Home Office

Country Policy and Information Note
Vietnam: Opposition to the state

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Executive summary

Updated on 23 August 2023

Vietnam is a one-party communist state governed by the Communist Party of Vietnam (CPV), the only legal political party. Citizens are unable to democratically elect a representative other than from the CPV, as the party controls all electoral bodies and disqualifies any independent candidates. The Vietnamese government has proscribed illegal opposition parties, such as Viet Tan and the Provisional National Government of Vietnam - who operate outside of Vietnam - as terrorist organisations, although they are not recognised as such by the UK.

A person who is a member of an illegal opposition political party and is able to show that his/her political opposition has come to the attention of the authorities is likely to be at risk of persecution and / or serious harm.

Although the Vietnamese Constitution guarantees citizens the right to freedom of opinion and speech, of access to information, to assemble, form associations and hold demonstrations, in practice the CPV does not tolerate public criticism of their human rights practices or allow independent local human rights institutions to form.

Those who openly criticise the state or who protest against the government are likely to attract adverse attention from the authorities. Treatment will vary depending on a person's level of involvement, the nature of the activities, the person's role in those activities and their profile. Low level protesters may be subjected to intimidation by police and may be arrested and subsequently released but in general this is not sufficiently serious, by its nature and/or repetition, to amount to persecution and/or serious harm.

Journalists, bloggers and online activists who can credibly show that they have openly criticised, or are perceived critics of, the government are likely to attract adverse attention from the authorities. Treatment will vary depending on nature of criticism, the topics they have been critical about, and any previous adverse interest. The monitoring of online activity and the closure/censorship of online accounts/posts alone is not sufficiently serious by its nature and/or repetition to amount to persecution or serious harm.

Each case must be considered on its facts and the onus is the person to demonstrate why they would be at risk.

Where the person has a well-founded fear of persecution from the state they will not, in general, be able to obtain protection from the authorities or internally relocate.

Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

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Assessment

About the assessment

This section considers the evidence relevant to this note – that is information in the country information, refugee/human rights laws and policies, and applicable caselaw – and provides an assessment of whether, **in general**:

- a person is likely to face a real risk of persecution/serious harm by the state because of a person's actual or perceived opposition to, or criticism of, the state.
- a person is able to obtain protection from the state (or quasi state bodies)
- a person is reasonably able to relocate within a country or territory
- a grant of asylum, humanitarian protection or other form of leave is likely, and
- if a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

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1. Material facts, credibility and other checks/referrals

1.1 Credibility

1.1.1 For information on assessing credibility, see the instruction on Assessing Credibility and Refugee Status.

1.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

1.1.3 In cases where there are doubts surrounding a person's claimed place of origin, decision makers should also consider language analysis testing, where available (see the Asylum Instruction on Language Analysis).

Official – sensitive: Not for disclosure – Start of section

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Official – sensitive: Not for disclosure – End of section

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1.2 Exclusion

1.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.

1.2.2 If the person is excluded from the Refugee Convention, they will also be

excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).

1.2.3 For guidance on exclusion and restricted leave, see the Asylum Instruction on Exclusion under Articles 1F and 33(2) of the Refugee Convention, Humanitarian Protection and the instruction on Restricted Leave.

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2. Convention reason(s)

2.1.1 Actual or perceived political opinion.

2.1.2 Establishing a convention reason is not sufficient to be recognised as a refugee. The question is whether the person has a well-founded fear of persecution on account of an actual or imputed Refugee Convention reason.

2.1.3 For further guidance on the 5 Refugee Convention grounds see the Asylum Instruction, Assessing Credibility and Refugee Status.

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3. Risk

3.1 Political parties

3.1.1 A person who is a member of an illegal opposition political party and can show that his/her political opposition has come to the attention of the authorities is likely to be at risk of persecution and/or serious harm. Each case, however, must be considered on its facts with the onus on the person to demonstrate that are likely to be at risk.

3.1.2 The Communist Party of Vietnam (CPV) remains the only legal political party, no other parties are officially allowed to operate (see Political system)

3.1.3 Illegal political parties do exist but tend to be based outside of Vietnam. Groups such as the Viet Tan, and the Provisional National Government of Vietnam are both based in California and are designated as terrorist groups by the Vietnamese authorities. Whilst the group Brotherhood for Democracy has activists outside of Vietnam, Human Rights Watch has noted that activists are also within the country (see Illegal political parties).

3.1.4 Members of illegal political parties are subject to arrest and detention and can be charged under security provisions such as “abusing democratic freedom” and “carrying out activities to overthrow the government”. Those who are members or who have participated in activities organised by groups proscribed as terrorist organisations in Vietnam may be charged with terrorism offences (see Illegal political parties).

3.1.5 For further guidance on assessing risk, see the Asylum Instruction on

Assessing Credibility and Refugee Status.

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3.2 Critics and activists

3.2.1 Those who openly criticise, or are perceived critics of, the government are likely to attract adverse attention from the authorities. Whether a person is likely to be at risk of persecution and/or serious harm will depend upon their level of involvement, their activities, the nature of any criticism, the topics they have been critical about, and any previous adverse interest.

3.2.2 Whilst there is some tolerance for protests, those who do so on political or sensitive subjects may be subject to intimidation by police and may be arrested and subsequently released. However, in general, this is not sufficiently serious by its nature and/or repetition to amount to persecution.

3.2.3 Article 25 of the Vietnamese Constitution guarantees citizens the right to freedom of opinion and speech, assembly and association, of access to information and to hold demonstrations. In practice, the government does not tolerate political expression which is critical of the CPV, the government or its policies (see Constitution and Protesters and human rights activists).

3.2.4 The government restricts the establishment of groups in areas it deems sensitive such as politics and religion. The Australian Department for Foreign Affairs and Trade (DFAT) noted freedom of expression and human rights are established 'sensitive' topics however, other topics deemed political or a threat to the state can change depending on local government priorities (see Protesters and human rights activists).

3.2.5 Authorities require permits for group gatherings. Informal group gatherings and protests can occur without government interference, especially on practical local issues, such as environmental concerns. Where gatherings are perceived as political or on sensitive topics they are either prevented, monitored closely, dispersed or supressed by security forces. In recent times much of the protest movement has moved online (see Ability to protest, Protests on 'sensitive' issues and Internet, social media and bloggers).

3.2.6 All land is owned by the state which retains the right to compulsory purchase. Protests held over land seizure and inadequate compensation can be forcibly dispersed and have resulted in protestors and persons who comment on the situation on social media being arrested and imprisoned (see Land disputes and Vietnam: Ethnic and religious minority groups in cases where the land dispute is related to religious/ethnic groups).

3.2.7 High profile activists are monitored, lower profile activists may be subject to some degree of monitoring, but this is likely to be less than more prominent activists. Those who take part in protests on sensitive subjects such as environmental issues, relations with China, human rights or areas deemed to be in opposition to the state, or during sensitive periods may attract the attention of the authorities. This can include harassment, assaults by police or plain clothes individuals believed to be associated with the authorities, house arrest, detention and the confiscation of travel documents. There are incidents of arrest and conviction of protesters with some information about the mistreatment of detainees but given the population of over 104 million

the numbers are relatively low. The US Department of State noted that in 2022 there were at least 173 political detainees, although most of these appeared to be held for online blogging. Organisers of protests on 'sensitive' subjects are more likely to receive harsh sentences (see Protesters and human rights activists).

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3.3 Journalists, bloggers and online activists

3.3.1 Journalists and/or bloggers/online activists who can credibly show they have openly criticised, or are perceived critics of, the government are likely to attract adverse attention. Whether a person is likely to be at risk of persecution and/or serious harm will depend upon the nature of criticism, the topics they have been critical about, and any previous adverse interest.

3.3.2 Online activity is closely monitored but such monitoring and the closure/censorship of online accounts/posts alone is not sufficiently serious by its nature and/or repetition to amount to persecution or serious harm.

3.3.3 Arrests of online activists do occur but given the 84 million internet users in the country the reported number of arrests/prosecutions is very low. Decision makers must establish that persons claiming to be journalists, bloggers or online activists can demonstrate their credentials and that their activities have brought or are reasonably likely to bring them to the adverse attention of the authorities. Consideration should be given to the content, tone and reach of publications and the level of the authorities' awareness about them.

3.3.4 Whilst the constitution stipulates freedom of the press, the government owns and controls the content of all print, broadcast and electronic media. Independent media operates but only on a limited online basis through blogs and social media (see Media outlets)

3.3.5 National security provisions and anti-defamation laws are used to restrict freedom of expression. The government censors online activity by blocking specific URLs considered threatening to CPV rule such as high-profile blogs and websites with many followers. The government's propaganda officials frequently intervene to censor stories and meet editors to discuss subjects which are considered off-limits (see Traditional media and journalists).

3.3.6 Journalists, both state and those who operate independently, typically employ self-censorship to avoid being dismissed from their jobs, having their press credentials revoked, or being arrested. The law allows punishment for journalists, newspapers and online media that publish information deemed to be harmful to national interests. Data from the Committee to Protect Journalists noted that of the 24 journalists in prison in 2021, 23 of them were imprisoned due to political reporting, with 10 being freelance journalists. Reporters Without Borders noted that there are currently 41 journalists in detention (see Traditional media and journalists).

3.3.7 According to Internet World Stats there were over 84 million internet users in Vietnam in 2022. Social media has become a popular option for expressing opinions, with Facebook being Vietnam's most popular online platform. The government however, blocks websites it deems politically or culturally inappropriate (see Access to the internet and Social networking sites).

3.3.8 A 2018 cyber security law requires media sites to exercise censorship in accordance with Vietnamese law. The government-run taskforce Force47, comprising 10,000 staff, monitors online activity and posts pro-government content while also removing material considered sensitive (see Censorship and monitoring).

3.3.9 The 88 Project noted that in 2021 there had been an increase in arrests of online commentators from 2020, with 12 arrested in 2020 and 15 in 2021. They note however, that many of the arrests were due to comments on the government's handling of the pandemic. Vietnam Human Rights Network noted that in the period of 2021- May 31 2022 at least 36 people were detained and prosecuted for expressing their political opinions online although no details on the content or topic of their posts was given (see Internet, social media and bloggers and Arrests).

3.3.10 Low-level social media users, who engage in discussions with friends and family may be tolerated but it can depend on local authorities and the subject of the discussions. It can be difficult for users to know which topics are sensitive as these can be subject to change. Frequent posting about issues deemed sensitive is likely to come to the attention of authorities. This can result in harassment, fines, house arrest and detention. Bloggers and online activists can be subject to, intimidation, job loss, travel restrictions and monitoring (see Internet, social media and bloggers and Arrests).

3.3.11 For further guidance on assessing risk, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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4. Protection

4.1.1 Where the person has a well-founded fear of persecution or serious harm from the state they will not, in general, be able to obtain effective protection.

4.1.2 For further guidance on assessing state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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5. Internal relocation

5.1.1 Where the person has a well-founded fear of persecution or serious harm from the state, they are unlikely to be able to relocate to escape that risk.

5.1.2 For guidance on internal relocation and factors to be taken into account, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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6. Certification

6.1.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

6.1.2 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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Country information

About the country information

This contains publicly available or disclosable country of origin information (COI) which has been gathered, collated and analysed in line with the research methodology. It provides the evidence base for the assessment.

The structure and content of this section follow a terms of reference which sets out the general and specific topics relevant to the scope of this note.

Decision makers must use relevant COI as the evidential basis for decisions.

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7. Political system

7.1 Political structure

7.1.1 The Australian Government's Department for Foreign Affairs and Trade's (DFAT) Country Report for 2022, based on a range of public and non-public available sources including on-the-ground knowledge and discussions with a range of sources, noted that:

'Vietnam is a one-party communist state. Communist Party of Vietnam (CPV) members hold all senior government and military positions. The National Congress is the CPV's largest national decision-making body. It meets every five years. The most recent Congress was in January/February 2021 and comprised 1,600 delegates. These delegates elected the 200-member Central Committee (the second highest decision-making body that meets twice a year) which, in turn, elected the (currently) 18-member Politburo, Vietnam's most powerful decision-making body.

'The General Secretary of the CPV, State President, Prime Minister and Chair of the National Assembly (the national parliament) are key figures of political power. Elections are held for the National Assembly, most recently in May 2021. Ninety-two per cent of candidates in the National Assembly are members of the CPV. Real political power is held in CPV structures rather than the National Assembly.

'Vietnam is politically organised into 58 provinces and 5 municipalities (Hanoi, Haiphong, Da Nang, Ho Chi Minh City and Can Tho). Further subdivisions are districts and communes, which are the smallest level of government that exist in both rural and urban areas.'[1]

7.1.2 The CIA World Factbook noted that the Chief of state, since March 2023, is President Vo Van THUONG. The Head of government, since 26 July 2021, is Prime Minister Pham Minh CHINH. The same source went on to note that the 'Cabinet proposed by prime minister confirmed by the National Assembly and appointed by the president.'[2]

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[1] DFAT, 'Country Information Report Vietnam' (para 2.28- 2.30), 11 January 2022
[2] CIA, 'Vietnam- World Factbook', Last updated 28 June 2023

7.2 Political parties

7.2.1 The CPV is the only legally recognised political party[3] and Nguyen Phu TRONG is the General Secretary of the CPV[4].

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7.3 Elections

7.3.1 The CIA World Factbook noted that in the 2016 election the CPV received 95.8% of the vote and non-party members 4.2% of the vote. The CPV won 474 seats, non-party CPV-approved won 20 seats and self-nominated candidates won 2 seats. In total 494 candidates were elected. The last elections were held on 23 May 2021, with the next elections due to be held in spring 2026[5].

7.3.2 Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', published in February 2022 noted that: 'Vietnam holds one-party elections throughout the nation every five years for both the National Assembly and local People's Councils. …Voting is mandatory on election day, but the turnout is cosmetic. This is because very often a family member casts votes not only for himself or herself but also for the rest of the family.'[6]

7.3.3 The 88 Project's, a human rights advocacy group, Human Rights Report 2021 (published 8 May 2022) noted: 'At least two independent candidates, Nguyen Quoc Huy and Nguyen Van Son Trung, who attempted to run in the 2021 National Assembly elections, were summoned for questioning. During the 2016 elections, at least 11 self-nominated candidates got on the ballot, while scores of independents who tried to participate were vetted out by the Party.'[7]

7.3.4 Freedom House noted in their Freedom in the World report 2023 that:

'The electoral laws and framework ensure that the CPV, the only legally recognized party, dominates every election. The party controls all electoral bodies and vets all candidates, resulting in the disqualification of those who are genuinely independent.

'… The structure of the one-party system precludes any democratic transfer of power. The Vietnam Fatherland Front (VFF), responsible for vetting all candidates for the National Assembly, is ostensibly an alliance of organizations representing the people, but in practice acts as an arm of the CPV.

'The overarching dominance of the CPV effectively excludes the public from any genuine political participation.'[8]

7.3.5 The US Department of State (USSD) noted in its 2022 Human Rights report on Vietnam, published on 20 March 2023, that:

'Citizens could not choose their government through free and fair elections

[3] Freedom House, 'Freedom in the World 2022- Vietnam', 24 February 2022
[4] CIA, 'Vietnam- World Factbook', Last updated 28 June 2023
[5] CIA, 'Vietnam- World Factbook', Last updated 28 June 2023
[6] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022
[7] The 88 Project, 'Human Rights Report 2021', 9 May 2022
[8] Freedom House, 'Freedom in the World 2023- Vietnam', 2023

based on universal and equal suffrage and conducted by a secret ballot that guaranteed free expression and the will of the people. Although the constitution provides the ability to elect representatives to the National Assembly, people's councils, and other state agencies directly, constitutional and legal provisions established a monopoly on political power for the CPV, and the CPV oversaw all elections.

'… Political opposition movements and other political parties are illegal. Although the constitution states that "all Party organizations and members of the CPV operate within the framework of the constitution and the laws," the CPV politburo in fact functioned as the supreme national decision-making body, although technically it reported to the CPV Central Committee.'[9]

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8. Illegal political parties

8.1 General

8.1.1 The UK Home Office (HO) conducted a Fact-Finding Mission (FFM) to Vietnam between 23 February and 1 March 2019. The Fact-Finding Team (FFT) were informed by various diplomatic sources that:

'Vietnam does not permit political opposition in the form of allowing opposition parties to operate. Activists are arrested for social media posts with charges often coming under Vietnam's vague security provisions such as "abusing democratic freedom" and "making, storing, and spreading information, materials, and items for the purpose of opposing the state." Sentencing is harsh (See also Arrests and Criminal justice system).

'…Authorities are not afraid of individual activists but they are most wary of people making associations or organising themselves into a political party.'[10]

8.1.2 In their Freedom in the World 2023 report, Freedom House claimed '… Members of illegal opposition parties are subject to arrest and imprisonment.'[11] The source did not state the scale of those arrested and imprisoned for their membership of opposition parties.

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8.2 The Viet Tan

8.2.1 The Guardian reported in 2016 that:

'Vietnam has declared a US-based activist group a terrorist organisation and warned that any Vietnamese found to be involved with the group would be regarded as co-conspirators and punished.

'The government said the California-based Viet Tan, or Vietnam Reform Party, had recruited and trained operatives to use weapons and explosives.

'Vietnam has long been sensitive to the activities of Viet Tan, calling the group "reactionaries", but the announcement carried on state television was

[9] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[10] UK Home Office, 'HO FFM report' (annex D- Diplomatic sources), September 2019
[11] Freedom House, 'Freedom in the World 2023- Vietnam', 2023

the first time it had designated it a terrorist organisation.

'The police-run ministry of public security said Viet Tan had trained members in militant activities, kidnaps and murders and arranged for operatives to sneak into Vietnam to organise protests and instigate violence.

'Viet Tan has long been an annoyance for the Communist party that has ruled since the US-backed South Vietnam government fell to northern forces in 1975, leading to an exodus of more than 1 million people, mostly to the US.

'It was founded by exiled remnants of the deposed Saigon government in 1982 and states as its mission to "overcome dictatorship and build the foundation for a sustainable democracy".

'… Despite steadily introducing more liberal social and economic reforms in recent years, the Communist party has a zero-tolerance approach to criticism and has punished detractors harshly.'[12]

8.2.2 ABC News noted that: 'Vietnamese authorities …sentenced … [Australian citizen Chau Van Kham] to 12 years in prison on national security charges, due to his links with pro-democracy group Viet Tan.'[13]

8.2.3 The Overseas Security Advisory Council (OSAC) security report on Vietnam published in July 2022 noted that: 'The Vietnamese government has …designated California-based pro-democracy group Việt Tân as a terrorist organization, accusing the group of training members to sneak into Vietnam to organize protests and instigate violence. Among others, authorities in 2019 arrested a Vietnam-born Australian citizen for his work with the group, convicting him of working to "fund terrorist operations."'[14]

8.2.4 Further background information on the Viet Tan can be found on their website in the section 'About Viet Tan'[15]. Viet Tan also maintains a Facebook page[16] and a presence on X (formerly Twitter[17]).

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8.3 Other Groups

8.3.1 Human Rights Watch noted in a report from 2018 that '… the Brotherhood for Democracy is a network of activists both in and outside Vietnam who campaign for human rights and democracy in Vietnam.'[18] Although a 2023 article by Civicus noted that the group was defunct[19].

8.3.2 The Provisional National Government of Vietnam is headquartered in Orange County California and according to Radio Free Asia '…was founded in 1991 by soldiers and refugees that had been loyal to the South Vietnamese government prior to the country's unification under communist

[12] The Guardian, 'Vietnam declares US-based activist group is a terrorist…', 7 October 2016
[13] ABC News, 'Penny Wong raises Chau Van Kham case with Vietnamese President…' 29 June 2022
[14] OASC, 'Vietnam Country Security Report', 12 July 2022
[15] Viet Tan, 'About Viet Tan', undated
[16] Facebook, 'Viet Tan', undated
[17] Twitter, 'Viet Tan', undated
[18] HRW, 'Vietnam: Drop Charges Against Rights Campaigner', 10 September 2018
[19] Civicus, 'Jailing and persecution of activists and journalists persists despite…', 8 February 2023

rule in 1975.'[20]

8.3.3 In 2018 the Ministry of Public Security announced that the Provisional National Government of Vietnam was a terrorist group[21]. Vietnam Net Global reported that 'According to the announcement … anyone, who participated in propagandizing and inciting others to join, sponsor, and receive sponsorship from the organisation, took part in the organisation's training courses, and followed the instruction of the organisation, has committed "terrorism" and "terrorist sponsor" and will be treated pursuant to Vietnam's law.'[22]

8.3.4 Vietnam Human Rights Networks annual report for 2021-2022 noted that:

'To protect the Party's political security, the government maintained its intolerance of outside dissent or criticism. On January 8, 2022, the Government's Resolution "On the main tasks and solutions to implement the socio-economic development plan and state budget estimate in 2022 repeated the chorus of PCV's leaders "not to allow domestic opposition political organizations."

'Thus, organizations promoting democracy and human rights, such as Bloc 8406, the People's Action Party, the Democratic Party of Vietnam, the Vietnam Progress Party, the Populist Party, the High Tide of Humanism Movement, the Committee for Human Rights, the United Workers-Farmers Association, Viet Labor Movement, the Vietnamese Political and Religious Prisoners Friendship Association, the Patriotic Youth, the Vietnam Path Movement, Vietnam Blogger Network, the Brotherhood For Democracy, the Constitution Group, Vietnamese Women for Human Rights, and the Independent Journalists Association continued to be banned and persecuted. Many members of these organizations were isolated or imprisoned.'[23]

8.3.5 According to the July 2022 Overseas Security Advisory Council (OSAC) security report on Vietnam 'Authorities have arrested others for purported participation in this group [Provisional National Government of Vietnam], including more than a dozen for a purported plot against the airport in 2017, several in 2020 for sharing "terrorist propaganda," and several more in 2021 for purportedly "carrying out activities to overthrow the government."'[24]

8.3.6 See also Arrests of political activists.

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9. Legal context

9.1 Constitution

9.1.1 Article 25 of the Constitution stated that: 'The citizen shall enjoy the right to freedom of opinion and speech, freedom of the press, of access to information, to assemble, form associations and hold demonstrations. The

[20] RFA, 'Vietnam Sentences Four for Involvement in US-Based Exile Government', 13 March 2021
[21] Vietnam Net Global, '"Provisional National Government of Vietnam" is a…', 31 January 2018
[22] Vietnam Net Global, '"Provisional National Government of Vietnam" is a…', 31 January 2018
[23] Vietnam Human Rights Network 'Report on Human Rights in Vietnam 2021-2022', 24 June 2022
[24] OASC, 'Vietnam Country Security Report', 12 July 2022

practice of these rights shall be provided by the law.'[25]

9.1.2 The BTI 2022 report for Vietnam noted that:

'Freedom of expression is prescribed and protected in the constitution 2013. However, the Press Law, the Publication Law, and the Criminal Code criminalize any activities that are considered to be "propagandizing against the state," "conducting propaganda to slander the people's government; conducting psychological warfare and spreading rumors; creating, storing and disseminating cultural products with anti-socialist government contents," "taking advantage of democratic freedoms and rights to violate the interests of the state and social organizations," "slandering and questioning the legitimacy of the people's government," and so on. The government frequently uses these vaguely-defined crimes to restrict freedom of expression.'[26]

9.1.3 The 2021 USSD report noted that: 'Although permitted by the constitution, the government restricted freedom of peaceful assembly. …The constitution affords individuals the right of association, but the government severely restricted the establishment of associations involved in what the government considered "sensitive" fields such as political, religious, and labor topics.'[27]

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9.2 Penal Code

9.2.1 Chapter 13 of the Penal Code contains the following articles:

'Article 109. Activities against the people's government Any person who establishes or joins an organization that acts against the people's government shall face the following sentences:

1. The organizer, instigator, or person whose activities cause serious consequences shall face a penalty of 12 - 20 years' imprisonment, life imprisonment, or death;

2. Any accomplice shall face a penalty of 05 - 12 years' imprisonment;

3. Any person who makes preparation for the commitment of this criminal offence shall face a penalty of 01 - 05 years' imprisonment

'Article 117. Making, storing, spreading information, materials, items for the purpose of opposing the State of Socialist Republic of Vietnam

1. Any person, for the purpose of opposing the State of Socialist Republic of Vietnam, commits any of the following acts shall face a penalty of 05 - 12 years' imprisonment:

a) Making, storing, spreading information, materials, items whose that contains distorted information about the people's government;

b) Making, storing, spreading information, materials, items whose that contains fabricated information to cause dismay

[25] International IDEA 'The Constitution of the Socialist Republic of Vietnam (2013)', 2013
[26] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022
[27] USSD, '2021 Country Reports on Human Rights Practices: Vietnam', 12 April 2022

among the people;

b) Making, storing, spreading information, materials, items to cause psychological warfare.

2. An extremely serious case of this offence shall carry a penalty of 10 - 20 years' imprisonment.

3. Any person who makes preparation for the commitment of this criminal offence shall face a penalty of 01 - 05 years' imprisonment[28]

9.2.2 Chapter 22 (Offences against administrative management order) Article 331

'Article 331. Abusing democratic freedoms to infringe upon the interests of the State, lawful rights and interests of organizations and/or citizens

1. Any person who abuses the freedom of speech, freedom of the press, freedom of religion, freedom of association, and other democratic freedoms to infringe upon the interests of the State, lawful rights and interests of organizations and/or citizens shall receive a warning or face a penalty of up to 03 years' community sentence or 06 - 36 months' imprisonment.

2. If the offence has a negative impact on social security, order, or safety, the offender shall face a penalty of 02 - 07 years' imprisonment.'[29]

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10. Protesters and human rights activists

10.1 Ability to protest

10.1.1 Diplomatic sources told the UK Home Office FFT that: 'Although the Constitutional provides for the right to freedom of assembly, Vietnam has yet to adopt a law on assembly/demonstrations. According to diplomatic sources there are no protest laws in Vietnam, but the police have the right to disperse protestors as a risk to social order.'[30]

10.1.2 Bertelsmann Stiftungs, 'BTI 2022 Country Report Vietnam', noted that:

'The enactment of a law on demonstrations continues to be delayed due to what the government terms the "low quality" of the draft law. In the meantime, the government applies the criminal code and other legal documents to control and suppress public gatherings and demonstrations. The criminal code has also been used to suppress strikes by workers – a right of laborers as enunciated in the Labor Code 2012 – arbitrarily if the government perceives these activities as a threat to the regime.'[31]

10.1.3 The 2022 USSD report noted that:

'Although permitted by the constitution, the government restricted freedom of peaceful assembly. Laws and regulations require permits for group

[28] Socialist Republic of Vietnam, 'Criminal Code', 27 November 2015
[29] Socialist Republic of Vietnam, 'Criminal Code', 27 November 2015
[30] UK Home Office, 'HO FFM report' (annex D- Diplomatic sources), September 2019
[31] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022

gatherings, which local authorities issued or denied without explanation. Only those arranging publicized gatherings to discuss matters the government considered "sensitive" appeared to require permits. The government generally did not permit any demonstrations that could be perceived as political. The law permits security forces to detain individuals gathering or protesting outside of courthouses during trials. Persons routinely gathered in informal groups without government interference so long as the gathering was not perceived as political or a threat to the state.'[32]

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10.2 Protests on 'sensitive' issues

10.2.1 Diplomatic sources told the UK Home Office FFT that:

'There is quite a lively protest movement particularly online. If it [protest movement] passes an unwritten red line, ie in a sensitive period, embarrass the government or provincial government or calls for mass protest or is linked up with something else or supported by religious groups, it is in danger of being cracked down on. Can be in the form of an individual being locked up for a number of years. If it manifests as a protest in the street it may be allowed to go ahead and then cracked down by [Ministry of Public Security] MPS. It depends if it is seen as a threat and that threat could be embarrassment or challenging vested interests. Sometimes they are allowed to go ahead, again it just depends what the interests of the government are at the time. It may be in the government interests to allow a small protest. It may be in the interest of one faction, one faction may see it as positive to promote some form of protests whereas another one may seek to crush. It is always difficult to know if it's a grass roots creating this or whether it is from above, it is difficult to know.

'… Sometimes you'll get public opinion going behind a group and then it is difficult for the government to not support a protest but is difficult to know what will happen. There are some in the government who would be pro demo and would see more freedom of expression but perhaps the older guard within would see it as more of a threat. The younger generation, educated in the west are likely to be more open but the older, educated in perhaps Russia are less likely.'[33]

10.2.2 The 2022 DFAT report stated that:

'Some advocacy and activism for broader human rights issues, such as democracy and individual freedoms, take place but most public protest is about practical local issues, such as environmental concerns, development and transport. The former is considered much more sensitive by the Government; activists in different contexts described below have faced arrest.

'Street protests occur but much protest has now moved to online platforms. Many street protests are about single-issues and threats to livelihood and land rights (typically related to accusations about corruption in development). The most prominent recent example was widespread anti-China protests

[32] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[33] UK Home Office, 'HO FFM report' (annex D- Diplomatic sources), September 2019

(related to fears that the Chinese Government would buy land under reformed rules) and against laws that required social media companies like Google and Facebook to store user data domestically.

'The right to assembly is constitutionally protected but, in practice, that right is subject to national security provisions of the Penal Code that prohibit 'establishing or joining an organisation that [is] against the People's Government' (article 109), 'making, storing or spreading information … opposing the State' (article 117) and 'abusing democratic freedoms to infringe upon the interests of the state' (article 331). These laws effectively outlaw protests that the Government finds sensitive. Official approval is required to protest, which is routinely denied for sensitive topics. Protests that are allowed are subject to close police monitoring.

'… Human rights, environmental or land-use protests and calls for democracy are sensitive. An NGO's links to foreign governments may also intensify Government monitoring. COVID-19 'misinformation' is particularly sensitive and can lead to arrests, as can online organising of in-person protests. Particular events, such as the National Congress (held every five years, most recently in January to February 2021) might see a crackdown on activists, including the arrest and trial of high-profile activists.'[34]

10.2.3 Bertelsmann Stiftungs, 'BTI 2022 Country Report Vietnam', noted that: 'Public gatherings, especially those related to "sensitive" topics such as human rights, democracy and civil society, can be permitted by the authorities, but are closely monitored by the public security police.'[35]

10.2.4 Vietnam Human Rights Networks annual report for 2021-2022 noted that:

'At present, gathering to express people's views and aspirations is still regulated by Decree 38/2005 of the Government and Circular No. 09/2005/TT-BCA of the Ministry of Public Security. According to these two legal documents, to gather five people or more, people must register in advance and get permission from the relevant People's Committee. In addition, they must declare the names of the attendees, the content, the date, and the time of the meeting. Gatherings that do not meet the above conditions are considered illegal.'[36]

10.2.5 Human Rights Watch noted in their World Report 2023, covering events in 2022, that: 'Authorities require approval for public gatherings, and systematically refuse permission for meetings, marches, or public gatherings they deem to be politically unacceptable.'[37]

10.2.6 The 2022 USSD report stated that:

'… Laws and regulations require permits for group gatherings, which local authorities issued or denied without explanation. Only those arranging publicized gatherings to discuss matters the government considered "sensitive" appeared to require permits. The government generally did not permit any demonstrations that could be perceived as political. The law

[34] DFAT, 'Country Information Report Vietnam' (para 3.50-52 & 3.54), 11 January 2022
[35] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022
[36] Vietnam Human Rights Network 'Report on Human Rights in Vietnam 2021-2022', 24 June 2022
[37] HRW, 'World Report 2023: Vietnam', 12 January 2023

permits security forces to detain individuals gathering or protesting outside of courthouses during trials. Persons routinely gathered in informal groups without government interference so long as the gathering was not perceived as political or a threat to the state.'[38]

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10.3 Land disputes

10.3.1 This section should be read in conjunction with the section on Protests on 'sensitive' issues. Reference should also be made to the country policy and information note on Vietnam: Ethnic and religious minority groups where the land dispute is related to religious/ethnic groups.

10.3.2 The 2022 DFAT report stated that:

'Protests about land and its compulsory acquisition occur occasionally. All land in Vietnam is formally owned by the state, which issues usage rights to individuals or organisations. The state retains the right to reacquire the land and land owners allege low levels of compensation, which sometimes leads to protests. A recent prominent example was the January 2020 Dong Tam commune incident in which three police officers and a civilian were killed. The Dong Tam commune protests had been occurring for some years; protesters' trials concluded in 2020 with some protesters receiving the death penalty and others life in prison for charges that related to the deaths of several police officers. Social media commentary on the issue later led to arrests of, and prison terms for, those commenting, demonstrating the sensitivity of the issue.'[39]

10.3.3 The BTI 2022 report on Vietnam noted that:

'Protests resulting from land disputes between local farmers and authorities are forcefully dispersed by the police. In January 2020, for example, the Ministry of Public Security deployed approximately 3,000 riot police to a village 40km north of Hanoi in a land dispute involving local villagers and the Ministry of Defense. Three police officers and an elderly villager were killed in the clash. The villager was himself a long time party member and drew support from broad swaths of the population. The incident became divisive, as it pitted members of the leadership and security apparatus against those sympathetic to the villagers' claims.'[40]

10.3.4 The 2022 USSD report stated that:

'By law all land belongs to the government ("all the people of Vietnam"), which granted considerable decision-making authority for land pricing, allocation, and reclamation to local people's committees and people's councils, whose decisions regarding land often lacked transparency and due process. Disputes over land expropriations for development projects remained a significant source of public grievance. Many individuals whose land the government forcibly seized protested at government offices for unaddressed complaints.'[41]

[38] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[39] DFAT, 'Country Information Report Vietnam' (para 3.65), 11 January 2022
[40] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022
[41] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023

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10.4 Ethnic and religious groups

10.4.1 Members of ethnic and religious groups may be perceived as being in opposition to the state and where this is the case decision makers should also refer to the relevant country policy and information notes on Vietnam: Ethnic and religious minority groups and Vietnam: Hoa Hao Buddhism.

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10.5 State treatment

10.5.1 Diplomatic sources told the UK Home Office FFT that:

'They [protestors] can be subject to house arrest, they may be threatened, police may just come in and beat them up. They may be able to just make their protest. There is a whole variety of actions that may occur depending on the timing and sensitivities involved.

'There would be a blacklist of known activists and they would be monitored. In a sensitive period, it may be stepped up.

'… I don't know how they deal with all the protestors. Some say they were interviewed some say beaten by police. attendees do get cracked down on. It is more likely the organisers will receive the harsher sentence to be made example of. High profile more at risk- Yes.

'If they are low level then the monitoring will be less than high level. There may be some particular figures of interest. They might have to have regular catch ups and 'have a chat' to discuss what their thinking is of particular policy. It could be quite aggressive and not very nice but is used to keep an eye on them.'[42]

10.5.2 The 2022 DFAT report noted that

'Topics that are deemed to be sensitive can change or depend on local government priorities at the time. People with knowledge of the issue told DFAT that some 'red lines' and sensitive topics, like human rights and freedom of expression, are well known to people and do not change from day to day. Other issues, such as environmental events or digital rights, are more likely to change and their sensitivity is more difficult for activists to predict.

'…Activists may be prevented from leaving their homes; staying away from home overnight requires any person to register with local police, which can be used to prevent movement. During high-profile events, such as a visit from a high-profile international figure or at an election, activists might be visited, invited for tea or taken on tours of the city so that they miss meetings. Some sources told DFAT that authorities in these situations are often polite and do not typically use violence. Women are less likely to experience violence but may experience sexual harassment online. Activists report physical and electronic surveillance. Sources report activists are free to move around Vietnam (albeit while monitored), but are prevented from

[42] UK Home Office, 'HO FFM report' (annex D- Diplomatic sources), September 2019

going abroad; for example by having passports refused.'[43]

10.5.3 The Human Rights Watch report '"Locked Inside Our Home": Movement Restrictions on Rights Activists in Vietnam' published in February 2022 noted that the Vietnamese often use house arrest to prevent activists from attending protests. The report went on to note that:

'Vietnamese authorities use a range of tactics to carry out house arrests:

- stationing plainclothes security agents outside homes;
- using external padlocks to lock people into their homes;
- erecting roadblocks and other physical obstacles and barriers to prevent individuals from leaving their homes and others from entering;
- mobilizing neighborhood thugs to intimidate people into staying home;
- applying very strong adhesives— "superglue" —on locks.'[44]

10.5.4 The report also went on to note that:

'…House arrests often coincide with key events or dates on the national calendar, including national and religious holidays, or significant domestic political events such as a Communist Party congress, the country's staged elections, international meetings or summits, or political trials of important dissidents.

'…The authorities have frequently prevented activists from attending meetings or events they consider to be politically sensitive, engaging in arbitrary arrest, detention, or abduction until the event is over or impossible to attend. Often, police officers or thugs force people into a car and just drive them around or keep them locked up at a police station for as long as necessary.'[45]

10.5.5 HRW, in their World Report 2023, claimed: 'The Vietnam government also systematically blocks rights activists, bloggers, dissidents, and their family members from domestic and international travel, including by stopping them at checkpoints, airports and border gates, and denying passports or other documents that would allow them to leave or enter the country.'[46]

10.5.6 The BTI 2022 report on Vietnam noted that: 'Well-known activists are kept under constant surveillance and prevented from leaving their homes to meet others or to participate in protests.'[47]

10.5.7 Vietnam Human Rights Networks annual report for 2021-2022 noted that: 'The constant surveillance and stalking of dissidents increased on special occasions such as visits by foreign delegations, Party Congress, National Assembly elections, and dissidents' trials…'[48]

10.5.8 The 2022 USSD report noted that:

[43] DFAT, 'Country Information Report Vietnam' (para 3.53 & 3.56), 11 January 2022
[44] HRW, '"Locked Inside Our Home": Movement Restrictions on Rights Activists…', 17 February 2022
[45] HRW, '"Locked Inside Our Home": Movement Restrictions on Rights Activists…', 17 February 2022
[46] HRW, 'World Report 2023: Vietnam', 12 January 2023
[47] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022
[48] Vietnam Human Rights Network 'Report on Human Rights in Vietnam 2021-2022', 24 June 2022

'In prior years police and plainclothes authorities routinely mistreated, harassed, and assaulted activists and those demonstrating against the government. No major demonstrations against the government were permitted during the year.

'The constitution affords individuals the right of association, but the government severely restricted the establishment of associations involved in what the government considered "sensitive" fields such as politics, religion, and labor rights.

'…Authorities restricted the movements of several political activists on probation or under house arrest, along with others not facing such legal restrictions. Authorities also continued to monitor and selectively restrict the movement of prominent activists and religious leaders. Authorities continued to prevent activists from leaving their houses during events that might draw public attention.

'…The government did not permit independent, local human rights organizations to form or operate, nor did it tolerate attempts by organizations or individuals to criticize its human rights practices publicly. Authorities often asserted that human rights and democracy advocacy were acts against the Communist Party and state.'[49]

10.5.9 See also Arrests of political activists, human rights defenders, bloggers, journalists, members of civil society and dissidents.

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Updated 4 August 2023

11. Traditional media and journalists

This section should be read in conjunction with Internet, social media and bloggers.

11.1 Law

11.1.1 Reporters Without Borders (RSF) noted in their Vietnam country profile that:

'Freedom of the press is proclaimed in Article 19 of the Socialist Republic of Vietnam's constitution. But the political apparatus has a tailor-made legislative arsenal that allows it to imprison any news and information provider who proves troublesome. It includes articles 109, 117, and 331 of the penal code, under which anyone found guilty of "activities aimed at overthrowing the government", "anti-state propaganda" or "abusing the rights to freedom and democracy" can be sentenced to up to 20 years in prison

'…The party's central propaganda department meets weekly in Hanoi to ensure that nothing objectionable is published in media outlets, and to praise or reprimand editors when appropriate. … The many topics subject to censorship include political dissidents, cases of corruption involving senior officials, the single party's legitimacy, relations with China and, of course, human rights issues. Subjects that are deemed to be less sensitive, such as environmental issues or LGBT rights, are emerging on the margins.' [50]

11.1.2 The 2022 USSD report noted that:

[49] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[50] RSF, '2022 Press Freedom Index- Vietnam country profile', 2022

'The constitution and law provide for freedom of expression, including for members of the press and other media; however, the government did not respect these rights, and several laws specifically encroach on freedom of expression. The government also continued to use broad national security and antidefamation provisions in the law to restrict freedom of expression. Such provisions establish crimes such as "sabotaging the infrastructure of socialism," "sowing divisions between religious and nonreligious people," and "propagandizing against the state" as serious offenses against national security. The law also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the state or lawful rights and interests of organizations or individuals."

'…The law allows the government to punish publishers if they publish false information or content the government deems objectionable.

'…Defamation is a criminal offense, and the laws were enforced, especially against critics of the Communist Party and government.

'…The law provides for significant fines against journalists, newspapers, and online media that publish or broadcast information deemed harmful to national interests or for disseminating information considered to distort history and the revolution's achievements. In some cases, these "violations" may lead to criminal proceedings. No such cases were reported in the year to October, but editors noted that publications and journalists must be careful of national security laws, contributing to self-censorship.'[51]

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11.2 Media outlets

11.2.1 The 2022 DFAT report noted that: '…The Vietnamese media landscape is dominated by state media. The most popular form of media is television, which state networks run. Print media is popular and hundreds of publications exist, but most are controlled or owned by the state.'[52]

11.2.2 Reporters Without Borders (RSF) noted that: 'By law, the state is the majority shareholder of all media outlets. In return, the Communist Party demands that they serve as "the voice of party organisations, state organs and social organisations".'[53]

11.2.3 The 2022 USSD report noted that: 'The CPV, government, and party-controlled mass media organizations exercised legal authority over all print, broadcast, online, and electronic media, primarily through the Ministry of Information and Communications under the overall guidance of the CPV Publicity and Education Commission. This includes requiring media outlets to be affiliated with a government body. The law requires editors-in-chief to be CPV members.'[54]

11.2.4 Vietnam Human Rights Networks annual report for 2021-2022 noted that: 'According to the Vietnam News Agency, as of November 30, 2021, the country has 816 press agencies (print and electronic), and 72 have licenses

[51] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[52] DFAT, 'Country Information Report Vietnam' (para 3.58), 11 January 2022
[53] RSF, '2023 Press Freedom Index- Vietnam country profile', 2023
[54] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023

to operate radio and television. The number of staff working in the press industry is 40,000, and journalists with a license to practice are 17,161. The Vietnam Journalists Association has 27,000 members. No private newspaper or electronic media agency is allowed to operate legally.'[55]

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11.3 State treatment

11.3.1 The 2022 DFAT report stated that: 'Journalists face arrest and imprisonment under the same laws used against activists. For example, journalists of the Independent Journalist Association of Vietnam were detained and arrested on anti-state propaganda charges in 2019 and 2020. Journalists typically self-censor to avoid risk of arrest and some journalists have told international media that they are subject to close surveillance by authorities.'[56]

11.3.2 Freedom House noted that: 'Threats against the families of journalists have led them to cease their coverage in the past.'[57]

11.3.3 Data from the Committee to Protect Journalists shows that in 2021 there were 24 journalists imprisoned with 23 of them being imprisoned for reporting on political issues, 10 of those imprisoned were freelance journalists[58]. According to Reporters Without Borders Vietnam is the third largest jailer of journalists in the world, with 41 journalists in detention as of 14 August 2023[59] .

11.3.4 The 2022 USSD report noted that:

'Independent journalists faced restrictions on freedom of movement, other forms of harassment, and physical attacks if they reported on sensitive topics. The government also monitored journalists' meetings and communications. The government punished journalists for failing to self-censor, including by revoking journalists' press credentials.

'…The government may fine journalists and newspapers for failing to cite their sources of information or for using "documents and materials from organizations and personal letters and materials from individuals, without clearly stating the sources of such information." The law allows the government to punish publishers if they publish false information or content the government deems objectionable.

'…Authorities frequently intervened directly with media to dictate or censor a story, and only permitted media outlets to report on predetermined topics; the Ministry of Information and Communication fined outlets that reported unapproved political and socioeconomic news. Pervasive self-censorship, including among independent journalists and bloggers, due to the threat of dismissal and possible arrest, assisted the party and government to control media content.

'Media independent of government authority operated on a limited basis online, primarily via blogs and social media, but independent journalists

[55] Vietnam Human Rights Network 'Report on Human Rights in Vietnam 2021-2022', 24 June 2022
[56] DFAT, 'Country Information Report Vietnam' (para 3.59), 11 January 2022
[57] Freedom House, 'Freedom on the Net 2022', 18 October 2022
[58] CPJ, 'Explore CPJ's database of attacks on the press', 1 December 2021
[59] RSF, '2023 Press Freedom Index- Vietnam country profile', 2023

faced government harassment.

'Journalists employed by foreign-based media outlets operated under significant restrictions…

'…Citing laws protecting national security, police arrested and ordered journalists to restrict criticism of government policies or officials in prior years.'[60]

11.3.5 See also Arrests of political activists, human rights defenders, bloggers, journalists, members of civil society and dissidents.

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11.4 Monitoring of diaspora

11.4.1 Several sources reported that cyber group OceanLotus or APT32 targeted overseas human rights defenders and journalists through the use of malware. The group are suspected of having links to the Vietnamese government[61] [62] [63].

11.4.2 In December 2020, Facebook [Meta] published a threat report linking Ocean Lotus' activities with a Vietnamese company named CyberOne Group. The report noted that:

'APT32, an advanced persistent threat actor based in Vietnam, targeted Vietnamese human rights activists locally and abroad, various foreign governments including those in Laos and Cambodia, non-governmental organizations, news agencies and a number of businesses …with malware. Our investigation linked this activity to CyberOne Group, an IT company in Vietnam (also known as CyberOne Security, CyberOne Technologies, Hành Tinh Company Limited, Planet and Diacauso).

'As our industry partners have previously reported, APT32 has deployed a wide range of adversarial tactics across the internet. …Our most recent investigation analyzed a number of notable tactics, techniques and procedures (TTPs) including:

- Social engineering: APT32 created fictitious personas across the internet posing as activists and business entities, or used romantic lures when contacting people they targeted. … Some of their Pages were designed to lure particular followers for later phishing and malware targeting.
- Malicious Play Store apps: In addition to using Pages, APT32 lured targets to download Android applications through Google Play Store that had a wide range of permissions to allow broad surveillance of peoples' devices.
- Malware propagation: APT32 compromised websites and created their own to include obfuscated malicious javascript as part of their watering hole attack to track targets' browser information. A watering hole attack is when hackers infect websites frequently visited by intended targets to compromise their devices. … APT32 also used links to file-sharing

[60] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[61] AI, 'Vietnamese activists targeted by notorious hacking group', 24 February 2021
[62] USSD, '2021 Country Reports on Human Rights Practices: Vietnam', 12 April 2022
[63] CPJ, 'How Vietnam-based hacking operation OceanLotus targets journalists', 1 February 2021

services where they hosted malicious files for targets to click and download. Most recently, they used shortened links to deliver malware…[64]

11.4.3 The 2022 USSD report noted that: 'Unlike prior years there were no reports of authorities harassing exiled individuals or their families.'[65]

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Updated 4 July 2023

12. Internet, social media and bloggers

This section should be read in conjunction with Traditional media and journalists.

12.1 Law

12.1.1 In 2013 Decree 72 was issued on the management, provision and use of Internet services and online information[66]. In 2018 the law on cybersecurity was introduced[67].

12.1.2 The 88 Project noted that:

'Article 16 of the 2018 Law on Cybersecurity contains vague prohibitions against criticism of the government and requirements to remove offending information within 24 hours. The law also requires foreign enterprises to store user data in Vietnam and to provide user information to the authorities upon request. The law has faced criticism from human rights organizations for the sweeping powers it gives the government over the internet and internet users.

'Article 5 of Decree 72, introduced in 2013, prohibits a broad range of vaguely defined terms including "opposing the State" and "sabotaging the great national unity bloc." A draft amendment to Decree 72 submitted in 2021 sought to expand social media regulations by requiring any account, fan page, or channel with over 10,000 followers to provide the Ministry of Information and Communication with the contact details of the administrator. The draft also assigned responsibility to account users and page owners to monitor user comments and remove "illegal" content within three hours of request.'[68]

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12.2 Access to the internet

12.2.1 According to Internet World Stats there were 84,919,500 internet users in Vietnam in July 2022[69].

12.2.2 HRW's World Report 2023 claimed: 'Authorities block access to websites, frequently shut down blogs, and require internet service providers to remove content or social media accounts deemed politically unacceptable.'[70]

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[64] FaceBook [Meta] 'Taking Action Against Hackers in Bangladesh and Vietnam', December 2020
[65] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[66] Wipo, 'Decree No. 72/2013/ND-CP', 15 July 2013
[67] Economica 'Law on Cyber Security 2018', 2018
[68] The 88 Project, 'Human Rights Report 2021', 9 May 2022
[69] Internet World Stats, 'Vietnam', 2022
[70] HRW, 'World Report 2023: Vietnam', 12 January 2023

12.2.3 The 2022 USSD report stated that:

'The government sometimes blocked websites it deemed politically or culturally inappropriate, including sites operated by overseas Vietnamese political groups in addition to the websites of Radio Free Asia, Voice of America, and the BBC Vietnamese news service. State-owned internet service providers routinely blocked domestic Vietnamese-language websites that contained content criticizing the CPV or promoted political reform.

'…The government forbids direct access to the internet through foreign internet service providers and requires internet service providers to provide technical assistance and workspace to public security agents to allow them to monitor internet activities. The Ministry of Public Security required "internet agents," including cybercafes, to register the personal information of their customers, store records of internet sites visited by customers, and participate in government investigations of online activity. Internet cafes continued to use government-approved software to monitor customers' online activities. The Ministry of Public Security enforced these and other requirements and monitored the internet selectively.

'…Users of state-sponsored social networks and blogs were required to provide their full name, national identification number, and address before creating an account. In-country website and social network operators must allow authorities to inspect local servers upon request and must have a mechanism to remove prohibited content within three hours of detection or notification by authorities.'[71]

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12.3 Social networking sites

12.3.1 Reporters without borders noted that: 'With 64 million users – the seventh highest number in the world – Facebook is Vietnam's most popular online platform and serves as a major tool for circulating news and information. The Vietnamese messaging app Zalo is also widely used to share information.'[72]

12.3.2 The 2022 DFAT report stated that:

'Legal reforms in 2019 (sometimes referred to as 'The Law on Cyber Security') forced international social media companies to set up offices and store user data domestically. Facebook, one of the most popular online platforms in Vietnam, agreed to greater censorship in accordance with Vietnamese law in 2020. One source told DFAT that the legal reforms have brought greater attention to online commentary and increased attention on activists. Some activists have reported that their phones or computers have been hacked or behave strangely as a result of alleged hacking.'[73]

12.3.3 The 88 Project's Human Rights Report 2021 (published 8 May 2022) noted:

'In April 2020, Facebook agreed to ramp up censorship on behalf of the government after state-owned telecommunications services restricted access to the site's servers for seven weeks, slowing traffic and often

[71] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[72] RSF, '2023 Press Freedom Index- Vietnam country profile', 2023
[73] DFAT, 'Country Information Report Vietnam' (para 3.62), 11 January 2022

rendering the platform unusable. The action against Facebook followed Vietnam's growing frustration with Facebook for failing to comply with the 2018 Cybersecurity Law, which came into effect on January 1, 2019.

'… According to Facebook's own transparency data, 2,833 items of content were removed by the platform for violating Decree 72 between July 2020 and June 2021.'[74]

12.3.4 Global Voices Advox reported in March 2023 that:

'Vietnam has deployed an army of online trolls and cyber troops who are spreading not just disinformation but also conducting vicious hate campaigns against human rights activists and suspected critics of the state.

'… Force 47 members have also exploited the community standards of social media platforms like Facebook to campaign for the suspension or banning of pages that highlight the abuses of the government. Viet Tan, for example, is often targeted by mass reporting, which has led to the frequent suspension of its page.'[75]

12.3.5 The 2022 USSD report noted that:

'An administrative regulation compels owners of all websites and social networking sites to cooperate with the Ministry of Information and Communications to prevent the spread of "bad, toxic news."

'Another rule requires all companies and organizations operating websites providing content on "politics, economics, culture, and society" or operating social networks, including blogging platforms, to register with the government. Such companies and organizations must locate at least one server in the country to facilitate government requests for information and must store posted information for 90 days and certain metadata for up to two years.

'…The government pressured firms such as Facebook and Google to eliminate "fake accounts" and content deemed "toxic," including "antistate" materials.'[76]

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12.4 Censorship and monitoring

12.4.1 Reuters reported in July 2021 that:

'Force 47, as the Vietnamese army's online information warfare unit is known, consists of thousands of soldiers who, in addition to their normal duties, are tasked with setting up, moderating and posting on pro-state Facebook groups, to correct "wrong views" online.

'According to a Reuters review of provincial-level state media reports and broadcasts by the army's official television station, Force 47 has since its inception in 2016 set up hundreds of Facebook groups and pages, and published thousands of pro-government articles and posts.

'… There is no official definition of what constitutes a "wrong view" in

[74] The 88 Project, 'Human Rights Report 2021', 9 May 2022
[75] Global Voices Advox, 'How Vietnam's state trolls are undermining free speech…', 20 March 2023
[76] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023

Vietnam. But activists, journalists, bloggers and - increasingly - Facebook users, have all received hefty jail terms in recent years for spreading "anti-state propaganda", or opinions which counter those promoted by the Party.'[77]

12.4.2 The 2022 DFAT report noted:

'Authorities closely monitor online activism. Human rights advocates claim there are thousands of agents monitoring online discussion and blogs and claim there is trolling online by a Government organisation known as 'Force 47'. The activities of Force 47 are not well understood but sources told DFAT that suspicious posts, which are sometimes anonymous, can be attributed to Force 47, and that Force 47 allegedly trolls online users and hacks accounts. Force 47 is allegedly active on topics such as religion, women's and LGBTI rights, and human rights generally.'[78]

12.4.3 Reporters without borders reported that: 'The one-party state aims to control everything, and, to this end, the army has developed Force 47, a unit with 10,000 cyber-soldiers who are tasked with defending the party line and attacking all online dissidents. The 2019 Cybercrime Law requires platforms to store user data on Vietnamese soil and hand it over to the authorities when required.'[79]

12.4.4 The 88 Project's 'Human Rights Report 2021' noted that:

'A further element of the Vietnamese government's attempt to stifle freedom of expression is the presence of an online "cyber army" known as Force47. The group is reported to comprise 10,000 soldiers who monitor social media in addition to their regular duties. The group seeks to shape public opinion by posting pro-government content and attacking those who hold "wrong views."

'A common tactic of censoring free expression on Facebook is to manipulate the platform's community standards by mass reporting unfavorable content to ensure that it is automatically removed. According to Reuters, in July 2021, a source at Facebook confirmed that a group called "E47" had been removed for coordinating with its members to mass report content in order to ensure it was taken down. Despite this, many groups and profiles identified as part of Force47 have not been removed, as they are administered by users who use their real names, and thus do not violate Facebook's policies. Once more, in December 2021, Facebook announced that it had removed a "network of accounts" which had targeted government critics. Many of the offending accounts were fake profiles imitating critics of the regime. These fake profiles were then used to report the authentic accounts as fraudulent in order to have them removed by Facebook's moderators.'[80]

12.4.5 Vietnam Human Rights Networks annual report for 2021-2022 noted that:

'Additionally, in 2020-2021, several media platforms, especially Facebook, have complied with the Vietnamese government's escalating demand to

[77] Reuters, 'How Vietnam's 'influencer' army wages information warfare on Facebook', 9 July 2021
[78] DFAT, 'Country Information Report Vietnam' (para 3.61), 11 January 2022
[79] RSF, '2022 Press Freedom Index- Vietnam country profile', 2022
[80] The 88 Project, 'Human Rights Report 2021', 9 May 2022

censor dissidents. According to the Vietnamese government's source, "in the last four months of 2020, Facebook has removed nearly 4,500 articles, 290 fake accounts posting false information propagating against the Party and State. Meanwhile, Google has removed more than 30,000 illegal videos and 24 reactionary channels on YouTube. At the same time, more than 1,700 websites and malicious blogs violated Vietnamese law, with tens of thousands of articles being blocked. Eighty to eighty-five percent of bad information, distorting the Party's direction and policies and the state's laws were removed before the 13th National Congress of the VCP."

'In the face of protests from international and Vietnamese human rights organizations, in early December 2021, Facebook said it had removed several accounts used to attack dissidents in Vietnam. These accounts belong to the E47 group confirmed to be linked to the military's Cybersecurity Force, commonly known as the 47th Regiment. Those in this group created thousands of ghost accounts attributed to dissidents and took advantage of Facebook's reporting procedures to label real accounts of dissidents as impostors.'[81]

12.4.6 Freedom House noted in their 'Freedom on the Net 2022' that:

'Censorship frequently targets high-profile blogs or websites with many followers, as well as content considered threatening to the rule of the CPV, including discussion of social unrest or political dissent, advocacy for human rights and democracy, and criticism of the government's reaction to border and maritime disputes with China. …Websites critical of the government, such as Luật Khoa, The Vietnamese, Việt Nam Thời báo, Báo Tiếng Dân, Diễn đàn Xã hội Dân sự, and Bauxite Vietnam, are generally inaccessible. Access to international websites such as those of Human Rights Watch (HRW) and the Vietnamese editions of Radio Free Asia (RFA) and the British Broadcasting Corporation (BBC) has been unstable and unpredictable.

'According to an [Ministry of Public Security] MPS report to the National Assembly, the ministry blocked 4,214 overseas-hosted websites that "published toxic and harmful information" from January to September 2021. The MIC [Ministry of Information and Communications] stated in January 2022 that it blocked approximately 2,000 websites in 2021 in collaboration with other government agencies and networks.

'… Economic and social penalties, in addition to the risk of criminal prosecution, lead to a high degree of self-censorship online. The unpredictable and nontransparent ways in which topics become prohibited make it difficult for users to know what areas might be off-limits, and bloggers and forum administrators routinely disable commenting functions to prevent controversial discussions. A number of draconian laws and decrees have a chilling effect on the online speech of activists, journalists, and ordinary users. Vague clauses found in the country's Cybersecurity Law, for example, have compelled online journalists to exercise even greater caution while posting or commenting online.'[82]

[81] VHRN 'Report on Human Rights in Vietnam 2021-2022' (page 40), 24 June 2022
[82] Freedom House, 'Freedom on the Net 2022', 18 October 2022

12.4.7 The 2022 USSD report noted:

'The law allows the government to restrict and disrupt access to the internet, censor online content, impose criminal sentences for online expression, and routinely monitor private online communications. The limited number of licensed internet service providers were fully or substantially state-controlled companies. The government monitored Facebook and other social media and punished those who used the internet to organize protests or publish content critical of the government.'[83]

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12.5 State treatment of bloggers, online activists and social media users

12.5.1 Diplomatic sources told the UK Home Office FFT that: 'The main ones [bloggers] are out of the country. Facebook is their main medium with deep penetration throughout Vietnamese society.'[84]

12.5.2 The 2022 DFAT report noted that:

'Social media, especially Facebook, has become a popular option for expressing opinion, more than street protests. Users looking to communicate with each other about politics have found social media a possible avenue where mainstream media is censored and controlled.

'…Low-level users of little profile are sometimes subject to fines, arrest and prison sentences, but sources told DFAT this is inconsistent and may depend on local authorities. Low-level discussion with friends from time to time might be tolerated or go unnoticed, but in other cases related to sensitive issues (such as elections) social media users might be accused of producing 'fake news,' required to provide 'evidence' for their views and fined. Frequent posting online increases the risk of attention from authorities. Those in large cities are less likely to come to the attention of authorities than those in rural areas, according to sources. Several sources told DFAT that being low-profile may actually present a higher risk of arrest because high-profile people are watched and noticed when they are arrested, both domestically and internationally.' [85]

12.5.3 Freedom House noted in their report 'Freedom on the Net 2022' published in October 2022 that:

'While digital tools largely remain available, draconian prison sentences for online activism, invasive surveillance, and general hostility from the government make many users wary of online mobilization. Despite this, certain activists have continued to use digital tools in the course of their work and have amassed notable online followings.

'The increasing persecution of dissidents, activists, nongovernmental organization (NGO) leaders, and regular internet users has curtailed online organizing in Vietnam.

'… Digital mobilization in Vietnam tends to be local, rather than national, in scale, and often revolves around environmental issues, as well as concerns

[83] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[84] UK Home Office, 'HO FFM report' (annex D- Diplomatic sources), September 2019
[85] DFAT, 'Country Information Report Vietnam' (para 3.61 & 3.63), 11 January 2022

about the expansion of China's influence. Social media platforms including Facebook and Twitter were used to organize anti-China demonstrations in 2011, 2014, and 2018, and environmental demonstrations in 2015 and 2016. Social media platforms have also helped activists document police abuses.'[86]

12.5.4 The 88 Project noted in their human rights report that: 'Online commentators are increasingly becoming a target of harassment, crackdown, and arrests. … Topics of the posts ranged from the typical calls for democracy and freedom of expression, as in the past, to more topical subjects such as COVID-19 and the government's poor handling of the pandemic. …we have firm evidence of at least six arrests in 2021 due to criticism of the government's health policy on COVID-19.'[87]

12.5.5 Vietnam Human Rights Networks annual report for 2021-2022 noted that:

'During the COVID-19 pandemic, the targets of the policy to suppress freedom of expression were not only human rights activists and dissidents but also ordinary people using Internet platforms to convey news about the epidemic and criticize the government's inadequacies in dealing with the epidemic. Except for a few cases being prosecuted based on the Criminal Law, most arrests are subject to fines based on the Government's Decree No. 72/2013/ND-CP dated July 15, 2013, managing and providing provision and use of Internet services and information on the network.'[88]

12.5.6 Freedom House noted in their 'Freedom on the Net 2022' report that:

'Activists, dissidents, and online commentators, including those living outside of Vietnam, have increasingly had their Facebook accounts suspended for violating the platform's community standards. For instance, the Facebook account of Dương Quốc Chính—a prominent independent political commentator—was suspended several times during the coverage period, each suspension lasting approximately a month, and had several posts blocked in Vietnam per "legal requests."

'The government also pressures individuals to remove their content. For instance, officials reported that individual Facebook users were summoned by police and forced to remove content concerning COVID-19 throughout 2021.

'… Vietnam continues to experience a substantial crackdown against online speech. Prosecutions for online activities were common during the coverage period, and some bloggers and human rights defenders received lengthy prison sentences.

'… During the pandemic, the number of citizens being fined for their online activities has continued to surge. Several internet users were summoned to police stations and fined for their COVID-related online content, including that which was allegedly misleading or false or offensive.

'… Bloggers and online activists are subject to frequent physical attacks, job

[86] Freedom House, 'Freedom on the Net 2022', 18 October 2022
[87] The 88 Project, 'Human Rights Report 2021', 9 May 2022
[88] Vietnam Human Rights Network 'Report on Human Rights in Vietnam 2021-2022', 24 June 2022

loss, severed internet access, travel restrictions, and other rights violations.

'… Prominent bloggers and online activists experienced de facto house arrest several times in the coverage period. Plainclothes police guarded their homes for days without warrants, to block them from leaving, particularly during times of major events such as the CPV's Congress and political trials, and during a solidarity event at the Ukrainian Embassy in Hanoi in March 2022. Others reported being summoned by police without warrants, or with warrants that provided no reasons or legal grounds, as another form of harassment in retaliation for online activities.'[89]

12.5.7 Freedom House, in their Freedom on the Net report 2022, claimed: 'Police routinely flout due process, arresting bloggers and online activists without a warrant or retaining them in custody beyond the maximum period allowed by law.'[90] Freedom House do not state the number of cases that this applied to.

12.5.8 The 2022 USSD report noted:

'Authorities also suppressed online political expression by direct action against bloggers, such as arrests, short-term detentions, surveillance, intimidation, and the illegal confiscation of computers and cell phones from activists and their family members. The government continued to use national security and other vague provisions of the penal code against activists who peacefully expressed their political views online. Political dissidents and bloggers reported the Ministry of Public Security periodically ordered the disconnection of their home internet service.'[91]

12.5.9 See also Arrests of political activists, human rights defenders, bloggers, journalists, members of civil society and dissidents.

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13. Arrests

13.1 Arrests of political activists, human rights defenders, bloggers, journalists, members of civil society and dissidents

13.1.1 The BTI 2022 report on Vietnam noted that: 'Local human rights activists have reported that a total of 72 people, including social media users, dissidents and human rights defenders, have been arrested, detained and given prison sentences.'[92]

13.1.2 The 88 Project noted that

'Although the total number of arrests of human rights defenders in 2021(37) was slightly smaller than in 2020(39), there was a noticeable shift in the kind of charges that were brought against this group. While Article117, which governs "anti-state propaganda," provided the bulk of criminal charges in both 2020 and 2019, in 2021, the majority of charges (17) were instead based on Article 331 — "abusing democratic freedoms." Only 14 cases in

[89] Freedom House, 'Freedom on the Net 2022', 18 October 2022
[90] Freedom House, 'Freedom on the Net 2022', 18 October 2022
[91] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[92] Bertelsmann Stiftung, 'BTI 2022 Country Report Vietnam', 23 February 2022

2021 involved Article117.

'…there were more journalists and bloggers arrested in 2021 compared to previous years as well. In 2019, only three media professionals were arrested; this number went up to seven the following year. In 2021 the number rose to 12, nine of whom were journalists — some of whom were independent, while others worked for state media. Fewer farmers were arrested in 2021(2) compared to 2020(8). One category that had an increase in arrests was online commentators. In all,15 online commentators were arrested for their online posts (compared to 12 in 2020), many for commentating on the government's handling of the pandemic and the severe lockdown measures that were unevenly implemented, especially in the southern part of the country.

'… Online commentators are increasingly becoming a target of harassment, crackdown, and arrests. … Topics of the posts ranged from the typical calls for democracy and freedom of expression, as in the past, to more topical subjects such as COVID-19 and the government's poor handling of the pandemic. …we have firm evidence of at least six arrests in 2021 due to criticism of the government's health policy on COVID-19.'[93]

13.1.3 Vietnam Human Rights Networks annual report for 2021-2022 noted that: 'In 2021 and 2022 (as of May 31, 2022), at least 36 people expressing their political opinions through social media were detained and prosecuted for violating the 2015 Criminal Law…'[94] The source does not state the content or subject matter of the posts of those detained and prosecuted.

13.1.4 Human Rights Watch's World report 2023 noted that

'Political dissidents and human rights activists face systematic harassment, intimidation, arbitrary arrest, abuses in custody, and imprisonment.

'Vietnam currently holds more than 160 people in prison for peacefully exercising their basic civil and political rights. During the first nine months of 2022, the courts convicted at least 27 people for voicing criticism of the government, and campaigning on human rights, environment, or democracy causes, and sentenced them to long prison sentences.

'… At time of writing, police were holding at least 14 other people in pretrial detention on politically motivated charges...'[95]

13.1.5 The 2022 USSD report stated that:

'Arbitrary arrest and detention, particularly for political activists and individuals protesting land seizures or other matters deemed politically sensitive, remained a serious problem. Authorities subjected activists and civil society organizers to varying degrees of arbitrary detention in their residences, in vehicles, at local police stations, at "social protection centers," or at local government offices…

'Based on reports by media, NGOs, and observers, authorities as of September 16 held at least 173 persons for political or human rights

[93] The 88 Project, 'Human Rights Report 2021' (pages 21, 22 & 25), 9 May 2022
[94] Vietnam Human Rights Network 'Report on Human Rights in Vietnam 2021-2022', 24 June 2022
[95] HRW, 'World Report 2023: Vietnam', 12 January 2023

activism, including 143 convicts and 24 under pretrial detention. According to media and reports from human rights groups, from January 1 to September 16, authorities detained 19 and convicted 26 persons who were exercising internationally recognized human rights, such as the freedoms of expression, peaceful assembly, and association. Most of these arrests and convictions were linked to online blogging, and defendants were charged with "making, storing, spreading, or propagating information, materials, or items" for the purpose of "opposing" the state and "abusing democratic freedom."'[96]

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14. Criminal justice system

14.1 Judiciary

14.1.1 The 2022 DFAT report noted that:

'The highest court is the Supreme People's Court with three Superior People's Courts (appeal courts) in Hanoi, Da Nang and HCMC beneath it. Under these there are provincial-level courts, which act both as first instance (trial) courts and appeal courts. Beneath these are District Courts. Other tribunals may also exist, for example the Central Military Court hears military matters and is directly subordinate to the Supreme People's Court

'Corruption is common in the courts. Judges often demand bribes from lawyers. Wages are low and appointments are short, which reduces independence for fear of having to reapply for jobs. Sources claim court outcomes may effectively become 'auctions' of who pays a higher bribe.

'… Political trials are generally heard in superior courts, such as the provincial courts, and not in lower, local courts. Along with other serious crimes (such as drug crimes) these cases are less likely to be subject to corruption and a favourable verdict is unlikely to be for sale. These kinds of cases are used as an opportunity to set an example to others. Harsh sentences (including death for drug-related crimes) are common both for those who can afford a lawyer and those who cannot and are represented by a state-appointed lawyer.

'The judiciary is subordinate to the CPV; there is no separation of powers. Judges at all levels are members of the CPV and are screened by the CPV before their appointment. There are rules issued to judges about what may or may not be admitted as evidence, but these are not public. This is more evident in high-profile cases but day-to-day court proceedings, by their nature, receive less attention and it is difficult to assess the level of political interference. Nepotism and cronyism also affect courts, meaning that judicial officers may not be well-trained in the law or its application.'[97]

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14.2 Access to a fair trial

14.2.1 The 2022 DFAT report stated that:

[96] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[97] DFAT, 'Country Information Report Vietnam' (para 5.6 – 5.9), 11 January 2022

'Activists might have difficulty obtaining legal representation. Lawyers who represent activist clients can face restrictions on their practice. People held on charges related to human rights may face bureaucratic difficulty accessing a lawyer (for example, the lawyer may be delayed with bureaucratic processes until after an investigation is complete or prevented from speaking to their client). DFAT understands this situation has improved in the last decade with more lawyers now being trained and willing to work with human rights activists.'[98]

14.2.2 The 2022 DFAT also noted that:

'Lawyers are members of law associations organised at national and local levels. Law associations are organised as part of the Vietnam Fatherland Front under the auspices of the CPV. Those appearing for defendants accused of politically sensitive or national security crimes may be subject to closed trials where the media or members of the public are not allowed to attend. These trials are generally short (perhaps half a day). Sources told DFAT that while lawyers may be present they may be prevented from speaking.'[99]

14.2.3 The 88 Project's 2021 human rights report stated that:

'What was different in 2021, however, is that some of the lawyers and public defenders were more willing than in years past to speak out against the obvious lack of an independent judicial system. Although their number is still small, their propensity to use social media (mainly Facebook) to raise awareness of the trials and engage the public is definitely a positive change. Some went so far as to post their handwritten notes from the trials so that people can follow and comment, despite the fact that the courts don't allow them to have any electronic devices in the courtroom.'[100]

14.2.4 Freedom House, in their Freedom on the Net 2022 report noted that: 'The judiciary is not independent, and trials related to free expression are often brief and apparently predetermined.'[101]

14.2.5 The 2022 USSD report noted that:

'The law provides for an independent judiciary, but the judiciary was effectively under the control of the Communist Party of Vietnam (CPV). There were credible reports of political influence, endemic corruption, bribery, and judicial inefficiency that significantly compromised the independence of the judicial system…

'Most, if not all, judges were members of the CPV and were screened by it and local officials during their selection process to determine their suitability for the bench. The party's authority was particularly notable in high-profile cases and when authorities charged a person with corruption or challenging or harming the party or state. Defense lawyers routinely complained that, in many cases, it appeared judges determined the guilt of defendants prior to the trial.

[98] DFAT, 'Country Information Report Vietnam' (para 3.55), 11 January 2022
[99] DFAT, 'Country Information Report Vietnam' (para 5.10), 11 January 2022
[100] The 88 Project, 'Human Rights Report 2021', 9 May 2022
[101] Freedom House, 'Freedom on the Net 2022', 18 October 2022

'Human rights lawyers reported that authorities also restricted, harassed, and threatened attorneys for representing political activists. The law required attorneys to violate attorney-client privilege in national security cases or other serious crimes by revealing the content of attorney-client discussions to investigators and in court.

'While the constitution provides for the right to a fair and public trial, this right was not evenly enforced. Judges presiding over politically sensitive trials generally did not permit the defense to exercise their legal rights. The law states that defendants are innocent until proven guilty. Defendants' right to prompt, detailed information concerning the charges against them was rarely respected. Defendants' right to a timely trial was ignored with impunity, and although trials generally were open to the public, judges closed trials or strictly limited attendance in sensitive cases. There were several cases, particularly of political activists, in which authorities denied requests for relatives or other observers to attend trials despite the trials being ostensibly open to the public.'[102]

14.2.6 The same report noted that:

'Despite the law affording detainees access to counsel from the time of detention, authorities used bureaucratic delays to deny timely access to legal counsel. In politically sensitive national security cases, the government routinely prohibited defense lawyers' access to their clients until after officials completed their investigations and formally charged the suspect. … At times authorities only permitted attorneys access to their clients or the evidence against them immediately before the case went to trial, denying them adequate time to prepare a defense. Investigators reportedly coerced detainees to not hire certain lawyers or to accept lawyers assigned by authorities. There were also reports of authorities forcing lawyers not to defend activists or to refrain from providing substantive arguments and evidence in court in favor of activist clients.'[103]

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14.3 Prosecutions

14.3.1 The 88 Project human rights report 2021 noted that:

'There were a total of 32 people tried in 2021(compared to 27 the year before). … many of them were arrested in 2020 and held incommunicado for many months before they were put on trial. Democracy activists comprised the largest group of activists who were tried (19). …Many of the rest of the trials that took place involved the typical accusations against land rights activists and those advocating for freedom of expression.

'… none of the defendants who appealed had their sentence reduced, no matter what their lawyers said or did. …when it comes to trying political prisoners, the judicial branch in Vietnam is not independent, but rather a rubber-stamping mechanism controlled by the Party apparatus.'[104]

[102] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[103] USSD, '2022 Country Reports on Human Rights Practices: Vietnam', 20 March 2023
[104] The 88 Project, 'Human Rights Report 2021', 9 May 2022

14.3.2 Radio Free Asia reported in April 2022 that:

'A court in Vietnam's Ho Chi Minh City on Monday sentenced 12 Vietnamese to prison terms of from three to 13 years on charges of supporting an exile group accused of attempting to overthrow the government in a trial described by defense attorneys as violating legal principles.

'Nine of the cases were drawn from separate parts of the country, jeopardizing standards of fairness in the trial, defense attorney Nguyen Van Mieng told RFA in an interview after the sentences were handed down.'[105]

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14.4 Treatment in detention

14.4.1 Diplomatic sources told the UK Home Office FFT that:

'There have been credible reports of torture and mistreatment of suspects and prisoners, including by medical personnel, particularly in respect of those charged/convicted under Vietnam's national security laws. Often the mistreatment in used as a method to try to extract confessions. Linked to this is a lack of oversight and a low incidence of investigations into allegations of ill-treatment including deaths in custody. Despite guidance from Vietnam's Supreme People's Court to charge police officers responsible for causing deaths in custody with murder, such crimes have often been dismissed as suicide or natural causes or, when action is taken, for those responsible to face lesser charges. Family members of those who have died in police custody have also reported harassment by local authorities when seeking redress/publicity.'[106]

14.4.2 The 88 Project's human rights report for 2021 noted that:

'… regardless of when, where, or why activists were arrested, almost all detainees were held in incommunicado detention prior to trial, and 14 of those arrested in 2021 were held for eight months or longer before being tried. According to our database, there were still 19 people in pre-trial detention at the end of 2021, some arrested in 2021 and some in prior years. Most detainees are not allowed to see their family during their detention period. Many are not even allowed to see a lawyer for months, and some can only speak to a lawyer only a few days before their trial.

'… One means of suppression used by prison officials is to deny family visits or to prevent families from sending supplies to incarcerated relatives. Again, COVID-19 has often times been used (or misused) as an excuse. Yet another way to make life hard on the prisoners and their families is to move them to prisons that are hundreds of kilometers away from their home. In many cases this makes it extremely difficult for the spouses of the prisoners, the majority of whom are women with young children, to visit and bring supplies. The documented number of these punitive transfers actually increased from eight in 2020 to 10 in 2021.'[107]

14.4.3 In February 2023, Civicus reported that: 'Activists in detention have been

[105] RFA, 'Vietnam court jails 12 on subversion charges in trial described by lawyer…', 20 April 2022
[106] UK Home Office, 'HO FFM report' (annex D- Diplomatic sources), September 2019
[107] The 88 Project, 'Human Rights Report 2021', 9 May 2022

moved to prisons far from their families and have also faced torture or ill-treatment.'[108]

14.4.4 In a report by the International Federation for Human Rights, they noted that:

'Individuals involved in protests have often been subjected to torture and ill-treatment in custody, including through beatings, the use of shackles, and solitary confinement…

'Persons detained for questioning during demonstrations have been frequently beaten by police. For example, during the wave of protests in June 2018 against the draft laws on the SEZs and Cyber Security… several demonstrators were held at temporary detention centers set up in Tao Dan Park in Ho Chi Minh City. They reported that they were kicked and beaten by police, and could hear screams of other detained protest participants being beaten in adjacent rooms.'[109]

14.4.5 The 2022 USSD report noted that:

'The constitution and law prohibit torture, violence, coercion, corporal punishment, or any form of treatment harming the body and health, or the honor and dignity of persons detained or incarcerated. Nevertheless, detainees commonly reported mistreatment and torture by police or plainclothes security officials during arrest, interrogation, and detention.

'Activists reported Ministry of Public Security officials assaulted political prisoners to extract confessions or used other means to induce written confessions, including instructing fellow prisoners to assault them in exchange for promises of better treatment. Abusive treatment was not limited to activists or persons involved in politics. Human rights monitoring groups issued multiple reports of police using excessive force while on duty and investigators allegedly torturing detainees.

'… Although impunity in the security forces was a significant problem, and police, prosecutors, and government oversight agencies seldom investigated specific reports of mistreatment, authorities did punish or prosecute some police officers for abuse of authority. … In a small number of cases in prior years, the government held police officials responsible for a death in custody, typically several years after the death. Despite guidance from the Supreme People's Court to charge police officers responsible for deaths in custody with murder, officers who were held responsible typically faced lesser charges. Police conducted their own internal affairs investigations under the supervision of prosecutors to determine whether police were responsible for deaths in custody.

'…Insufficient and unclean food, inadequate health care, overcrowding, lack of access to potable water, poor sanitation, and excessive heat during the summer remained serious problems. Despite the law mandating that pretrial detainees be held separately from convicted prisoners, media and activists reported there were cases in which detainees were held in the same cells with convicted prisoners.

'Prison officials failed to prevent prisoner-on-prisoner violence. At Gia Trung

[108] Civicus, 'Jailing and persecution of activists and journalists persists despite…', 8 February 2023
[109] FIDH, 'A History of Violence; Repression of the right to freedom of assembly in…', June 2023

Prison, officials reportedly encouraged violence between prisoners.

‘There were no reliable data on causes of deaths in prisons or overall death rates.

‘…Families of many political prisoners expressed concerns regarding poor detention conditions and health-care services for aged and weak prisoners. Authorities often delayed or denied requests for medical care outside the prison system. There were reports of inmates dying in custody or shortly after release due to the poor prison conditions and lack of access to adequate medical care.

‘Approximately 30 families of political prisoners called on the government to allow sick inmates to be hospitalized after two allegedly died from lack of timely care.

‘…The Ministry of Public Security, the government entity that manages prisons, did not allow access to international monitors.

‘…Detainees have an undefined right to notify family members of their arrest. Although police generally informed families of detainees’ whereabouts, the Ministry of Public Security often held incommunicado bloggers, activists, and others suspected of political or national security offenses…

‘…According to family members of prisoners, prison officials often held political prisoners in small groups separate from the general inmate population and treated them differently. In many cases political prisoners’ daily schedules were different from those of the general inmate population, and they were not afforded the opportunity to leave their cells for work or interaction with the general prison population. Some political prisoners enjoyed better material conditions than nonpolitical prisoners, but were subjected to more psychological harassment. In other cases, political prisoners were subject to harassment by prison authorities and other inmates, the latter sometimes at the instigation of officials. Officials in some cases subjected political prisoners to longer periods of solitary confinement than the three months given to other prisoners.’[110]

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[110] USSD, ‘2022 Country Reports on Human Rights Practices: Vietnam’, 20 March 2023

Research methodology

The country of origin information (COI) in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

All the COI included in the note was published or made publicly available on or before the 'cut-off' date(s). Any event taking place or report/article published after these date(s) is not included.

Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources

Wherever possible, multiple sourcing is used and the COI compared and contrasted to ensure that it is accurate and balanced, and provides a comprehensive and up-to-date picture of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote.

Full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

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Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of the issues relevant to the scope of this note and forms the basis for the country information section.

The Home Office uses some standardised ToR, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Political system
    - Political structure
    - Political parties
    - Elections
- Illegal political parties
    - General
    - The Viet Tan
    - Other groups
- Legal position
- Opposition and human rights activists
    - Treatment by the state
    - Demonstrations/protests (including Formosa protests if relevant still)
    - Arrest/detention
    - Human rights lawyers
- Land disputes
- Traditional media and journalists
    - Censorship
    - Treatment by the state
    - Arrests and detention?
- Internet social media and bloggers
    - Access to the internet
    - Monitoring of online activity
    - Treatment of bloggers/online activists
- Treatment of family members of political/perceived activists

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Version control and feedback

Clearance

Below is information on when this note was cleared:

- version **4.0**
- valid from **29 August 2023**

Official – sensitive: Not for disclosure – Start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: Not for disclosure – End of section

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Changes from last version of this note

Updated country information

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Feedback to the Home Office

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the Country Policy and Information Team.

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Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

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