

**Civil Society Contributions
to the UN Human Rights Committee
for Vietnam's List of Issues Prior to Reporting**

**Freedom of Expression,
Enforced Disappearance,
Abuse of Interpol Red Notice**

A Joint Submission

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Introduction

This joint report is submitted in response to the UN Human Rights Committee's request for inputs from civil society for its development of the list of issues to be transmitted to the Socialist Republic of Vietnam (SRV). This joint submission addresses the following concluding observations by the Committee from its third periodic review of Vietnam:

Freedom of expression

45. The Committee regrets the severe restrictions on freedom of opinion and expression in the State party, including through laws and practices that appear not to comply with the principles of legal certainty, necessity and proportionality, such as:

(a) The vague and broadly formulated offences in articles 109, 116, 117 and 331 of the Penal Code and their use to curtail freedom of opinion and expression, and the definition of certain crimes related to national security to encompass legitimate activities, such as exercising the right to freedom of expression;

(b) State control over the media, with restrictions aimed at ensuring strict adherence to and promotion of government policy, including through the Law on the Press of 2016, which prohibits any criticism of the Government;

(c) The Law on Cybersecurity of 2018 and other regulations curtailing the freedom of expression in cyberspace by prohibiting the provision and use of Internet services to spread information opposing or criticizing the State, and the establishment of the Force 47 cyber unit to control the Internet;

(d) Arbitrary arrest, detention, unfair trials and criminal convictions, including of human right defenders, journalists, bloggers and lawyers, for criticizing State authorities or policies, including online, such as the case of the environmental human rights defender and blogger Nguyen Ngoc Nhu Quynh (arts. 9, 14, 19 and 21).

46. The State party should, 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, and 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. It should also promote pluralistic media that can operate free from undue State interference.

According to Reporters Sans Frontières (RSF), “Vietnam’s traditional media are closely controlled by the single party. Independent reporters and bloggers are often jailed, making Vietnam the world’s third largest jailer of journalists.” In 2023, RSF ranked Vietnam 178 out of 180 countries covered in its report, a drop from rank number 174 the year before.¹

How harshly the communist regime in Vietnam has cracked down on freedom of expression is illustrated by the case of Bùi Tuấn Lâm, who ran a beef noodle soup stall in Danang City. He gained notoriety in 2021 after posting a video on Facebook showing himself spreading green onions on his noodle soups in imitation of the Turkish celebrity chef Nusret Gökçe, aka Salt Bae. This video clip went viral and earned Lâm the nickname “Onions Bae”. Days earlier, a video footage showing Vietnam’s Minister of Public Security General Tô Lâm eating a \$2,000 (£1,600) gold-encrusted steak, costing more than his monthly salary, at the chef’s restaurant had caused a public uproar online. “Onions Bae” was arrested in September 2022 under Article 117 of Vietnam’s Penal Code – “*making, storing, spreading information, materials, items for the purpose of opposing the State*”. On 25 May, 2023 he was sentenced to 5.5 years in prison followed by 4 years of probation.² It is widely believed that, by meting out such heavy sentence, the government wanted to send a clear signal that mocking its leaders would be dealt with harshly.

With regard to freedom of expression, during its third Universal Periodic Review (UPR) in January 2019, Vietnam accepted in part recommendations from Mexico³, Portugal⁴, Seychelles⁵, and Czechia⁶ and accepted Chile⁷, Brazil⁸, Luxembourg⁹, Ireland (38.184)¹⁰,

¹ <https://rsf.org/en/country/vietnam?ref=thevietnamese.org>

² “Salt Bae parody: Vietnam noodle vendor jailed for five years”, BBC, May 25 2023, available at: <https://www.bbc.com/news/world-asia-65705048>

³ 38.17 Respond positively to requests from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

⁴ 38.194 Abolish prior censorship in all fields of cultural creation and other forms of expression, both online and offline, including by bringing the restriction on freedom of expression under the 2016 press law into line with international standards and by fostering a pluralistic and independent media environment

⁵ 38.197 Review and amend national legislation in order to enable the effective exercise of the rights to freedom of expression and peaceful assembly in line with the standards enshrined in the International Covenant on Civil and Political Rights

⁶ 38.214 Nurture a culture of free expression online and offline and release all imprisoned human rights defenders, including bloggers and political dissenters, and put an end to their harassment

⁷ 38.42 Enhance efforts to comply with the recommendations accepted during the second universal periodic review cycle on guaranteeing the right to freedom of expression

⁸ 38.174 Consider revising national legislation, including the law on belief and religion and the media laws, in order to harmonize it with international standards regarding the right to freedom of expression and of religion

⁹ 38.179 Protect civil and political rights, especially freedom of expression, peaceful assembly and association

¹⁰ 38.184 Lift restrictions on freedom of expression, and particularly online freedom, in line with Viet Nam’s obligations under international law

Peru¹¹, Japan¹², Romania¹³, Italy¹⁴ Spain¹⁵, United Kingdom of Great Britain and Northern Ireland¹⁶ while not accepting Finland¹⁷, Germany¹⁸, Argentina¹⁹, Ireland(38.185)²⁰, New Zealand²¹, Sweden²², Austria²³, Canada²⁴, and Poland²⁵.

The 2018 Cyber Security Law

The Vietnamese Government continuously violated the freedom of expression online and offline, especially during the time of COVID-19, based on the 2018 Cyber Security Law and the 2018 Law on Protection of State Secrets. In 2021, BPSOS published a report Analysis Of Vietnam's Internet Freedom Situation Following the Adoption Of The 2018 Cyber Security Law²⁶.

¹¹ 38.189 Strengthen efforts to ensure freedom of expression, including in the digital environment

¹² 38.195 Ensure freedom of expression, including online, and promote actions to ensure the freedom and independence of the media

¹³ 38.196 Continue the measures aimed at lifting all restrictions on the right to freedom of opinion and expression and to allow bloggers, journalists and other Internet users to promote and protect human rights

¹⁴ 38.198 Adopt measures in line with international standards to guarantee freedom of association, opinion and expression, including online, and to ensure that journalists, human rights defenders and NGOs can operate freely

¹⁵ 38.200 Adopt legislative changes to guarantee the protection and free exercise of freedom of expression, association and peaceful assembly

¹⁶ 38.203 Improve protection of the rights to freedom of peaceful assembly and expression by reviewing existing legislation, and publishing and implementing clear, transparent guidelines on security personnel conduct in managing peaceful demonstrations

¹⁷ 38.167 Repeal or amend the Penal Code and the cybersecurity law so that provisions relating to national security are clearly defined or removed, to ensure that they cannot be applied in an arbitrary manner to endanger any forms of freedom of expression, including Internet freedom

¹⁸ 38.171 Review all convictions based on laws restricting freedom of expression and opinion, in particular articles 79 and 88 of the Penal Code, according to the revised penalty ranges

¹⁹ 38.177 Take the necessary measures to ensure the freedom of expression of human rights defenders and journalists, in particular by investigating and punishing perpetrators of threats and reprisals against them

²⁰ 38.185 Cybersecurity decrees should include clear provisions for interpretation of the law on cybersecurity in accordance with international standards on freedom of expression

²¹ 38.187 Ensure that the legal framework protects freedom of expression both offline and online and accordingly amend the penal law and the law on cybersecurity to ensure consistency with international human rights law, including the International Covenant on Civil and Political Rights (New Zealand); Ensure that freedom of expression is protected online and offline by amending national security provisions in the Penal Code, the cybersecurity law and its implementing decree so as to comply with article 19 of the International Covenant on Civil and Political Rights and other commitments (Sweden); Guarantee the rights to freedom of expression and freedom of assembly and amend the Penal Code and the cybersecurity law to make sure that the limitations on the right to freedom of expression are in line with the International Covenant on Civil and Political Rights (Austria); Review the Penal Code and the law on cybersecurity to harmonize them with international standards related to the freedom of expression, association and assembly (Canada);

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ 38.191 Release all human rights defenders as well as political and religious activists detained for the peaceful expression of their political opinions or religious beliefs

²⁶ Available at: <https://dvov.org/wp-content/uploads/2021/02/BPSOS-Analysis-of-Vietnam's-Internet-freedom-situation-following-the-adoption-of-the-2018-Cybersecurity-Law-Jan-2021.pdf>

The 2018 Cybersecurity Law introduced several major provisions, including data localisation, heightened government control over online content, and establishment of local offices within Vietnam. It notably vested authorities with extensive discretion to decide when expressive acts should be deemed "illegal." Furthermore, the existing national laws of Vietnam lack robust safeguards for privacy, and the provisions within the cyber security law have the potential to facilitate government efforts in identifying and prosecuting individuals involved in peaceful online activities.

The passage of the 2018 Cybersecurity Law prompted mass protests in Vietnam and attracted criticisms from the international community. However, it is not the only legal obstacle to freedom of expression. The Vietnamese Government has used many other legal instruments to restrict freedom of expression and the press severely. In recent years, we have observed 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 2023 report scores Vietnam 22/100²⁷ while Reporters Without Borders ranks Vietnam at 178/180 countries on its 2023 Press Freedom Index, only above China and North Korea.²⁸

Decree 15/2020/ND-CP

On 3 February 2020, the Vietnamese government issued Decree 15/2020/ND-CP ("Decree 15")²⁹, 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")³⁰. 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. The International Commission of Jurists commented 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

²⁷ Freedom on the Net, 2023, Freedom House, available at: <https://freedomhouse.org/country/vietnam/freedom-net/2023>

²⁸ 2023 World Press Freedom Index – journalism threatened by fake content industry, Reporters Without Borders, 2023, available at: <https://rsf.org/en/country/vietnam>

²⁹ Decree 15/2020/ND-CP in Vietnam, Decree 15/2020/ND-CP penalties for administrative violations against regulations on postal services in Vietnam." 2020. Thư viện pháp luật. <https://thuvienphapluat.vn/van-ban/EN/Cong-nghe-thong-tin/Decree-15-2020-ND-CP-penalties-for-administrative-violations-against-regulations-on-postal-services/438738/tieng-anh.aspx>.

³⁰ Decree 174/2013/ND-CP regulates penalties for administrative violations of post, telecommunications and information technology.(2013, November 13). Thư viện pháp luật. Available at: <https://thuvienphapluat.vn/van-ban/Cong-nghe-thong-tin/Nghi-dinh-174-2013-ND-CP-quy-dinh-xu-phat-vi-pham-hanh-chinh-buu-chinh-vien-thong-cong-nghe-thong-tin-213651.aspx>

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."³¹

The Vietnamese government has increasingly fined citizens for online speech; we documented dozens of cases citing Decree 15/2020/NĐ-CP. Most cases involved alleged fake news on Facebook, often during the COVID-19 pandemic. However, it's important to note that some of the cases related to COVID-19 actually involved individuals who were critical of government officials rather than spreading false information. This pattern raises concerns about the restriction of free expression and the use of administrative measures to penalise online speech in Vietnam.

2018 Law on Protection of State Secrets and Related Decisions

Vietnam's National Assembly passed the Law on Protection of State Secrets on 15 November 2018, and the legislation piece came into force on 1 July 2020, replacing the Ordinance 30/2000/PL-UBTVQH on Protection of State Secrets.³² Following the adoption of the law, Decree 26/2020/ND-CP (dated 28 February 2020)³³ and the Prime Minister's Decision 960/QĐ-TTg (dated 7 July 2020)³⁴,³⁵ 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 expanded 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 harms the political, economic and social situation," and specific matters such as "constitution and law-

³¹ 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>

³² Law on Protection of State Secrets. Available at: <http://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=141824&Keyword=>

³³ Decree 26/2020/NĐ-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>

³⁴ 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>

³⁵ 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

making activities,” “information about the investigation and [...] trials [...],” “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 expressing 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, potentially leading 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.

On 3 November, 2020, Vietnam’s Prime Minister issued Decision 1722/QĐ-TTg,³⁶ classifying certain internal documents of the Vietnamese Communist Party, especially those relating to the mobilisation and control of the masses, as state secrets. These documents include, among others, communications and minutes of meetings with leaders and influential people of different religions and ethnic populations. Most astounding is Article 3, which classifies as state secret information about communist party members assigned to operate within religions covertly. 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.

Articles 117 and 331 of the Penal Code

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 traditionally persecuted activists, independent journalists, and dissidents. However, over the past five years, we have witnessed a new development in the way the government persecutes citizens: they go after ordinary citizens who have no considerable background in activism.

According to the International Commission of Jurists (ICJ), Article 331 (abusing democratic freedoms) is “*inconsistent with international human rights law protecting the right to freedom of expression as it is vague and overbroad, and unnecessarily and disproportionately limits the legitimate activities of human rights defenders and lawyers.*” The case of Zen Hermitage Buddhist Group illustrates how the government uses Article 331 to stifle freedom of expression.

Article 117, “*making, storing, spreading information, materials, items for the purpose of opposing the State,*” is another law provision often used to repress freedom of expression. It was used to silence critics of the extrajudicial killing of Mr. Lê Đình Kinh during a police raid on 9

³⁶ Prime Minister’s Decision 1722/QĐ-TTg. Available at: <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Quyết-dinh-1722-QĐ-TTg-2020-Danh-mục-bi-mat-nha-nuoc-cua-Dang-456651.aspx>

January 2020 against residents of Đồng Tâm Village in Hà Nội. Prominent cases imprisoned for speaking out against that fatal police raid include:

- (1) Trịnh Bá Phương was sentenced on 15 December 2021 to 10 years of imprisonment and five years of probation.³⁷
- (2) Trịnh Bá Tư, brother of Phương, was sentenced on 5 May, 2021 to eight years of imprisonment followed by three years of probation.³⁸
- (3) Mrs Cấn Thị Thêu, mother of Phương and Tư, was sentenced on 5 May, 2021 to eight years of imprisonment followed by three years of probation.³⁹
- (4) Ms Nguyễn Thị Tâm, a neighbour of Ms. Cấn Thị Thêu, was sentenced on 15 December, 2021 to six years in prison with three years' probation.⁴⁰
- (5) Ms. Phạm Đoan Trang, a well-known human rights defender and author, was sentenced on 14 December 2021 to nine years in prison⁴¹.
- (6) Mr. Lê Văn Dũng (aka Dũng Vova), an independent online reporter known by his pen name Lê Dũng Vova, was sentenced on 23 March, 2022, to five years in prison and five subsequent years of probation.⁴²
- (7) Ms. Nguyễn Thuý Hạnh, a well-known advocate for prisoners of conscience in Vietnam, was arrested by the public security police on 7 April, 2021 and charged under article 117 of the Penal Code.⁴³ She has been sent to a psychiatric ward on and off while awaiting trial^{44, 45}.

³⁷ Vietnamese land rights activists draw heavy prison terms in Hanoi trial, RFA, December 15, 2021, available at: <https://www.rfa.org/english/news/vietnam/trial-12152021155542.html>

³⁸ "Viet Nam: Mother and son unjustly convicted in 'travesty of justice'." Amnesty International, May 5, 2021. Available at: <https://www.amnesty.org/en/latest/news/2021/05/viet-nam-mother-son-unjustly-convicted/>

³⁹ "Viet Nam: Mother and son unjustly convicted in 'travesty of justice'." Amnesty International, May 5, 2021. Available at: <https://www.amnesty.org/en/latest/news/2021/05/viet-nam-mother-son-unjustly-convicted/>

⁴⁰ Vietnamese land rights activists draw heavy prison terms in Hanoi trial, RFA, December 15, 2021, available at: <https://www.rfa.org/english/news/vietnam/trial-12152021155542.html>

⁴¹ The Upheld Conviction of Pham Doan Trang, US Department of State, August 25, 2022, available at: <https://www.state.gov/the-upheld-conviction-of-pham-doan-trang/>

⁴² Vietnamese journalist Le Van Dung sentenced to 5 years in prison, Committee to Protect Journalists, March 23, 2022, available at: <https://cpi.org/2022/03/vietnamese-journalist-le-van-dung-sentenced-to-5-years-in-prison/>

⁴³ Viet Nam: Prominent human rights defender Nguyen Thuy Hanh arrested and charged, Amnesty International, April 8, 2021, available at: <https://www.amnesty.org/en/latest/news/2021/04/nguyen-thuy-hanh-arrested-and-charged/>

⁴⁴ "Nhà hoạt động Nguyễn Thuý Hạnh bị đưa vào viện tâm thần (Activist Nguyen Thuy Hanh taken to psychiatric ward)," VOA, May 6, 2022, available at: <https://www.voatiengviet.com/a/nha-hoat-dong-nguyen-thuy-hanh-bi-dua-vao-vien-tam-than/6560616.html>

⁴⁵ Locked inside our home, HRW 2022, available at: https://www.hrw.org/sites/default/files/media_2022/02/vietnam0222_web.pdf

- (8) Mr. Nguyễn Bảo Tiên, a member of the Liberal Publishing House, an independent book publisher, was arrested, arbitrarily detained and sentenced to 6 years and six months in prison under Article 117⁴⁶.
- (9) Mr. Đỗ Nam Trung, a main voice of criticisms of the build-operate-transfer highways that Vietnam has adopted in recent years, was charged with “*spreading materials against the State*” under Article 117 of Vietnam’s Penal Code⁴⁷.

Forcing Foreign Online Service Providers to comply with local law

Since adopting 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 analysed the recent developments and categorised the government’s measures into three groups: formal requests, technical measures, and economic measures.

Formal requests: According to a report submitted to the National Assembly by then 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%. 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.⁴⁸ 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.⁴⁹ The chart below shows the number of content restrictions conducted by Facebook⁵⁰ 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 centres where Facebook stored its cached data to put more

⁴⁶ Opinion of Working Group on Arbitrary Detention, number: A/HRC/WGAD/2022/35. 2 June 2022. Available at: <https://www.ohchr.org/sites/default/files/2022-06/A-HRC-WGAD-2022-35-Vietnam-AEV.pdf>

⁴⁷ Trung Do Nam | Front Line Defenders.” *Front Line Defenders* |, <https://www.frontlinedefenders.org/en/profile/trung-do-nam>. Accessed 11 October 2023.

⁴⁸ Facebook sẽ chặn quảng cáo chính trị từ các tài khoản phản động (Facebook will block political ads from reactionary accounts), *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

⁴⁹ 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>

⁵⁰ Facebook Transparency Report. Available at: <https://transparency.facebook.com/content-restrictions/country/VN>

pressure on Facebook to restrict anti-state content.⁵¹ 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 at an all-time high.

Economic measure: According to Minister Nguyễn Mạnh Hùng’s report, his ministry 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 audiences, thus limiting these users/actors from having further influence over other Facebook users. Minister Nguyễn Mạnh Hùng 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.

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 (MPS), operating since August 2018, two months after the passage of the Cybersecurity Law.⁵² 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.

Enforced Disappearance & Transnational Repression

The Vietnamese Government increasingly seeks to stifle dissenting voices beyond its national borders and targets bloggers, journalists and human rights defenders who have escaped to Thailand for personal safety. The abductions of journalists Trương Duy Nhất in 2019 and Đường Văn Thái in 2023 illustrate the government’s determination to suppress freedom of expression at all costs. The Vietnamese Government in the later half of 2023 stepped up its threat against members of Montagnards Stand for Justice and Hmong Human Rights Coalition, both of which operate out of Thailand.

The case of Trương Duy Nhất, a Vietnamese journalist abducted in Thailand and sentenced to 10 years in prison in Vietnam

Within 72 hours after the 2019 UPR of Vietnam, on 26 January, 2019, journalist Trương Duy Nhất, who worked for Radio Free Asia at the time, reportedly disappeared in Bangkok,

⁵¹ 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>

⁵² 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>

Thailand. Two eyewitnesses provided BPSOS with photos and video clips showing the Thai police monitoring and arresting Nhất. According to the third witness, a Thai police officer, the police took Nhất to a relatively low-traffic area and delivered him to people who appeared to be Vietnamese in a white van⁵³. This witness' report includes a picture of this van, its license plate, and its registration documentation, which shows that it was the property of the Thai police.⁵⁴

During his trial on 14 August, 2019, Nhất disclosed that he had been arrested by Thai Royal Police on 26 January, the day after he registered with the UNHCR for refugee protection, and handed over to Vietnamese police in Thailand, who then took him across the border into Laos, and from there back to Vietnam,⁵⁵ confirming the account of the three witnesses in Thailand. On 9 March, 2020, he was sentenced to 10 years for the ambiguous charges of “*abusing his position and power while on duty.*”⁵⁶ He was originally charged with illegally acquiring property, but this charge was later dropped for lack of evidence to convict him.⁵⁷ On 17 August, 2020, the People's Appeal Court upheld that sentence.⁵⁸

On 18 September, 2020, the Working Group on Arbitrary Detention (WGAD) rendered its opinion about the arrest of Trương Duy Nhất: “The Government of Viet Nam is responsible for its action in detaining Mr. Nhat in Viet Nam, as well as jointly responsible with the Government of Thailand for the arrest, detention and forced transfer of Mr. Nhat to Viet Nam,”⁵⁹ and the U.S. Department of State, in its press release, expressed grave concern and dismay “by the conviction of blogger and Radio Free Asia (RFA) contributor Trương Duy Nhat, and his sentencing to 10 years imprisonment” on vague charges. The press release called for the immediate release of Nhất and all prisoners of conscience in Vietnam.⁶⁰

The case of Đường Văn Thái, a journalist jailed in Vietnam after disappearing in Thailand

Undeterred by international criticisms for its kidnapping activities, Vietnam was again involved in the abduction of dissident journalist Đường Văn Thái on 13 April, 2023. By that time, Thái had already been recognised a refugee and was being processed for resettlement by the UN High Commissioner for Refugees (UNHCR).⁶¹ On 16 April, the Police Department of Hà Tĩnh

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Trương Duy Nhat, Contributor and blogger, RFA Vietnamese Service, US Agency for Global Media. Available at: <https://www.usagm.gov/news-and-information/threats-to-press/truong-duy-nhat/>

⁵⁶ “Vietnamese blogger who was abducted in Thailand sentenced to 10 years in prison,” Committee to Protect Journalists (CPJ), March 9, 2019. Available at: <https://cpj.org/2020/03/vietnamese-blogger-who-was-abducted-in-thailand-se/>

⁵⁷ “Vietnamese blogger who was abducted in Thailand sentenced to 10 years in prison,” Committee to Protect Journalists (CPJ), March 9, 2019. Available at: <https://cpj.org/2020/03/vietnamese-blogger-who-was-abducted-in-thailand-se/>

⁵⁸ Vietnamese blogger Trương Duy Nhat's 10-year jail sentence upheld on appeal, CPJ, August 17, 2020, available at: <https://cpj.org/2020/08/vietnamese-blogger-truong-duy-nhats-10-year-jail-sentence-upheld-on-appeal/>

⁵⁹ Ibid.

⁶⁰ U.S. State Department Condemns Jailing of RFA Blogger in Vietnam, Radio Free Asia, March 16, 2020. Available at: <https://2017-2021.state.gov/sentencing-of-blogger-and-radio-free-asia-contributor-truong-duy-nhat/index.html>

⁶¹ “Journalist Duong Van Thai arrested in Vietnam after disappearing in Thailand,” Committee to Protect Journalists (CPJ), April 18, 2023, available at: <https://cpj.org/2023/04/journalist-duong-van-thai-arrested-in-vietnam-after-disappearing-in-thailand/>

Province announced that Thai was in its custody after being captured while allegedly trying to enter Vietnam illegally.⁶² On 20 July, the MPS officially notified Thái's family that he was detained at MPS' Detention Center B14 in Hanoi for "propaganda against the state" in violation of Article 117 of the Penal Code and not for illegal entry as initially accused.⁶³

The case of Y Quynh Bdap, Co-founder of Montagnards Stand for Justice in Thailand

Y Quynh Bdap, a Montagnard Christian, fled to Thailand in 2019 to avoid arrest. He has been recognized a refugee by the office of the UN High Commissioner for Refugees. A co-founder of the human rights organization Montagnards Stand for Justice (MSFJ), Y Quynh Bdap and his fellow MSFJ members have contributed to over 50 reports submitted to various UN mandate holders and to this present submission to the UN Human Rights Committee. Consequently, he has been denounced frequently in Vietnam's state-run media.

Within hours of the 11 June, 2023 shootings in Dak Lak Province, MSFJ issued a press release reaffirming its principle of non-violence and expressed concern that "the Vietnamese government may use such incidents as justification for its repression of independent religious groups."

On 4 July, at 11:30am the police in Vietnam came to the residence of Y Quynh Bdap's parents in Vietnam, forcing them to identify their son from a line-up of six individuals. His father was then made to sign a form acknowledging that he had positively identified Y Quynh Bdap. This appears to be the first step in the process of criminal prosecution of a suspect in absentia. On 14 August, 2023, the Public Security Department of Dak Lak Province issued an arrest and search warrant against Y Quynh Bdap.

On 21 December, 2023 An Ninh TV (Security Television), the official television channel of the Ministry of Public Security, accused Y Quynh Bdap of being a FULRO⁶⁴ member who was behind the June 11 shootings in Dak Lak Province. The television broadcast featured several witnesses denouncing him as such and produced a photo of him holding a submachine gun as evidence.⁶⁵ However, it was a BB gun at a carnival game that he was holding during his visit with friends to a local fairground on 28 October, 2022. The collection of photos taken at the fairground proves the false evidence used by the MPS to frame Y Quynh Bdap.

⁶² "Vietnamese police confirm missing blogger is in their custody," RFA, April 18, 2023, available at: <https://www.rfa.org/english/news/vietnam/duong-04172023160927.html>

⁶³ "Vietnam arrests blogger who went missing in Thailand in April," RFA, July 20, 2023, available at: <https://www.rfa.org/english/news/vietnam/duong-04172023160927.html>

⁶⁴ FULRO is the acronym for the French equivalent of *United Front for the Liberation of Oppressed Races* (disbanded in 1992). Montagnards and a small number of other indigenous fighters used guerilla tactics to oppose what they considered oppressors, i.e., South Vietnam and then Communist Vietnam (after Vietnam was forcibly unified under the Hanoi Communist government in 1975).

⁶⁵ "Chân tướng của Y Quynh Bdap: Kẻ cầm đầu nhóm 'Người Thượng đứng lên vì công lý'" (The real identity of Y Quynh Bdap: leader of the group "Montagnards Stand for Justice"), ANTV, 21 December, 2023, available at: <https://www.youtube.com/watch?v=wF15fwSAaF8>



Screenshot of ANTV's broadcast on 21 December, 2023



Y Quỳnh BDap at fairground with friends on 28 October, 2022

Abuse of Interpol’s “red notice” to pursue political dissenters

In a related matter, Vietnam has abused Interpol’s “red notice” in its attempt to intimidate or actually capture human rights defenders outside of Vietnam. On 12 January, 2017, the MPS issued an arrest warrant against Pastor A Ga, the founder of Evangelical Church of Christ of the Central Highlands; the MPS later confirmed that it also issued an Interpol “red notice” against him. In early 2018, the Thai police arrested him and arranged for him to be interviewed for repatriation by a Vietnamese diplomat based in Bangkok. Thanks to the strong intervention by the US Department of State, the Thai government allowed the UNHCR to quietly relocate Pastor A Ga and their family to the Philippines. They were later admitted for resettlement to North Carolina, USA. On 23 January, 2023, the official website of MPS announced that an Interpol “red notice” had been issued against him, now a U.S. legal permanent resident.⁶⁶ Then, on 8 April, 2023, the MPS officially announced criminal prosecution against Pastor A Ga, in absentia.⁶⁷ On 25 December, Pastor A Ga found out that the Public Security Department of Dak Lak Province had re-issued the arrest and search warrant against him on 3 November, 2023.

Similarly, on 18 August, 2023, An Ninh TV, the official television program of the MPS, announced that the Investigative Office of the Public Security Department of Thanh Hoá Province’s arrest warrant against Lê Văn Sơn, a U.S. legal permanent resident.⁶⁸

⁶⁶ “Bài cuối: Vạch trần bản chất của đối tượng cầm đầu (Last article: Unmasking the nature of the subject instigators)”, Công An Nhân Dân, Jan 27, 2023, available at:

<https://cand.com.vn/Chong-dien-bien-hoa-binh/bai-cuoi-vach-tran-ban-chat-cua-doi-tuong-cam-dau-i642895/>

⁶⁷ “Bắt đối tượng “Phá hoại chính sách đại đoàn kết (Detained a subject for “sabotaging the national solidarity policy)”, People’s Public Security, April 8, 2023, available at: <https://cand.com.vn/Ban-tin-113/bat-doi-tuong-pha-hoai-chinh-sach-dai-doan-ket-i689378/>

⁶⁸ Công an Việt Nam lại phát lệnh truy nã cựu TNLT Lê Văn Sơn (Vietnamese police issues arrest warrant former prisoner of conscience Le Van Son)”, Voice of America, August 31, 2023, available at: <https://www.voatiengviet.com/a/cong-an-viet-nam-lai-phat-lenh-truy-na-cuu-tnlt-le-van-son/7248813.html>