



SENATE | SÉNAT  
CANADA

# HUMAN RIGHTS

SITUATION IN VIETNAM

2019  
2020

OFFICE OF SENATOR  
THANH HAI NGO

# 1

The photo on the cover page was originally photographed during an anti-China protest in Hanoi. It has been digitally altered for this report to focus on the Vietnamese policeman. The altered photo depicts the distortion of Vietnamese media and the censorship curated by the Vietnamese government.

Relations between Canada and Vietnam have proven to hold strong in times of need. As a representative of the Canadian government, I strive to bring attention to the issues Vietnamese-Canadians face, and also the victories that they have overcome. In 2015, I introduced Bill S-219, Journey to Freedom Day Act. This day is celebrated annually on April 30th, and commemorates the perilous journey taken by hundreds and thousands of Vietnamese refugees and celebrates Canada's humanitarian role during this time. Vietnamese refugees suffered a long, treacherous journey in their search for freedom and equality, and Canada graciously greeted them with open arms. With the unwavering support and kindness of Canadians, the Vietnamese community has grown and prospered, and will undoubtedly continue to do so in the years to come.

Every summer, my office welcomes interns from Vietnamese communities across Canada to publish an annual report on the Human Rights situation in Vietnam. My goal for this internship is to encourage our youth to explore stories about their heritage, participate actively in politics, and promote awareness of human rights issues around the world. I am proud to present the 2019-2020 edition of the report on the Human Rights Situation in Vietnam. I would like to thank my interns [Brian Huynh](#), [Michelle La](#), [An Pham](#), [Sophia Tran](#), [To-Yen Tran](#), and [Vinh To](#) for their dedicated research, writing and design that led to the creation of this report.

As you read through this comprehensive report, my hope is that it will inspire you and many other Canadians to stand up for human rights in both a Canadian and international context. Together, we can speak for the voices that cannot be heard.

## Message from the Senator



A handwritten signature in blue ink, appearing to read 'Thanh Hai Ngo'.

The Honourable Senator  
Thanh Hai Ngo

## Message from the Interns



### The Interns

(From left to right)

An Pham, Sophia Tran,  
Vinh To, Brian Huynh,  
Michelle La and  
To-Yen Tran

Our team is comprised of six young Vietnamese-Canadian students from communities across the country, all with different backgrounds and fields of study. Over the course of two months working as interns, we have had the opportunity to enrich our knowledge on the current human rights crisis in Vietnam. While researching, designing and writing this report, we have accumulated what we believe to be the most pressing issues present in Vietnam today.

We hope that our readers look beyond Vietnam's growing materialistic appeal, and further understand the underlying problems that must be addressed. The human rights situation in Vietnam is an ongoing battle, with little to no improvements.

We call out not only to Canadians across the country, but also to the youth. We encourage the youth to get involved in their communities, explore their familial roots, and deepen their understanding on issues pertaining to fundamental rights and freedoms. No action is too small; together we can help cultivate a brighter future for the world.

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# Introduction

Human rights principles rest upon the notion that everyone, regardless of race, sex, language, religion or other status, is entitled to fundamental freedoms and human dignity without prejudice or discrimination. Universal human rights set important obligations and standards for all governments, outlining basic freedoms that must be respected and protected at both domestic and international levels.

In recent years, the quality of life and economic conditions of Vietnam has steadily improved; however, economics should not be the main priority of the government. On the human rights front, it is clear that the Vietnamese government has failed its people.

This report will focus on four fundamental human rights and the ways in which the Vietnamese government is violating these rights today. First, in discussing major international events, the report sheds light on the ways in which Canada and the international community has failed Vietnam as much as the Vietnamese government. The second section on freedom of expression will demonstrate how the State has moved beyond traditional forms of suppression to the digital realm through restrictions on the use of internet and social media. The third section on freedom of assembly will discuss Protest 99 and the South China Sea, in the context of the Vietnamese people's struggle to keep their country out of foreign hands. Finally, in examining freedom of religion in Vietnam, this report will focus on the case of the Montagnards and the appalling manner in which this specific group is treated by the Vietnamese government.

**MAJOR  
INTERNATIONAL  
EVENTS  
CPTPP + UPR**



2 CPTPP commission meeting in Tokyo on January 19, 2019.

## Major International Events

The past year has seen increased attention on the human rights situation in Vietnam from the international community, some critical of the deteriorating situation and others dismissive. [The Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#), ratified in late December 2018, resulted in guarantees for the protection of labour rights, fair cybersecurity laws, and enforceable internal dispute settlement mechanisms from the Vietnamese government. However, Canadian-Vietnamese bilateral agreements have exempted Vietnam from compliance with the sections of the agreement for several years. Additionally, [the Universal Periodic Review \(UPR\)](#), last conducted in January of 2019, rightfully criticized Vietnam's human rights regime, but the recommendations were largely ignored by the Communist government. This chapter will examine both the CPTPP, the UPR, and their implications for the human rights situation in Vietnam.

# Comprehensive and Progressive Agreement for Trans-Pacific Partnership

## What is the CPTPP?¹

The Comprehensive and Progressive Agreement on Trans-Pacific Partnership is a free trade agreement between Canada and 10 other nations in the Asia-Pacific Region. The CPTPP was signed on March 8, 2018 and came into force on December 30, 2018 in Canada, Australia, Japan, Mexico, New Zealand and Singapore. The agreement entered into force in Vietnam on January 14, 2019. In addition to the text of the CPTPP agreement, many nations signed bilateral side letters that came into effect at the same time as the CPTPP.





3  
Signing of the multi-lateral trade agreement, CPTPP, in Santiago, Chile on March 8, 2018.

### What is a Free Trade Agreement? What are the Benefits?

A Free Trade Agreement (FTA) is an agreement between countries to reduce trade barriers and eliminate tariffs, which are taxes placed on certain items that are imported or exported.<sup>2</sup> The CPTPP is a multilateral free trade agreement: a free trade agreement between many different countries. FTA's aim to create an open and competitive international market.

Aside from the CPTPP, Canada has signed three other multilateral free trade agreements: 1) NAFTA with the United States and Mexico, 2) CEFTA with Iceland, Liechtenstein, Norway and Switzerland, and 3) CETA with all 28 European Union member states. Canada is also in the process of ratifying the CUSMA, the successor to NAFTA, with the United States and Mexico.

### Free Trade Agreements: A Tool for Economic Prosperity<sup>3</sup>

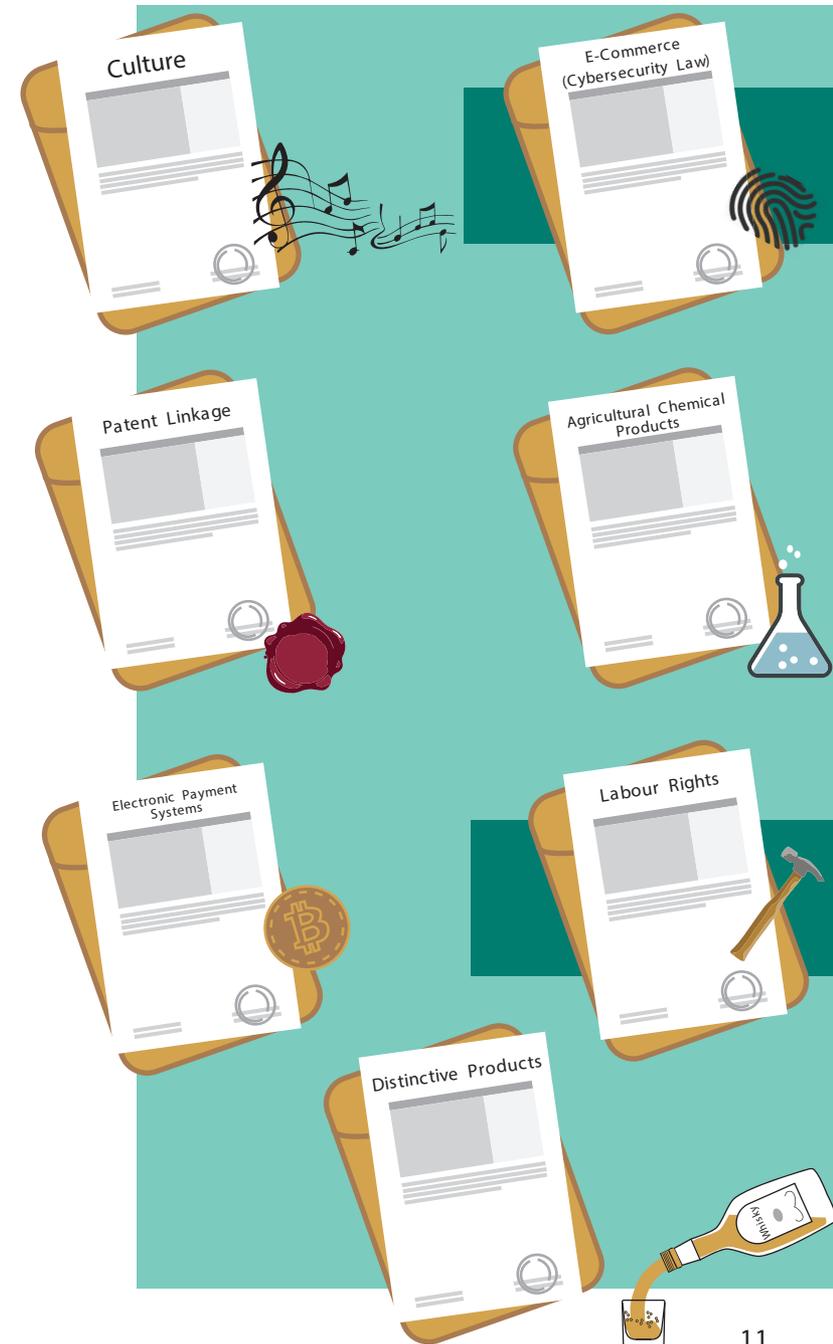
Canada is a trading nation' is a phrase that resonates throughout the country. Although the phrase has become commonplace, its implications cannot be understated: the value of exports and imports of goods and services is equivalent to more than 60% of Canada's gross domestic product (GDP); more than 43,000 Canadian companies export; and it is estimated that about one in five Canadian jobs are directly or indirectly related to exports. For Canada, trade is a crucial source of economic prosperity.

## What is a Side Letter?

A side letter is a legal agreement between two nations, separate from the multilateral text of the CPTPP. These side letters are legally binding and, if broken, are enforceable through the dispute settlement process laid out in Chapter 28 of the CPTPP. Side letters act as common understandings on the implementation of specific chapters or parts of the CPTPP. Canada signed side letters with all nations of the CPTPP, but the majority of its side letters are with Vietnam.

## What is the Canada-Vietnam Side Letter on Labour Rights?

On March 8, 2018, The Honourable Francois-Philippe Champagne, the Minister of International Trade of Canada accepted a side letter on labour sent by Tran Tuan Anh, the Minister of Industry and Trade of Vietnam.



## Side Letter on Labour Full Text<sup>5</sup>

“Letter from His Excellency Tran Tuan Anh

8 March 2018

The Honourable François-Philippe Champagne  
Minister of International Trade  
Canada

Dear Minister,

In connection with the signing of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the “Agreement”) on this date, I have the honour to confirm that the Government of the [Socialist Republic of Viet Nam](#) (“Viet Nam”) and the [Government of Canada](#) share common understanding on the relationship between [Chapter 19 \(Labour\)](#) and [Chapter 28 \(Dispute Settlement\)](#) of the Agreement as follows:

From the date of entry into force of the Agreement for Viet Nam, Viet Nam shall fully implement the obligations of [Chapter 19 \(Labour\)](#).

If Canada seeks recourse to dispute settlement under [Chapter 28 \(Dispute Settlement\)](#) with respect to any measure that is inconsistent with the obligations of [Chapter 19 \(Labour\)](#), [Canada shall refrain from seeking to suspend benefits stipulated in Article 28.20 \(Non-Implementation – Compensation and Suspension of Benefits\) of Chapter 28 \(Dispute Settlement\)](#) for a period of three years after the date of entry into force of the Agreement for Viet Nam.

If Canada seeks recourse to dispute settlement under Chapter 28 (Dispute Settlement) with respect to any measure that is inconsistent with the obligations of paragraph 1(a) of [Article 19.3 \(Labour Rights\) of Chapter 19 \(Labour\)](#), [Canada shall refrain from seeking to suspend benefits stipulated in Article 28.20 \(Non-Implementation – Compensation and Suspension of Benefits\) of Chapter 28 \(Dispute Settlement\) for a period of five years](#) after the date of entry into force of the Agreement for Viet Nam.

Pursuant to paragraph 2 of Article 19.12 (Labour Council) of Chapter 19 (Labour), after the fifth anniversary and before the seventh anniversary of the date of entry into force of the Agreement for Viet Nam, any issues arising from paragraph 3 shall be reviewed in accordance with Article 19.12 (Labour Council) of Chapter 19 (Labour). This is without prejudice to the rights and obligations of both Parties under the Agreement.

I have the further honour to propose that this letter and your letter in reply, equally valid in English and French, confirming that your Government shares this understanding shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Agreement as between Viet Nam and Canada.

Yours sincerely,

Tran Tuan Anh  
Minister of Industry and Trade  
Socialist Republic of Viet Nam”

On March 8, 2018, The Honourable François-Philippe Champagne “had the honour to acknowledge the receipt of [the side letter] of today’s date,” on behalf of the Canadian government.

[To understand the meaning of this letter, one must first understand Chapter 19 and Chapter 28 of the CPTPP.](#)



4

Ando International, a Vietnamese garment firm with 900 employees in Ho Chi Minh City.

### What is Chapter 19?

Chapter 19 deals with labour laws and regulations and is based on the International Labour Organization's (ILO) Declaration on Fundamental Principles and Rights at Work and the 1998 Follow-up. All 11 countries in the CPTPP are also members of the ILO.<sup>6</sup>

Chapter 19 guarantees many rights for workers, with special protections for the rights listed below. The agreement also bans the weakening of national labour rights to support investment and trade, encourages corporate social responsibility initiatives related to labour, and allows nations to request to open dialogue on labour laws and initiate labour consultations with other nations. Article 19.3 is particularly important.<sup>7</sup>

### Important Labour Rights<sup>8</sup>

- Freedom of association and the right to collective bargaining
- Elimination of all forms of compulsory labour
- Abolition of child labour
- The elimination of workplace discrimination

## Article 19.3<sup>9</sup>

Article 19.3, specifically, ensures two things for all CPTPP nations. Paragraph 1 dictates that all nations guarantee: freedom of association and the recognition of the right to collective bargaining, elimination of forced or compulsory labour, abolition of child labour and elimination of discrimination of employment and occupation.

Paragraph 2 dictates that nations adopt and maintain acceptable working conditions in terms of minimum wage laws, hours of work, and occupational safety and health.

The third section of the Canada-Vietnam Side Letter on Labour Rights exempts Vietnam from complying with Article 19.3 paragraph 1 (a), or the guarantee of freedom of association and collective bargaining.

## Senator Ngo AEFA Committee Hearing<sup>10</sup>

“ Senator Ngo: ...in Vietnam there is no freedom of association and peaceful assembly... ”  
can you tell us exactly how this agreement helps improve labour laws in Vietnam?

Mr. Christie: ... [we] provided Vietnam, through a side letter, the capability of an additional grace period of three years. During this period... we will not impose economic sanctions on the Government of Vietnam for not complying fully with the terms of the agreement.



5-6 The average hourly wage in Vietnam for Factory and Manufacturing is roughly less than \$2 CAD.

## What is Chapter 28?

Chapter 28 establishes a process for governments to resolve disputes stemming from the implementation of the CPTPP. It also makes clear the criteria for establishing protective measures for national security interests or establishing temporary safeguards on transfers. This procedure aims to make the international trade system more fair and predictable for businesses.

The Canada-Vietnam Side Letter on Labour Rights cites Article 20 of Chapter 28 in particular. Article 20 allows nations to suspend their benefits to another nation if an agreement on compensation is not made through the dispute resolution mechanisms set out in Chapter 28. Benefits refers to tariff cuts. Through the CPTPP, all nations gain reduced tariffs from all other nations. The benefits that Canada will give to CPTPP nations, at full implementation, are listed below.

## Canadian Tariff Cuts for CPTPP Nations<sup>11</sup>

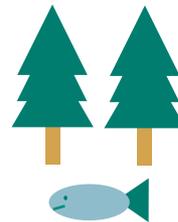
The tariff cuts Canada will give to other CPTPP nations are, at full implementation;



a 94% reduction of tariffs  
on agricultural exports



a 99% reduction for  
industrial exports



a 100% reduction of forest,  
fish, and seafood exports



a 99% reduction of all tariffs will be  
eliminated between members of the  
CPTPP

If benefits are pulled as a result of the dispute settlement process set out in Chapter 28, the offending nation would be stripped of these benefits and trade barriers and tariffs would be re-implemented.

## Why is the Side Letter Problematic?

Section 1 of the letter is Vietnam's promise to implement all of Chapter 19 when it ratifies the CPTPP. Section 2 of the letter prohibits Canada from suspending benefits if it pursues dispute settlement through Chapter 28 for violation of Chapter 19 for a period of three years. Section 3 stipulates that Canada will not suspend benefits if it pursues dispute settlement through Chapter 28 for a violation of paragraph 1(a) in Article 3 of Chapter 19 for a period of five years.

In other words, Vietnam can violate the entirety of Chapter 19 of the CPTPP without repercussions for up to three years and can refuse to implement the right to freedom of association, elimination of compulsory labour, abolition of child labour and elimination of discrimination for up to five years.

Essentially this side letter allows Vietnam to restrict the labour rights of its citizens while reaping the benefits of international free trade. Through this letter, it could be argued that the Canadian government is complicit in Vietnam's continued abuse of internationally recognized human rights for economic gain.

The argument made by Canadian trade representatives is that the Vietnamese government requires more time to implement labour rights. However, it should not take five years for the Vietnamese government to respect basic labour rights, like the prevention of child and compulsory labour. An even larger problem is the lack of awareness in Canada and around the world of the horrific labour rights conditions in Vietnam.

### Senator Ngo AEFA Committee Hearing<sup>12</sup>

“ Senator Ngo: ...Vietnam’s poor labour conditions, since the deal, according to witnesses, watered “  
down basic labour conditions... Can you share your thoughts on whether the dispute resolution  
process that is in place will provide us with enough tools to reinforce the standards?

Mr. Agnew: ...we have not yet gone through and litmus-tested them against the text, so I can’t  
speak to the details of that...

Mr. Campbell: I’m not sufficiently familiar with the specific issues that you raised...



7

A coalition of Vietnamese and international organizations made a submission to the UN for consideration of the UPR in January 2019.

### What is the Universal Periodic Review?

The Universal Periodic Review (UPR) is a periodic review of the human rights records of all 193 United Nations (UN) member states introduced after the 2005 reforms of the UN Human Rights Council. The goal of the UPR is to improve the human rights situation in all countries and address human rights violations.<sup>13</sup>

Each UN member state is reviewed once every four and a half years by all other UN member states to ensure equal treatment for all. Canada's UPR was conducted in mid 2018, while Vietnam's was conducted more recently in January 2019.<sup>14</sup>

### Senator Ngo Statement on UPR

■ Vietnam's upcoming Universal Periodic Review is a significant opportunity for Canada to take a stronger stance on the dire human rights situation in Vietnam. Basic civil and political rights, including freedom of expression, association, and peaceful public assembly, remain severely restricted in Vietnam. As early as 2018, over 100 known peaceful activists and human rights defenders were arrested and received lengthy jail sentences for exercising their freedom of expression. ■

### What were Canada's Recommendations?

Canada provided Vietnam with 14 key recommendations on their current human rights practices. These recommendations are all encompassing, criticizing the lack of transparency of the Vietnamese justice system, absence of free and independent media, and lack of protections for women from violence.

Table of Canada's Recommendations<sup>15</sup>

- ① Minimal action
- ② Continuing action
- ③ Considering action
- ④ General action
- ⑤ Specific action



Scan QR code to watch Canada's UPR recommendations to Vietnam.

Recommendation	Response	Action	Issue	Cycle
1	Supported	⑤	Freedom of opinion and expression	1
2	Noted	⑤	Corruption	1
3	Noted	⑤	Detention	1
4	Noted	⑤	Justice	1
5	Noted	⑤	Freedom of the press	1
6	Noted	⑤	Special procedures	1
7	Noted	⑤	Detention	1
8	Noted	⑤	<ul style="list-style-type: none"> <li>• Freedom of opinion and expression</li> <li>• International instruments</li> </ul>	1
9	Noted	④	<ul style="list-style-type: none"> <li>• CP rights - general</li> <li>• International instruments</li> </ul>	1
10	Supported	⑤	Woman's Rights	2
11	Supported	④	<ul style="list-style-type: none"> <li>• Detention</li> <li>• Justice</li> </ul>	2
12	Supported	④	Freedom of religion and belief	2
13	Supported	⑤	<ul style="list-style-type: none"> <li>• Freedom of opinion and expression</li> <li>• International instruments</li> </ul>	2
14	Noted	③	<ul style="list-style-type: none"> <li>• Civil society</li> <li>• Technical assistance and cooperation</li> </ul>	2

## What were International Recommendations?<sup>16</sup>

The recommendation from the international community focused on several different issues.

- Fair and Independent Judiciary
- Creation of national human rights institutions and mechanisms
- Discrimination and violence against women
- Economic, social and cultural rights
- Elimination, or reduction, of crimes resulting in the death penalty
- Freedom of thought, conscience, religion & expression and opinion
- Right to Education

## What are the Reactions of the Vietnamese Government?

Though Vietnam must acknowledge each of these 14 recommendations, it does not have to act on any of them. On several key Canadian recommendations, such as recommendation 14, the Vietnamese government has refused to take any action going forward.

## What is Wrong with the UPR?

The problem is that these recommendations are not enforceable. While it is important to criticize the current regime and encourage Vietnam to improve its human rights situation, words are not enough. Participation in the UPR does not absolve any state of its responsibility to continue to press the Vietnamese government on its appalling human rights record.

## Conclusion

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The CPTPP and the UPR are both important methods of integrating Vietnam into the international order and pressuring the country to respect basic human rights and freedoms of its citizens. But as this chapter has shown, it is not enough to hope for change. Canada continues to turn a blind eye to Vietnam's human rights violations as a result of the CPTPP side letters on labour and e-commerce and Canada's meek approach to addressing Vietnam's human rights record at the UPR. If the international community continues to contribute to the growth of the Vietnamese economy without enforcing real and severe consequences for Vietnam's human rights violations, the situation will remain unresolved.



**Freedom of  
Expression:  
Cybersecurity  
Law**

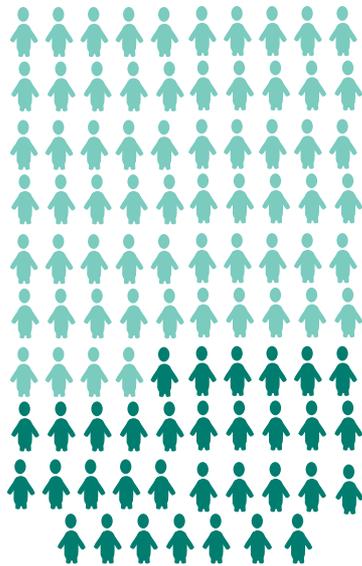


8 Smartphone users in a park in Hanoi.

## Freedom of Expression: Cybersecurity Law

In recent years, technology and social media have become essential tools for research, communication, education and entertainment. An increasing number of people use online platforms including Facebook, Twitter and Google to disseminate their personal views and opinions to a virtually infinite audience. In early 2019, Vietnam established a new cybersecurity law that substantially restricts and monitors all online activity within the country.<sup>17</sup> Today, Vietnamese activists are regularly arrested and subjected to harsh punishments for peacefully expressing their beliefs online.<sup>18</sup> This chapter will discuss the consequences of the aforementioned cybersecurity law, the Internet restrictions it imposes and the impact the legislation has had on the Brotherhood for Democracy, an influential activist organization in Vietnam.

## What are the Internet Restrictions in Vietnam?



In Vietnam, the Internet is accessible by 64 million people out of a population of 97 million.

Currently, Vietnam ranks 14th in the world as regards the number of Internet users, with growth of 32% since 2000.<sup>19</sup>

 people with accessible internet  
 people without accessible internet

Internet privileges come with several stipulations imposed by the Communist Party of Vietnam (CPV). The rules state that the CPV holds legal authority over all print, broadcast and social media.<sup>20</sup> In order to effectively monitor all types of online activity, only a limited number of Internet Service Providers (ISPs) are available to the public.<sup>21</sup> These platforms are controlled by the CPV, and any information posted through these providers can be directly accessed by the authorities. In addition, these rules strictly prohibit the use or establishment of any privately owned, independent media outlets.<sup>22</sup> Any private messages are easily intercepted and potentially used against users if they are arrested.

Three main services are responsible for managing and surveilling the activity of Internet users in Vietnam:<sup>23</sup>

- the Vietnam Internet Network Information Centre
- the Ministry of Public Security
- the Ministry of Culture, Sport and Tourism.

The practice of intercepting private information is largely non-transparent, as the warrants created by the CPV are not easily accessible to the public.<sup>24</sup>

These provisions are enforced to impede the formation of any human rights organizations or political associations that could potentially challenge the power of the state.



Online activists frequently face harassment, intrusive surveillance, house arrest sentences, travel bans, arbitrary detention and interrogation.<sup>25</sup>

Owing to the constant supervision of citizens' Internet activity, creating any politically sensitive websites, comments or blogs has instantaneous repercussions. **Any content deemed unacceptable by the state is immediately removed by the ISP under instructions from the government.**

## How Do Internet Restrictions Affect News and Media?

In addition to the perpetual supervision of online activity, several media sources are also blocked from public view. Documentaries or movies associated with human rights incidents, such as the Vietnam War, the Cold War, the Soviet era or any events from China are inaccessible through all of the available ISPs.<sup>26</sup> Foreign media outlets are repeatedly refused visas if their reporters are known to cover sensitive political topics, and some reporters are even turned away at airports despite possessing a valid entry visa. Promptly after news stories are publicized, the CPV intervenes to alter them, censoring any potentially controversial material.<sup>27</sup> This unapproved content includes anything that criticizes individual government leaders or promotes political pluralism or multi-party democracy. The journalists responsible for these provocative stories are punished and harassed by the CPV.<sup>28</sup> Undeterred by these punishments, the Internet is steadily growing as a primary source of communication.<sup>29</sup>



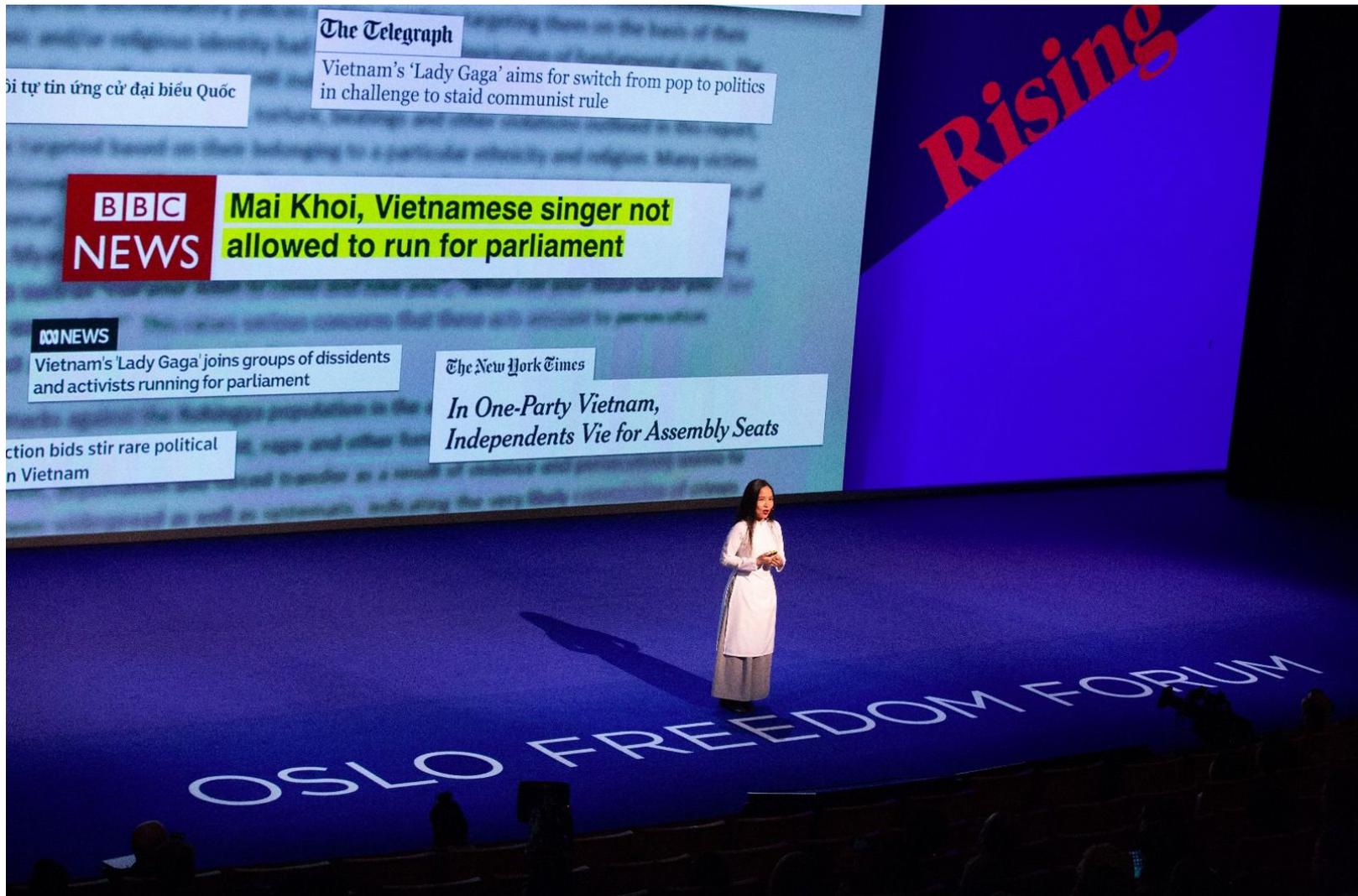
Over 50% of Vietnam's population actively uses the Internet, and this figure is expected to rise to 75% by 2023.<sup>30</sup>

## What is The New Cybersecurity Law?

On June 12, 2018, Vietnam's National Assembly passed a new cybersecurity law that came into effect on January 1, 2019. This newly implemented cybersecurity law stands to further intensify the previous restrictions on online activity.<sup>31</sup> It explicitly states that "providing information that is untruthful, distorted, slanderous or harmful to the reputation of an organization or agency or the honor and dignity of an individual" is prohibited and punishable by law.<sup>32</sup> It ultimately forbids the use of cyberspace to conduct activities that could disrupt national security or public order, or adversely affect the reputation of any state-owned organization. Violating any of these provisions will often result in unfair, unwarranted punishments.

All ISPs are now obliged to store data of users in Vietnam. ISPs are responsible for collecting, utilizing and processing users' data, which extends to any personal or private information.<sup>33</sup> All foreign services must establish a representative office in Vietnam and are responsible for controlling the content being accessed and used on their services.<sup>34</sup>

This cybersecurity law has led to a number of arbitrary arrests since its enactment. Many of the provisions of the code are overly broad or vague. For example, the frequently used provisions of article 118, which prohibits "disrupting national security," and article 331, which prohibits "abusing democratic freedom to violate the interests of the state," can be easily used to accuse activists of unfounded violations.<sup>35</sup> Several journalists, bloggers and free speech activists have suffered under these new guidelines, charged for crimes for largely ambiguous reasons. Citizens fear that the tech giants, including Facebook and Google, will choose to abide by these rules to avoid losing business in a region with a burgeoning social media market. The objective of a cybersecurity law is to reduce the risk of cyberthreats to critical services in the country.<sup>36</sup> However, Vietnam's new law is extremely problematic and contradictory. These new provisions will discourage investment, violate trade commitments and put the country's recent economic growth at risk.



- 9 Mai Khoi is a singer and free speech activist speaking at the Oslo Freedom Forum (a global conference committed to promoting human rights) in 2018.

Clare Algar, Amnesty International's Director of Global Operations<sup>37</sup>

“ With the sweeping powers it grants the government to monitor online activity, this vote means there is now no safe place left in Vietnam for people to speak freely ”

Letter from the Honourable François-Philippe Champagne

8 March 2018

The Honourable François-Philippe Champagne  
Minister of International Trade  
Canada

Dear Minister,

In connection with the signing on this date of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the "Agreement"), I have the honour to confirm the Government of the Socialist Republic of Viet Nam ("Viet Nam") and the Government of Canada shared agreement on electronic commerce as follows:

Both countries shall continue consultation on cooperation for the implementation of the Cyber Security Law of Viet Nam or related legislation concerning cyber security with a view to ensuring consistency with the Agreement.

Notwithstanding paragraph 2 of Article 14.18 (Dispute Settlement) of Chapter 14 (Electronic Commerce) of the Agreement, Canada shall refrain from seeking recourse to Chapter 28 (Dispute Settlement) of the Agreement with respect to measures adopted or maintained based on the Cyber Security Law of Viet Nam or related legislation concerning cyber security, which may be in violation of the obligation based on Article 14.11 (Cross-Border Transfer of Information by Electronic Means) and Article 14.13 (Location of Computing Facilities) of Chapter 14 (Electronic Commerce) of the Agreement

for a period of five years after the date of entry into force of this Agreement for Viet Nam.

I have the further honour to propose that this letter and your letter of confirmation in reply, equally valid in English and French, shall constitute an agreement between the two Governments, which shall enter into force on the date on which the Agreement enters into force for both Viet Nam and Canada.

Yours sincerely,

Tran Tuan Anh

On March 8, 2018, The Honourable François-Philippe Champagne “had the honour to acknowledge the receipt of [the side letter] of today’s date,” on behalf of the Canadian government.

## What is the Canada-Vietnam Side Letter on E-Commerce?

Chapter 14 of the CPTPP concerns regulations pertaining to electronic commerce. Chapter 14 contains many provisions: “digital products” are prohibited from being created in another state, the transfer of information across borders is mandated, and members cannot be required to have business in other member states. Further, it is prohibited to require another member state to turn over source code.<sup>38</sup> Vietnam, however, is testing the freedom of this digital marketplace. The cybersecurity legislation requires foreign businesses to store Vietnam user data, which clashes with the CPTPP’s requirement for open cross-border transfer of information.<sup>39</sup> In this case, Vietnam is failing to comply with international cybersecurity standards of that have already proven to be effective. These decisions will prove problematic, as many companies will not be able to properly respond to cyberattacks.

Furthermore, Article 14.13 of the CPTPP prohibits the forced relocation of companies within state jurisdiction in order to do business within Vietnam.<sup>40</sup> Yet Article 26.3 of the cybersecurity law mandates local data hosting for companies that provide certain Internet services.<sup>41</sup> Due to these discrepancies, Vietnam exempted itself from its obligations under Article 14.13 through a series of side letters with other participant countries.<sup>42</sup> This exemption grants Vietnam five years of immunity from certain provisions of the CPTPP while it legally enforces its cybersecurity law. Not only is Vietnam violating the CPTPP, but it is also acting counter to the World Trade Organization’s regulations and the Vietnam-EU Free Trade Agreement (EVFTA).<sup>43</sup>



10 Trial for Nguyen Van Dai, a member of the Brotherhood for Democracy, on April 5, 2018.

### What is the Brotherhood for Democracy?

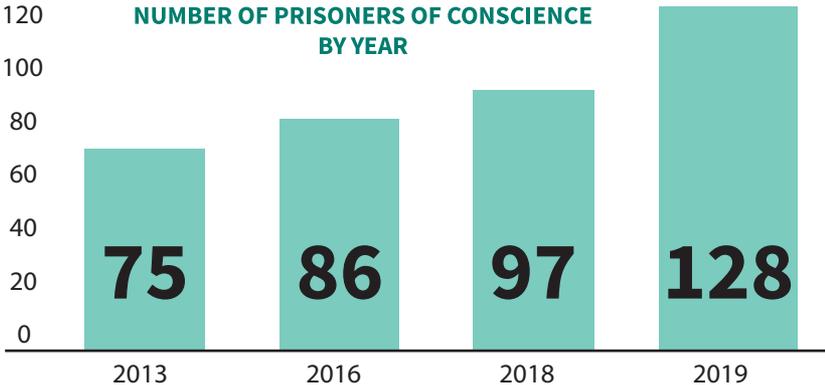
The Brotherhood For Democracy (BFD) is a distinguished online association of pro-democracy activists and human rights defenders in Vietnam.<sup>44</sup> Founded in 2013, the BFD is a group that advocates for the development of a just society and a multi-party government, and works to bring attention to the current human rights violations in Vietnam.<sup>45</sup> Their association holds a strong presence on Facebook, where they make frequent posts that serve to protect the environment and promote an open political system.<sup>46</sup>

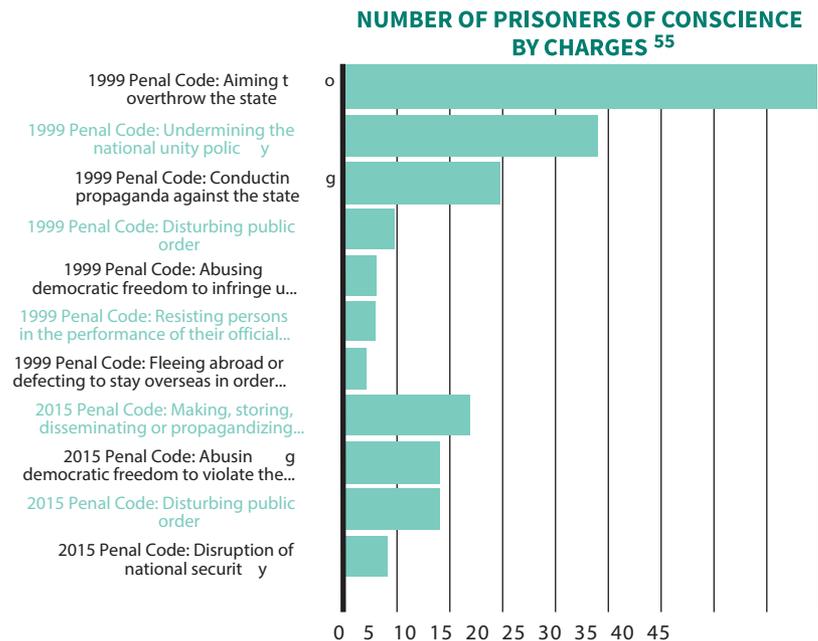
A trial for six members of the Brotherhood for Democracy took place on April 5, 2018. Each member was sentenced to harsh prison sentences, having been accused of violating article 79 of Vietnam’s 1999 Penal Code, which prohibits “carrying out activities aimed at overthrowing the people’s administration.”<sup>47</sup> One of the most notable prisoners, 44-year-old Vietnamese activist Nguyen Trung Truc, was sentenced to a 12-year prison term.<sup>48</sup> This decision outraged several human rights groups, public figures and the US Embassy in Hanoi.<sup>49</sup> Nevertheless, the CPV ignored these condemnations, and Nguyen Trung Truc remains in custody. The BFD’s members are frequently chastised by the government for posting articles, photos and videos on their Facebook accounts that distorts the policies of the CPV and the State, inciting people to protest.<sup>50</sup>

Truong Minh Duc, Nguyen Trung Ton, Nguyen Bac Truyen, Tran Thi Xuan, and Pham Van Troi—all members of the Brotherhood for Democracy—were also found guilty of similar offences.<sup>51</sup> The BFD has been a main target of the Vietnamese government’s crackdown on dissent: 40 of its members have been arrested and beaten since 2017. During their detention, these activists had very little access to their families or legal counsel. They were also misinformed by the police, as some were never formally notified of the official trial date.<sup>52</sup> For example, Tran Thi Xuan was an active environmental advocate in the wake of the 2016 Formosa environmental disaster and participated in a number of protests.<sup>53</sup> Her trial on April 12, 2018, was never announced, which resulted in her going to trial without an attorney.<sup>54</sup>

### What Are Restrictions Regarding Freedom of Expression?

Owing to the large number of restrictions on the citizens of Vietnam, it is often difficult for people to freely express their opinions without fear of facing unjust retributions.





(continuation of infographic on page 36)

Punishments can range from detention, surveillance, intimidation and illegal confiscation of computers. During trials, vague provisions of the penal code are frequently used to accuse activists of penal code violations, simply because they were peacefully expressing their political views online.<sup>56</sup> Despite laws prohibiting physical abuse of detainees, they often report mistreatment and torture by police, plainclothes security and compulsory drug-detention centre personnel during arrest, detention or imprisonment.

Nguyen Ngoc Anh is a 39-year-old environmental activist who was arrested on June 6, 2019.<sup>57</sup> He was sentenced to six years in prison after being accused of writing and sharing “anti-state” posts on his Facebook in March and August of last year. Anh’s arrest only represents the latest in several similar arrests. According to Amnesty International, 10% of the 128 political prisoners in Vietnam are jailed for social media posts.<sup>58</sup> The statement claimed that Anh incited people to join protests during Vietnam’s National Day, and the 2016 Formosa oil spill. His posts under investigation received upwards of 45,000 likes and more than 130,000 comments in support. The constitution and the law are supposed to protect freedom of expression, but the government evidently does not respect this right in practice.

Nicholas Bequelin, a regional director at Amnesty International<sup>59</sup>

“ The sham charges levelled against Nguyen Ngoc Anh show that no one is safe on Facebook in Vietnam anymore. Anh is only the latest case in a growing list of netizens prosecuted, arrested or detained solely for peacefully discussing public affairs or criticising the government. ”

Due to the growing popularity of social media, Facebook has become a primary platform for citizens to voice dissent. On the contrary, the social media platform was accused of breaking the regulations of the cybersecurity law in January 2019, by allowing users to post anti-government messages.<sup>60</sup> However, Facebook claims that the amount of blocked content to users has now increased by more than 500% in the second half of 2018.<sup>61</sup>

Brad Adams, Human Rights Watch<sup>62</sup>

“ the goal of Vietnam’s proposed cybersecurity law appears as much to protect the party’s monopoly on power as to protect network security. ”



11 Environmental activist Nguyen Ngoc Anh standing in court in 2018.

## Conclusion

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Vietnam's rapidly developing economy has resulted in an explosion of online activity and, in turn, has increased online activism. However, the CPV continues to employ tight media censorship and does not tolerate dissent of any kind. Many global human rights organizations and officials have expressed their concerns about the nature of the cybersecurity measures being implemented. Violations to the human rights of cyber privacy and protection will continue to impede on freedom of expression, activism and the connectivity of Vietnamese citizens until constructive action is taken. Despite growing efforts to integrate the country into the global economy, the right to freedom of expression online appears to be moving in the opposite direction.<sup>63</sup>

An illustration featuring a teal map of the South China Sea region in the background. In the foreground, a person in an orange shirt is shouting into a red megaphone. A crowd of blue silhouettes is shown holding up various signs and flags. A white rectangular box with black text is positioned in the center of the image.

**Protest 99 &  
the South China  
Sea Dispute**



12 Vietnamese protest against the 99 year land lease bill on June 10, 2018.

## Protest 99 and the South China Sea Dispute

Vietnam has become an emerging and globally connected economy, from having once been an underdeveloped country. Its middle-income bracket continues to grow, driven by international trade and foreign investments, most of which comes from within ASEAN, the European Union, the United States of America and China. This chapter will provide a brief overview of the South China Sea dispute, the protest that took place on June 10, 2019, and the delayed vote of the 99 year land lease bill.

## What Is Freedom of Assembly?

Freedom of assembly is the right or ability of people to collectively express, promote, pursue, and/or defend their collective ideas.<sup>64</sup> As mentioned in Chapter 2, the Vietnamese government limits self-expression, and authorities continue to punish citizens who openly criticize the state. Activists regularly face severe punishments and unjust arrests for peacefully expressing their views and opinions. This is an example of human rights abuse by the Vietnam government, as all individuals have the right to express and defend their thoughts.

Article 318 of the 2015 Vietnam Penal Code is broadly defined as “Any person who causes disturbance of public order which negatively impacts social safety, order, or security”.<sup>65</sup>

Decree 38 requires public gatherings of five or more people to seek approval from the Provincial People’s Committee, which allows law enforcement to control crowds and therefore gives a greater power of intervention to the state. This order was issued by the administrative branch of the government but not passed by the National Assembly.<sup>66</sup>

## Dr. Nguyen Quang, Prominent Human Rights Activist

“ by replacing the word ‘public gathering of a crowd’ with ‘demonstration’, we could see right away that Decree 38 is unconstitutional, and that it directly violates the people’s right to protest ”

## Vi Tran, Vietnamese Human Rights Advocate and Journalist

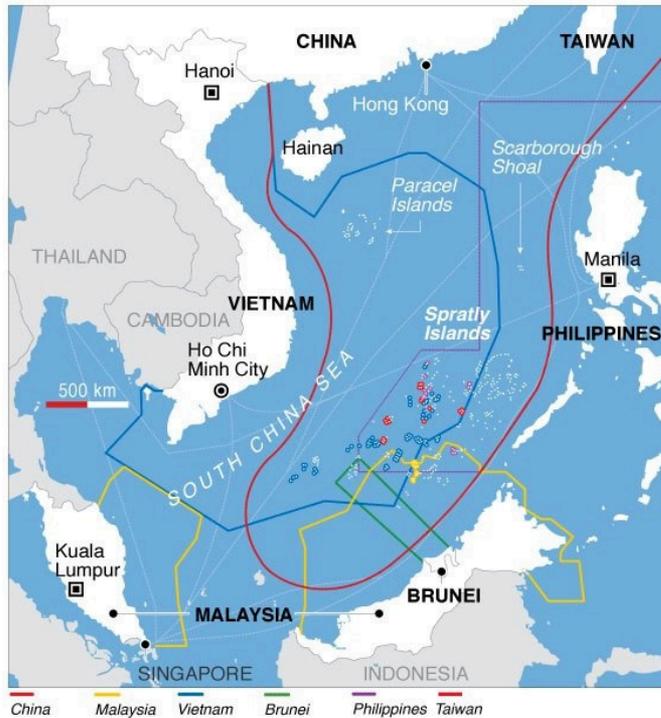
“ both Decree 38 and Article 318 are red herrings—they aren’t laws that protect the right to freedom of assembly, ”

## What Is the South China Sea?

The South China Sea is a \$5 trillion trade route for various Asian countries and plays an important role in the global economy and food security for Southeast Asia.<sup>67</sup> About 10% of the world's lucrative fisheries are located in Vietnam's claimed territory of the South China Sea. Historically, China developed an arbitrary nine-dash line that claims 90% of the South China Sea.<sup>68</sup> In 2016, the United Nations Convention on the Law of the Sea informed a ruling that China had no legal right to claim historical rights within the nine-dash line.<sup>69</sup> China has used aggressive tactics to claim the majority of the South China Sea trade route by building man-made islands and conducting navy patrols in neighbouring ASEAN countries. Over the past few years, this has caused major territorial disputes between military groups, coast guards fleets and fishing vessels between China and ASEAN countries.<sup>70</sup>



## South China Sea and ASEAN Nations



### 13

The Association of South Asian Nations (ASEAN) includes Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

## What Is Protest 99?

During the fourth session of Vietnam's 14th National Assembly in 2017, the government discussed a lease agreement with foreign investors, namely, Chinese ownership of three Special Administrative Economic Zones (SAEZ) in Vietnam for 99 years.<sup>71</sup> The Vietnamese government planned to pass a draft law that would create thousands of jobs and stimulate its emerging economy with foreign investment from China. Many Vietnamese people were upset with the government for considering leasing land to foreign investors, as they fear Chinese investors would dominate and control their land. The protestors demonstrated that they wanted to keep Vietnam out of the hands of China. *Many Vietnamese people are already critical of China's expansion in parts of the South China Sea that have already been claimed by Vietnam; a recurring dispute that has lasted for decades among China and ASEAN countries.*

Special Administrative Economic Zones (SAEZ) are designated land in a country intended to expedite economic growth by providing business companies with tax incentives and lower tariffs.<sup>72</sup>



#### 14 Map of SAEZs in Vietnam<sup>73</sup>

Vietnam had plans to open three SAEZs, one each in the country's northern (Van Don, Quang Ninh), central (North Van Phong, Khanh Hoa), and southern (Phu Quoc, Kien Giang) regions as business and technology hubs. The three SAEZs in Vietnam are not ideal locations because their infrastructure is poor for building science, technology, and financial-economic facilities.

A nation-wide protest took place on June 10, 2018, against the SAEZ draft law and cybersecurity law. The protests occurred at many key government buildings, including the Department of Planning and Investment and the Department of Fire Fighting. Protestors carried anti-China banners with messages that read, "No leasing land to China even for one day." Conflict between China and Vietnam has occurred before, for instance in 1979, where both countries fought over borders.<sup>74</sup> Tensions increased in 2014 after China deployed an oil rig in the South China Sea in an area claimed by Vietnam. Authorities harassed and detained a handful of individuals who took part in related protests. [The government has convicted up to 118 protestors for disrupting public order and many were sent to prison for an unjustified amount of time.](#)<sup>75</sup>



#### Case Study:

- 15 **William Anh Nguyen:** A Vietnamese-American who was visiting Saigon participated in the June 10 protest. Nguyen live tweeted comments and pictures during the demonstration. **He was beaten over the head and dragged by plain clothes policemen.** State media reported that Nguyen was charged under Clause 2 of Article 318 for “inciting others to cause disturbance” – the charge means that individuals could be faced with two to seven years of in prison. With the help of the American government and social media, Nguyen was released from prison a month later.<sup>76</sup>

The proposed 99-year lease agreement was to be voted on October 2018, but the Vietnamese government decided to shelve the bill for a later session due to the protests.<sup>77</sup> National Assembly secretary, Nguyen Hanh Phuc mentioned that the bill is not on the legislative agenda for 2019 or 2020. **It is possible that the government will discuss the bill after the 2021 National Party Congress or scrap the plan altogether, due to hostile public reaction.**<sup>78</sup>

#### Nguyen Xuan Phuc, Vietnamese Prime Minister

“Vietnam does not pursue a military buildup, but Vietnam pursues protecting our sovereignty, firstly with peaceful measures, diplomatic measures, and even justice measures.”



16 Protest on June 10, 2018. Protestors in Vietnam holding banners against the 99 year lease on SAEZes (Van Don, Quang Ninh; North Phong, Khanh Hoa; Phu Quoc, Kien Giang).

## How Did the Media Cover the June 10, 2018 Protests?<sup>79</sup>

The June 10, 2018 protest received media coverage from around the world, with varying messages from foreign-based media to state media. **Foreign media** generally used an anti-communist language and focused on the human rights abuses by the government against its people. **Vietnamese state media** used fear-mongering language in hopes of deterring people from criticizing the government and focused on the negative outcomes of the riots.

Foreign media outlets include BBC Vietnamese, Voice of America and Radio Free Asia.

The state media tried to undermine the riots on local news outlets by stating that the protestors were drug addicts and were paid to provoke the riot. The state media directed their attention to warning local people from participating in the protests via radio, text message, megaphone, and word of mouth.

### Table of Differences Between State and Foreign Media Coverage

	<b>Vietnamese State Media</b>	<b>Foreign Media</b>
<b>Characterization</b>	<ul style="list-style-type: none"> <li>Riot was caused by drug addicts</li> <li>People were paid to take part in the riot</li> </ul>	Riot was caused by the backlash against the SAEZ bill and cybersecurity law
<b>Timeline</b>	<ul style="list-style-type: none"> <li>June 10: riot started</li> <li>June 11: riot was controlled</li> </ul>	<ul style="list-style-type: none"> <li>June 10: riot started</li> <li>June 11: state police ran away</li> </ul>
<b>State responses reported</b>	<ul style="list-style-type: none"> <li>Warning messages sent via radio, text message and speakers</li> <li>102 suspects arrested</li> <li>The state delayed the date of passing the SAEZ law</li> <li>Eight perpetrators were interrogated and later prosecuted</li> </ul>	<ul style="list-style-type: none"> <li>Protestors captured illegally, forced to confess, tortured and beaten</li> <li>The state delays the date of passing the law on SAEZ</li> <li>Eight perpetrators are locked up in jail</li> </ul>
<b>Number of casualties</b>	Ten cars in flames, 30 police officers injured, none dead	<ul style="list-style-type: none"> <li>People are severely beaten and injured</li> <li>Some police officers dead</li> </ul>

## Conclusion

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Vietnam incriminates and abuses peaceful protesters and activists who oppose and challenge the government to respect basic human rights. The Vietnamese government should be responsible and accountable when it comes to human rights and should not ignore their obligations. Without the power of the people protesting against the 99 year land lease, a part of Vietnam would have been leased off to the hands of powerful investors. In spite of Vietnam's rapidly increasing economy, Vietnamese people are constantly being deprived of their fundamental rights and freedoms.

# **Freedom of Religion: The Case of the Montagnard Refugees**





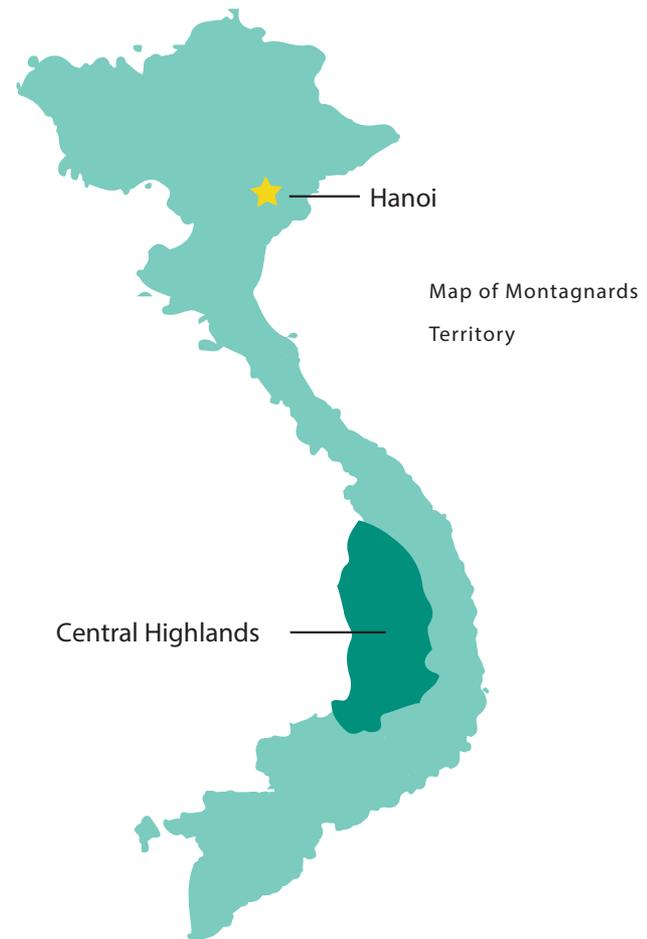
17  
Montagnard women at  
Muong Khuong market,  
Vietnam.

## Freedom of Religion: The Case of Montagnard Refugees

Over the past decade, many non-governmental organizations (NGOs) have spoken out against human rights violations in Vietnam. The Vietnamese people's basic right to religious freedom is continually being violated by the dictatorial party in power. This violation of religious freedom is more pronounced in rural areas, where local authorities regularly oppress ethnic minorities.<sup>80</sup> *In particular, the Montagnards, a minority ethnic group in Vietnam, have long been the target of violent religious persecution.* Their situation is so dire that Human Rights Watch and WorldWatch Monitor have been monitoring them closely. This chapter analyzes the religious persecution of the Montagnard minority and begins with an overview of the group's history to provide some context. This is followed by an examination of the legal framework governing religious freedom in Vietnam and an analysis of the State's action against the Montagnards.

## Who are the Montagnards?

The Montagnards are an Indigenous people from Vietnam's central highlands. The term "Montagnard" was applied to the group during the French colonial period (1887–1954) to replace the pejorative "moi," a Vietnamese word meaning "savage" that was originally given to the group by the Vietnamese. The Montagnards are also referred to as "Degars" and include **close to 30 culturally distinct tribes currently totalling more than one million people.**<sup>81</sup> These tribes are often divided into two major ethnolinguistic families: Mon-Khmer and Austronesian, the latter being similar to Malay and Indonesian.<sup>82</sup> Although the Montagnards have inhabited the highlands for more than 2,000 years and settled in Vietnam before the Kinh (who now make up the majority of the population)<sup>83</sup>, they have continually been targeted by policies of cultural assimilation and been persecuted by the Kinh.





18

Police broke up a prayer meeting and fired on the Montagnards in March 2001.

### The Montagnards Throughout Vietnam's History

Throughout Vietnam's history, the Montagnards have tried to maintain their independence in times of conflict, but they have been impacted by the decisions and strategies of the combatants in the wars that erupted in that country from 1850 to 1975. During French colonial rule, some Montagnard groups supported the French in exchange for protection from the Kinh, hoping to gain recognition of their rights by aligning themselves with one side.<sup>84</sup> Some Montagnards also fought alongside the U.S. during the Vietnam War.<sup>85</sup> This alliance led to repercussions on the Montagnards that persist to this day: the Montagnard minority continues to be persecuted by the Communist government that took power following the fall of Saigon in 1975.

Today, the Montagnards are oppressed by a totalitarian government that severely restricts their cultural freedom, including their right to speak their native languages, to be educated and to secure reasonable employment.<sup>86</sup>

Their freedom to assemble, their freedom of thought and their religious freedom are also threatened on an ongoing basis.

## What Are Their Religious Beliefs?

At the time the Montagnards settled in Vietnam, they practised animism. However, many Montagnards converted to Christianity, particularly after Christian missionaries traveled to Vietnam in the 1950s and 1960s.<sup>87</sup>

Nowadays, the Montagnards live alongside the Vietnamese (Kinh) who migrated to the highlands because of the above-mentioned conflicts. The Montagnards represent only one third of the region's inhabitants, the other two thirds being Vietnamese (Kinh).<sup>88</sup> Given that the Montagnards are already an ethnic minority, the Christian Montagnards also represent a religious minority, as many practitioners adhere to branches of Christianity that the State does not recognize. Given this **double minority status**, Christian Montagnards undeniably suffer greater oppression of their most basic rights and freedoms, particularly their right to freely practise their religion and enjoy freedom of conscience.<sup>89</sup>

## Significant Events

Exile to neighbouring countries:

- In 2001, thousands of Montagnards demonstrated peacefully to demand their right to religious freedom.<sup>90</sup>
- The military quickly broke up the demonstration and arrested a number of people, who were forced to confess and given prison sentences of up to 13 years.<sup>91</sup>
- More than 1,000 Montagnards sought asylum across the border in Cambodia.
- Unfortunately, the refugee camps (run by the Office of United Nations High Commissioner for Refugees)
- that sheltered them closed in 2002. Many Montagnards were quickly repatriated to Vietnam.<sup>92</sup>

UN Special Rapporteur :

- Heiner Bielefeldt, the United Nations Special Rapporteur on freedom of religion or belief, was sent to Vietnam in 2014 to assess the gravity of the situation.
- However, his visit was cut short due to constant interference by State representatives.
- Not only were the people Mr. Bielefeldt spoke to intimidated, harassed and even prevented from attending scheduled meetings, but Mr. Bielefeldt himself was closely monitored while in Vietnam<sup>93</sup>  
Ce dernier a donc été contraint de mettre fin à sa visite au bout de 10 jours.



19

Heiner Bielefeldt, UN  
Special Rapporteur on  
freedom of religion and  
belief.

Report by the UN Special Rapporteur on freedom of religion:

- In the report published after his visit, Heiner Bielefeldt condemned the serious violation of the Vietnamese people's religious freedom and noted the violent persecution of the Montagnards.
- In its response, Vietnam claimed that the facts and information in the report were not objective, accurate or relevant to the reality in Vietnam.<sup>94</sup>
- Regarding the religious repression of the Montagnards, Vietnam stated that freedom of religion and belief is respected in the central highlands, and simply denied the existence of this ethnic minority by stating as follows:

"The Special Rapporteur is requested not to use the term "Montagnard" as this term was only used to serve the policy of "dividing for ruling" during the colonial period, and there is no "Montagnard" ethnicity in the list of 54 ethnic groups in Viet Nam."<sup>95</sup>

## Is Religious Freedom Protected under Vietnamese Law?

The Universal Declaration of Human Rights officially recognized freedom of religion and belief as a basic human right in 1948. After the massacres and wars that have marked history, it was recognized that freedom of religion is inherent to the dignity of every person and must be protected in order to truly preserve the integrity and freedom of every individual. However, it was only recently, in 2013, that Vietnam amended its Constitution to add a section on human rights and fundamental rights, thereby expressly protecting freedom of religion in section 24. From an international standpoint, this appears to be a positive development in human rights in a country that has repeatedly been criticized in recent years for obvious violations of fundamental rights within its borders.<sup>96</sup>

Before Vietnam amended its Constitution in 2013, the lack of specific regulations or legislation governing religious matters created a legal void. This situation inevitably led to constant State interference in the activities of religious groups. The only legal document in effect prior to 2013 that recognized religious freedom was the 2004 Ordinance on Belief and Religion (Ordinance 21). This ordinance was enhanced by Decree 92, which was passed in 2012 and stipulated the extent and enforcement measures of Ordinance 21.

The National Assembly, composed primarily of members of the country's sole political party (the Communist Party of Vietnam), passed the Law on Belief and Religion in 2016 in order to replace Ordinance 21 and increase the protection of religious freedom. It came into effect on January 1, 2018.

The legislation made various improvements, including the following:

1. religious organizations now have legal status;
2. several restrictions were lifted;
3. the wait time to process certain applications from religious groups was considerably reduced.<sup>97</sup>

Under current legislation, a religious group must be properly registered and obtain a certificate of registration from the government committee responsible for religious affairs in order to be officially recognized. Religious groups must also report regularly to the government on their activities such as organizing conferences and festivals, and unauthorized gatherings are strictly prohibited.<sup>98</sup> As a result, Montagnards who gathered privately in homes or other unregistered locations to practice their religion or simply to pray were charged with breaking the law and faced arrest, public humiliation and imprisonment.<sup>99</sup> Although intended to alleviate procedures for religious groups, the new law has required these groups to seek additional approvals for certain religious activities.<sup>100</sup>



20

General views of the destroyed montagnards of Dak son new life Hamlet, December 7, 1967 in Vietnam. Vietcong killed 114 of the villagers and wounded 47.

## Does the law provide effective protection?

Vietnam's Constitution, which is its supreme law, definitely does not fully protect freedom of religion. Article 14.2 of the Constitution states that human rights, as protected in the chapter on human rights and fundamental rights, can only be restricted if the country's national defence, national security, social order or social morality is at risk. Article 5 of the new Law on Belief and Religion authorizes the State to reject any application regarding activities that would, in its opinion, constitute a breach of national security. However, the terms "national security," "social morality" and "social order" are not defined in the legislation, therefore enabling the government to use these broad, ambiguous concepts to curtail religious groups' activities and prosecute their members.<sup>101</sup>

Prior to the adoption of the new Law on Belief and Religion, the government was already invoking broadly interpretable legal concepts to justify penalties. Even the slightest breach regarding "national unity" or "national interest" would be a violation of the law. In fact, Article 258 of the 1999 Penal Code (now Article 331 of the 2015 Penal Code)<sup>102</sup>, which prohibits any violation of freedom of religion under penalty of imprisonment, was often used to arrest individuals. There was no specific definition of the term "violation" in the Penal Code, which meant that the government could interpret the provision as it saw fit.

The adoption of the Law on Belief and Religion in 2018 did not stop the authorities from continuing to restrict freedom of religion. The new law was intended to streamline the administration of religious affairs, **but it lacks the clear, precise and unambiguous wording needed to prevent its provisions from being used arbitrarily.** These vague provisions have irrefutably given the government a great deal of latitude to make arrests. As a result, the State maintains a firm hold on religious practices, despite the adoption of a new law to protect freedom of religion.

## What action has the State taken toward the Montagnards?

According to reports, the laws to defend religious freedom are not systematically enforced.<sup>104</sup> Provisions governing freedom of religion are not upheld in practice, as they do not protect the Vietnamese—let alone ethnic minorities such as the Montagnards—in court. In contrast, provisions to protect “national security” and “social order” are regularly enforced by State authorities against the Montagnards.



21  
Montagnard woman  
and children.

## NGOs have highlighted numerous violations of religious freedom.



In 2010, the Vietnamese police arrested more than 70 Montagnards, including the leaders of unregistered religious groups.



In 2011, more than 250 people were imprisoned on “national security” charges.<sup>105</sup> The prisoners were tortured and subjected to harsh punishment while incarcerated.<sup>106</sup>

Catholic and Protestant Montagnards who practised their religion in their home or another private location have been violently persecuted by local authorities, who regularly broke up religious services that had not received government approval. Montagnards belonging to the Catholic Ha Mon sect were forced to publicly **renounce their religious beliefs and confess to participating in activities that threatened national unity and security**.<sup>107</sup> This forced renunciation could also lead to forced membership in large religious organizations recognized and controlled by the State. Christian Montagnards were frequently and persistently **harassed by the authorities**, who regularly visited house churches to intimidate the faithful and coerce them into renouncing their beliefs.

Furthermore, land disputes in the Vietnamese highlands have prevented the Montagnards from freely practising their religion. Thousands of Protestant Montagnards have lost their places of worship as the land belonging to religious groups has been seized or transferred by the State as part of modernization or development projects.<sup>108</sup> [Forced land seizures or expropriations](#) have occurred frequently and sometimes caused religious groups to completely shut down their activities. A number of Protestant parishes have been forced to merge into a single parish despite belonging to different denominations or branches of Protestantism and having differing practices.<sup>109</sup> In more violent instances, churches and other places of worship have simply been destroyed, greatly upsetting parishioners.

What have conditions been like since 2018, when religious freedom became officially and expressly protected by law? In 2018, the United States Commission on International Religious Freedom (USCIRF) received numerous reports of police [calling people in for questioning](#) about their religious beliefs and membership in certain religious organizations. Some religious groups state that they still have difficulty receiving government approval to carry out their lawful routine activities.<sup>110</sup> Religious services in many Montagnard communities, such as the Christian communities of Hoa Thang and Ea Drong in Dak Lak province, are still repeatedly interrupted with the goal of forcing practitioners to renounce their faith, sometimes under the threat of physical assault. Those who refuse find themselves stateless, because local authorities retaliate by refusing to issue them official ID cards.<sup>111</sup> Given the comments and reports mentioned previously, it is clear that the various violations committed in the past continue today in an effort to oppress the Montagnard minority, despite what the letter of the law requires.

## Conclusion

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As this report shows, the Montagnards continue to live in deplorable conditions and constantly suffer gross violations of their fundamental freedoms. Vietnam's decision to pass the Law on Belief and Religion seems to be a complacent response to international pressure. What could have been a step forward for human rights has proven ineffective because [this legislation has done little in practice to protect religious freedom and, in the case of the Montagnards, it is being blatantly violated](#). The relatively vague and unclear wording of the new provisions allow the State to continue to mistreat ethnic minorities.

These conditions have caused waves of Montagnards to [seek refuge in Cambodia and Thailand](#). However, these neighbouring countries have detained and subsequently deported many of them to Vietnam. In 2015, numerous NGOs asked Cambodia to stop the forced return of Montagnard refugees to Vietnam and comply with the international conventions to which it is a signatory.<sup>113</sup> In 2018, Amnesty International also reiterated its call for Thailand to release several hundred Montagnards who have been arrested and detained within its borders.<sup>114</sup>

There is no doubt that in a country without an independent judicial system, the law will continue to be a vital tool for the State to restrict the religious freedom of groups with a history of oppression.<sup>115</sup> Given the lack of officers of the court who are truly independent and separate from the State and, in particular, considering the lack of tangible solutions from international advocates for human rights and freedoms, the religious persecution of the Montagnards will continue.



22 Montagnard women in Muong Khuong, Vietnam.



The following pages are dedicated to those who are wrongfully punished for their pursuit of justice and democracy.

# PENAL CODE.

21 / 12 / 1999

On December 21, 1999, these codes were passed by the National Assembly of Vietnam.

## Article 79

Carrying out activities aimed at overthrowing the people's administration.

Those who carry out activities, establish or join organizations with intent to overthrow the people's administration shall be subject to the following penalties:

1. Organizers, instigators and active participants or those who cause serious consequences shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment;
2. Other accomplices shall be subject to between five and fifteen years of imprisonment.

## Article 87

Undermining the unity policy.

1. Those who commits one of the following acts with a view to opposing the people's administration shall be sentenced to between five and fifteen years of imprisonment:

- a) Sowing division among people of different strata, between people and the armed forces or the people's administration or social organizations;
- b) Sowing hatred, ethnic bias and/or division, infringing upon the rights to equality among the community of Vietnamese nationalities;
- c) Sowing division between religious people and nonreligious people, division between religious believers and the people's administration or social organizations;
- d) Undermining the implementation of policies for international solidarity.

2. In case of committing less serious crimes, the offenders shall be sentenced to between two and seven years of imprisonment.

## Article 88

Conducting propaganda against the Socialist Republic of Vietnam.

1. Those who commit one of the following acts against the Socialist Republic of Vietnam shall be sentenced to between three and twelve years of imprisonment:

- a) Propagating against, distorting and/or defaming the people's administration;
  - b) Propagating psychological warfare and spreading fabricated news in order to foment confusion among people;
  - c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam.
2. In the case of committing less serious crimes, the offenders shall be sentenced to between ten and twenty years of imprisonment.

## Article 89

### Disrupting security.

1. Those who intend to oppose the people's administration by inciting, involving and gathering many people to disrupt security, oppose officials on public duties, obstruct activities of agencies and/or organizations, which fall outside the cases stipulated in Article 82 of this Code, shall be sentenced to between five and fifteen years of imprisonment.
2. Other accomplices shall be sentenced to between two and seven years of imprisonment.

## Article 91

### Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration.

1. Those who flee abroad or defect overseas with a view to opposing the people's administration shall be sentenced to between three and twelve years of imprisonment.
2. Organizers, coercers and instigators shall be sentenced to between five and fifteen years of imprisonment.
3. In the case of committing particularly serious crimes, the offenders shall be sentenced to between twelve and twenty years of imprisonment or life imprisonment.

## Article 245

### Causing public disorder.

1. Those who foment public disorder, causing serious consequences or who have been already administratively sanctioned for such act or sentenced for such offense, not yet entitled to criminal record remission but continue to commit such act, shall be sentenced to a fine of between one million dong and ten million dong, non-custodial reform for up to two years or between three months and two years of imprisonment.
2. Committing the offense in one of the following circumstances, the offenders shall be sentenced to between two and seven years of imprisonment:
  - a) Using weapons or committing acts of devastation;
  - b) In an organized manner;
  - c) Causing serious obstruction to traffic or cessation of public activities;
  - d) Inciting other persons to cause disorder;
  - e) Assaulting persons who intervene to keep the public order;
  - f) Dangerous recidivism.

## Article 258

### Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens.

1. Those who abuse the rights to freedom of speech, freedom of press, freedom of belief, religion, assembly, association and other democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens, shall be subject to warning, non-custodial reform for up to three years or a prison term of between six months and three years.
2. Committing the offense in serious circumstances, the offenders shall be sentenced to between two and seven years of imprisonment.

## Penal Code

27 / 11 / 2015

On November 27, 2015, these articles were passed by the National Assembly of Vietnam.

### Article 157

Illegal arrest, detention, or imprisonment of a person.

1. Any person arrests, detains, or imprisons another person against the law, except for the cases specified in Article 377 hereof, shall face a penalty of up to 03 years' community sentence or 06 - 36 months' imprisonment.

2. This offence committed in any of the following cases shall carry a penalty of 02 - 07 years' imprisonment:

- a) The offence is committed by an organized group;
- b) The offence involves abuse of the offender's her position or power;
- c) The offence is committed against a law enforcement officer in performance of his/her official duties;
- d) The offence has been committed more than once;
- dd) The offence is committed against 02 or more people;

e) The offence is committed against a person under 18, a woman whose pregnancy is known by the offender, an elderly, sick, or defenseless person.

g) The offence results in the victim's extreme hardship or predicament;

h) The victim suffers from 11% - 45% mental and behavioral disability because of the offence;

3. This offence committed in any of the following cases shall carry a penalty of 05 - 12 years' imprisonment:

- a) The offence results in the victim's death or suicide;
- b) The victim is tortured or treated in a brutal and inhuman way, or the victim's dignity is destroyed;
- c) The victim suffers from 46% mental and behavioral disability or over because of the offence.

4. The offender might be forbidden from holding certain positions for 01 - 05 years.

### Article 330

Resisting a law enforcement officer in performance of his/her official duties.

1. Any person who uses violence or threat of violence or other methods to obstruct a law enforcement officer from performing his/her official duties or forces a law enforcement officer to act against the law shall face a penalty of up to 03 years' community sentence or 06 - 36 months' imprisonment:

2. This offence committed in any of the following cases shall carry a penalty of 02 - 07 years' imprisonment:

- a) The offence is committed by an organized group;
- b) The offence has been committed more than once;
- c) The offender persuades or incites another person to commit the offence;
- d) The offence results in property damage of  $\geq$  VND 50,000,000;
- dd) Dangerous recidivism.

## 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.

## Article 377

Abuse of position or power to hold a person in detention or custody against the law.

1. Any person who abuses his/her position or power to commit any of the following acts shall face a penalty of 06 - 36 months' imprisonment:

a) Failure to issue a decision to release a person who is released as prescribed by law;

b) Issuing a decision to arrest or hold a person in detention or custody without any basis as prescribed by law;

c) Failure to implement the decision to release a person who is released as prescribed by law;

d) Arresting, holding a person in detention or custody without an order or decision as prescribed by law or under an order or decision which has not taken effect;

dd) Failure to issue an order or decision to extend the period of detention or custody; changing, cancelling the temporary detention method at the end of the temporary detention period causing the detainees to be held in detention behind schedule.

2. This offence committed in any of the following cases shall carry a penalty of 02 - 07 years' imprisonment:

a) The offence involves 02 - 05 people held in detention or custody against the law;

b) The offence results in 31% - 60% physical disability of the person held in detention or custody against the law;

c) The offence results in extreme hardship of the detainee or his/her family;

d) The offence is committed against a person under 18, a woman whose pregnancy is known by the offender, an old and weak person, or a person having a serious physical disability or extremely serious physical disability.

3. This offence committed in any of the following cases shall carry a penalty of 05 - 12 years' imprisonment:

a) The offence involves  $\geq 06$  people held in detention or custody against the law;

b) The offence results in  $\geq 61\%$  physical disability or death of the person held in detention or custody against the law;

c) The offence results in the suicide of the detainee;

d) The offence results in separation of the detainee's family.

4. The offender might also be prohibited from holding certain positions for 01 - 05 years



# UN

Declaration of

# HUMAN RIGHTS.

## Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

## Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## Article 3

Everyone has the right to life, liberty and security of person.

## Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

## Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

## Article 19

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

The aforementioned articles are international human rights that the government of Vietnam fails to abide by.

# Prisoners of Conscience

The courageous actions of the people who dare to risk their safety and speak up on human rights abuse, have sparked the fight for freedom. Despite their courageous efforts, they have been unfairly imprisoned, and their voices have been suppressed. As individuals that live in a free democratic society, we should bring light to their message and help amplify their voices.

The following pages contain the names and faces of some prisoners of conscience that have been silenced behind prison bars. Though silenced, their message speaks loud and clear.

\*\*\*some individuals may have been released, put under house arrest, or have gone into hiding.

The list of prisoners of consciences were retrieved thanks to the following organizations: Bao Moi, British Broadcasting Corporation, Human Rights Watch, Radio Free Asia, Saigon Broadcasting Television Network, Special Broadcasting Service, Stop the Crackdown, The Seattle Times, The 88 Project, United States Commission on International Religious Freedom and Voice of America Vietnam.



A,  
Dao



Bui,  
Hieu Vo



Bui,  
Manh Dong



Bui,  
Thi Bich Tuyen



Bui,  
Van Tham



Bui,  
Van Trung



Dao,  
Quang Thuc



Do,  
Cong Duong



Do,  
Thi Hong



Doan,  
Dinh Nam



Doan,  
Khanh Vinh Quang



Doan,  
Thi Hong



Doan,  
Van Cu



Duong,  
Thi Lanh



Ha,  
Van Nam



Ho,  
Duc Hoa



Ho,  
Van Hai



Hoang,  
Duc Binh



Hoang,  
Thi Thu Vang



Huynh,  
Dac Tuy



Huynh,  
Duc Thanh Binh



Huynh,  
Trung Ca



Kpuil,  
Mel



Le,  
Anh Hung



Le,  
Dinh Luong



Le,  
Duc Dong



Le,  
Duy Loc



Le,  
Minh The



Le,  
Thanh Tung



Le,  
Trong Cu



Luong,  
Nhat Quang



Luu,  
Van Vinh



Ngo,  
Hao



Nguyen,  
Bac Truyen



Nguyen,  
Dang Minh Man



Nguyen,  
Danh Dung



Nguyen,  
Dinh Thanh



Nguyen,  
Duy Son



Nguyen,  
Hoang Nam



Nguyen,  
Hong Nguyen



Nguyen,  
Ki Lac



Nguyen,  
Nam Phong



Nguyen,  
Ngoc Anh



Nguyen,  
Thi Ngoc Hanh



Nguyen,  
Trung Linh



Nguyen,  
Trung Ton



Nguyen,  
Van Cong Em



Nguyen,  
Van Dien



Nguyen,  
Van Duc Do



Nguyen,  
Van Hoa



Nguyen,  
Van Oai



Nguyen,  
Van Quang



Nguyen,  
Van Truong



Nguyen,  
Van Tuc



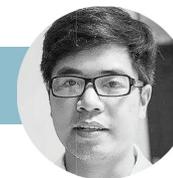
Nguyen,  
Viet Dung



Pham,  
Thi Phuong



Pham,  
Van Troi



Phan,  
Kim Khanh



Phan,  
Thanh Tuong



Phan,  
Thanh Y



Phan,  
Trung



Phan,  
Van Thu



Ta,  
Khu



Thich,  
Quang Do



Tran,  
Anh Kim



Tran,  
Hoang Phuc



Tran,  
Huynh Duy Thuc



Tran,  
Phi Dung



Tran,  
Quan



Tran,  
Thi Nga



Tran,  
Thi Xuan



Truong,  
Duy Nhat



Truong,  
Huu Loc



Truong,  
Minh Duc



Tu,  
Thien Luong



Vo,  
Ngoc Cu



Vo,  
Thanh Le



Vo,  
Tiet



Vu,  
Quang Thuan



Vuong,  
Tan Son



Many prisoners are forced into labour when serving their sentence.

## Non - Exhaustive List

The pictures of the following individuals could not be found online.

A Hyum	Nguyen Thi Thuy
A Tach	Nguyen Thi Truc Ly
Byuk	Nguyen Ngoc Qui
Chi	Noh
Dinh Nong	Pham Ngoc Hanh
Do The Hoa	Pham Van Linh
Ho Dinh Cuong	Pham Van Trong
Hung Hung	Puih Bop
Huynh Duc Thinh	Rah Lan Blom
Huynh Thi Kim Quyen	Rah Lan Mlih
Jonh	Rmah Hlach
Kpuil Le	Ro Lan Kly
Ksor Kam	Ro Mah Daih
Le Thi Hong Hanh	Ro Mah Pro
Le Xuan Phuc	Run
Luong Nhat Quang	Siu Ben
Ngo Van Dung	Siu Brom
Nguyen Binh	Siu Hlom
Nguyen Dinh	Siu Nheo
Nguyen Dinh Truong	Siu Thai
Nguyen Quoc Hoan	Tran Nguyen Duy Quang
Nguyen Tan An	Truong Dinh Khang
Nguyen Thanh Binh	Tu Cong Nghia
Nguyen Thi Tuan	Y Hriam Kpa

# Conclusion

Despite a steadily growing economy, it is evident that the CPV is consistently stripping Vietnamese citizens of their fundamental rights and freedoms. Vietnam's national laws and regulations lack meaningful protection for their citizens. As a result, the vast majority of citizens remain relatively quiet in their efforts to bring international attention to these violations due to the high probability of being arrested. The primary purpose of this report was to provide a general summary of the current human rights crisis in Vietnam. The aforementioned topics emphasized the most prominent violations of basic human rights including the CPTPP, the newly instated cybersecurity law, the 99-year protest, and restrictions on religious freedom.

Although there is growing support for Canada to adopt stronger advocacy for freedom of expression and human rights within Global Affairs Canada, bureaucrats have warned that too strong a push could impact its campaign to win a seat on the UN Security Council.<sup>116</sup> Canada has been placed in a tough position. As a middle power, Canada has little ability to advocate for human rights on its own. With the United States' withdrawal from the United Nations Human Rights Council (UNHRC), and the international order in general, Canada's ability to effectively promote human rights has been significantly diminished. However, Canada can't stop. Canada's power can be bolstered by partner nations and international organizations. The United States' withdrawal provides Canada with the opportunity to be a leader and a champion of human rights on the world stage.

We encourage readers to take action. The conditions in Vietnam require attention at an international level. With awareness and support from all: parliamentarians, NGOs, and citizens; we can work together towards a more just Vietnam.

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