following organizations:

- Boat People SOS (BPSOS)
- Buddhist Solidarity Association
- Build Human Rights for Montagnards
- Hmong United for Justice
- Independent Journalists Association of Vietnam
- Junior Sacerdotal Council of Cao Dai Religion
- Montagnards Stand for Justice
- Vietnam Coalition Against Torture (VN-CAT)
- Vietnamese Women for Human Rights

It addresses the call for input of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression for her upcoming report to the UN Human Rights Council on the issue of disinformation and freedom of opinion and expression. Our submission covers the following areas:

- Vietnam’s obligations under UN conventions
- Vietnam’s Cybersecurity Law
- Vietnam’s laws against fake news, defamation and divulging state secrets
- State-sponsored disinformation campaign against religious and ethnic minorities
- Impunity for non-state actors
- Denied access to justice
- Collaboration of digital tech companies in suppressing freedom of expression

Vietnam’s obligations under UN conventions

Vietnam is a state member of the United Nations and has ratified the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), two core components of the International Bill on Human Rights that concern freedom of speech.

Furthermore, Vietnam is obligated to implement accepted recommendations from United Nations’ bodies, such as the UN Human Rights Council and the UN Human Rights Committee. Among these recommendations, the following are related to the issue of disinformation and freedom of opinion and expression:¹

- “Urgently, take all necessary steps, including revising legislation, to end violations of the right to freedom of expression offline and online, and ensure that restrictions do not go beyond the strictly defined limitations set forth in article 19 of the Covenant, taking into

¹ Recommended Actions on Civil and Political Rights in Viet Nam From United Nations Human Rights Mechanisms, *Human Rights Space and Centre for Civil and Political Rights (CCPR)*, 2020. Available at: https://ccprcentre.org/files/media/Recommended_Actions_WEB.pdf

account Committee’s general comment No. 34 (2011) on the freedoms of opinion and expression.” (Human Rights Committee - 2019)

- “Promote pluralistic media that can operate free from undue State interference.” (Human Rights Committee - 2019)
- “As a matter of urgency, take all necessary steps, including revising legislation, to end violations of the right to freedom of expression offline and online.” (Human Rights Committee - 2019)
- “Ensure that restrictions do not go beyond the strictly defined limitations set forth in article 19 of the Covenant, taking into account Committee’s general comment No. 34 (2011) on the freedoms of opinion and expression.” (Human Rights Committee - 2019)
- “Improve protection of the rights to peaceful assembly and expression by reviewing existing legislation, and publishing and implementing clear, transparent guidelines on security personnel conduct in managing peaceful demonstrations.” (Universal Periodic Review - 2019)

Please refer to the recent report titled “Dictating the Internet: Curtailing Free Expression and Information Online in Vietnam” by the International Commission of Jurists for more information about Vietnam’s human rights obligations under international law.²

Vietnam’s Cybersecurity Law

After passing the controversial Cybersecurity Law in June 2018, the Vietnamese government has apparently failed to issue a decree to provide guidance on how to implement the law, a routine that usually is conducted by the executive branch shortly after the passage of a piece of legislation at the National Assembly. Due to the government’s arbitrary use of national secrets regulations, it is uncertain whether or not there is already a decree.

The legal system in Vietnam works in a way that needs various types of legal documents and instructions (decree, circular, decision, and official correspondence) from the executive branch to implement legislations passed by the National Assembly (law, ordinance, resolution). After the passage of the Cybersecurity Law in June 2018, it was expected that at least one decree would be issued to provide further guidance and lay out certain procedures for implementation by government agencies. The government did follow that routine, attempting twice to bring a decree into effect on January 1, 2019, the day that the Cybersecurity Law took effect. However, the implementing decree was never officially issued, probably due to widespread backlash from both domestic and international actors.

The first attempt was unofficially made known to the public in early October 2018 by non-state actors, when the Ministry of Public Security (MPS), the government body in charge of drafting

² Dictating the Internet: Curtailing Free Expression and Information Online in Vietnam, *International Commission of Jurists*, 2020, p. 38-39. Available at: <https://www.icj.org/wp-content/uploads/2020/12/Vietnam-Freedom-of-expression-Publications-reports-thematic-reports-2020-ENG.pdf>

the decree, was in the middle of a process of consulting relevant agencies and companies.³ A copy of the drafted decree dated October 3, 2018 was leaked to the independent media and was analyzed by technical and legal experts, with the following findings:

- The draft decree details the term “personal data” in the Cybersecurity Law to include: (1) identity data: names, dates of birth, place of birth, nationality, occupation, job title, residential address, contact address, email address, phone numbers, identity documents’ numbers, social security number, credit card number, health conditions, medical records, financial records, hobbies, talents, political opinions, ethnic origin, race, philosophical belief, social status, biological data; (2) self-made data: content that is downloaded or uploaded; (3) personal relationships: information about friends and their connections; and (4) Internet accounts, IP addresses, search logs, chat logs, time of transactions, devices information.
- Social network owners and content providers must store the above-mentioned data permanently and provide them to the government upon request. Data on IP addresses, chat logs, search logs must be stored for 36 months. If a company shuts down its operations, it is obligated to hand over all the data to the Department of Cyber Security and Hi-tech Crime Prevention (A05) of the Ministry of Public Security.
- The draft decree intended to grant relevant government agencies and enterprises one year from January 1, 2019 to prepare to store and provide data to the government. Foreign companies would also have one year to set up branch/representative offices in Vietnam as required by the law.

The draft decree, in fact, clearly intended to expand the government’s authority over Internet users’ personal data, granting the MPS’ A05 unchecked access to the data and power to determine what to do with the data for an unlimited period of time without having to obtain consent from users who own and the company who collects the data. Expanding the scope of application and authority is a usual practice of the Vietnamese government when issuing decrees, although the practice is a direct violation of the law and the Constitution. However, without a proper judicial review mechanism, these violations have never been put in check, despite the fact that the Ministry of Justice has publicly admitted that tens of thousands of legal documents are either unconstitutional or illegal.⁴

On November 2, 2018, the Ministry of Public Security officially released the draft decree with minor modifications compared to the initial version. Following are the most notable modifications:

- It removed some types of personal data from its definition, such as political opinions.
- It narrowed down the authority of the Chief of A05 over companies’ data, granting the Minister of Public Security the power of requesting data.

³ Bộ Công an muốn quản lý số thẻ tín dụng, log chat và quan điểm chính trị của người dùng Internet, *Luật Khoa*, 2018. Available at: <https://www.luatkhoa.org/2018/10/bo-cong-an-muon-quan-ly-so-the-tin-dung-log-chat-va-quan-diem-chinh-tri-cua-nguoi-dung-Internet/>

⁴ 10 tháng, 9.017 văn bản pháp luật vi hiến, trái luật, *Tuoi Tre*, 2015. Available at: <https://tuoitre.vn/van-con-nc-nang-trong-xu-ly-van-ban-699345.htm>

The new draft was planned to be released for public consultation for two months before taking effect on January 1, 2019. However, the government went silent shortly after announcing the new draft and has never issued the decree since then.

From the very limited public information that we were able to collect, the Minister of Public Security, General To Lam, announced in a cabinet meeting on May 30, 2020 that his ministry had submitted two draft decrees to the Office of the Government for review. There was no mention of what the two draft decrees were about. The Minister of the Office of the Government responded that because the documents involved many complicated matters, Prime Minister Nguyen Xuan Phuc had ordered a careful review and a consultation with international organizations, diplomats, foreign investors; thus, the issuance of the documents had been delayed.⁵

In late October 2020, Minister To Lam made another public statement announcing that his ministry had completed the drafting process of one decree and submitted it to the Office of the Government, waiting for it to be issued.⁶

There is still no public access to the documents that General To Lam mentioned. This is potentially a direct violation of the 2015 Law on Promulgation of Legal Documents concerning the principle of transparency pertinent to the legal document drafting process (Article 5) and the requirement of consultation of draft decrees (Article 91).⁷ And given the fact that some legal documents in Vietnam are classified as secret documents, there is still a chance that a decree relating to the Cybersecurity Law has been issued but is covered by the Law on Protection of State Secrets.

Absent the implementing decree, it appears that the government has been trying to indirectly provide guidance of implementation of the Cybersecurity Law by issuing decrees that are, on the surface, meant to be detailing other laws. This can be interpreted as a way of avoiding domestic and international scrutiny and criticism since the Cybersecurity Law and its initial draft decree have received widespread condemnation.

Thus, both the central and local governments can implement the many provisions of the Cybersecurity Law without having to wait for implementation guidance. In fact, the Cybersecurity Law is only a part of many laws and regulations that govern online expression. By conducting administrative, criminal and economic measures, the government has been actively forcing citizens and technology companies (mainly foreign enterprises) to accept a significantly more repressive Internet environment and a much narrower range of doing business in Vietnam. For a detailed analysis of this overarching legal framework, see our joint submission to the UN Human Rights Council for the 2019 Universal Periodic Review of Vietnam.⁸

⁵ Nội bộ không minh bạch thì khó cải cách với bên ngoài, *Vietnam's Government's website*, 2020. Available at: <http://baochinhphu.vn/thoi-su/noi-bo-khong-minh-bach-thi-kho-cai-cach-voi-ben-ngoai/367190.vgp>

⁶ Bộ Công an đang chờ nghị định hướng dẫn chi tiết luật An ninh mạng, *Bao Dau tu*, 2020. Available at: <https://baodautu.vn/bo-cong-an-dang-cho-nghi-dinh-huong-dan-chi-tiet-luat-an-ninh-mang-d132301.html>.

⁷ Law on Promulgation of Legal Documents. Available at: <https://thuvienphapluat.vn/van-ban/bo-may-hanh-chinh/Luat-ban-hanh-van-ban-quy-pham-phap-luat-2015-282382.aspx>

⁸ <https://dvov.org/wp-content/uploads/2018/07/Vietnam-UPR-2019-joint-submission-on-freedoms-of-thought-and-expression-1.pdf>

Vietnam’s laws and regulations on fake news, defamation and state secrets

Decree 15/2020/ND-CP

On February 03, 2020, the Vietnamese government issued Decree 15/2020/ND-CP (“Decree 15”), signed by the Prime Minister, to stipulate penalties for administrative violations in the fields of postal services, telecommunications, radio frequency, information technology and electronic transactions. This decree replaces Decree 174/2013/ND-CP (“Decree 174”).

This legal document issued by the central government’s executive branch went into effect on April 15, 2020, in the middle of the COVID-19 pandemic, and although it covers a wide range of administrative violations, the decree has been widely seen as a measure to counter fake news on the Internet about the pandemic. However, this decree was likely to be prepared well before the pandemic and should be considered as the government’s ongoing effort to control the Internet. Here are the key takeaways that concern online speech:

- Decree 15 maintains administrative sanctions against owners of social networks and of news sites on various forms of online speech as stated in Decree 174, including providing/sharing “fake or false information with the aims of distorting, slandering or damaging the prestige, honor and dignity of other organizations, authorities or individuals”, “information with the aims of encouraging unsound customs, superstitions or pornography, or which is not comfortable with the national good traditions and customs,” “fictitious information with the aims of causing a panic among the population, inciting violence, crimes, social evils, gambling or serving gambling activities,” “images of Vietnam’s map which does not indicate the entire and accurate national sovereignty.”
- Decree 15 expands the scope of application of its regulations to social media users, making it clear that users are subject to the sanctions. This addresses the ambiguity in Article 66 of Decree 174, the wording of which did not clearly indicate applicability to individual Internet users – the authorities did apply Article 66 to individuals anyway.⁹ On the other hand, Article 65 of Decree 174 is applicable to owners of social networks only, but the Ministry of Information and Communications did apply it to an individual in a well-publicized case in 2018.¹⁰ The new decree makes it totally clear that social media users are facing severe financial consequences if they committed the above-mentioned violations.
- Decree 15 maintains that social networks owners, website owners, and Internet service providers shall be fined should they not store and provide user data for the authorities upon request.

⁹ Bị xử phạt hành chính 7,5 triệu đồng vì phát ngôn của mình trên mạng xã hội, Chủ tịch Công ty Alibaba nói gì? *Nhà Đầu Tư*, 2019. Available at: <https://nhadautu.vn/bi-xu-phat-hanh-chinh-75-trieu-dong-vi-phat-ngon-cua-minh-tren-mang-xa-hoi-chu-tich-cong-ty-alibaba-noi-gi-d26038.html>

¹⁰ Daniel Hauer đã đến làm việc về việc xúc phạm Đại tướng Võ Nguyên Giáp, *Người Lao Động*, 2018. Available at: <https://nld.com.vn/thoi-su/daniel-hauer-da-den-lam-viec-ve-viec-xuc-pham-dai-tuong-vo-nguyen-giap-20180130164028886.htm>

The International Commission of Jurists made the following comment on the Cybersecurity Law and Decree 15:

“While combating misinformation online is a legitimate policy concern, these recent laws do not appear to have been passed for that purpose in good faith. They violate the principles of legality and legitimate purpose, as vague and overbroad provisions do not enable individuals or networks to be able to clearly define what information can violate ‘national interests’ or ‘good traditions’ and regulate their conduct accordingly. These provisions also allow for unfettered discretion of authorities in determining who ‘distorts the people’s government’ or acts ‘against the State’ online. The stipulation of severe penalties for vaguely worded crimes further violates the principle of proportionality. These shortcomings, at the very least, require independent, impartial and effective oversight, redress and accountability mechanisms to ensure that the laws are not invoked in violation of fundamental rights, and that when such violations do occur, individuals and organizations are able to seek and be provided with effective remedies and reparations. These mechanisms are absent, heightening concerns that these laws will be wielded in a non-human rights compliant manner against companies, networks and their individual users.”¹¹

2018 Law on Protection of State Secrets

Vietnam’s National Assembly passed the Law on Protection of State Secrets on November 15, 2018 and the legislation piece came into force on July 1, 2020, replacing the Ordinance 30/2000/PL-UBTVQH on Protection of State Secrets.¹² Following the adoption of the law, Decree 26/2020/ND-CP (dated February 28, 2020)¹³ and the Prime Minister’s Decision 960/QĐ-TTg (dated July 7, 2020)^{14, 15} were issued to provide guidance on how to implement the law. Although this legal document does not directly involve online speech, it effectively prohibits Internet users from making and disseminating information that is considered state secrets under the law.

This decision arbitrarily and massively expands the scope of state secrets to include vague terms such as “the Party’s and the State’s policies”, “activities of the Party’s Central Committee, Politburo, Secretary Committee, and the Party’s and the State’s leaders,” “information that has negative effect on the political, economic and social situation,” and specific matters such as “constitution and law making activities,” “information about investigation and [...] trials [...]”

¹¹ Dictating the Internet: Curtailing Free Expression and Information Online in Vietnam, *International Commission of Jurists*, 2020, p. 38-39. Available at: <https://www.icj.org/wp-content/uploads/2020/12/Vietnam-Freedom-of-expression-Publications-reports-thematic-reports-2020-ENG.pdf>

¹² Law on Protection of State Secrets. Available at: <http://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=141824&Keyword=>

¹³ Decree 26/2020/ND-CP. Available at: <https://thuvienphapluat.vn/van-ban/bo-may-hanh-chinh/Nghi-dinh-26-2020-ND-CP-huong-dan-Luat-Bao-ve-bi-mat-nha-nuoc-435873.aspx>

¹⁴ Prime Minister’s Decision 960/QĐ-TTg. Available at: <https://thuvienphapluat.vn/van-ban/bo-may-hanh-chinh/Quyết-dinh-960-QĐ-TTg-2020-Danh-mục-bi-mat-nha-nuoc-linh-vuc-Noi-vu-446809.aspx>

¹⁵ English translation of Decision 960/QĐ-TTg with comments by BPSOS: <https://dvov.org/wp-content/uploads/2020/10/PM-Decision-Secrets-En-960-QĐ-TTg.pdf>

“information about the physical conditions of the Party’s and the State’s high-ranking leaders,” etc.

The decision indicates that any form of making, spreading information about the above-mentioned matters, and expression of one’s opinions on these matters shall be considered as violations of the law and subject to either administrative sanctions under Decree 15 or criminal punishment under the 2015 Penal Code. As the law is worded vaguely, it gives law enforcement and the courts significant leeway for interpretation, which potentially leads to the arbitrary application of the law and violations of the right to freedom of speech. One prime example is Decision 960’s classification of the various types of information relating to how the government handles religious affairs as confidential, secret, and top secret. The types of information covered by Decision 960 include the government’s policies of dealing with “complicated belief and religious issues,” “documents containing information about people who abuse belief and religious activities to overthrow the government...” and government communications with religious leaders and dignitaries. See Appendix A for a more in-depth analysis of Decision 960.

Then, on November 3, 2020, the Prime Minister issued Decision 1722/QĐ-TTg,¹⁶ classifying certain internal documents of the Vietnamese Communist Party, especially those relating to the mobilization and control of the mass, as state secrets. These documents include, among others, communications and minutes of meetings with leaders and influential people of the different religions and ethnic populations. Most astounding is Article 3, which classifies as state secret information about communist party members assigned to covertly operate within religions. The government thus admits the infiltration of religious organizations by communist party members and would punish anyone disclosing information about the infiltrators. Like Decision 960, Decision 1722 would not only affect freedom of expression but may adversely impact freedom of religion. See Appendix B for a more in-depth analysis of Decision 1722.

Implementation of the laws and regulations

Although in theory, the 2018 Cybersecurity Law is not being implemented due to the lack of an accompanying implementing decree, we have witnessed a surge in cases of citizens being punished for online speech either via administrative or criminal measures or through increased pressure on foreign online service providers. Freedom House’s “Freedom on the Net 2020” report scores Vietnam 22/100, two points less than its previous 2019 report due to the worsened situation¹⁷, while Reporters Without Borders ranks Vietnam at 175/180 countries on its 2020 Press Freedom Index, which is one grade lower than the 2019 ranking.¹⁸

In this section, we categorize and analyze how the Vietnamese government has implemented the existing Internet regulations.

¹⁶ Prime Minister’s Decision 1722/QĐ-TTg. Available at: <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Quyet-dinh-1722-QD-TTg-2020-Danh-muc-bi-mat-nha-nuoc-cua-Dang-456651.aspx>

¹⁷ Freedom on the Net 2020, *Freedom House*, 2020. Available at: <https://freedomhouse.org/country/vietnam/freedom-net/2020>

¹⁸ Reporters Without Borders, 2020. Available at: <https://rsf.org/en/vietnam>

Criminal punishment

The Penal Code is undoubtedly one of the most potent tools that the Vietnamese government uses to suppress freedom of expression in general and online speech in particular. The code has been traditionally used to persecute activists, independent journalists, and dissidents. However, over the past two years, we have witnessed a new trend: the government goes after ordinary citizens who have no considerable background of activism.

According to The 88 Project's 2019 report on political prisoners and activists at risk in Vietnam, "[t]he crackdown worsened during the year in several notable areas, including the ramped up arrests and prosecution of ordinary citizens who expressed their opinions on online platforms. Forty percent of those arrested in 2019 were online commentators with no extensive history of activism and almost half of those arrested in 2019 were charged with 'conducting propaganda against the state,' an increase from previous years. Seventeen people were sentenced to between 5-9 years in prison, and ten were sentenced to 10 years or more."¹⁹

Cases of ordinary citizens being targeted (data collected and verified by The 88 Project):

- On August 23, 2019, Duong Thi Lanh was sentenced to eight years in prison and two years of probation by The People's Court of Dak Nong province for "making, storing, spreading information, materials, items for the purpose of opposing the State of Socialist Republic of Vietnam," under Article 117 of the 2015 Penal Code. According to the indictment, the investigation police stated that from June 2017 onward, Lanh had created and used 13 Facebook accounts to make over 300 postings with anti-state content.²⁰
- On August 21, 2019, Huynh Dac Tuy, director of Tuy Nguyet construction company, was sentenced to six years in prison and three years of probation. He was charged with "producing, storing, disseminating and propagating information, documents against the Socialist Republic of Vietnam," in accordance with Article 117 of Vietnam's 2015 Criminal Code, for posting commentary on Facebook that was critical of the state. He is one in a string of people who, in recent years, have been interrogated, detained, and/or imprisoned for sharing their views online.²¹
- Quach Nguyen Anh Khoa is an ordinary citizen with no professional or extensive history of activism. He only used his Facebook account to criticize the Party leadership and the public management of the current regime. Khoa's arrest date is unknown. He was tried on June 13, 2019 and sentenced to six months in prison. He was likely released from prison by the end of 2019. Since his arrest date is unknown, so is his actual release date.²²
- Dr. Pham Dinh Quy, lecturer at Ton Duc Thang University in Ho Chi Minh City, was apprehended by the police of Dak Lak Province on September 23, 2020 and taken to Dak Lak Province for detention and investigation on charge of slandering the Communist Party Secretary of Dak Lak Province, pursuant to Article 156 of the Penal Code. Dr. Quy had

¹⁹ 2019 Report on Political Prisoners and Activists at Risk in Vietnam, *The 88 Project*, 2020. Available at: <https://the88project.org/2019-report/>

²⁰ Available at: <https://the88project.org/profile/299/duong-thi-lanh/>

²¹ Available at: <https://the88project.org/profile/270/huynh-dac-tuy/>

²² Available at: <https://the88project.org/profile/455/quach-nguyen-anh-khoa/>

denounced Mr. Bui Van Cuong, Provincial Communist Party Secretary, of plagiarism in his doctoral dissertation. Dr. Quy sent his denunciation letter to the Vietnamese Communist Party's Central Review Committee and Indoctrination Committee, the Ministry of Public Security and the Bureau on Media. Answering a reporter's question on September 29, Brigadier General To An Xo, Chief of Staff of the Ministry of Public Security, admitted that he had no access to information about this case. On September 30, the Dak Lak Public Security Department initiated its prosecution against Dr. Quy. This case raises two problematic issues. First, reporting potential fraud to responsible entities for investigation could be interpreted as slandering. Second, the Dak Lak Public Security can reach and prosecute someone residing outside of its jurisdiction without prior consent of the central government.²³

- On January 7, 2021, Nguyen Van Nhanh, resident of Trang Bom District, Dong Nai Province, was sentenced to one year in prison for “causing embarrassment” to the Chair and Vice-Chair of Trang Bom District in a Facebook livestream video. He denounced these two district government officials of being biased in addressing a dispute matter affecting his and other families in his neighborhood. These two government officials reported Nhanh to the public security office, which decided to prosecute him. In court Nhanh argued that his frank evaluation of the performance of public servants should not constitute a criminal offense. He also pointed out that his two accusers were not present in court and therefore not available for cross-examination. Regardless, the court went ahead and sentenced him to one year of imprisonment.²⁴

Cases of activists and independent journalists being targeted (data collected and verified by The 88 Project):

- Three members of the Independent Journalists Association of Vietnam (IJAVN) were sentenced to a total of 37 years in prison after a trial lasting half a day on January 5, 2021. Dr. Pham Chi Dung, 55, received 15 years; Nguyen Tuong Thuy, 69, received 11 years; and Le Huu Minh Tuan, 32, received 11 years. All three were convicted of “anti-state propaganda” under Article 117 of the 2015 Criminal Code. Dr. Dung is a high-profile figure among both Ho Chi Minh City Communist Party and pro-democracy activists. The website of IJAVN, which is also a news website called the Vietnam Times (Viet Nam Thoi Bao), has become inaccessible after Dr. Dung's arrest.²⁵ The trial's judges convicted the three defendants based on the Procuracy Office's indictment that says the defendants committed the crime as they wrote and published “anti-state” content via the online newspaper Vietnam Times.²⁶

²³ “Giảng viên ĐH Tôn Đức Thắng bị mời làm việc: Chánh văn phòng Bộ Công an nói gì?”, VTC News, September 30, 2020. Available at: <https://vtc.vn/giang-vien-dh-ton-duc-thang-bi-moi-lam-viec-chanh-van-phong-bo-cong-an-noi-gi-ar571941.html>

²⁴ “Livestream “nói xấu” chủ tịch huyện trên facebook, lĩnh án 1 năm tù”, Lao Động, January 7, 2021. Available at: <https://laodong.vn/phap-luat/livestream-noi-xau-chu-tich-huyen-tren-facebook-linh-an-1-nam-tu-868706.ldo>

²⁵ Available at: <https://the88project.org/profile/431/pham-chi-dung/>

²⁶ 37 năm tù cho ba nhà báo tự do, *Luat Khoa*, 2021. Available at: <https://www.luatkhoa.org/2021/01/37-nam-tu-cho-ba-nha-bao-tu-do/>

- Democracy activist and independent journalist Pham Doan Trang was arrested on October 6, 2020 and charged with “propaganda against the state” under the Article 88 of Vietnam’s 1999 Penal Code and “producing, storing, disseminating and propagating information, documents against the Socialist Republic of Vietnam” under Article 117 of the 2015 Penal Code. She is one of the most high-profile activists and leading independent journalists who authored high-quality publications on politics, laws, and human rights.²⁷ On December 28, 2020, the Vietnamese government, through its Permanent Mission to the United Nations Office in Geneva (Switzerland), responded to a joint communication sent by various UN mandate holders that *“the arrest of Pham Thi Doan Trang is to investigate violations of the law, abuse of social network and internet to post information that distorts the truth with a view to causing public anxiety, slandering and harming the reputation of individuals and organizations. These acts were conducted for the purpose of overthrowing the State of Vietnam. Therefore, the arrest of Pham Thi Doan Trang in order to investigate and clarify her offences is necessary and totally consistent with conventions on human rights to which Vietnam is a party, including Article 19.3 of the ICCPR.”*²⁸
- Journalist Truong Chau Huu Danh was arrested in Can Tho Province on December 16, 2020 and charged with “abusing democratic freedoms” under Article 331 of the 2015 Criminal Code. The 38-year-old has worked for several state-run newspapers. In recent years, he became better known for supporting anti-corruption protests against the “Built, Operate and Transfer” (BOT) tollbooths and for posting remarks on Facebook about the violent police raid in Dong Tam Commune and other social unrests. Colleagues describe him as an even-keeled, objective reporter and expressed surprise at his arrest.²⁹ He was charged with “abusing democratic freedoms” under Article 331 of the 2015 Criminal Code. He is being detained for three months in a prison in Long An Province pending an investigation. If convicted under Article 331, Danh could face up to seven years in prison. The Committee to Protect Journalists released a statement shortly after his arrest calling for his immediate release.³⁰
- Ms. Dinh Thi Thu Thuy, an aquaculture engineer and environmental activist, was sentenced to seven years in prison by a court in Hau Giang Province on January 20, 2021 in a trial that lasted less than four hours on charge of *“conducting anti-state propaganda”* for five Facebook posts criticizing economic and cyber security laws, the government’s handling of the pandemic, and environmental issues. The authority claimed that the postings “satirized, ridiculed, and offended” Party leaders.³¹

²⁷ Available at: <https://the88project.org/profile/286/pham-doan-trang/>

²⁸ Available at: <https://dvov.org/wp-content/uploads/2021/01/NV-163-VNM.20.pdf>

²⁹ Available at: <https://the88project.org/profile/378/truong-chau-huu-danh/>

³⁰ <https://cpj.org/2020/12/journalist-truong-chau-huu-danh-arrested-in-vietnam/>

³¹ <https://www.voanews.com/press-freedom/vietnam-jails-environmental-activist-7-years-over-facebook-posts>

Administrative measures

Since 2018, we have observed that the government, both at the central and local levels, has actively used administrative measures to fine ordinary citizens for online speech. Decree 174 and its successor, Decree 15, form the legal ground for fining people.

We have documented dozens of cases from 2018 to 2020 and found that the vast majority of them involved allegedly making/spreading fake news on Facebook. Many of them occurred during the COVID-19 pandemic. However, some of the COVID-19-related cases in fact involved criticisms against government officials. Below is a sample of cases compiled from the mainstream media.

- N. T. M. K. was fined 10 million VND (approximately US\$450) on August 4, 2020 by Binh Phuoc Province’s local government for posting on Facebook what amounted to hearsay about COVID-19 infection: “Everyone, Thuan Loi has positive cases already. Dong Xoai, be careful. Try to protect yourself until this pandemic is over.”³²
- Ms. Vu Thi Hanh was fined 7.5 million VND (approximately US\$350) on August 22, 2020 by Thai Nguyen Province’s local government for posting on Facebook a warning to friends, which the government considered as spreading fake news: “The characteristics of coronavirus is similar to HIV and Ebola; sharing prescription, symptoms, and methods of prevention.”³³
- N. A. D. was fined 7.5 million VND (approximately US\$350) on October 9, 2020 by Gia Lai Province’s local government on allegation of posting fake news on Facebook. The content of his posts, dated from 2018, are said to have insulted government officials and police.³⁴
- Facebooker Mr. Dang Nguyen Triet is a high school teacher in Ninh Thuan Province who often shares and posts his views on national issues on his Facebook account. In April 2019, the public security of Ninh Thuan Province accused him of “*disseminating, store, use information on a Facebook account with the aim to tell lies, make false accusation, hurt the credibility of the Party and the state*” and used his three posts on Facebook as evidence against him. In particular, on March 25, 2019 Triet posted and shared a video on a scandal of a Party-appointed Buddhist monk at Ba Vang Pagoda that induced followers to pay big sums of money with the promise to remove “bad karma” from their life. In another post on March 11, 2019, Triet shared an article by another Facebooker, Nguyen Ngoc Chu, which debated about the shortcomings of China-built Cat Linh - Ha Dong urban railway line in Hanoi. In the third post, Triet showed his doubt on a government’s fund for helping the poor and questioned its distribution. The authorities forced him to pay 7.5 million VND (approximately 320 USD) in administrative fine.³⁵

³² Phạt 10 triệu đồng cô gái đưa tin sai về COVID-19, *Cong an Nhan dan*, 2020. Available at:

<http://cand.com.vn/Thong-tin-phap-luat/Xu-phat-1-phu-nu-dua-tin-ve-COVID-19-sai-su-that-605706/>

³³ Xử phạt đối tượng đăng tin sai sự thật liên quan đến dịch COVID-19, *Thai Nguyen TV*, 2020. Available at: <https://thainguyentv.vn/xu-phat-doi-tuong-dang-tin-sai-su-that-lien-quan-den-dich-covid-19-80810.html>

³⁴ Đăng sai sự thật lên Facebook, bị phạt 7,5 triệu đồng, *Phap luat TP. Ho Chi Minh*, 2020. Available at: <https://plo.vn/an-ninh-trat-tu/dang-sai-su-that-len-facebook-bi-phat-75-trieu-dong-943002.html>

³⁵ <https://the88project.org/profile/371/dang-nguyen-triet>

The COVID-19 pandemic has effectively created a convenient situation for the government to put in place new measures to silent critics and to surveil citizens on a massive scale. Not only the administrative sanctions are being utilized on a scale that had never been seen before to punish online speech, under the guise of fighting the pandemic, the government took the unprecedented move of forcing citizens to install a tracing App called Bluezone that has the capability to collect and upload users' contact history to government's servers. Technical experts have raised serious concerns about its privacy threat,³⁶ but the government has successfully had the App installed on a sizable number of devices: 10,000,000 installs through Google Play³⁷ by December 16, 2020; although there are no statistics of iPhone installs, there are almost 20,000 people who have rated it on Appstore.³⁸

The state's use or encouragement of non-state actors to spread disinformation

The laws and regulations designed to control freedom of expression apparently are not enforced in cases of violations by state-owned media or non-state actors that are used as instruments of repression by the state. In fact, they enjoy absolute immunity from complaints filed by affected citizens. Requests by victims for police investigation are routinely ignored. Lawsuits against the defaming parties are summarily dismissed. The blogs and Facebook accounts, believed to be set up by the government-employed cyber-troops, remain active despite repeated reports filed with responsible authorities.

Red Flag Association

In 2017, the Red Flag Association was launched simultaneously in many provinces to target Catholic priests and parishioners who advocated for fair compensation for victims of the ecological disaster caused in April 2016 by the Formosa steel plant in Ha Tinh Province. Groups of Red Flag Association members, at times numbering in the hundreds, physically assaulted priests and their parishioners and verbally attacked them on the social media with absolute impunity. Requests for investigation by the victims or their parish priests have been completely ignored by the police.³⁹

The concluding observations of the UN Human Rights Committee pursuant to its review of Vietnam's implementation of the ICCPR specifically mentioned the human rights violations committed by members of the Red Flag Association:

"[The Committee] is disturbed by reports that non-State actors, such as the "red flag associations" attack Catholic communities, and are involved in propaganda activities that promote and incite religious discrimination, violence and hate speech (arts. 2, 18–20 and 26).

³⁶ Bluezone - Electronic mask, *App Assay*, 2020. Available at: <https://www.appassay.org/apps/bluezone/>

³⁷ Available at: <https://play.google.com/store/apps/details?id=com.mic.bluezone>

³⁸ Available at: <https://apps.apple.com/vn/app/bluezone/id1508062685?ls=1>

³⁹ More on the attacks by Red Flag Associations on Catholic communities is available at: <https://dvov.org/wp-content/uploads/2018/03/BPSOS-Report-on-Red-Flag-Associations-03-27-18.pdf>

44. The State party should bring its legislation into conformity with article 18 of the Covenant, refrain from any action that may restrict the freedom of religion or belief beyond restrictions permitted under that article and take into account the recommendations of the Special Rapporteur on freedom of religion or belief (see A/HRC/28/66/Add.2). It should also take measures to prevent and swiftly and effectively respond to all acts of undue interference with the freedom of religion, and any incidents of hate speech, incitement to discrimination, violence or alleged hate crime, and ensure that those responsible are brought to justice.”⁴⁰

In its reply dated November 26, 2018 to the List of Issues, the Vietnamese government acknowledged the existence of Red Flag Associations and pledge to ensure that their activities will not violate the laws or regulations:

13. Upset by local extremist Catholic dignitaries who repeatedly made false accusation, distorted the history or socio-political events, and offended late Leader Ho Chi Minh, and frequently infringed upon the social order and security in the locality, a portion of the population in Nghe An province established the so-called “Red Flag Association” at their own discretion. Viet Nam does not encourage the establishment of such associations as the “Red Flag Association”, and local governments employed measures to strengthen the management to ensure that such associations’ activities neither violate laws and regulations, nor trigger discrimination, nor break the solidarity between the Catholics and non-Catholics.⁴¹

Nevertheless, the perpetrators, which included government officials, were treated with impunity. There was no proof of investigation, let alone prosecution of the perpetrators. In one case, a Catholic member of the Ke Gai Parish, in Nghe An, was prosecuted by the public security for having signed as a witness in the petition for investigation filed by his Parish Priest. He had to flee to Thailand and was soon followed by his wife and their two daughters. All four have been recognized as refugees by the Office of the UN High Commissioner for Refugees (UNHCR). This case was raised in the UN Secretary General’s 2019 Intimidation and Reprisal Report, dated September 9, 2019:

“On 26 September 2018, Mr. Nguyen Van An, a Catholic from Ke Gai parish, was informed of an arrest warrant for his involvement in documenting and testifying on alleged violations and reporting them to the United Nations. Mr. Nguyen Van An and his family have left the country.”⁴²

⁴⁰https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fVNM%2fCO%2f3&Lang=en

⁴¹ https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/VNM/INT_CCPR_RLI_VNM_33107_E.pdf

⁴² <https://undocs.org/en/A/HRC/42/30>

That same report cited the Vietnamese government’s outright denial of the existence of the Red Flag Association:

“The Government stated that there is no “Red Flag Association” in the country and that when tension between Catholic followers and local residents erupted in December 2017, the authorities convoked the two groups requesting them not to engage in acts causing disruption to local social order and security.”

The government not only protects the Red Flag Association members but also punishes those who expose the disinformation spread by them. Enjoying impunity, the Red Flag Association continues to vilify Catholic priests and parishioners in the social media. On October 24, 2019, the Red Flag Association published on its primary blog an article titled “The Black Crow Dang Huu Nam - a Traitor,” signed Red Flag Association, falsely accusing Catholic Priest Dang Huu Nam of being an agitator working for the U.S. government to destabilize the communis regime (note that “black crow” is a pejorative reference to a Catholic priest for his black robe):

*“We all know that the U.S. game plan is to keep interfering in our domestic affairs to catalyze a gradual transformation in the political sphere. The U.S. always seeks out those who love money and willing to betray their country like Dang Huu Nam and instruct them to incite others so that the U.S. has an excuse to intervene. Each country is governed by its Constitution and laws, and no entity may interfere with its domestic affairs, including the U.S. Yet Dang Huu Nam suggested to the U.S. that it should intervene to have Vietnam change our laws by designating Vietnam as a ‘country of particular concern’. Isn’t this ridiculous?”*⁴³

On March 11, 2020, the Red Flag Association’s website published an article titled “Taking advantage of the Coronavirus pandemic to undermine the Government! Catholic extremists revealed their devilish nature,” in which author Thanh Phong slandered specific Catholic priests – including those already physically threatened by Red Flag Association members in 2017 and 2018. Below is an excerpt:

*“However, aside from the struggle to prevent infections and fight the Coronavirus pandemic, in Vietnam one faces another “epidemic” which tags along, the “abuse craze virus” manifesting itself in extremist priests and followers of the Catholic Church, including Dang Huu Nam, Nguyen Ngoc Nam Phong, Nguyen Dinh Thuc, the administrators of the website ‘Catholic Men’, among others. Their names are not unknown to netizens after they were associated with so many scandals and bestowed nicknames such as “canine priests”, “Catholic Moose”, “candle traders”, etc.”*⁴⁴

In 2019 and 2020 the Red Flag Association expanded its operations to many cities and regions across Vietnam and now targets multiple religions and individuals. For example, on December

⁴³ <https://hoicodo.blogspot.com/2019/10/quang-en-ang-huu-nam-ke-cong-ran-can-ga.html>

⁴⁴ <http://hoicodo.com/549972/loi-dung-dai-dich-corona-de-chong-pha-nha-nuoc-so-cuc-doan-trong-cong-giao-da-hien-ro-nguyen-hinh-ac-quy/>

27, 2020, the Facebook page “Red Flag of Dak Lak Province” posted a lengthy article that spread disinformation against the Montagnard Evangelical Church of Christ. Titled “Exposing the true nature of the reactionary organization Protestant Church of Christ,” the article accused this organization of “*receiving the support of enemy forces, finding ways to connect and collaborate with reactionary organizations in exile... and mobilizing organizations and individuals unsympathetic to Vietnam (such as Human Rights Watch, UNHCR, US Commission on International Religious Freedom and UN Human Rights Committee...) to make false accusations that the government persecutes religions, suppresses democracy and human rights, expropriates lands of ethnic minorities, causing division among the block of great national unity...*”⁴⁵ The article lists names of specific individuals that it declares to be reactionary.

On December 25, 2019, the website of the Red Flag Association for Ho Chi Minh City posted an article falsely accusing the Unified Buddhist Church of Vietnam (UBCV)’s Sangha of abusing freedom of religion and belief:

*“Vietnam has always been a responsible, proactive member [of the community of nations] in protecting human rights, including the right to freedom of belief, religion; that is evidence to counter all allegations by bad forces to distort the facts and falsely accuse Vietnam of violating freedom of belief, religion... [UBCV’s Sangha] take absolute advantage of belief, religion as a point of assault against the revolutionary endeavor under the leadership of our party and state. The fact that UBCV, not recognized by our government, issues an arrogant statement, distorting the nature of religious freedom in Vietnam is a mere act against the inevitable trend of history. Beware, going against the inevitable trend of history, you will be crushed by the wheels of history!”*⁴⁶

As shown in a later section, the Red Flag Association has also targeted human rights defenders such as Mrs. Bui Thi Minh Hang and lawyer Le Thi Cong Nhan.

Cao Dai victims of slandering by government-created Cao Dai Sect

Mr. Tran Ngoc Suong is a resident of Go Cong Town, Tien Giang Province and a local lay leader of the Cao Dai Religion that was established in 1926. He has been targeted by the government-created Cao Dai Sect.

In 1978, the government outlawed the Sacerdotal Council of the Cao Dai Religion. In 1997, the Government created a new Cao Dai sect and appointed Mr. Nguyen Thanh Tam as its head.⁴⁷ The Government then transferred to this sect most religious facilities belonging to the Cao Dai

⁴⁵ <https://www.facebook.com/105979761013949/posts/215927273352530/>

⁴⁶ “Tăng đoàn Giáo hội Phật giáo Việt Nam Thống nhất’ chớ xuyên tạc tự do tôn giáo ở Việt Nam,” Red Flag Association of HCM City, December 25, 2019. Available at: <https://codotphcm.com/tintuc/chitiet/tang-doan-giao-hoi-phat-giao-viet-nam-thong-nhat-cho-xuyen-tac-tu-do-ton-giao-o-viet-nam-452.html>

⁴⁷ See: <https://dvov.org/the-real-cao-dai/>

Religion. Local authorities have since aided sect members throughout Southern part of Vietnam to takeover, often violently, some 300 Cao Dai temples.⁴⁸

On June 18, 2020, Mr. Tran Ngoc Suong filed a defamation lawsuit against Mr. Nguyen Thanh Tam and other clerics of the government-created Cao Dai Sect for having issued and publicized an order to expel Mr. Suong from the Cao Dai religion. Followers of Mr. Tam then distributed his order to Cao Dai followers to discredit and defame Mr. Suong, suggesting that he had been excommunicated from his religion – in fact, he joined the Cao Dai Religion decades before the new sect was created and does not recognize the government-created Cao Dai Sect. In at least one instance, a government official informed Mr. Suong’s co-religionists of the expulsion order and pointed out that he no longer qualified as a Cao Dai lay leader.

The People’s Court of Hoa Thanh Town decided not to review and resolve Mr. Suong’s complaint in accordance with the law. On September 21, 2020, Mr. Suong filed a complaint with the Chief Justice of the People's Court of Tay Ninh Province and the Chief Justice of the People’s Court of Hoa Thanh Town. He did not receive a response. On December 04, 2020, Mr. Suong followed up with a request to the Chief Justice of the People's Court of Hoa Thanh Town, the Chief Justice of the People's Court of Tay Ninh Province, and the Chief Justice of the People's Supreme Court urging the courts to sort it out among themselves and let him know which one would review the lawsuit and hear the case.

On December 11, 2020, the People's Court of Hoa Thanh Town notified Mr. Suong that his lawsuit was rejected on the ground of lack of jurisdiction. The decision did not offer an explanation, nor did it explain which other court would have jurisdiction. One may conclude that Vietnam’s court system has dismissed Mr. Suong’s lawsuit out of expediency, simply to protect the government-created Cao Dai Sect.

Around the time Mr. Nguyen Thanh Tam issued his order to expel Mr. Tran Ngoc Suong, on April 21, 2020 multiple websites posted a picture of Mr. Suong in an article titled: “Need to harshly punish Tran Ngoc Suong ‘s violations of the Law on Religion and Belief”. The article is filled with hateful comments, fabrication, and slander about Mr. Suong without either contacting him for verification of information or citing supporting evidence. The acts of spreading disinformation and deceiving public opinion directly violated Decree 15/2020/ND-CP, Article 34 of the Civil Code, and Article 155 of the Penal Code.

On May 25, Mr. Suong filed a request with the Office of Information and Communications of Tien Giang Province and the Ministry of Information and Communications for information of the individuals and/or entities behind the websites that defamed him. On June 9, the provincial Office of Information and Communications responded, acknowledging that the said websites violated provision 7.5 of the 2015 Law on Cyber Information Security, No. 86/2015/QH13; however, they argued, provision 17.2 of the same law stipulates that the government must protect the identity of internet users.

⁴⁸ <https://dvov.org/wp-content/uploads/2018/07/1997-Sect-non-state-actor-June-30-2018-final.pdf>

To overcome this administrative roadblock, on July 23, 2020 Mr. Suong filed a petition with the People's Court of Go Cong Town, requesting the court to declare that the defaming information about him is untrue. On July 28, 2020, he received the notification from the court concluding that his request does not fall under its jurisdiction.

On August 04, 2020, Mr. Suong filed a complaint with the People's Court of Go Cong Town for rejecting his petition. On August 11, 2020, Judge Vo Thi Lan sent Mr. Suong a court decision stating that the authority to interpret the Civil Code and the Civil Procedure Code lays with the National Assembly. On August 28, 2020, Mr. Suong sent a request to the Chief Justice of the People's Supreme Court asking the Chief Justice to provide guidance on the competence authority responsible for interpreting the Civil Code and the Civil Procedure Code. His request was summarily rejected.

The government responded very differently in the aforementioned case of Mr. Nguyen Van Nhanh, where the local police were eager to prosecute and the court to mete out a prison term. The difference may be that Mr. Suong has been a victim of repeated reprisals by the government for having reported rights violations to UN mandate holders. In 2015, he attended the first Southeast Asia FORB (SEAFOB) Conference organized in Thailand where he talked directly to the UN Special Rapporteur on FORB. In 2019, he and other Cao Dai followers were barred from travel to Thailand for the fifth Southeast Asia FORB Conference. On April 30, 2020, the Mandates of the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the situation of human rights defenders wrote to the Vietnamese government about this act of reprisal:

“Ms. Nguyen Xuan Mai, Mr. Pham Tan Hoang Hai, Mr. Nguyen Van Thiet, Mr. Tran Ngoc Suong and Ms. Luong Thi No participated in the previous conferences. Between 28 October 2019 and 1 November 2019, they were individually banned from travelling to the conference in Bangkok either under the order of the Ministry of Public Security of Viet Nam or local police authorities. Mr. Nguyen Anh Phụng (independent member of the Cao Dai religious group), who had initially planned to attend the conference, was interrogated at home for additional information on the conference even though he ultimately did not attend.” (VNM 2/2020)

The incident was also reported in the UN Secretary-General’s 2019 Intimidation and Reprisal Report:

“124. In April 2020, special procedure mandate holders addressed alleged threats, travel restrictions and violence against and surveillance of members of independent religious communities and human rights defenders who had sought to participate or had participated in the 2019 annual international conference in Bangkok on freedom of religion or belief in South-East Asia, including interaction with and training by OHCHR. Individuals included Ms. Nguyen Xuan Mai, Mr. Pham Tan Hoang Hai, Mr. Nguyen Van Thiet, Mr. Tran Ngoc Suong, Ms. Luong Thi No, Mr. Nguyen Anh Phụng, Mr. Huynh Ngoc Truong, Ms. Nguyen Thi Hoai Phuong, Ms. Nguyen Pham Ai Thuy, Ms. Ngo Thi Lien, Mr. Thich Thien Phuc and Mr. Nay Y Ni (VNM 2/2020).”

Mr. Suong's case is not unique. Another Cao Dai follower, Mr. Nguyen Van Thiet, was similarly targeted by the government-created Cao Dai Sect with an expulsion order. Without receiving any response from the lower court, he escalated the lawsuit to the provincial People's Supreme Court. Thus far, Mr. Thiet has not received any response from any of those courts. Like Mr. Tran Ngoc Suong, Mr. Thiet attended the first SEAFORB Conference in Thailand in 2015 but was barred from travel to Thailand in 2019 for the fifth SEAFORB Conference. His case was also featured in VNM 2/2020 and the UN Secretary-General's 2020 Intimidation and Reprisals Report.

Human rights defender being slandered in the social media

Mrs. Bui Thi Minh Hang is a former prisoner of conscience, imprisoned twice due to her human rights advocacy. She was adopted as a prisoner of conscience and advocated for by US Senator Bill Cassidy.

Mrs. Hang resides in Vung Tau City, Ba Ria - Vung Tau Province and is a prominent human rights advocate with thousands of followers on her Facebook page. She often posts about injustice and socio-political issues in Vietnam. She is often targeted by cyberbullies who post articles online that seriously distort, slander, and defame her, causing damage to her honor and dignity. On April 6, 2020, the website of the Red Flag Association accused Mrs. Hang and human rights lawyer Le Thi Cong Nhan of raising human rights and democracy issues as pretexts to disrupt and derail Vietnam's fight against the COVID-19 pandemic. The article, titled "Enemy inside the country causing disturbance during pandemic," came with pictures of these two women human rights defenders without their prior consent as stipulated by Decree 15/2020/NĐ-CP.⁴⁹

On December 8, 2020 Mrs. Hang filed a request with the Ministry of Information and Communication and the Department of Information and Communications of Ba Ria-Vung Tau Province, asking these agencies to provide the identities of individuals and/or organizations who are owners of those websites. However, long past the stipulated 10 days for government response, Mrs. Hang has still not received any responses from these agencies. Clearly the Government has avoided applying Decree 15/2020/NĐ-CP to impose monetary sanctions against the cyberbullies for disseminating "fake or false information with the aims of distorting, slandering or damaging the prestige, honor and dignity of other organizations, authorities or individuals." This reinforces Mrs. Hang's belief that these cyberbullies work for the government.

As the next step, Mrs. Hang plans to submit a request to the People's Court of Vung Tau City, Ba Ria - Vung Tau Province, asking the court to formally declare that the defamatory information about her posted online is misinformation. In all likelihood, her petition will be summarily dismissed or ignored.

⁴⁹ <http://hoicodo.com/610091/giac-trong-nuoc-quay-roi-trong-dai-dich/>

Use of disinformation in state media to justify violations of human rights

Vietnamese Women for Human Rights

On July 4, 2020, the official television channel of the Ministry of Defense broadcasted a show produced by the Indoctrination Committee of the Vietnamese Communist Party, depicting Vietnamese Women for Human Rights, a civil society organization founded by women human rights defenders, as an anti-government organization:

“Covering itself under the umbrella of the so-called civil society, an organization with a self-declared mission of defending human rights and women's dignity has incited people to oppose the government, connected with reactionary organizations in order to misrepresent the truth of the situation of the country. In Vietnam, there is no such thing called Women for Human Rights association.”^{50,51}

The television show attacked two of the organization’s co-founders: Ms. Huynh Thuc Vy, an author, and Ms. Tran Thi Nga, twice a prisoner of conscience -- on November 5, 2018 the UN mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders had issued a joint statement on mistreatment directed at Ms. Tran Thi Nga while in prison.⁵² On August 24, 2020, FORUM-ASIA and 18 human rights organizations condemned the attack against Vietnamese Women for Human Rights on state television.⁵³ Vietnamese Women for Human Rights is the only Vietnam-based member of FORUM-ASIA, a network of 81 human rights organizations in 21 countries.

Thien An Monastery

The government of Thua Thien - Hue Province has for four decades targeted for expropriation the 107 hectares of pine forest belonging to the Thien An Monastery of the Benedictine Order. In 1998, the government confiscated 49 hectares of this land.

Starting in early 2016, the government again targeted the remaining 58 hectares of land. On January 4, 2016, a group of strangers attacked the Monastery’s abbot, Priest Anthony Nguyen Van Duc, with a caustic substance causing severe burns to his right cheek and neck. On June 28 2017, the government sent over 100 plain-clothed police agents to physically assault monks and priests at the monastery, causing serious injuries to four monks-in-training who continue to suffer post-traumatic stress disorder to this day. The mob also destroyed church properties and religious icons, including the statue of Jesus Christ on the crucifix. With the help of a local lawyer, Priest Anthony Duc filed a petition requesting investigation by the police. The police did not initiate any investigation. With the help of BPSOS, the abbot also submitted a report to the UN Special Rapporteur on FORB.

⁵⁰ <http://tuyengiao.vn/video/dau-tranh-chong-am-muu-dien-bien-hoa-binh/hoi-phu-nu-nhan-quyen-hay-tro-roi-pha-hoi-dat-nuoc-2886>

⁵¹ English translation by BPSOS: <https://dvov.org/wp-content/uploads/2020/07/Translation-of-VNWHR-Videos-transcript.pdf>

⁵² <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24171>

⁵³ <https://www.forum-asia.org/?p=32621>

On August 10 and August 11, 2020, the Thua Thien – Hue government sent an unruly mob to harass and terrorize the monks, violating its own COVID-19 social distancing order. Witnesses identified a number of government officials among the mob. The violent attack was captured on video.⁵⁴

On August 17, the radio and television station of Thua Thien – Hue government ran a documentary titled “A number of monks of Thien An Monastery grabbed land, distorted the truth.” The documentary falsely accused the monks and priests of Thien An Monastery of taking lands from local residents. On August 23, the seminary’s abbot wrote to the station, inviting the head of the station, Mr. Nguyen Van Du, and the documentary’s anchor, Ms. Nguyen Thi Diem My, to present evidence supporting their allegations. The abbot also offered to present counter evidence. The station did not respond and did not retract its defamatory story.

Montagnard Christian house churches

Claiming falsely that certain Christian denominations and sects are “evil” and/or “reactionary,” the government targets Montagnard house churches across the Central Highlands, including the Ha Mon Church, the Montagnard Evangelical Church of Christ and the Dega Evangelical Church. Such systematic and on-going persecution of Montagnard Christians emanated from the policy of the Central Highlands Steering Committee, founded in 2002 by the Vietnamese Communist Party. In 2004, the Ministry of Public Security established its Central Highlands Security Bureau (PA90) to coordinate the implementation of policies set by the Central Highlands Steering Committee.

On December 18, 2020, the Department of Public Security of Gia Lai Province declared that it had succeeded in completely eradicating the “Ha Mon” cult: It had arrested the last Ha Mon follower who was hiding in the jungle. The news was published on the official online publication of the Ministry of Public Security. The same article also reported Gia Lai Public Security Department’s effective actions to eliminate the Dega Protestant Church.⁵⁵

The Ha Mon religion arose from the belief that the Virgin Mary appeared in late 1999 at a location near Ha Mon village in the Central Highlands of Vietnam. Ha Mon practitioners share the same beliefs as Catholics, except that they do not worship in churches but in private homes. By 2012, this new religion had more than 3,500 followers, mainly from the Bana and Sedang ethnicities in three provinces: Gia Lai, Kon Tum and Dak Lak. The government classified Ha Mon religion as superstition and linked it to the FULRO,⁵⁶ a separatist movement formed under French colonialism. This movement ceased to exist in 1992 when the last group of 407 FULRO fighters and their families handed in their weapons to United Nations peacekeepers in Cambodia.

However, the Vietnamese government often raises the specter of FULRO to justify its crackdown against Montagnard Christians who refuse to join government-sanctioned churches. The government equates “Dega” with FULRO while in fact Dega is just another word in one of

⁵⁴ <https://www.youtube.com/watch?v=Y7X5XNluxcg&t=44s>

⁵⁵ Hoàn thành xoá bỏ tà đạo “Hà Môn”, Công An Thanh Phố Hồ Chí Minh, December 18, 2020. Available at: http://congan.com.vn/tin-chinh/hoan-thanh-xoa-bo-ta-dao-ha-mon_104704.html

⁵⁶ FULRO is the abbreviation of the French name “Front unifié de lutte des races opprimée” (United Front for the Liberation of Oppressed Races).

the native languages for Montagnard. Reflecting the policy set out by the Central Highlands Steering Committee, on June 14, 2013 *World Security*, an official publication of Vietnam's Ministry of Public Security, published an article titled "Ha Mon Cult, a FULRO Trick" that went as far as accusing that this new belief was created by the FULRO:

*"...FULRO elements continued to take advantage of the Catholics' belief in the Virgin's miraculous appearances to make up the 'Ha Mon Cult' in the Central Highlands to deceive citizens...incite citizens to oppose the government...to supply FULRO members hiding in the forest..."*⁵⁷

Marking the 10th anniversary of the formation of the PA90, then Minister of Public Security General Tran Dai Quang gave his marching order to the public security forces in the Central Highlands:

*"...increase activities to be able to assess the situation, to detect, counter, and prevent hostile elements and FULRO's plots; to neutralize efforts in reviving reactionary organizations; and to eradicate the evil cult "Ha Mon".*⁵⁸

The case of Pastor Ksor Xiem of the International Dega Church illustrates how the state uses disinformation to justify forced renunciation of faith. At 7:30 AM on December 24, 2015, the public security police officers of Ayun Pa District in Gia Lai Province came to Pastor Xiem's house and ordered him to report to the police station for interrogation. The interrogators questioned him about his activities in his denomination and then forced him to leave his church because it "works for FULRO and undermines national solidarity". Upon hearing his refusal, the police officers used various objects to hit his ribs, chest, and abdomen. They also slapped his face and punched his face and temples. He fell unconscious. They let him go home after he regained consciousness. He got sick and ached all over his body. His family could not afford the costs of medical treatment. He passed away around 9:30 AM on January 14, 2016.

For its effective operations to root out the Ha Mon Religion and suppress the Dega Evangelical Church, the PA90 repeatedly received the President's Order of Merit:

"Through 10 years of growth and combatting the enemy, a more mature Ethnic Communities Security Office (PA90) of Gia Lai Province, in coordination with the local government and the people, has derailed plots by the reactionary FULRO and contributed to the security of the region. From 2004 on, the Office has unmasked and dealt with several FULRO organizations, "Dega Evangelical Church", and established 3 projects to end FULRO elements' operation out of the forest. The Office captured 12 Ha Mon Cult adherents, convinced 69 fugitives to give themselves up, made substantial progress in resolving the Ha Mon Cult issue, and achieved several other unheralded successes.

⁵⁷ "Đạo Hà Môn" – Trò dối trá của bọn phản động Fulro", An Ninh Thế Giới, June 14, 2013. Available at: <http://antg.cand.com.vn/Ho-so-Interpol/Dao-Ha-Mon-%E2%80%93-Tro-doi-tra-cua-bon-phan-dong-Fulro-306015/>

⁵⁸ 10-year anniversary of the establishment of the Central Highlands Security Bureau, Ministry of Public Security, July 17, 2014. Available at: <http://cand.com.vn/Cong-an/Cuc-An-ninh-Tay-Nguyen-Ky-niem-10-nam-ngay-thanh-lap-va-don-nhan-danh-hieu-Anh-hung-Luc-luong-vu-trang-nhan-dan-266454/>

*“With its outstanding results, PA90 has been honored 4 times with the President's Order of Merit while its employees have been honored with several other awards from the President, the Prime Minister, and other officials.”*⁵⁹

On September 27, 2019, Colonel Nguyen The Luc, Deputy Director of the Police Department of Dak Lak Province, was shown in a two-part story broadcasted on An Ninh Television (ANTV), an official television program of the Ministry of Public Security, falsely denouncing the Montagnard house churches as units of an anti-government movement: *“FULRO aims to achieve independence for the Central Highlands ethnic minorities and needs to recruit followers using religion as a bait.”*⁶⁰

The television program portrayed an innocuous visit by a North Carolina-based American Baptist pastor, Pastor Gene Lathan, in July 2019 to Dak Lak Province, where he prayed with adherents from Central Highlands house churches, including the Degar Evangelical Church and the Montagnard Evangelical Church of Christ, as evidence of Montagnard Christians' plot to oppose the government.

Later in the same television program, Senior Lt. Colonel Truong Hong Quy, Commander of the Internal Security Office of the Dak Lak Province Police Department, talked about his exploits in successfully eliminating the Montagnard Evangelical Church of Christ in Dak Lak Province. He was quoted saying: *“The ‘religious cover’ trick is extremely dangerous, their ultimate goal is to establish their own government and secede from our country...”*⁶¹. The video then announced the arrest of adherents of the Montagnard Evangelical Church of Christ and the destruction of their house church in Dak Lak Province. Senior Lt. Colonel Quy was reported as having directly conducted many raids against the independent Montagnard house churches.

Spreading disinformation against Montagnard Christian house churches is not the invention of provincial authorities. The article dated June 15, 2016 published on the official website of Kon Tum Province's Public Security Department shows that eradication of the Ha Mon Religion was also being waged in the remaining province where the Ha Mon Religion had followers:

“Implementing the plan for eradicating the evil Ha Mon Cult, on June 14, 2016, the task force led by Colonel Vu Tien Dien, deputy director of the province's Police Department and consisting of a number of supervisors from the province's Security Office, participated in a working session with the team from the province that was sent to reinforce the Sa Thay District police force... However, progress still needs to be made in a number of locations where the situation is fluid... The deputy director ordered the reinforcement team to continue to coordinate with the various units in increasing the number of officers on site, to advise the

⁵⁹ “Heroes in the battle against FULRO”, Public Security Ministry website, May 13, 2015. Available at: <https://dov.org/wp-content/uploads/2021/02/Heroes-in-the-battle-against-FULRO.pdf>

⁶⁰ <https://youtu.be/fuAcdWOFZ0w>, at minute 6:05, September 27, 2019 video shown on Security Police TV (ANTV), Vietnam

⁶¹ [Ibid](#) at minute 2:47

commissars and government in the district... in a determined push to eradicate the Ha Mon Cult in the near future.”⁶²

Hmong Christian house churches

The Vietnamese government conducts a similar policy towards Hmong Christians in the Northwestern Highlands who do not submit themselves to government control. The authorities allege that Hmong who fought to preserve their ancestral lands of supporting the establishment of the “Hmong Kingdom” and labels minority religious groups as cults to be outlawed.

In his report to the 28th session of the Human Rights Council, then-UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt noted that the Vietnamese government spread propaganda against the Duong Van Minh faith:

“Hmongs of the Duong Van Minh faith have also been subjected to arbitrary detentions and imprisonment, beatings, torture, constant monitoring, and pressure to renounce their faith. Those who have refused to do so face losing their jobs and the social benefits provided to ethnic minorities. Reportedly, 24 of their funeral sheds have been destroyed for being ‘illegitimate’, that is, without a permit, including the most recent destruction in October 2014, after the country visit of the Special Rapporteur. The Government has also allegedly spread propaganda against this community through the media and internal gazettes of the Government.”⁶³

On February 9, 2021, the government of Vinh Quang Hamlet, Bao Lam District, Cao Bang Province broadcasted on the PA system of the Na Tong Market characterizing followers of Duong Van Minh Sect as swindlers:

“People should abandon the illegal Duong Van Minh Organization. Duong Van Minh and his accomplices are swindlers, spreading arguments that are delusional, nonsensical causing confusion among the public...”⁶⁴

More worrying, the 2020 national contest of radio programs selected for 3rd prize a show that vilified Duong Van Minh faith. Titled “The truth behind the illegal Duong Van Minh faith,” the three-parts show ran was aired on February 25 – 27, 2020 on national radio programs. Below is an excerpt from the radio show:

“The guy [Duong Van Minh] self-proclaims to be the Messiah of the Hmong people, claiming that Jesus Christ came back through his body, and predicted

⁶² Kon Tum: Đồng chí Đại tá Vũ Tiến Điền – Phó giám đốc làm việc với Đội công tác tăng cường cơ sở Sa Thầy, Tin Tây Nguyên website, June 14, 2016. Available at: <https://tintaynguyen.com/kon-tum-dong-chi-dai-ta-vu-tien-dienpho-giam-doc-lam-viec-voi-doi-cong-tac-tang-cuong-co-sa-thay/173693/>

⁶³ Report No. A/HRC/28/66/Add.2, July 2014

⁶⁴ Audio recording of the announcement on PA system at Na Tong Market, Vinh Quang Hamlet, Bao Lam District, Cao Bang Province, February 9, 2021. Available at: <https://dvov.org/wp-content/uploads/2021/02/9-2-2021.mp4>

*that the Earth would explode in 2000; all people would die, only those who follow Duong Van Minh would be saved and would go to paradise for a blissful existence – having food without working, knowing how to read without learning, and the dead would be resurrected.”*⁶⁵

This is total disinformation. Mr. Duong Van Minh, a Hmong born in 1961, preached a new way of life to his fellow Hmong people, starting in 1989 at the height of the government's crackdown on evangelical churches. In 1990, the public security arrested Mr. Duong Van Minh and a follower, Mr. Dao Dinh Hoang. The public security confiscated from them a picture frame, a vase, plastic flowers, 2 sheets with Chinese characters, and a bag of sugar. They were each sentenced to 5 years in prison for "spreading superstition with serious consequences" and "defrauding others" under Articles 157, 199, 141 of the Penal Code.

Upon his release in 1995, Mr. Duong Van Minh hid in the forest, fearing an attempt on his life. In 2001, he returned home and resumed teaching fellow Hmong people to end the worship of spirits, reliance on shamans, and practice of obsolete rituals. He soon attracted some 10,000 adherents. Seeing the rapid spread of the Duong Van Minh faith, the government's falsely accused him of spreading superstition and predicting the end of the world. According to a detailed report by VETO!, a human rights organization based in Germany:

*“Mr. Duong Van Minh only talked about the end of the Hmong's spirits worship. The government's accusation that believers brought him money and gifts, hoping that he would call on spirits to cure illness, has no basis. The believers consider the government's slanderous material to be lies and lying is contrary to the Hmong's love of truth. A few adherent families (not the majority) stopped sending their children to school after teachers followed the government's line because they do not want their children to learn how to lie. Some families refused any kind of government assistance after the government spread lies about the Duong Van Minh faith being the cause of their impoverishment. The government cited these cases as evidence that the Duong Van Minh faith intends to sabotage government policy.”*⁶⁶

On February 7, 2021, the television unit of the Ministry of Public Security and Bureau of Domestic Security aired a documentary depicting Duong Van Minh Religion as a force that destabilizes the social order. After presenting plenty of disinformation against Mr. Duong Van Minh and his religion, the documentary concludes that:

⁶⁵ “The truth behind the Duong Van Minh faith”, 3rd prize, 14th national radio program contest, 2020. Available at: <https://dvov.org/wp-content/uploads/2021/02/200627-giai-3-phim-su-that-dang-sau-tin-nguong-bat-hop-phap-dvmban-thao-cho-lien-hoan-phat-thanh-toan-quoc-11.pdf>

⁶⁶ “The 25-year persecution of the Hmong's Duong Van Minh religion”, VETO!, 2014. Available at: https://dvov.org/wp-content/uploads/2014/07/140430_vn_suppressionduongvanminhreligion-veto_report_to_srrfen.pdf

*“The illegal Duong Van Minh organization not only is a toxic wind but also affects the life of credulous individuals who believe in it and brings with it latent instability for social life in many localities.”*⁶⁷

The government of Vietnam has similarly spread disinformation about the “Vang Chu” faith. “Vang Chu” literally translates to “the King.” A book published by the government characterizes Vang Chu faith as a reactionary and illegal organization:

*“‘Vàng Chử’ is based on the tradition of the H’mong people, who were, like the Vietnamese, conquered by the Han. At first, ‘Vàng Chử’ was a religion of the H’mong. But later, it joined Catholicism to gain a more formal status. Afterwards it turned to Evangelism for the latter seems more suitable. Up to now, ‘Vàng Chử’ has been evangelised. However, since it does not have a legal organisation or society, no matter how it is called, it is an illegitimate missionary body.”*⁶⁸

The Vietnamese government accuses Vang Chu followers of advocating for separatism through the creation of a Hmong Kingdom, independent of Vietnam. The July 1, 2020 article titled “Bonding with the people” in Bao Nhan Dan (the People), the official organ of the Vietnamese Communist Party, characterized Vang Chu as an illegal religion:

*“Before, in the region where the Hmong people reside, an issue emerged about welcoming the Vang Chu king and illegal religious operations. A number of Hmong families believed in them, thus the activities [of the public security] to assess the situation, conduct public propaganda and carry out public mobilization encountered many difficulties; in some areas, the people refused to talk to public security cadres, did not invite them into their homes, did not cook meals for them.”*⁶⁹

The article concluded that, thanks to the tireless work of the public security cadres, many Vang Chu followers have abandoned their faith. The government has used the disinformation about “Vang Chu” faith to justify many of its brutal crackdowns against Hmong Christians over the past quarter century. The deadly crackdown against peaceful Hmong demonstrators in May 2011 near the Muong Nhe Village in Dien Bien Province is a case in point.

From January to March 2011, the government razed an entire village of Hmong Christians in Xa Na Khoa, Ban Nam Nhu, Muong Nhe District, Dien Bien Province in retaliation for their refusal to abandon Christianity.⁷⁰ The villagers decided to come together in a mass prayer to ask for their right to religious freedom and livelihood. The mass prayer started May 1. Words spread

⁶⁷ “Tổ chức Dương Văn Minh - Tổ chức bất hợp pháp trá hình tôn giáo”, Ban Chuyên Đề Truyền Hình Công An Nhân Dân & Cục An Ninh Nội Địa, February 7, 2021. Available at:

https://www.facebook.com/permalink.php?story_fbid=4384196194930005&id=1193184570697866

⁶⁸ “Religious Problems in Vietnam: Questions and Answers”, English book by Nguyen Minh Quang, a researcher on religion, Thế Giới Publishing House, Hanoi, 2001

⁶⁹ “Gắn bó với nhân dân”, Báo Nhân Dân, July 1, 2020. Available at: <https://nhandan.com.vn/dang-va-cuoc-song/gan-bo-voi-nhan-dan-476122>

⁷⁰ Video of the brutal police crackdown against Hmong Christians at mass prayer, May 6, 2011:

https://www.youtube.com/watch?v=l_gleadjG7c&feature=g-upl&context=G2fdc004AUAAAAAAAAAAAA

through circles of relatives and fellow Hmong. Hmong people from multiple provinces, including some who had migrated to the Central Highlands, joined in. Entire families came together to pray that the government stop forcing them to abandon their faith and evicting them from their home villages because of their Christian faith. By May 4, some 5,000 Hmong Christians, including men, women, children, and the elderly, participated in the event. On May 5, the mobile police and military troops encircled the demonstrators. The following day, they launched an all-out assault, using baton and electric rods. One woman reportedly died because of police beatings. According to our interviews with Hmong participants who successfully fled to Thailand, at least 14 demonstrators were killed on the spot and 21 arrested that day. The police tracked down those who went into hiding; at least one Hmong was shot dead and many others arrested.⁷¹

On May 9, the official organ of the Indoctrination Committee of the Vietnamese Communist Party published an article titled “The truth about the ‘Vang Chu’ Religion in Dien Bien” to place the blame on the Vang Chu faith:

“In light of the developments in Muong Nhe in recent days, more than ever before we need to realize the true nature of the so called ‘Vang Chu religion’ so as to have the right and determined attitude and actions. Their taking advantage of belief to act against the law, cause instability among the ethnic Hmong community in Muong Nhe, Dien Bien must be eliminated soon. The culprits must be taken to justice and be prosecuted strictly under the law.”⁷²

However, at the trial held on March 3, 2012 against eight Hmong identified by the public security as agitators behind the Muong Nhe mass prayer, the government changed its narrative. The eight defendants were not charged as Vang Chu followers. Instead, they were accused of being part of a separatist movement aiming to establish the Hmong Kingdom.⁷³ This sudden change in narrative indicates that the Vietnamese government just made up stories to justify its gross violations of human rights.

BPSOS has interviewed a score of Hmong demonstrators who successfully fled to Thailand. None of them had ever heard about the above eight agitators, let alone their separatist intention.

Unified Buddhist Church of Vietnam

The government has used disinformation in many ways to discourage UBCV adherents from frequenting UBCV pagodas, thus isolating monks who refuse to join the government-created Buddhist Church of Vietnam (BCV).

⁷¹ “Persecution of Hmong Christians and the Muong Nhe Incident,” BPSOS, January 24, 2012. Available at: <https://dvov.org/wp-content/uploads/2014/07/bpsos-the-muong-nhe-incident-02-12-12.pdf>

⁷² “Sự thật về cái gọi ‘Đạo Vàng Chứ’ ở Điện Biên”, Ban Tuyên Giáo, May 9, 2011. Available at: <http://tuyengiao.vn/dien-dan/su-that-ve-cai-goi-dao-vang-chu-o-dien-bien-31579>

⁷³ “Xét xử vụ án phá rối an ninh tại huyện Mường Nhé, tỉnh Điện Biên,” Nhân Dân điện tử, March 3, 2012. Available at: <https://nhandan.com.vn/thoi-su-phap-luat/X%0c3%0a9t-x%0e1%0bb%0ad-v%0e1%0bb%0a5-%0c3%0a1n-ph%0c3%0a1-r%0e1%0bb%091i-an-ninh-t%0e1%0ba%0a1i-huy%0e1%0bb%087n-M%0c6%0b0%0e1%0bb%09dng-Nh%0c3%0a9,-t%0e1%0bb%089nh-%0c3%090i%0e1%0bb%087n-Bi%0c3%0aan-569551/>

For example, the government of Ba Ria – Vung Tau Province has sent its cadres to the residence of UBCV adherents, threatening them with dire consequences if they attend religious activities held at the UBCV pagodas that refuse to join BCV. This tactic became most apparent when, on September 3, 2020, the local authorities set up a checkpoint at the only road leading to Thien Quang Temple in Hoa Binh Ward, Xuyen Moc District, Ba Ria – Vung Tau Province. The temple was having the Pavāraṇā⁷⁴ Celebration, which was to be attended by the German Consul General. Government cadres were captured on video telling visitors that there was a new case of COVID-19 infection in the neighborhood; thus no one was allowed to proceed further. When challenged by monks from the pagoda to present evidence of new COVID-19 infections, the government conceded, allowing a small number of Buddhist followers to enter the pagoda. In fact, the provincial government had ended social distancing three days before (August 31) and there was no new case for months afterwards. The disinformation was apparently motivated by the government's attempt to minimize contact between the visiting German Consul General and Buddhist adherent loyal to UBCV.

On September 10, most likely in retaliation for their failure the week before, the police of Xuyen Moc District targeted the family of Mr. Tran Van Thuong, a key supporter of the said UBCV pagoda. At approximately 3:30AM, seven policemen came to the workplace of Thuong's son, Tran Van Khuong (he worked night shift), and took him to the police station. They detained him without a warrant.

At around 7am, upon learning of the abduction of his son by the police, Mr. Thuong and family members (including Khuong's mother, wife and brother Phe) came to the police station to inquire about Khuong's whereabouts. Initially the police denied all knowledge of this matter. Then, without being provoked, police officers grabbed Thuong and Phe, twisted their arms into a locked position behind their backs and forced their necks with a choke hold, violently pushing them down to the ground. The father and the son were then dragged inside the police station and detained.

After officers at the US and German consulate generals in Ho Chi Minh City had made several phone calls to the Vietnamese authorities, Thuong and his son Khuong were released at around 6:30pm on the same day.

After the incident, the police came to Khuong's workplace, where he worked as a security guard, and told his employer that Khuong was affiliated with UBCV, an illegal organization. Soon afterwards, he lost his job.

Disinformation about Vietnam's obligations under international law

Mistranslation of UN conventions

Each state-party to the Covenant is obligated to disseminate the content of the International Covenant on Civil and Political Rights (ICCPR) to its people in the country's prevailing language, ensure that commitments to the Covenant are incorporated into the country's national

⁷⁴ Pavarana is a Buddhist holy day in the Theravada tradition, sometimes called "Buddhist Lent" or Buddhist Mother's Day.

legal framework, and ensure that domestic interpretations of the Covenant are consistent with its original meaning. The Vietnamese government has made its Vietnamese translation of the ICCPR available for public access.⁷⁵

It, however, contains errors that seriously alter the original meaning of certain clauses and provisions of the Covenant and may lead to misinterpretation of the rights specified in the Covenant as well as the government's obligations to comply with the Covenant. Following are the critical flaws in the translation provided by the Government of Vietnam.

Throughout Article 18 "freedom of belief" was incorrectly translated as "tín ngưỡng," which Vietnam's 2018 Law on Belief and Religion officially defines as "*human belief manifested through rites closely associated with traditional customs and practices to bring about spiritual peace for individuals and the community*" and belief-based activities as "*activities of worshipping ancestors and divine symbols; commemorating and honoring persons with meritorious services to the country and/or communities; and folk rites typifying the values of history, culture and social morality.*"⁷⁶ The mistranslation has essentially reduced freedom of belief, which is very broad as per the Covenant, to a definition that is very narrow.

As another example, "public morals" was mistranslated as "social morality" (Articles 12, 18, 19 and 21). While "public morals" refers to codes of conduct in public settings, "social morality" is usually understood as a system of values imposed on or applicable to the entire society. This misinterpretation would allow the government to limit human rights on the basis of political correctness or ideological values such as "national unity". Note that "undermining national unity" has been used as an excuse by the Vietnamese authorities to suppress freedom of expression and freedom of religion or belief, and to send many human rights defenders to prison. BPSOS has seen cases in which Montagnard Christians were told to join government-sanctioned churches in the spirit of national unity. Those who resisted were harassed, intimidated or detained.

The issue of mistranslation was brought up during the March 2019 review of Vietnam's implementation of the ICCPR. Ms. Marcia Kran, a Canadian lawyer and member of the UN Human Rights Committee, raised the issue twice during the review session:

*"It's encouraging that the government has provided Vietnamese translations of the Covenant. Apparently though the Vietnamese translation contains errors that can lead to a misinterpretation of rights and obligations. What efforts will you be making to provide an accurate translation to ensure that the provisions of the ICCPR are accurately represented in the translation? As well, there are many indigenous communities that use their own languages and we understand that the Covenant has not been translated in any of those languages. How do you plan to ensure that the Covenant will be widely accessible to indigenous peoples?"*⁷⁷

⁷⁵ Available at: <https://thuvienphapluat.vn/van-ban/Linh-vuc-khac/Cong-uoc-quoc-te-ve-quyen-dan-su-va-chinh-tri-270274.aspx>

⁷⁶ Official English translation provided by the Vietnamese government. Available at: <http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11093>

⁷⁷ <http://webtv.un.org/meetings-events/human-rights-treaty-bodies/human-rights-committee/125th-session/watch/consideration-of-viet-nam-3580th-meeting-125th-session-of-human-rights->

“Issuing an accurate Vietnamese translation of the covenant and translating it into the indigenous languages...”⁷⁸

In his response, the head of the Vietnamese delegation outright dismissed Ms. Kran’s concern without even promising at least a fair review of the alleged translation errors:

“There’s a member of the HRC that raised translation of the Covenant. I think that... It seems to me that there is no ground to say that there is any incorrect translation of the Covenant. When we made effort to assist this Covenant, we always try our best to provide correct translation. If there is allegation saying that there is incorrect translation, I think that allegation and accusation is wrong.”⁷⁹

Disinformation about rights of citizens

The Vietnamese authorities have resorted to disinformation to curtail the rights of citizens to observe UN-established international days, including the December 10 International Human Rights Day and the August 22 International Day Commemorating Victims of Acts of Violence Based on Religion or Belief, which was established pursuant to Resolution A/RES/73/296 and adopted by the UN General Assembly on 28 May 2019. Following is a small sample of the cases we have documented.

- At 7:00 AM on August 27, 2020, Mr. Tran Van Be, a Cao Dai adherent in Tien Giang Province, was on his way to take care of personal business when the police apprehended him and took him to a local prison. Six specialists of the Ministry of Public Security interrogated him about his observance of the August 22 International Day, an activity his interrogators characterized as being banned in Vietnam. They warned that they would take action against his wife and children by linking them to his religious freedom advocacy. They ordered him to stop all communication with BPSOS (a conduit for reporting to the UN), which they labelled as a reactionary organization, and not get others to join him in his advocacy. Finally, they ordered him to sign a pledge to not report to anyone this interrogation before they released him late in the evening.
- At 8:00 AM on August 22, 2020, a group of about 20 people, including five government officials whom Ven. Thich Dong Quang was able to identify, came to his residence -- a simple structure built on the site of his demolished Buddhist pagoda in Hamlet 5, Town of Plei Kan, Ngoc Hoi District, Kon Tum Province. They demanded that he take down all the Buddhist flags and the "8/22 Commemoration" sign. As he refused to do so, they took them down and wrote up

[committee/6012936847001/](#) (minutes 21:55 - 23:00)

⁷⁸<http://webtv.un.org/meetings-events/human-rights-treaty-bodies/human-rights-committee/125th-session/watch/consideration-of-viet-nam-contd-3581st-meeting-125th-session-of-human-rights-committee/6013104672001/> (starting at 29:00)

⁷⁹ Ibid (starting at 2:42:48)

the “violation report” stating that displaying the banner and Buddhist flags on his private property was illegal. They later issued a more explicit report: *“During the inspection, the inspection team found that Mr. Nguyen Duc Minh [the monk’s secular name] had at his house a banner commemorating victims of violence based on religion or belief which was hung at the site, a violation of the law. The inspection team asked Mr. Minh to take the banner down and informed him that he was forbidden from putting up any banner or sign which is not authorized by law...”*

- In August 2020, the public security of Gia Lai Province arrested 6 leaders of the International Dega Church in Pior 2 Village, Chu Prong District for observing the August 22 International Day; they seized a cell phone and ordered the victims to recant their faith. The public security also interrogated Pastor Y Pho Eban, who is with the Good News Mission Church at Cue Village, at his home about his plan to observe the International Human Rights Day. A police officer smashed his tablet to destroy the evidence being recorded concerning the interrogation. At the same time, government-controlled web pages smeared the pastor and other victims, including victims who had to flee to Thailand, for observing the UN International Day Commemorating the Victims of Violence Based on Religion or Belief.

Use of government-created organizations to reinforce disinformation

The Vietnamese government also targets the international community with disinformation and aggressively blocks citizens from reporting discrepancies between reality and the government’s narrative. The regime has put in place two concerted strategies to tightly limit interaction of genuine civil society actors with the international community:

- (1) Block their access to regional and international forums and severely punish those who, against all odds, managed to participate in such forums;
- (2) Ensure that government-organized NGOs occupy the space for civil society actors at those forums.

Vietnam is a one-party state that does not condone genuine civil society. The country has no law on association. Only organizations operating under the umbrella of the government and the ruling party have legal status. No other organizations are allowed.

Outlawed in Vietnam, many genuine NGOs have sought opportunities to speak out at international and regional forums. They have found themselves placed under travel bans and some have had their passports revoked. When the government suspects an NGO of trying to participate in a forum outside of Vietnam, its police visit key members of that NGO and order them to stay home.

For example, on April 30, 2020 the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the situation of human rights defenders wrote to the Vietnamese government expressing concern regarding interference by the Vietnamese government:

“In early November 2019, an international conference on freedom of religion or belief in Southeast Asia took place in Bangkok. This conference has been held annually since 2015. Many representatives of civil society, religious communities, international organizations, including the United Nations, and diplomats participated in the 2019 conference to discuss various issues in relation to freedom of religion or belief in Southeast Asia and the broader region. Ms. Nguyen Xuan Mai, Mr. Pham Tan Hoang Hai, Mr. Nguyen Van Thiet, Mr. Tran Ngoc Suong and Ms. Luong Thi No participated in the previous conferences.

“Between 28 October 2019 and 1 November 2019, they were individually banned from travelling to the conference in Bangkok either under the order of the Ministry of Public Security of Viet Nam or local police authorities. Mr. Nguyen Anh Phung (independent member of the Cao Dai religious group), who had initially planned to attend the conference, was interrogated at home for additional information on the conference even though he ultimately did not attend.”⁸⁰

In the UN Secretary General’s 2020 Intimidation and Reprisal Report, Vietnam ranked second, only behind China, in the number of reported acts of intimidation and/or reprisal against those who reported human rights violations to UN mandate holders.

There are two categories of organizations that are allowed to operate in Vietnam:

(1) GONGOs (government-organized NGOs): They are placed under the direct oversight of government agencies and their management staff are employed by the government. Vietnam Women’s Union (VWU) is one example. At the last CEDAW review of Vietnam in 2015, a delegation of VWU pretended to represent civil society at the pre-session consultation. VWU has been part of the Vietnamese Communist Party since its formation in 1930. Unsurprisingly, the VWU representative lavished praise upon the government and, in lieu of criticism, offered only a few suggestions for tweaks at the margins of current government policies. At the recent ICCPR review of Vietnam in 2019, besides the VWU delegation, another GONGO also attended: Vietnam Peace and Development Foundation (VPDF). VPDF’s current chair is a former Minister of Justice and his predecessor was Vietnam’s former Vice President. Yet its submission for the ICCPR review reads: “The Vietnam Peace and Development Foundation (VPDF) is a non-governmental organization working on the issues of peace and development.” This category of GONGOs may be more accurately known as government-operated NGOs.

(2) There are also what might be called hybrid organizations. They were mainly formed during the period of openness around mid-2000, when the government allowed the formation of over one hundred organizations as an experiment. They are not part of the government but are tightly controlled by the umbrella organization “Vietnam Union of Science and Technology Associations” (VUSTA), which is a member of the Vietnam Fatherland Front. The Fatherland Front is an instrument of the Vietnamese Communist Party to infiltrate and control all aspects of society in Vietnam’s one-party regime. VUSTA’s role, per its charter, includes contributing to the national defense and communicating and popularizing the guidelines and directions of the Communist Party. A member of the Communist Party’s Central Committee is placed at the head

⁸⁰ <https://dvov.org/wp-content/uploads/2020/06/VNM-2.2020-public.pdf>

of VUSTA. Many of these hybrid organizations have stopped functioning due to lack of resources. Others have been squeezed out of existence; for example, The Institute of Development Studies, founded by well-known intellectuals in 2007, shut down operations in 2009 in protest of strict government control.

All international NGOs (iNGOs) and funding from foreign sources to Vietnamese organizations (including GONGOs and the hybrid organizations) are under the control of the Committee for Foreign NGO Affairs (COMINGO), which was established on April 24, 2001 by Decision 59/2001/QQ-TTg of the Prime Minister. COMINGO carries tasks related to iNGOs operating in Vietnam as assigned by the Prime Minister and reports directly to the Prime Minister. Its Chair was Deputy Prime Minister and Foreign Affairs Minister Pham Binh Minh. He was recently succeeded by Ms. Nguyen Phuong Nga, Deputy Minister of Foreign Affairs.

Vietnam Union of Friendship Organizations (VUFO) is the standing agency of COMINGO. The functions and responsibilities of VUFO are defined and dictated by Government Decree 12/2012/ND-CP: Communication and promotion of foreign non-governmental assistance. Thereby VUFO approves and controls the operation of all iNGOs in Vietnam and determines the flow of foreign assistance to Vietnamese recipients. As an instrument of the Government and the Communist Party of Vietnam, VUFO ensures that iNGOs and GONGOs, at international forums, represent the voice of the government and the Communist Party under the guise of civil society, while excluding genuine NGOs and sidelining the voices of the victims and vulnerable groups. iNGOs operating in Vietnam must stay within the boundaries set by VUFO and often agree to deeply problematic compromises in exchange for permission to operate in Vietnam.

A Vietnamese GONGO delegation attending international or regional forums not only seizes the space purportedly reserved for civil society but often has a more sinister mission: identifying and reporting “troublemakers” to the Ministry of Public Security (MPS). Both our own experiences and reports from other organizations strongly suggest that some members of such delegations are trained security/espionage agents working directly for the MPS.

In 2016, one regular member of Vietnam’s delegation of GONGOs to ASEAN Civil Society Conference / ASEAN People’s Forum (ACSC/APF) infiltrated the Southeast Asia FORB Conference, which was co-organized by BPSOS and directly preceded ACSC/APF – the two events were held in East Timor on adjacent dates. BPSOS’s staff knew this individual from our years of participation in ACSC/APF. Uninvited, he must have intentionally arrived in East Timor early and snuck into the SEAFORB Conference. He took pictures of participants from Vietnam even though it had been clearly and repeatedly announced that picture taking was not allowed except by our official photographers.

When we realized his presence at our event and caught him taking pictures, BPSOS’s staff took pictures of him and showed him the door. But it was too late. A few days after returning to Vietnam from the conference, Pastor A Dao was arrested and later sentenced to 5 years in prison.⁸¹ The other Montagnard attending our conference from Vietnam was harassed and

⁸¹ Pastor A Dao was adopted by the US Commission on International Religious Freedom and was released in September 2020, eleven months ahead of his completion of his prison term. See more information at: <https://www.uscirf.gov/pastor-dao>

threatened upon her return. She later escaped to Thailand and is still in Thailand as a UNHCR-recognized refugee.

The Vietnamese government applies a similar policy with regards to religious organizations. For example, in 1978 the government disbanded the Sacerdotal Council of the Cao Dai Religion and in 1997 created a totally new Cao Dai sect for use as an instrument to curtail the religious activities of Cao Dai followers. Similarly, the government outlawed UBCV in 1981 and in the same year created BCV to replace it. Similar to the hybrid NGOs, a number of religious organizations have been co-opted by the government in exchange for legal recognition. The Evangelical Church of Vietnam – North is a prime example. Many Hmong Christians who were brutally attacked by the police in May 2011 near Muong Nhe, Dien Bien Province were affiliated with ECVN-North; however this organization has stayed quiet on this deadly incident to this day.

We have shared a detailed report on the GONGOs⁸² and a similar report on government-created religious organizations⁸³ with a number of UN agencies.

The role of the Department of Cybersecurity and High-Tech Crime Prevention and Control (Ministry of Public Security)

The Department of Cybersecurity and High-Tech Crime Prevention and Control (A05) is a recently established government agency under the Ministry of Public Security, operating since August 2018, two months after the passage of the Cybersecurity Law.⁸⁴ Its functions are not new, however, because the department actually resulted from the merger of two MPS's agencies: the Department of Cybersecurity (established in 2014) and the Department of High-Tech Crime Prevention (established in 2010).

Since then, A05 has been playing an active role in controlling the Internet in Vietnam, especially in controlling the flow of information. According to the MPS's report posted on its website:

“In 2019, the department successfully investigated 27 specialized criminal cases and coordinated with other investigation agencies at all levels to prosecute 15 criminal cases and 121 arrestees as well as extradite 555 foreign criminals to its foreign counterparts.

“The department also detected and successfully handled many cases of State secret leaks on the Internet while expanding cooperation with foreign partners in the fight against hi-tech crime.

⁸² Vietnamese GONGOS (“Government-Organized Non-Governmental Organizations”) as Risk Factor, BPSOS, November 7, 2020. Available at: <https://dvov.org/wp-content/uploads/2021/02/Vietnamese-GONGOs-as-risk-factor-11-07-2020.pdf>

⁸³ Religious GONGOs as instrument of repression against independent-minded religious communities, BPSOS, September 7, 2020. Available at: <https://dvov.org/wp-content/uploads/2021/01/Impacts-of-Vietnam-Law-on-Belief-and-Religion-on-religious-freedom.pdf>

⁸⁴ Cyber Security Department announces action plan for remaining months of 2018, *Ministry of Public Security*, 2020. Available at: <http://en.bocongan.gov.vn/news-events/cyber-security-department-announces-action-plan-for-remaining-months-of-2018-t5129.html>

“The department also actively provided correct information in the fight against fake and distorted information in the cyberspace. During the year, it, in coordination with Central-level agencies, ministries and localities, maintained safety and security for the national information network as well as information networks of ministries, agencies and local authorities.”⁸⁵

We do not have access to the department’s data on their operations in 2020, but a Vietnamese article published on May 28, 2020 in the MPS’s magazine called *An ninh Thế giới* (*Global Security*) clearly shows how deeply the department was involved in controlling online speech during the COVID-19 pandemic: *“Directly countered 13 special targets and coordinated with local police to verify the identity of and summon 1,300 people, criminally charged 4 people, and fined 300 people.”⁸⁶*

We have records of the department’s name being shown in summon notices sent to dissidents such as Dr. Nguyen Quang A⁸⁷ (saying Dr. Nguyen was summoned by the Hanoi Police per the department’s request) and being mentioned in press reports on the arrest of independent journalists Truong Chau Huu Danh on December 17, 2020⁸⁸ (saying the Can Tho City Police charged and arrested Mr. Truong in coordination with A05).

It would take further studies to understand the exact role of A05 and what the department has been doing. However, the available data suggests that the Department of Cybersecurity and High-Tech Crime Prevention and Control and the Ministry of Information and Communications not only play key roles in controlling the Internet by the law, but also actively implement the law.

Forcing foreign online service providers to comply with local law

Since the adoption of the 2018 Cybersecurity Law, the Vietnamese government has become significantly more aggressive in forcing foreign online service providers, such as Facebook and Google, to comply with local law. We have analyzed the recent developments and categorized the government’s measures into three groups: formal requests, technical measure, and economic measure.

Formal requests

The Ministry of Information and Communications has made large scale requests to Facebook and Google, demanding them to comply with local law by giving up users’ data and restricting content.

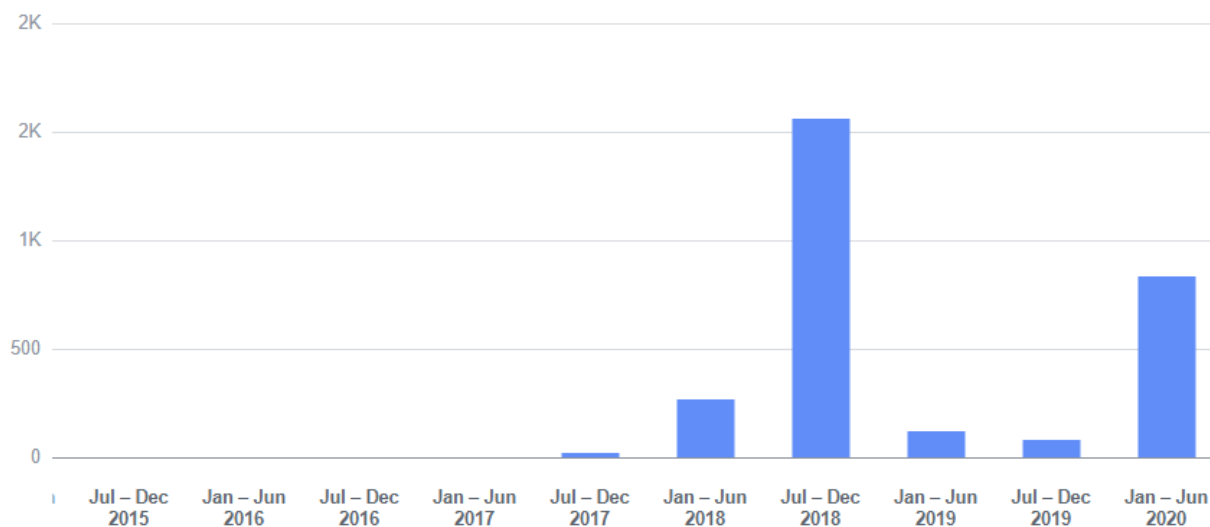
⁸⁵ Department of Cyber Security and Hi-tech Crime Prevention requested to effectively prevent cyber crimes, *Ministry of Public Security*, 2019. Available at: <http://en.bocongan.gov.vn/tintuc/Pages/news-events.aspx?ItemID=6391>

⁸⁶ Những cuộc đấu trí trên không gian mạng, *An ninh Thế giới*, 2020. Available at: <http://antg.cand.com.vn/Khoa-hoc-Ky-thuat-hinh-su/Nhung-cuoc-dau-tri-tren-khong-gian-mang-596629/>

⁸⁷ Facebook Nguyen Quang A, accessed on December 23, 2020. Available at: <https://www.facebook.com/photo?fbid=2980936135467742&set=pcb.2980932885468067>

⁸⁸ Đăng khám xét nơi ở của Facebooker Trương Châu Hữu Danh, *PLO*, 2020. Available at: <https://plo.vn/an-ninh-trat-tu/dang-kham-xet-noi-o-cua-facebooker-truong-chau-huu-danh-956441.html>

According to a report submitted to the National Assembly by Minister of Information and Communications Mr. Nguyen Manh Hung in October 2020, Facebook has removed over 2,000 posts in 2020 alone, an increase of 500% compared to 2019. The rate of requests being accepted by Facebook is 95%. Especially requests to remove (alleged) fake news about COVID-19 has been accepted 100%. The rate is about 90% with Google. Minister Nguyen Manh Hung emphasized that the rate of blocking/removing content deemed to be propaganda against the Party, the State and its leaders has increased to the highest level ever.⁸⁹ Facebook’s CEO Mark Zuckerberg admitted under oath during a hearing at the United States’ Senate on November 17, 2020 that he believed Facebook might have suspended postings by land rights activists per the Vietnamese government’s requests, and that they had been trying to comply with local laws.⁹⁰ The chart below shows the numbers of content restrictions conducted by Facebook⁹¹ throughout the years.



Technical measure

In early 2020, following the violent incident in Dong Tam village in which the government was widely condemned for human rights violations, the Vietnamese government took an unusual measure to force Facebook to comply with the local law: slowing down Facebook traffic in Vietnam for months. Facebook officials told Reuters that the traffic restrictions were carried out by state-owned data centers where Facebook stored its cached data, to put more pressure on

⁸⁹ Facebook sẽ chặn quảng cáo chính trị từ các tài khoản phản động, *Cong an Nhan dan*, 2020. Available at: http://congan.com.vn/tin-chinh/facebook-se-chan-quang-cao-chinh-tri-tu-cac-tai-khoan-phan-dong_100905.html

⁹⁰ Mark Zuckerberg bị Thượng nghị sĩ Mỹ chất vấn vì ‘cúi mình’ trước chính phủ Việt Nam, *VOA Vietnamese Services*, November 18, 2020. Available at: <https://www.voatiengviet.com/a/mark-zuckerberg-b%E1%BB%8B-th%C6%B0%E1%BB%A3ng-ngh%E1%BB%8B-s%C4%A9-m%E1%BB%B9-ch%E1%BA%A5t-v%E1%BA%A5n-v%C3%AC-c%C3%BAi-m%C3%ACnh-tr%C6%B0%E1%BB%9Bc-ch%C3%ADnh-ph%E1%BB%A7-vi%E1%BB%87t-nam/5667083.html>

⁹¹ Facebook Transparency Report. Available at: <https://transparency.facebook.com/content-restrictions/country/VN>

Facebook to restrict anti-state content.⁹² The government seemed to remove the restrictions in early April as Facebook complied with its requests. Facebook services resumed to normalcy, and, as mentioned above, in October the Minister of Information and Communications reported that the rate of accepted requests had been all time high.

Economic measure

According to Minister Nguyen Manh Hung's report, his ministry has also reached an agreement with Facebook to block advertisements sponsored by pages or accounts of "reactionary, terrorist organizations." Consequently, these pages and accounts can't reach certain categories of audience, thus limiting these users/actors from having further influence over other Facebook users.

Minister Nguyen Manh Hung also reported that Google had agreed to not share advertising revenue for content makers (especially Youtubers and bloggers using Google AdSense) whose content was considered illegal under local law. Given the fact that advertising revenue share is a major reason, if not the most important reason, why people produce anti-state content on Youtube, this new development will potentially discourage a considerable number of people from joining the video market on Youtube, effectively making it easier for the government to handle information published on the platform.

Recommendations

To the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression:

- (1) Maintain a database of reported incidents of disinformation and seek an explanation from and the resolution by the Vietnamese government for each incident.
- (2) Work with the UN Resident Coordinator's Office in Ha Noi to closely monitor the implementation of Vietnam's Cybersecurity Law, Decree 15/2020/ND-CP, Decision 960/QD-TTg, Decision 1722/QD-TTg and any new decree, decision or circular that impacts freedom of expression.
- (3) Work with the UN Special Rapporteur on Freedom of Religion or Belief to identify and assess their impacts on religious communities being targeted by the government.
- (4) Monitor how the judicial system in Vietnam addresses complaints filed by victims of disinformation perpetrated by state or non-state actors.

To the UN Human Rights Committee:

- (5) Secure the service of a professional translator to review the Vietnamese translation of the ICCPR as provided by the Vietnamese Government so as to resolve errors in translation.

⁹² Exclusive: Facebook agreed to censor posts after Vietnam slowed traffic - sources, *Reuters*, 2020. Available at: <https://www.reuters.com/article/us-vietnam-facebook-exclusive-idUSKCN2232JX>

- (6) Review the definition of belief in Vietnam’s Law on Belief and Religion to ensure that it complies with Article 18 of the ICCPR.
- (7) Ensure that the Vietnamese government correctly translates “public morals” to avoid its mistranslation or misinterpretation into “social morality.”
- (8) Follow up with the Vietnamese government about its investigation of members of the Red Flag Association and, if warranted, its prosecution of individuals responsible for disinformation, defamation and/or hate speech.

To all UN Treaty Bodies:

- (9) Hold separate consultation meetings for independent NGOs in which GONGOs and “hybrids” will not participate.
- (10) Take all appropriate measures to ensure that GONGOs and other government representatives do not have access to information about the identities of independent NGO representatives participating in a consultation meeting.
- (11) Hold discussions between UN representatives and their government contacts before and after each consultation session making clear that any harm or threats against independent civil society actors will be regarded by the UN as retaliation and as serious violations of Vietnam’s obligations under the human rights treaties.
- (12) Monitor the post-session safety of participants from Vietnam and include any act of reprisal against them in the UN Secretary General’s Intimidation and Reprisals Report.

Appendix A -- Through classification of state secrets, Vietnam's Prime Minister increasingly restricts freedom of religion

Analysis by Vietnam Civil Rights Project (a joint project of BPSOS and VN-CAT)

Vietnam's Law on Protecting State Secrets (Law No. 29/2018/QH14) prescribing the handling, use, and protection of state secrets became effective on July 1, 2020. On February 28, 2020, the Central Government issued Decree No. 26/2020/NĐ-CP, which became effective on July 1, to elaborate on certain provisions of this law.

On July 7, 2020, the Prime Minister signed Decision 960/QĐ-TTg, pursuant to the input from the Minister of Home Affairs and Minister of Public Security, designating categories of state secrets. Parts of the law and the Prime Minister's Decision No. 960/QĐ-Ttg severely violate the Vietnamese people's freedom of religion.

For example, Clause 1.c, Article 7 of the Law on Protecting State Secrets, specifies that "Strategy and projects related to the people, religion, and undertakings related to the people or religion aiming to protect national security and ensure public order and security," are state secrets. Furthermore, Article 9 of this law specifies that the Prime Minister has the responsibility for issuing the list of state secrets based on lists proposed by a number of individuals, agencies and organizations.

Decision No. 960/QĐ-Ttg formalizes a list of state secrets at different security classification levels, for domestic applications. The following provisions directly affect the freedom to religion or belief and may derogate Article 18 of the International Covenant on Civil and Political Rights.

State secrets at ultra-secret level:

(Article 1, Clauses 1 and 2)

- Not yet released action plans for approaches, strategies, objectives, policies, countermeasures, and processes to address complex, national level issues related to belief and religion.
- Documents related to those who use the cover of belief or religion to conduct activities aiming to overthrow the government or undermine national independence, sovereignty, unity, territorial integrity, and the socialist system of government and the Socialist Republic of Vietnam.

State secrets at top secret level:

(Article 2, Clauses 1 and 4)

- Proposals, plans, action plans, guidance, notifications of guidance, conclusions and decisions of heads of ministries, committees and organizations of the central government; the legislative branch (People's Council) and executive branch (People's Committee) of provinces; cities under the authority of the central government; and the executive branch of districts, cities, towns under the authority of provinces when a proposal, plan, decision, etc. is related to an assessment of the

effects on politics and national security, of the operation of a religious organization or belief-based establishment;

- Information and documents related to belief and religion, including:
 - Programs, plans, reports/minutes of meetings, reports on results, notices on the outcomes of discussions by senior officials of ministries, committees, government agencies, Party secretaries of provinces and cities, the legislative branch and executive branch of governments of provinces and cities under the authority of the central government with clergy members, functionaries, monastics, dignitaries in important positions in their religious organizations or subordinate organizations; foreign-based organizations and individuals in important positions in their religious organizations or subordinate organizations;
 - Plans, reports, guidance, and documents requesting information on official positions with respect to complex situations involving religious or belief-based activities impacting national security, politics, and foreign relations;
 - Documents related to comments on and evaluation of personnel of religious or belief-based organizations, the activities of such organizations, the activities of entities with a political agenda, and activities of individuals in religious organizations and their subordinate organizations which affect national security;
 - Reports containing comments or evaluation of those using religious or belief-based activities to undermine national security, public order and security.

State secrets at the secret level:

(Article 3, Clauses 8 and 9.a)

- Information and documents related to belief and religion, including:
 - Not yet released documents and correspondence related to the resolution of complex issues involving belief and religion;
 - Not yet released action plans, guidance, proposals, or requests for input pertaining to resolving complex issues involving belief and religion;
 - Documents and information related to the activities of members of religious organizations and their subordinate organizations when competent government officials have selected and placed them in their positions, or have struggled against them;
 - Not yet released reports on government activities targeting belief and religion which can cause political and socio-economic impacts;
 - Not yet released proposals, project plans and plans related to long-term positions, policy and approaches for managing activities targeting belief and religion when such materials can cause socio-economic impacts;
 - Notifications and reports related to belief and religion containing assessments of adherents, religious and belief-based organizations, religious individuals; assessments

- Government expenditures on countermeasures targeting members of religious organizations and their subordinate organizations.
- Databases containing materials related to religion and belief or related to public administration matters which have not yet been made public, when such databases are kept at national records repositories and records repositories of provinces and cities under the authority of the central government.

The above-mentioned provisions would have dire consequences on three aspects of freedom of religion.

First, freedom of religion is a basic human right. This has been affirmed in Article 18 of the International Covenant on Civil and Political Rights. Vietnam has codified this in Article 24 of the 2013 Constitution and Article 6 of the 2016 Law on Belief and Religion. Consequently, documents which have the effect of regulating or prescribing compliance with laws related to this right must contain language aiming to protect the right instead of conveying the intent to direct from the top, restrict, or ban the exercise of this right. The Law on Protecting State Secrets paved the way for Decision 960 to use security classification to put religion-related issues out of the people's reach.

Second, the Law on Protecting State Secrets and Decision 960 set forth a series of measures to grossly and visibly intervene in the religious sphere in a coercive and manipulative way. The ruling party is authorized to set forth its "policy and stance with respect to religion" and then unilaterally ban access thereto, including denying the opportunity to suggest modifications, in view of the ultra-secret classification. This indicates that the Vietnamese government still affirms its total opposition to religion and considers religion to be a mortal enemy which it must fight instead of cooperatively seeking a path to co-existence.

Third, Article 2.4 of Decision 960 is particularly troubling in light of the government's favorable treatment of religious organizations operating under its umbrella, including: (1) those created by the government for use as instruments to repress independent churches that the government has outlawed; (2) those co-opted by the government in return for being registered or recognized. Anyone exposing these organizations' collaboration with the government could be prosecuted for possessing and/or disclosing top state secrets. On the other hand, members of religious organizations targeted by the government would not be able to defend themselves if information used against them is treated as top state secret and therefore not accessible to them or their lawyer. The ramification of this decision is not hard to imagine considering that a number of recent arrests have been reportedly made based on charges of unauthorized possession or dissemination of state secrets. Decision 960/QĐ-TTg would only aggravate the already negative impacts of the Law on Belief and Religion on followers of religions that are outlawed, religious groups that are not recognized by the government, and religious freedom advocates.

In addition, the two documents authorize the ruling party to use the national budget to buy or manipulate influential clerics. This is very unconscionable because, as a result of Oriental culture, Vietnamese religious adherents still look up to their spiritual leaders to varying degrees. Thus, the government needs only to corrupt clerics to achieve its goal of subjugating religious organizations.

In Decision 960, funds earmarked for influencing or co-opting clerics are publicly called “expenditures on countermeasures targeting members of religious organizations”.

The Law on Protecting State Secrets and Decision 960 are real threats to freedom of religion and warrant scrutiny by UN mandate holders and the international community in general.

References:

Original text of Decision 960:

<https://thuvienphapluat.vn/van-ban/bo-may-hanh-chinh/Quyet-dinh-960-QD-TTg-2020-Danh-muc-bi-mat-nha-nuoc-linh-vuc-Noi-vu-446809.aspx>

English translation by BPSOS (unofficial):

https://dvov.org/wp-content/uploads/2020/10/PM-Decision-Secrets_En-960_QD-TTg.pdf

Appendix B -- Vietnamese Prime Minister Continues to Issue Executive Prescriptions Affecting Religious Freedom

Analysis by Vietnam Civil Rights Project (a joint project of BPSOS and VN-CAT)

On November 3, 2020, the Prime Minister of Vietnam promulgated Decision 1722/QĐ-Ttg to prescribe the handling of state secrets designated by the Communist Party. This document containing prescriptions which rank lower than laws was intended to enable the implementation of the Law on Protecting State Secrets and was effective on the date it was signed. The document contains a number of noteworthy provisions:

Nebulous Definition of State Secrets

The government is a special societal organization. It is the only organization brought into existence by the “capital investments” of all those who live in a country or an electoral district. This capital consists of the human rights and civil rights of all the people, regardless of their social class. For this reason, a government is the sole organization with the authority to govern a country or a part thereof. The government keeps public life in motion by using the legal system that the people and the government have jointly established through balancing various interests.

Political parties are also organizations with deep socio-historical roots. A political party is an organization whose members share the same goals and views. Political parties do not include all the people. However, a political party may be in a position to exercise the power of the government. This particular aspect dictates that the party must be constrained by the laws which the government has promulgated.

It follows that there cannot be STATE SECRETS BASED ON THE PARTY’S DEFINITION. State secrets should be defined with the people in mind. A political party needs to protect its own secrets, the secrets of a group of individuals.

It is up to this group to create a list of their secrets and decide how to handle such secrets. The Prime Minister, as the head of the Executive Branch, should not have issued the list of secrets for a group of individuals.

Having said that, a political party may operate only within boundaries prescribed by the law and, therefore, any list of party secrets should be developed through legislation by the National Assembly.

Appointment of Communist Party Members as Religious Leaders, a form of Religious Subversion

Just like Decision 960/QĐ-Ttg issued by the Prime Minister, which was effective as of July 7, 2020, Decision 1722/QĐ-Ttg lists several secrets pertaining to religious organizations. The security classification varies, depending on the category of secrets.

The Top Secret and Ultra Secret classification apply to measures addressing complex religious issues, decisions, findings, notices, reports, communications, and guidance on religious issues issued by the Politburo, Secretariat, and mass mobilization committees at the central government level, provincial secretariat level, and district secretariat level. (Clause 5 of Article 1 and Clause 7 of Article 2).

The Secret classification applies to the following types of documents: work notepads, work diaries, meeting minutes notebooks, progress meeting minutes notebooks of secretariats, agencies, and party organizations containing materials on complex issues of ethnic minorities and religion; reports, notices, communications and guidance issued by secretariats, mass mobilization committees of secretariats, and agencies and party organizations containing materials on projects aiming at ethnic minorities, religion and belief, and addressing national security and public order and security; the formation of religious associations and alliances, etc. (Clause 1.d of Article 3 and Clauses 7.a and 7.b of Article 3)

A common thread of these provisions is that they treat religion as an issue to resolve. Consequently, such legal prescriptions⁹³ clearly violate religious freedom which should be protected by the law as stipulated by Article 18 of the International Covenant on Civil and Political Rights. Additionally, the prescriptive provisions link religious issues to national security and ethnic minorities. This linkage can be exploited to justify religious persecution and incite the undermining of national solidarity through promoting chauvinism in the mainstream for the purpose of suppressing small religious communities.

Furthermore, another extremely dangerous instrument is the Secret classification provision in Clauses 7c and 7d of Article 3: “c) Not yet released resolutions, decisions, findings, instructions, statements, reports, communications and guidance issued by secretariats and party organizations at all levels on the selection and placement, by competent authorities, of party members inside religious organizations to implement their mission.

d) Reports and documents issued by secretariats and party organizations at all levels on the selection, placement, and activation of core groups and movements within religious organizations.”

Using such language, the government has conferred the mantle of legality on its planting agents in religious organizations to gather information or subvert religious activities.

Thus, together with Decision 960 which conferred the mantle of legality on using money and the promise of high positions to buy clerics, Decision 1722 has fully developed the tactics used to control religious organizations through the manipulation or corruption of the spiritual leadership of religious organizations.

⁹³Prescriptions: Documents or other types of messaging containing prescriptive provisions used repeatedly to adjust a relationship.

What Led up to This?

Each issue has a causal factor and fallout. Here, the cause is a logic chain which we need to look at.

Stepping back a few years, we can easily see that the Vietnamese government used extremely violent and lawless measures to persecute religious organizations. From the unjustifiable 1978 verdict aiming to destroy the Cao Dai Church to its persecution of thousands of Catholics and Protestants and mass imprisonment of victims. However, such measures are no longer used or even used more discreetly but have been replaced with legal measures. From this, we need to first recognize that the Vietnamese government must resort to more subtle and discreet measures as it is losing its dominance while the people are becoming more knowledgeable and the international community continues to be watchful.

This subtle and discreet measure reflects a clever approach focusing on the Achilles heel of religious followers who are overly dependent on their spiritual leaders. The concentration of power in any individual, coupled with self-interest, will always pose a potential risk in terms of turning this leader into an autocrat in deeds and in thoughts whom the regime might be able to control or buy.

Consequently, if we examined the above-mentioned logic chain from a strategic vantage, we should be able to quickly see the approach to counter the strategy of using religious leaders to subjugate their adherents. Although the government has shown its cunning in adopting the new strategy, this change is also an indicator of the people's growth in awareness and capacity. The above-mentioned issue which just surfaced will be resolved if every adherent refuses to let anyone else affect his or her religious freedom. Then, the new strategy will not be able to bring the results which the Vietnamese government hopes for.

An Illustrative Case of Communist Party Member in the Role of a High-Ranking Buddhist Monk

On March 13, 2018 the official website of **The People's Army of Vietnam** printed the obituary for the Most Venerable Thich Thanh Sam, disclosing that he was recipient of the Vietnamese Communist Party's 50-year membership insignia. Below is our English translation of the obituary:

Most Venerable Thich Thanh Sam passed away

On March 13, 2018, the Central Religious Affairs Committee issued the following announcement on the funeral of Most Venerable Thich Thanh Sam:

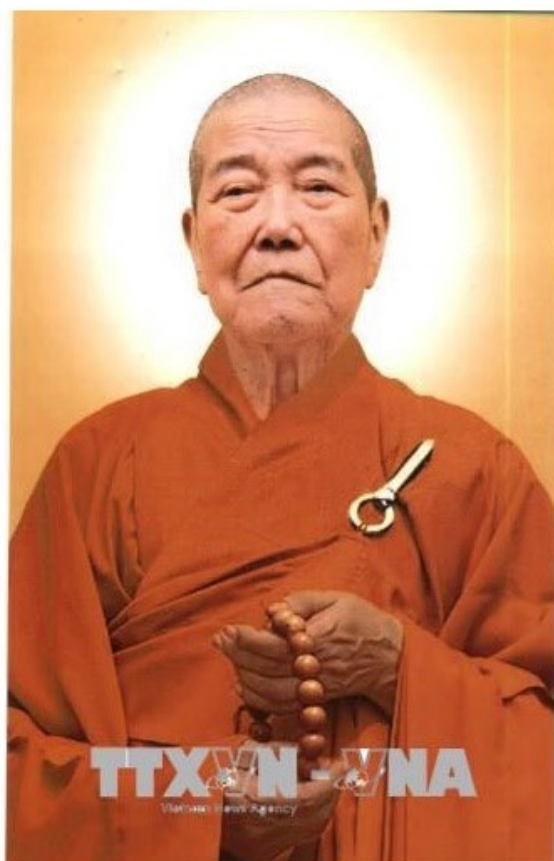
Most Venerable Thich Thanh Sam - Deputy Leader, Clerical Council of the Vietnam Buddhist Church - was a high-ranking cleric of the Vietnam Buddhist Church who was influential and highly respected by Buddhist clergy members and Buddhist followers in Vietnam and abroad for his many contributions to Buddhism and the people. He received several awards: First Class Independence Award, Third Class Independence Award; Second Class War of Resistance Award; National Solidarity Medal; and a plaque for his 50-year Communist Party membership.

Original obituary: <https://www.qdnd.vn/ban-doc/tin-buon/hoa-thuong-thich-thanh-sam-vien-tich-533604>

Hòa thượng Thích Thanh Sam viên tịch

Ngày 13-3-2018, Ban Tôn giáo Chính phủ đã có thông báo về lễ tang Hòa thượng Thích Thanh Sam, với nội dung như sau:

Hòa thượng Thích Thanh Sam - Phó Pháp chủ Hội đồng Chứng minh Giáo hội Phật giáo Việt Nam, một vị giáo phẩm cao cấp của Giáo hội Phật giáo Việt Nam, có uy tín và ảnh hưởng lớn đối với Tăng ni, Phật tử trong và ngoài nước, có nhiều đóng góp cho đạo pháp và dân tộc. Hòa thượng đã được tặng thưởng các danh hiệu: Huân chương Độc lập Hạng Nhất, Ba; Huân chương Kháng chiến Hạng Nhì; Huy chương Đại đoàn kết toàn dân tộc; Huy hiệu 50 năm tuổi Đảng.



Hòa thượng Thích Thanh Sam

Appendix C -- Critical errors in Vietnam's official translation of the ICCPR and recommendations to the UN Human Rights Committee

Each state-party to the Covenant is obligated to disseminate the content of the International Covenant on Civil and Political Rights (ICCPR) to its people in the country's prevailing language, ensure that commitments to the Covenant are incorporated into the country's national legal framework, and ensure that domestic interpretations of the Covenant are consistent with its original meaning. The Government of the Socialist Republic of Vietnam is to be commended for providing the Vietnamese translation of the Covenant and making it available for public access.⁹⁴

This translation, however, contains errors that seriously alter the original meaning of certain clauses and provisions of the Covenant and may lead to misinterpretation of the rights specified in the Covenant as well as the government's obligations to comply with the Covenant. Following are the critical flaws in the translation provided by the Government of Vietnam.

Throughout Article 18, "freedom of belief" was incorrectly translated as "tín ngưỡng" (spiritual belief). Vietnam's 2018 Law on Belief and Religion officially defines "tín ngưỡng" as "a person's faith which is expressed through rites associated with traditional customs and habits in order to bring spiritual peacefulness to individuals and communities" and belief-based activities as "activities that express the worship of ancestors, commemoration of people with meritorious service to the nation and/or their community; popular rituals reflecting historical values, culture and social morality." The mis-translation has effectively restricted freedom of belief, which is very broad as per the Covenant, to spiritual faith, which is very narrow. This mis-translation was brought up several times by the UN Human Rights Committee's recent review of Vietnam's implementation of the ICCPR, in March of this year. The Vietnamese delegation did not respond but brushed this concern aside.

In Article 18.1, "freedom of thought, conscience and religion" was incorrectly translated as "freedom of thought, spiritual belief and religion"; "worship" as "conducting rituals"; "observance" as "praying".

With few exceptions, the auxiliary verb "shall" was omitted throughout the translation, de-emphasizing the inalienability of human rights and derogating certain obligations of the government to respect, protect and promote those rights.

In Article 4, the phrase "...the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation..." was mistranslated as "...the States Parties to the present Covenant may take measures to limit the rights stated in the present Covenant to the extent required by the exigencies of the situation...". There is considerable difference between derogating the obligations of the government and limiting the human rights guaranteed by the Covenant. Also, "strictly" is omitted in the translation, taking out the emphasis on the last-resort nature of the derogating measures.

In Article 9.4, the phrase "...shall be entitled to take proceedings before a court..." was mistranslated as "...have the right to request a trial before a court...". Similarly, in Article 9.5, the

⁹⁴ Available at: <https://thuvienphapluat.vn/van-ban/Linh-vuc-khac/Cong-uoc-quoc-te-ve-quyen-dan-su-va-chinh-tri-270274.aspx>

phrase “...shall have an enforceable right to compensation” was mistranslated as “...have the right to request compensation”. Instead of the right to take proceedings to a court and the right to compensation, the Vietnamese translation downgrades them to “the right to request”, meaning that whether to grant such a request or not rests is at the government’s discretion. The attribute “enforceable” is omitted in the translation. The auxiliary verb “shall” was left out in both instances.

Throughout the translation document, “public morals” was mistranslated as “social morality” (Articles 12, 18, 19 and 21). While “public morals” refers to codes of conduct in public settings, “social morality” is usually understood as a system of values imposed on or applicable to the entire society. This misinterpretation would allow the government to limit human rights on the basis of political correctness or ideological values such as “national unity”. Note that “undermining national unity” has been used as an excuse by the Vietnamese authorities to suppress freedom of expression and freedom of religion or belief, and to send many human rights defenders to prison. BPSOS has seen cases in which Montagnard Christians were told to join government-sanctioned churches in the spirit of national unity. Those who resisted were harassed, intimidated or detained. BPSOS has submitted several cases to the UN on behalf of victims.

In Article 18.2, the phrase “...which would impair his freedom to have or to adopt a religion or belief of his choice” was mistranslated as “...which would impair his freedom to choose or follow a religion or spiritual belief”.

In Article 18.3, the sentence “Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety...” was mistranslated as “Freedom to manifest one’s religion or spiritual belief may only be limited by law and when such limitations are necessary to protect security...”

The issue of mistranslation was brought up during the March 2019 review of Vietnam’s implementation of the ICCPR. Ms. Marcia Kran, Canadian lawyer and member of the UN Human Rights Committee, brought up the issue twice during the review session:

“It’s encouraging that the government has provided Vietnamese translations of the Covenant. Apparently though the Vietnamese translation contains errors that can lead to a misinterpretation of rights and obligations. What efforts will you be making to provide an accurate translation to ensure that the provisions of the ICCPR are accurately represented in the translation? As well, there are many indigenous communities that use their own languages and we understand that the Covenant has not been translated in any of those languages. How do you plan to ensure that the Covenant will be widely accessible to indigenous peoples?” See (minutes 21:55 - 23:00): <http://webtv.un.org/meetings-events/human-rights-treaty-bodies/human-rights-committee/125th-session/watch/consideration-of-viet-nam-3580th-meeting-125th-session-of-human-rights-committee/6012936847001/>

“Issuing an accurate Vietnamese translation of the covenant and translating it into the indigenous languages...” See (starting at minute 29:00): <http://webtv.un.org/meetings-events/human-rights-treaty-bodies/human-rights-committee/125th-session/watch/consideration-of-viet-nam-contd-3581st-meeting-125th-session-of-human-rights-committee/6013104672001/>

In his response, the head of the Vietnamese delegation outright dismissed Ms. Kran's concern without even promising at least a fair review of the alleged translation errors:

“There’s a member of the HRC that raised translation of the Covenant. I think that... It seems to me that there is no ground to say that there is any incorrect translation of the Covenant. When we made effort to assist this Covenant, we always try our best to provide correct translation. If there is allegation saying that there is incorrect translation, I think that allegation and accusation is wrong.” See (starting at 2:42:48): <http://webtv.un.org/meetings-events/human-rights-treaty-bodies/human-rights-committee/125th-session/watch/consideration-of-viet-nam-contd-3581st-meeting-125th-session-of-human-rights-committee/6013104672001/>

The Vietnamese translation with recommended corrections can be found at: <http://dvov.org/wp-content/uploads/2019/01/ICCPR-Vietnamese-translation-with-edits-by-BPSOS.pdf>

Recommendations: We respectfully recommend that the UN Human Rights Committee:

- (1) Retain a competent, impartial translation service to thoroughly review the Vietnamese translation of the ICCPR and make all necessary corrections;
- (2) Ensure that the Government of Vietnam, upon review and acquiescence, use this translation as the formal document for distribution in the country; and
- (3) Follow up with the Government of Vietnam to ensure that national laws fully comply with the content of ICCPR based on its accurate translation.