

POLITICS OF A POLICE STATE



Pham Doan Trang

**ACCLAIM FOR
PHAM DOAN TRANG'S**

***“Politics for the Common People”
&
“A Handbook for Families of Prisoners”***

“**Politics for the Common People**’ is popular indeed because of its practicality. Readers can quickly absorb and apply what they read rather than invest a great deal of time on reading more books and attaining more education before they can realize any of its practical values. It looks like the author has always tried to put every term and concept in a Vietnamese context instead of restricting herself to just presenting concept after concept, theory after theory, as other authors may do. At the end of each chapter, there are further readings providing true Vietnamese stories in a vivid way, which make the whole book more appealing and less tedious as a textbook on political science.”

Vu Thach, *Tieng Dan (People’s Voices)*

“**Politics for the Common People**’ must be listed as one of the very rare books that discusses Vietnamese politics in earnest from 1975 until now.”

Vi Yen, *Manila-based human rights activist*

“I buy whatever book that Pham Doan Trang writes. This young author is full of zeal to fight for a prosperous, civilized and democratic society right in Vietnam, which is very brave of her.... I find that she hardly blames history; instead she just focuses on the country today without expressing any resentment or hatred. I admire her for that. So, when I heard that **‘Politics for the Common People**’ is for sales on Amazon, I immediately clicked my mouse to buy me one copy.”

Chanh Nguyen, *reader from the U.S.A.*



“If we want our country to prosper, we should read **‘Politics for the Common People**’.”

Nguyen Trung Chinh, *father of wrongfully convicted death-row prisoner Nguyen Van Chuong*

“If you arrest our Doan Trang, we will print thousands of copies of **‘Politics for the Common People**’ and distribute them for free to university students all over the country.”

Huynh Chi Trung, *graphic designer in Saigon*

“**A Handbook for Families of Prisoners**’ includes eight chapters. The title and the contents sound long, but the book is really easy to read with a clear and concise language. It introduces basic concepts of law, the Penal Code, the Criminal Procedural Code, etc. It is the book for those whose family members are in jail or will be in jail, as any of us may be at any time under this current regime. It is a companion for those who still live in fear. Perhaps, in addition to **‘Politics for the Common People**’, **‘A Handbook for Families of Prisoners**’ is a book that any person who loves peace, democracy and freedom should read.”

Nguyen Hong Hai, *human rights activist in Saigon*

“When we are unaware of politics, we think that it is too complicated and unrelated to us; we leave everything in the hand of ‘our Party and State.’ Only when we read **‘Politics for the Common People**’ do we realize that politics is so popular and closely linked to our daily lives. It turns out that for so long, we have had to listen to rhetorics and demagogueries by the government who treat us as if we were slaves. Let me tell you that any word in the book you read is conveying the author’s passion: to raise political awareness for the people so that all of us are more informed and knowledgeable, and less fearful, to fight dictatorship and protect freedom. Let me tell you that each copy of the book that reaches you is worth a great deal of energy, money, tear and even blood of many people.”

Phan Quoc Dien, *democracy supporter in Saigon*

“At this moment, books like **‘A Handbook for Families of Prisoners**’ are terribly useful for our families as well as the others’. We thank you so much for this precious present. We always wish that you stay safe and overcome the pains that the authorities have been inflicting on you. With much love and respect.”

Nguyen Thi Thap, *wife of prisoner of conscience Luu Van Vinh*

“CRITICISMS” FROM THE OTHER SIDE

“Look at Doan Trang’s most recently published books, from ‘**Politics for the Common People**’ to ‘**On Nonviolent Resistance Techniques**’ and ‘**A Handbook for Families of Prisoners**’. She is abetting honest, credulous laypeople to take the dangerous path [of resistance] which they are unaware of. ‘**Politics for the Common People**’ is actually her tactic to incite the common people with little political awareness to join the wave that she created.”

Hoang Le, *hoangthinhatle.com*

“We can see it clearly, the harm in ‘**A Handbook for Families of Prisoners**’. It is the way Pham Doan Trang influences the emotions, motives and behavior of the relatives of prisoners, and directs them, step by step, to follow the dissidents in their anti-state path. With this book, Pham Doan Trang abets people to join anti-state activities, subversion and treason, builds up her forces and incites public disorder and insecurity. Her acts show signs of “making, storing and/or circulating documents and/or cultural products with contents against the SRV” as stipulated in Clause 1, Article 117 [previously Article 88] of the Penal Code.”

Nghe An Times, *ngheanthoibao.com*

“Pham Doan Trang herself has never concealed her plot to overthrow the administration. She publicly opposes social debate, peaceful dialogues and respect of law. She is believed to be one of the leaders in protests creating chaos, aiming to overthrow the SRV. So, her publications of ‘**Politics for the Common People**’, ‘**On Nonviolent Resistance Techniques**’, and ‘**A Handbook for Families of Prisoners**’ are nothing but her tools to abet the people to overthrow the government. Remember that in any nation, even in the United States, any activity aimed to overthrow the existing state shall be deemed as damaging national security, and strictly punished.”

Anonymous, *trangthongtintonghop.com*



“Because of the harm that these books may have caused, I suggest that the relevant authorities take actions quickly to trace their publishers, prevent the books from being distributed, and revoke all copies that Trang has sold. We must not let any more person deceived and abetted by these anti-state organizations and democracy supporters.”

Toa Son, *tiengnoitre.org*

PHAM DOAN TRANG

POLITICS OF A POLICE STATE

**Summary of “Politics for the Common People”
and “A Handbook for Families of Prisoners”**

LUAT KHOA

NXB TU DO

GIAY VUN

GREEN TREES

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*“The more knowledgeable you are as a citizen,
the more fearless you are of the state,
and the less likely you will live under a tyrannical regime.”*

“A fearless life is always inspiring and worth living.”

Pham Doan Trang

Chapter I. Basic law concepts you need to know.....	95
Chapter II. When the terror begins.....	103
Chapter III. Encountering the police.....	109
<i>Further reading: Four Ways the Vietnamese Government Controls Religious Practitioners</i>	111
Chapter IV. Using the law to fight.....	118
<i>Further reading: The Danger That Is Article 258: How Law Criminalizes Disagreement</i>	124
Chapter V. Communication and mass media as your tool.....	127
<i>Further reading: If You Fail to Conduct Communication, the Police Will Do</i>	130
Chapter VI. Advocacy campaigning.....	132
Chapter VII. Your personal and digital security.....	135
Chapter VIII. Basic supplies for prisoners.....	137
Conclusion	141
The story of an independent journalist under totalitarianism	143
Appendix	151
Bibliography	157
Index	159

ABBREVIATIONS

CBO	community-based organization
CIVICUS	World Alliance for Citizen Participation, Vietnam
CPJ	Commitee to Protect Journalists
CSO	civil society organization
HCMC	Ho Chi Minh City
HRD	human rights defender
HRW	Human Rights Watch, INGO
MPS	Ministry of Public Security, Vietnam
MIC	Ministry of Information and Communication, Vietnam
MOFA	Ministry of Foreign Affairs, Vietnam
MOJ	Ministry of Justice, Vietnam
NA	National Assembly, Vietnam
NGO	non-governmental organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
POC	prisoner of conscience
PVN	PetroVietnam, state-owned oil and gas corporation
SEZ	special economic zones
SPPV	Supreme People’s Procuracy of Vietnam
SRV	Socialist Republic of Vietnam
UNHRC	United Nations Human Rights Council
VCP	Vietnamese Communist Party
VFF	Vietnamese Fatherland Front
VOV	Voice of Vietnam, a major state-owned radio station
VTV	Vietnam Television, a major state-owned broadcast agency

FOREWORD

July 14, 2019

This is a combination of two books published clandestinely in Vietnam, *Politics for the Common People* (2017) and *A Handbook for Families of Prisoners* (2019), both by Pham Doan Trang.

Because *Politics for the Common People* reaches over 530 pages and *A Handbook for Families of Prisoners* almost 300 pages, this combination can only bring you a summary of them. The detailed table of contents of each, however, can be found at the beginning of Volume I and II of this book.

Politics for the Common People (Vietnamese: *Chính trị bình dân*) was published clandestinely in September 2017 and has since then put the author in near-constant political repression. On February 24, 2018 she was abducted from her mother's house in Hanoi at 2 p.m. by the police to be interrogated about the book, which simply discusses basic political concepts of democracy in the Vietnamese language.

Also, two weeks before that, two packages that included copies of the book were intercepted and confiscated by the post office of Da Nang city. The confiscation was even announced in state-owned media.

In an interview with *Asia Times*, Trang said: "I don't know why they hate me and my book so much. After all, it's just a textbook."

"The problem for us is that a communist police state like Vietnam dislikes its people to broaden their political awareness and their participation in matters of national importance," she said.

Trang was abducted and questioned on the book again on March 8, 2018, before finally reluctantly leaving Hanoi to escape house arrest. In May and June 2018, she went back to the capital and was kept under house arrest once more as the police feared that she may trigger protest rallies against a bill on special economic zones (SEZ) and the cyber security law. Immediately after escaping to Saigon, she started writing her next book, *Learning Public Policy through the Story of the SEZ Project*, co-authoring with Trinh Huu Long and Nguyen Anh Tuan.

As the wave of arrest was rising after the anti-SEZ protests, hundreds of civilians got beat up and jailed by the police, and many were imprisoned. Trang went further in challenging the police state when she wrote her handbook "for families of prisoners" (Vietnamese: *Cẩm nang nuôi tù*). The book came out in April 2019 as a samizdat copy and got public attention, especially from two groups: families of prisoner of conscience, who are wretched victims of

police brutality; the police, who know well that they are described in the book as the main violators of human rights in Vietnam.

Now Trang completely understands why the police hate her and her books so much.

Since her escape from Hanoi, the police have been trying to locate Trang to place her under surveillance. They keep watching her mother's home and even posing as fans of her books.

Despite repeated threats of arrest, she vowed to continue speaking out. "I feel strongly about writing more, I cannot stay silent." It is because she firmly believes that the war between citizens and the tyrannical state is the war of will and knowledge: One more reader means one more citizen in the fight against dictatorship. For the Vietnamese, this will be a long war: first they have to end the communist dictatorship, then they have to build and protect the new-born democracy.

Trang believes that even readers in established democracies may find her books on Vietnamese politics useful, because a deep insight into one of the few remaining communist states in the world can help them realize how lucky they are to be living in a democracy. While many Westerners take their democracy for granted, in Southeast Asian countries like Vietnam, people are still struggling for basic freedom rights. So, democracy is generally a treasure, but there must be some people who suffer a great deal to help others perceive its value. We call this "the beauty of brokenness."



Trinh Huu Long,
Legal Initiative for Vietnam (www.luatkhoea.org)

VOLUME I

POLITICS FOR THE COMMON PEOPLE

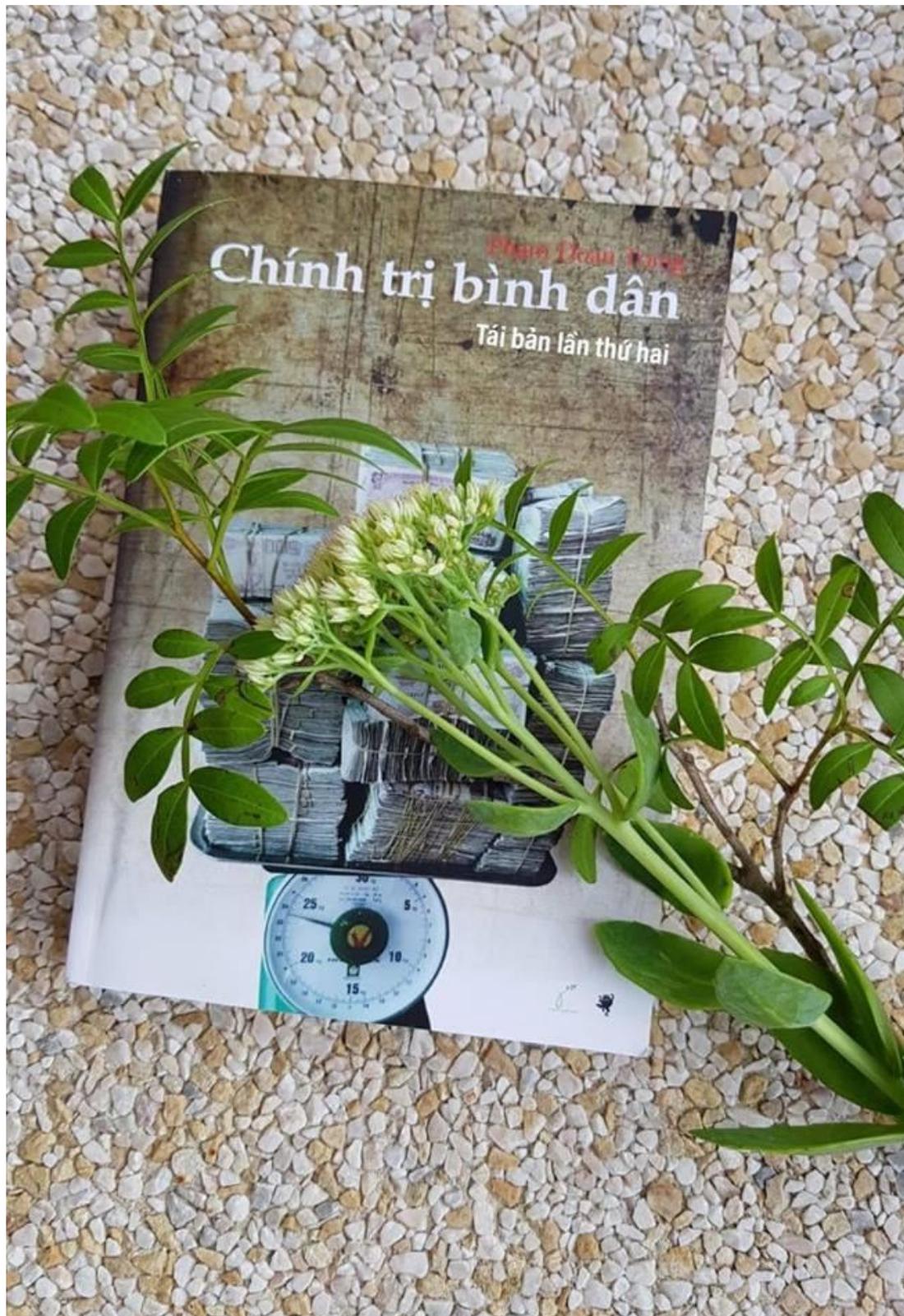


Photo by Khanh An

CONTENTS OF THE ORIGINAL BOOK

Author's preface

Part I. What is politics?

- *Chapter I.* A few definitions of politics
- *Chapter II.* Political activities
- *Chapter III.* Political science as a subject

Part II. The government and the state

- *Chapter I.* Definition of the government
- *Chapter II.* On legitimacy
Further reading: Pro-government Mob Harasses Activists
- *Chapter III.* The state

Part III. Democracy

- *Chapter I.* Definitions of democracy
- *Chapter II.* Representation
- *Chapter III.* The four pillars of a liberal democracy
- *Chapter IV.* Direct and representational democracies
- *Chapter V.* The defects of democracy

Part IV. Ideologies

- *Chapter I.* What is an ideology?
- *Chapter II.* Liberalism
- *Chapter III.* Conservatism
- *Chapter IV.* Socialism
- *Chapter IV.* Other widely-known ideologies

Part V. Political interaction

- *Chapter I.* How a society changes from dictatorship to democracy
- *Chapter II.* Public opinion, political communication, and propaganda
Further reading: Freedom of the Press, Vietnam style
- *Chapter III.* Parties and party systems
- *Chapter IV.* Election
Further reading: A Guide to the National Assembly Election
- *Chapter V.* Political organizations and interest groups
- *Chapter VI.* Civil society
Further reading: Virtual Civil Society... But It Is Real
- *Chapter VII.* Social movements

Part VI. Machinery of government

- *Chapter I.* Constitutions and the law
- *Chapter II.* The political system of the SRV
- *Chapter III.* The legislative branch
- *Chapter IV.* The executive branch
- *Chapter V.* The judiciary branch
- *Chapter VI.* The administrative machinery
- *Chapter VII.* Parliamentary and presidential system
- *Chapter VIII.* The military and the police

Glossary

Index. Techniques of propaganda

AUTHOR'S PREFACE FOR THE FIRST EDITION

September 22, 2017

As far back as when I just started to get involved in campaigning for democracy in Vietnam in 2011, I realized that there was a need for textbooks and elementary training courses to introduce fundamental knowledge about politics to the Vietnamese people, especially those who were the closest to me at that time, the democracy and human rights activists.

I realized that need because I found myself ignorant of fundamental political knowledge, as do the vast majority of the Vietnamese people. Our political knowledge is too poor to understand just the basic concepts such as democracy, liberty, and rule of law, and we fail to answer even the most basic questions like “what is democracy?”, “what is equality?”, “are human rights needed?”

Among many questions that we fail to answer, there are two haunting queries: 1) Why does Vietnam remain in the Third World? and 2) Is there any way for Vietnam to challenge this status quo?

Many Vietnamese people, especially the young ones who can access the Internet, probably try to *google* the answers. All of us, however, face a major issue: Yes, the Internet is a great treasury of knowledge, but at the same time it is a huge trash bin. Knowledge in cyber space, scattered all around in an annoying way, can never be academic and systematic enough to become a standard or foundation for us.

In many cases, we browse the Internet and wade into controversy altogether. And when it comes to controversy, public rows about politics appear to be endless online, involving fallacies, misleading information, personal attack and defamation. In Asian countries like Vietnam and China, traditionally lacking the climate for public debate, usually no side will give way in such rows. Things get even worse with the involvement of the government-paid trolls, or public opinion shapers, who excel in adding fuel to controversies and degrading critical voices.

I have witnessed many of such public rows in both cyber space and reality. They just reinforced my belief that the Vietnamese Internet users must be equipped with certain fundamental knowledge, at least to be able to create solid arguments, then to build a healthy culture of debate. That kind of knowledge is one about politics and law.

During my search for knowledge, I realized one more thing: Such political knowledge is so basic and accessible in Western democracies that an ordinary person with an average mind can grasp it. Even the people most uninterested in politics can take democracy, liberty, and rule of law for granted; there is hardly any public debate on such things, and the press scarcely cover such topics. Therefore, the Vietnamese people, facing a severe lack of information and knowledge for reference, remain strangers to democracy, liberty, rule of law, and other political concepts. Until recently, you can still find top propagandists arguing strongly that human rights

are Western values that should never be sowed in Vietnamese land, that the Vietnamese people do not need a “US-style democracy”, etc.

Worse, the people are made to think of politics as something scary and evil and that decent people should stay away from the nasty world of politics. Good people don’t do politics. Double standards they have, because at the same time, they believe that politics is the business of “the Party and the State”, it’s not for everyday people.

With such prejudice and stereotype, we Vietnamese stay away from politics, don’t get involved in policy matters, and leave the country in the hand of a minority group of political leaders.

But politics is not that scary, sensitive or complicated; neither are human rights, liberty, and democracy. Instead they are just basic concepts that the common people in an ordinary society should sense. It is with political awareness that they are able to protect their democracy and freedoms.

For the Vietnamese people, the duty is much heavier: We must first fight to build a democracy, and then go on fighting to protect that burgeoning democracy. These fights require us to grasp political knowledge. Fortunately, it’s just the basic knowledge that is available elsewhere in the world; we need not create new one.

Since the time I started to get involved in campaigning for democracy, I have never given up a desire to fill my lack of political knowledge. After I was fortunate enough to attain some basic political knowledge, I felt tempted to share it with other people, especially the young activists who fight for democracy and human rights in Vietnam. They are our nation’s assets; the future of our nation lies in their hand.

With so much desire, I write this book, “Politics for the Common People”. It is not an academic study or a work of art with creative experiments. I have tried to make it an introductory book that provides fundamental knowledge about politics. More importantly, I tried to make it as appealing and easy to read as it could be, just to help eradicate the stereotype that “politics is scary and evil.” No, that isn’t what politics should be like. Politics is meant to make each society a better place to live in.

Because I myself suffer from poor political knowledge with little experience of living in a democracy, I must admit that the knowledge in this book is simply what I collected from a variety of sources, though in a more systematic way than the Internet. Any error or mistake you may find in this book is mine, not anyone else’s. I look forward to any comment from the readers, to whom I am deeply grateful.

A handwritten signature in black ink, appearing to read 'Pham Doan Trang', with a long horizontal flourish extending to the right.

Pham Doan Trang

CHAPTER I.

WHAT IS POLITICS?

This chapter provides readers with some of the most important definitions of politics, which is very useful for people in understanding what political activities are. There can be several definitions of politics for the readers to choose. “Politics is the making of public policies”, or “the work of attaining, maintaining power, and gaining benefit from it.”

However, a definition of politics that is useful for Vietnamese readers, that is, “Politics is the work of influencing the other people, the most typical example of which is to influence the process of making policies.”

This is a broad definition; politics in this sense is omnipresent in every aspect of social life. Because to do politics means to influence and persuade the other people into what we want them to do (or into not doing what we don’t want them to do), typically politics can be found in any group: a family, a school, a company, a non-profit organization, and more broadly, a country, or among countries.

It is understandable that people do politics toward each other. Because we co-exist as human beings, we certainly need to influence and persuade each other at times in life, thereby we cannot avoid doing politics in this sense.

However, in countries under a tyranny like Vietnam, the oppressive government hate the people to participate in public policy process, to raise voices, or to do politics in general. On the contrary, they want the people to be convinced that politics is either too bad or too luxurious for the common people to get involved in. “Let the Party and the State deal with that. It’s none of your business,” thus spoke the Vietnamese propagandists so often.

Political activities

Because politics can be so broadly defined, the range of political activities can be too broad to list all out. In the interest of space, this is a list of the most widely known activities in the world’s history.

- Lobbying;
- Advocacy campaigning, including advocacy with international organizations and other governments;
- Political parties and organizations;
- Litigation;
- Publicity and propaganda;
- Demonstrations of all forms: sits-in, rallies, picketing;
- Strikes;
- Boycotts;
- Civil disobedience;
- Violent activities: assassination, kidnapping and blackmailing.

A few of these political activities may sound familiar to Vietnamese citizens in the recent decade. The Sunday of December 9, 2007 is an unforgettable day for hundreds of people:

First protests by bloggers in Hanoi and Saigon broke out, opposing China's ratification of a plan to set up "Sansha City" to administer Spratly and Paracel, the islands in dispute between Vietnam and China. Those are also first people's demonstrations in the communist Vietnam. Since the VCP took power in the whole country in April 1975, protest rallies have been strictly banned; only those organized by the VCP and its affiliates are allowed, such as the assemblies to protest "U.S. invasion of Iraq" in 2003.

A prominent face in the 2007 demonstrations, Nguyen Van Hai ¹ (a.k.a. Dieu Cay), founder of the Free Journalist Club, was immediately targeted by security forces. Soon after the three successive demonstrations, he was arrested on April 19, 2008 and imprisoned for "tax evasion" in what people believed to be a politically-motivated case. Peaceful assemblies in Vietnam had to wait for four more years before they were sparked again in June 2011, when angry facebookers objected Chinese maritime surveillance vessels cutting seismic exploration cables of PetroVietnam's Binh Minh 02 vessel in Vietnam's exclusive economic zone. Similar to the 2007 demonstrations, protests in 2011 were brutally suppressed.



A plainclothes policeman assaults facebooker Phan Nguyen in an anti-China protest rally in front of the Cathedral of Saigon, June 12, 2011.

Also, international advocacy for human rights proves to be a popular form of resistance in Vietnam in the recent years. On July 18, 2013, a group of bloggers, calling themselves as "The Network of Vietnamese Bloggers", released Statement "No to 258", urging the government to amend law to demonstrate its UNHRC candidacy commitment, especially repealing Article 258 of the contemporary penal code. Afterwards, these bloggers met with a series of international organizations and diplomat missions to hand in Statement No 258, including the OHCHR, HRW, CPJ, embassies of the United States, Australia, Sweden, Germany, and the EU-Delegation in Vietnam.

The "No to 258" campaign is believed to be the first collective effort by Vietnamese democracy supporters that is initiated and organized entirely from inside the country.

¹ Nguyen Van Hai (b. 1952), better known as "Dieu Cay" (Peasant's Pipe), is a Vietnamese political dissident. He is the founder of the Free Journalist Club, the first CSO connecting independent journalists in Vietnam (2007). In April 2008, he was arrested and charged with "tax evasion", then sentenced to 2.5 years of imprisonment. He was scheduled for release in October 2010, but right on the day of his release, his sentence was extended "pending further investigation". He was taken to court again in 2012 and sentenced to 12 years in prison for "conducting propaganda against the state." In October 2014, he was released and sent immediately to the U.S. on exile.

Political science as a subject

Nowadays political science as a subject can be categorized into such sub-subjects as:

- political philosophy;
- public law;
- international relations;
- international law;
- central and local governments;
- comparative governments;
- public administration;
- political dynamics;
- government and business; etc.

Almost all the Vietnamese are strangers to these terms, and it is advisable for the readers to start learning at least one of them, even if they do not choose politics as their life career.

CHAPTER II.

THE GOVERNMENT AND THE STATE

This chapter introduces to Vietnamese readers the core subject matter of political science. Austin Ranney in his book *Governing: An Introduction to Political Science* (2000) defined government as “a set of people and institutions whose function is to make and enforce law within and for a society.” So, basically a government can be understood as an organization. What makes the difference between a government and other organizations? Ranney, again:

	A government	An organization
1	Power is compulsory to the whole society/ community.	Power is compulsory to members of the organization only.
2	Membership is not to choose.	Membership is for people to choose.
3	Authoritarian authority.	Non-authoritarian authority.
4	Being the only entity in the nation that has the power to make laws, force their enforcement, and punish law-breakers.	In a nation, no organization except the government can make laws, force enforcement and punish law-breakers.

A question is raised: If an organization, such as the Ku Klux Klan, claims itself as a government because it can make laws, force people to obey the laws, and punish those who deny or fail to obey the law, then can it be identified as a government?

The answer is No, because Ku Klux Klan has no legitimacy; it's not a legitimate government. Which brings us to the next question.

What is legitimacy?

On legitimacy

Legitimacy can be defined as “the popular belief of members in a society that the power of the government or the ruling party is relevant and reasonable, thereby the people in that society must obey it.”

How can a government gain its legitimacy, or, what is the source of legitimacy? German philosopher Max Weber in a 1922 essay, *The Three Types of Legitimate Rule*, described the three ways for an organization to attain legitimacy and is accepted as a government: traditional authority, charismatic authority, and legal-reasonable authority.

- *Traditional authority*: According to Weber, traditional authority, based on long-established customs and traditions, is regarded as legitimate because it has “always existed.”

That a government is legitimized with traditional authority means its legitimacy is inherited from its precedents. Examples of this kind of authority include monarchy regimes like China in the past, and Arab Saudi in the present.

- *Charismatic authority*: This form of authority is based on the power of an individual's personality, that is, on his or her "charisma." In other words, there are cases when a government gains its legitimacy thanks to its charismatic leader or founding father. Examples of this can be found abundant in the world history: Lenin and Stalin (the USSR), Mussolini (Italy), Hitler (Germany), Fidel Castro (Cuba), Mao Zedong (China), and Ho Chi Minh (Vietnam).

- *Legal-reasonable authority*: This is the typical form of authority operating in most modern states. A government attains its legitimacy this way if it is elected legally and reasonably, say, in a fair and free election, and if it operates efficiently under a rule of law.

Apart from the three above-mentioned types of legitimate rules provided by Max Weber, there's also a fourth, modern type of legitimacy, that is performance legitimacy, or the legitimacy that a government attains based on its performance in economic governance and national defense. China, with its fast-growing economy and assertiveness in territorial disputes, is a clear example of how a government relies on its performance to justify its ruling power. Compared to China, the SRV has not been doing well in both economic governance and national defense; they even make a bad impression on the people of their political sell-outs.

Along with reinforcing its legitimacy, any tyrannical government will always attempt to destroy the legitimacy of its opposition or potential opposition," and Vietnam is not an exception. The VCP represses its opponents and ruins their legitimacy ever since almost the beginning of their rule.

Further reading:

Pro-government Mob Harasses Activists ²

October 24, 2015

(*Vietnam Right Now*) A prominent pro-democracy blogger and his wife have been attacked in what activists said was an escalating campaign of harassment by government supporters.

Nguyen Lan Thang said he was on his way to pick up his baby daughter from her nursery when he was confronted by an angry crowd.

His wife, Le Bich Vuong, said she was also set upon at the nursery by a group of women, who accused her husband of being an anti-state campaigner.

The couple said they sustained blows from some demonstrators but managed to run off with their daughter.

The incident comes amid mounting recriminations over the death in custody of a teenager, who activists suspect may have been beaten and tortured by police.

Earlier in the week, some 30 government supporters had staged a demonstration in front of the couple's apartment, following allegations that Thang had insulted the memory of the VCP's founding leader, Ho Chi Minh.

The demonstrators are believed to have been members of the Communist Youth Union and pro-government bloggers who describe themselves as defenders of the VCP.

They were led by two well-known party loyalists, identified by witnesses as Tran Nhat Quang, 58, and Do Anh Minh, a student in his early twenties.

Online messages from Facebook groups that back the government had earlier called for a punishment attack on Thang for what was described as defamation of Ho Chi Minh, who is revered by the state as the author of national independence.

The demonstrators are reported to have banged on the door of the couple's apartment and used a megaphone to demand public apologies to the late president and the people.

They also handed out pamphlets of accusations against "the anti-state Nguyen Lan Thang" to his neighbors and passers-by.

A family friend, Trung Nguyen, said he was hit by some of the demonstrators when he tried to enter the house but managed to escape without serious injury.

Trung said later that at least two plainclothes policemen stood by and watched while the assault on him took place.

The demonstrators dispersed when more of Thang's friends and supporters came to the apartment two hours later.

Many had previously called the local police and emergency services, but received no answer.

Nguyen Lan Thang, 40, is one of the best-known bloggers in Vietnam. He is a photographer who has focused on human rights violations and the fight for democracy in Vietnam.

He has a Facebook following of tens of thousands of people.

In recent days, he has become involved in a campaign to claim justice for Do Dang Du,

² Available at: <http://vietnamrightnow.com/2015/10/pro-government-mob-harasses-activists/>

the 17-year-old boy who died in police custody after being arrested on a charge of petty theft.

Family members and campaigners suspect he died from injuries sustained during a police beating.

The police say that Du was attacked by a fellow inmate after an argument over doing the washing up in their prison.



Thang had satirized the police story with a reference to Ho Chi Minh's early job as a lowly seaman and kitchen worker during his years in exile.

He posted a picture of himself looking at a photograph of Ho, saying "if you had also done washing-up badly, the country and the people would not have ended up like this."

The joke about the VCP's revered icon infuriated government supporters and sparked the backlash.

Vietnam's official history states that Ho Chi Minh had worked as a deck hand on a French ship, and one of his duties was supposed

to be washing dishes.

His real aim, however, say the histories, was to find a way to work for the liberation of the country from French colonial rule.

The state

James Garner defined the state as “a community of persons more or less numerous occupying a definite territory completely free of external control and possessing an organized government to which the great body of inhabitants render habitual obedience.”

Elements of the state include people, government, land, sovereignty, and a popular will of living together as a state. There are also other concepts that Vietnamese readers may possibly find elusive and confusing, including “city-state”, “nation-state”, “country”, “ethnicity” and “ethnic group”.

An ethnic group, for instance, is a community of which members share a common cultural and historical identity, and most importantly, a belief in common descent. Nowadays there are 54 ethnic groups in Vietnam, of which the Kinh (or Viet) people are the majority group that comprises 86% of the population. They speak Vietnamese and hold the legend that they descended from the dragon king Lac Long Quan and the angel Au Co, who married and had one hundred eggs, from which hatched the first one hundred Vietnamese.



*A Hmong man is climbing up a greasy bamboo tree in a spring festival.
The Hmong people are one of 54 ethnic groups of Vietnam and also live in southern China and Laos.
Photo by Le The Thang.*

CHAPTER III.

DEMOCRACY

This chapter focuses on one of the most controversial topics among the Vietnamese whenever they talk about politics. Unlike established democracies, Vietnam has been a stranger to the concept of democracy for her whole length of history. Not surprisingly, many Vietnamese people in the present day may often identify democracy with political instability and chaos.

One of the most haunting issues for them when one questions the monopoly rule of the VCP is “who can replace the VCP?” “Will a multi-party system bring only hostility and chaos? If that is the case, we don’t need a democracy.”

Definitions of democracy

Democracy, according to Ranney, is a form of government organization that complies with the following principles:

- popular sovereignty;
- political equality;
- popular consultation;
- majority rule.

These principles are linked to freedom rights. In a democracy, it is crucial that every citizen can participate in the process of making collective decisions at their wish. Policy making is not the business of just “the Party and the State” as communist propagandists usually put it.

Representation

There are two main types of political representation, geographical representation and proportional representation.

Geographical representation gives rise to gerrymandering, “a practice intended to establish a political advantage for a particular party or group by manipulating district boundaries.” It is an objectionable tactic mostly used by one political faction to achieve desired electoral results.

However, in a Vietnamese context where the ruling VCP controls the whole electoral process, “gerrymander” may serve other purposes than its original one, such as:

- seeking economic rent: As Vietnam maintains “collective ownership of land”, corrupt government officials often manipulate administrative boundaries and the “master planning process” to obtain high-profit land for their families, friends and loyalists;
- seeking political influence and power: In the past, top communist leaders like Le Duan (party secretary, 1960-1986) used gerrymander to merge two or three provinces into one (Ha-Nam-Ninh, Ha-Son-Binh) and downsize the local state apparatus, thus make it easier for them to appoint loyalists at their discretion.

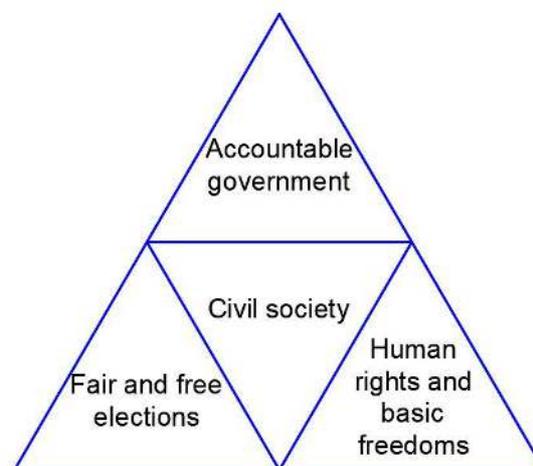
In Vietnam, the single party system controls the whole electoral process, including nomination in the first place, thus there is no such thing as “representation”. This will be

discussed in detail in the part on election.

The four pillars of a liberal democracy

“Liberty” and “democracy” are the two political terms that the majority of Vietnamese people may find confusing. This chapter distinguishes these terms. A democracy may not necessarily entail a liberal society; in fact, there are democracies in which basic freedom rights are not guaranteed to all the people, such as India with its caste system, the untouchables, and young women at high risk of getting raped. These are democracies without liberty, or illiberal democracies.

There is a need to build a liberal democracy for Vietnam, which can be described as composed of four equally important elements: open and accountable government, civil society, free and fair elections, human rights and basic freedoms. Because they are crucial, let’s call them “the four pillars of a democracy house.”



A look into the democratic pyramid tells the readers of where their country might fall on the democracy ladder. Vietnam is far from a liberal democracy as they lack all the four elements.

Direct and representational democracies

This part focuses on two models of democracy in the world’s history: direct and representational democracies. There are advantages and disadvantages of each model.

Direct democracy is the purest form of democracy, where everyone in a community directly and regularly takes part in the making of major decisions without any intermediary such as politicians or political parties. As a result, everyone has access to information and may therefore be equally informed and knowledgeable. Nonetheless, direct democracy is too ideal to be applicable in today’s world with huge citizen bodies.

As opposed to direct democracy, representational democracy is a form of democracy where citizens do not directly and regularly take part in the decision-making process. Instead, they elect a representative on a periodic basis to act on their behalf. Generally speaking, representational democracy is more practical than direct democracy and it creates a better division of labor when the “burden” of governing is placed on elected, professional politicians. (In Vietnam, however, governing is largely considered as a privilege, not as a responsibility or burden, and the politicians in power are automatically accepted as the venerable elite of the society).

It is understandable that representational democracy is not as democratic as direct democracy, and it only works when the representatives are elected via a free and fair electoral process.

The defects of democracy

While it is clear that democracy cannot be identified with political instability and chaos, there are weaknesses, or the troublesome consequences that a democracy may entail.

- Majority rule entails the fact that some minority groups may suffer from long-term loss and disaffection;
- In a democracy, everyone can be a “know-all” expert who gives opinion on every public policy while the real expert can be too tired to speak up;
- Policy making in a democracy may sometimes be very time-consuming with little effect;
- When a nation transits from a dictatorship to a democracy, the new government may not be good enough in dealing with public issues while the people, now enjoying much civic freedom now, can become very judgmental and critical. This may cause more conflict than in the “peaceful” past; it may be what the communists traditionally consider as “chaos”;
- Separatism and extremism can become a problem in some parts of the country in the first years of the new-born democracy;
- In the short term, if the quality of public policy remains low, it is likely that the national economy cannot flourish.

CHAPTER IV.

IDEOLOGIES

This chapter refers to some strong ideologies that the Vietnamese to some extent have heard of:

- liberalism;
- conservatism;
- socialism;
- communism;
- fascism;
- nationalism;
- feminism;
- environmentalism;
- fundamentalism;
- communitarianism.

Ideologies	Description
Liberalism	An ideology based on key elements of individualism, liberty, reason, equality, tolerance, consensus, and constitutionalism
Conservatism	An ideology based on elements of tradition, pragmatism, human imperfection, hierarchy, authority, and private ownership
Socialism	An ideology based on elements of community spirit, fraternity, social equality, need, social class, and common ownership
Communism	An ideology based on key elements such as common ownership of means of production, and classless and exploitation-free society. In practice, communist zeal was what ignited class wars, leading to massive killings and social destruction in almost all countries where the ideology is adopted.
Fascism	An ideology based on elements of dictatorial power, heroism, cult of personality, ultra-nationalism, statism, and xenophobia, especially antisemitism
Nationalism	An ideology based on the thirst for the promotion of national interests and the psychological attachment to the nation
Feminism	An ideology promoting women's rights and gender equality
Environmentalism	An ideology based on the core belief that human beings are just a part of the nature and that the rights and needs of humans are not more important than those of other living things
Fundamentalism	An ideology based on the belief in a fundamental truth that needs revealing and underpins the community's social and political life
Communitarianism	An ideology that emphasizes the connection between the individual and the community, and opposes individualism and extreme liberalism, laissez-faire

Any discussion of nationalism should also include a discussion of patriotism. This is a concept that is often not precisely understood. Both the VCP and its Chinese counterpart tend to take advantage of nationalism when they seek mobilize popular support for a certain cause. This can be seen in such slogans as “paying tax means patriotic,” or “if you love our country, you must love socialism.” Often the VCP’s propagandists try to identify the party with the country, deceiving the people into believing that a nationalist or a patriot is someone who loves the party and its communist ideology, while anti-communism is sinful.

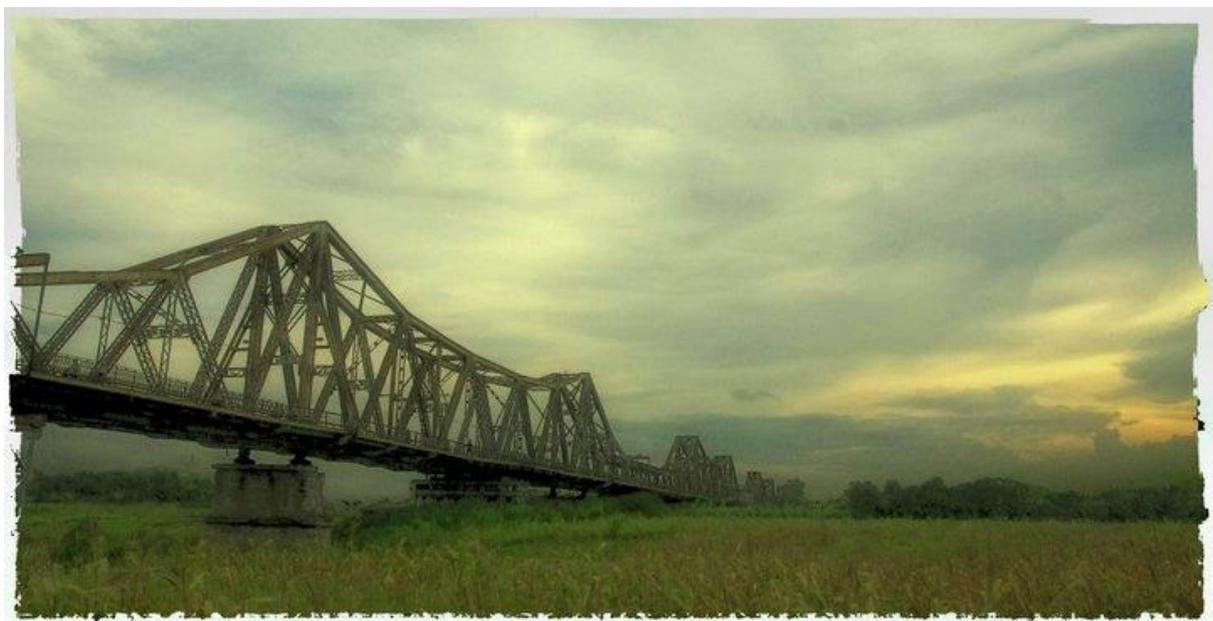
In the Vietnamese-language essay, “What we talk about when we talk about patriotism”, independent journalist Nguyen Dan describes the way the term patriotism carried out in practice.

“When we talk about patriotism, we should know that there have been too many development projects in Vietnam that cost us billion of US dollars but all that money just went to someone’s pockets. If we had not been gutted, that money may well have helped improve the lives of the poor elsewhere.

When we talk about patriotism, we should know that low quality roads with potholes and cracks make us consume petroleum to a huge extent, and that petroleum might well have been used for sea transport otherwise.

When we talk about patriotism, we should know that when we turn off a redundant light or a light not in use, we help reduce power loss and energy import.

We can always be patriots, but let us first express our patriotism by doing those trivial things.”



Long Bien bridge, seen from one side of the Red River in Hanoi. Photo by Nguyen Dan.

CHAPTER V.

POLITICAL INTERACTION

This chapter is all about political activities widely undertaken in most societies, including Vietnam: political communication, propaganda, the politics of parties, the politics of civil society, mass revolution, voting and elections.

How a society changes from dictatorship to democracy

There are typically two ways for a society to change from dictatorship to democracy—either through a revolution or through evolution. Revolutions bring an inside-out change, but so often they involve uncontrollable violence and sudden changes that can create chaos. Evolution, on the contrary, happens in a long process and gradually brings change in a slow and partial manner; it may take time but reduces the possibility of uncontrolled violence.

The author draws up several scenarios for political change in Vietnam, as in the following table:

Scenarios for political change in Vietnam			
Revolution (violent)	Prolonged mass demonstrations, possibly involving violence and bloodshed, disrupt daily life and force the communist government to compromise.		
Uprising (violent)	A group of common people rise up in arms in one locality, forcing the local government to consent to dialogue and negotiation. The insurrection then gains more dynamics to expand to other localities, shaking the country and pressuring the central government to surrender its power at last.		
Coup d'etat (violent)	A partisan within the already fragmented VCP insurrects and claims political power. They finally grow strong enough to overthrow the existing administration.		
Evolution (peaceful)	<p><i>Self-change by the VCP:</i></p> <p>The VCP itself implements top-down political reform.</p>	<p><i>The rise of opposition parties:</i></p> <p>One (or more) opposition party is formed and grows fast enough to avoid oppression, attract popular support and pressure the ruling VCP to compromise and share its power.</p>	<p><i>The rise of civil society:</i></p> <p>Civil society grows, leading to major social movements that can pressure the ruling VCP to compromise and share its power.</p>

Self-change by the VCP is a desired scenario to many people, especially veteran communists and intellectuals who hold a strong belief that “the opposition in Vietnam is near zero” and that “only the communists can make a change”. If the VCP is the leader of the transition as it was in previous revolutions, they argue, the transition will be smooth and peaceful, and the democracy that follows will be sustainable.

However, it is doubtful that the VCP will make a political change for a better, democratic society. If there is a change, it is more likely to be a pretension where the VCP sets up fake oppositions and manipulates any electoral process to maintain power.

Public opinion, political communication, and propaganda



*“We the people have the right to know.”
Blogger Dieu Cay in an assembly in Saigon, December 2007.*

This section brings readers into the realm of communication, mass media and propaganda. While political communication is an integral part in governing a country, propaganda has a negative meaning because it involves presenting selective, biased, impartial, misleading and distorted information to manipulate the targeted audience into supporting or opposing specific ideas. In the past, the VCP, unaware of the negative implication of propaganda, highly estimated and even considered propaganda as an official occupation. They even named one of the leading colleges for journalism in Vietnam as “Academy of Journalism and Propaganda” in both Vietnamese and English. However, since they became aware that propaganda bears a negative connotation for English-speakers, they have renamed the school as “Academy of Journalism and Communication” while retaining its Vietnamese name.

The war of communication between the VCP and democracy supporters in Vietnam is asymmetric. The VCP enjoys special privileges, because it possesses and controls the whole system of mass media, consisting of thousands of media agencies. The VTV television network alone can expand its coverage to the Spratly and Paracel islands, far beyond the dream of social media users. Broadcast and printed media are all under the VCP's control while alternative media can only make use of the Internet.

The VCP's propaganda often spins public opinion to its advantage. Some spinning techniques the VCP has used include,

- Censoring sources;
- Manipulating the public into thinking that only mainstream, state-owned media are reliable, official sources and Internet media are invalid;
- Using "black communication": leaking information to anonymous sources. One classical example of black communication is the website "Portrait of Power" (Vietnamese: *Chân Dung Quyền Lực*), allegedly created to attack some certain wings within the VCP. Full of confidential, top secret information, the website was created on December 15, 2014, and gained 24 million views within just one month;
- Giving priority and privileges to a few selected media agencies. Though all major newspapers in Vietnam are possessed and controlled by the VCP, only six of them were given substantial privileges: Vietnam News Agency, VTV, VOV radio, Nhan Dan (People's Daily), Quan Doi Nhan Dan (People's Army), and Cong An Nhan Dan (People's Police).

It is also suspected that the VCP propaganda machine frequently engages in spreading sensationalistic tabloid gossip news at just the right time to distract attention from socio-political developments not to the VCP's liking. For example, in 2012, just when a notorious government land-grab in Van Giang was attracting widespread attention and causing a serious public relations headache for the VCP even to its supporters, a series of scandalous stories about "Lingerie Queen" Ngoc Trinh popped up in state-owned media, drawing attention elsewhere. That is just one among numerous examples of how the communist propagandists "spin" the public.

Further reading:

Freedom of the Press, Vietnam Style ³

July 16, 2013

(*Asia Sentinel*) Every week in Hanoi, the Central Propaganda Commission of the VCP, and in Ho Chi Minh City, the commission's southern regional office, convene "guidance meetings" with the managing editors of the country's important national newspapers.

Not incidentally, the editors are all party members. Officials of the MIC and MPS are also present. Similar meetings take place in every province, a process emblematic of just how complete the control of the press is in Vietnam.

At these meetings, someone from the Propaganda Commission rates each paper's performance during the previous week — commending those who have toed the line, reprimanding and sometimes punishing those who have strayed.

In good cop/bad cop fashion, the party's overseers mix counseling and persuasion with threats and a bit of repression. Although there's no legal basis for it, the party regards the media as "propaganda forces" subject to its guidance and instruction. Probably the party itself recognizes the absurdity of this subjugation, which tramples on legal and journalistic principles.

On the one hand, the Propaganda Department instructs the "comrade editors and publishers" to make sure that the staff back in the office is "fully oriented," while on the other hand it insists that every one of them keeps the party's instructions strictly confidential.

The existence and content of these weekly meetings sometimes leaks out into the blogosphere, the online forums beyond the reach of the Propaganda Department. On March 29, 2011, it seems, editors were instructed not to report that movie actress Hong Anh had declared her independent candidacy for a NA seat; not to use "Doctor Vu" when referring to dissident activist Cu Huy Ha Vu, then facing trial on charges of "propagandizing against the state;" to bury reports that nine foreign tourists died when a Halong Bay tour boat capsized; and to eschew investigation of the nation's decision to build a nuclear power plant.

Vu's trial was the object of particularly heavy-handed guidance. Journalists covering it for major newspapers received unsigned notices on plain paper enjoining them to praise the impartiality of the judges and the correctness of the sentence, and to refrain from commentary or in-depth analysis.

Telephone calls and oral instructions expedite guidance to editors on sensitive subjects. Don't report this incident, they're told; don't highlight that case, restrict coverage of these topics. Because no tangible evidence remains that the guidance was transmitted, when it's alleged that the press was gagged on such and such a story, officials of the MIC can reply with straight faces that Vietnam is being slandered by "hostile forces."

In a clandestine recording circulated soon after a guidance meeting in December 2012, Propaganda Department Vice Director Nguyen The Ky is heard rebuking the press for reporting that Chinese vessels had cut the cables of seismic gear being towed by a Vietnamese exploration ship. It doesn't matter that the reports cite sources in the state oil company and the MOFA.

"You must clarify that the Chinese vessels just unintentionally caused the cables to be broken," Ky said; "it was not an act of deliberate sabotage against us."

The recording was immediately posted on dissident blogs and then on the Vietnamese

³ Available at: <https://www.asiasentinel.com/politics/freedom-of-the-press-vietnamese-style/>

language service of the BBC. Invited to comment, Ky told the BBC that he was only exchanging professional opinions with the editors.

Clearly the Propaganda Department was mightily embarrassed by the leak. It's rumored that at the guidance meeting the following week, editors were subjected to a body search for hidden recording devices.

The press card system is a sophisticated method of controlling reporters. No card, no access. Without a press card, reporters can interview ordinary people, but can't hope to meet high-ranking officials, visit contacts at public offices or cover official workshops or conferences.

The system has been in operation for a long time. In 2007, it was legalized by government circular. The circular requires the issuing official to certify, *inter alia*, that a would-be journalist has been properly recommended by the paper, magazine or broadcaster that wishes to employ him, by the local Department of Information and the local branch of the Vietnam Journalists Association, and "has not been rebuked in the previous 12 months."

The press card system illustrates the blurry boundary between Vietnam's state sector, its ruling party and civil society. Ostensibly the press is an institution of civil society, and newspapers, magazines and broadcasters are not official agencies.

Legally speaking, in view of the Vietnamese Constitution's guarantee in Article 69 of "freedom of opinion and speech, freedom of the press, [and] the right to be informed," the state has no standing to regulate who is or is not a journalist, unless, of course, that promise is trumped by the State's obligation in Article 33 to "ban all activity in the field of... culture that is detrimental to national interests."

In any event, the Propaganda Department asserts its right, prescribing that Vietnam's media are the "voice of party organizations, State bodies and social organizations." Vietnam's Law on the Media further requires reporters to "propagandize, propagate the doctrine and policies of the party, the laws of the State, and national and world cultural, scientific and technical achievements in accordance with the guiding principles and aims of media organizations."

The result is that a great many journalists are subject to the direction of apparatchiks whose capacity for communication is decidedly inferior to theirs.

Without a press card, one is not recognized as a journalist and can be barred with no explanation at all from events at the whim of the organizing body, the police or civil authorities.

Vietnam's authorities deliberately manipulate this situation. They seek to pit "right side" (press card-bearing) reporters against "left side" (free) reporters, including bloggers. They don't always succeed. The party's propaganda and security apparatus know better than anyone the power of secrecy. Openness and transparency are their enemy. Yet the controllers of information now face a new danger: card-carrying journalists are leaking suppressed stories to their colleagues in the blogosphere.

On October 30, 2012, Huyen Trang was detained and interrogated at a HCMC police station. When she explained that she was a reporter for the Catholic Church-affiliated Redemptorist News Service, police officers shouted at her "Who recognized you? Where is your press card? You are all a band of reactionary parasites!"

Trang's experience is unexceptional. Free journalists are often harassed or even assaulted by the police or by ruffians. Their denunciations and complaints are ignored because they are not "journalists performing duties" in the eyes of the authorities. Dieu Cay and Ta Phong Tan are serving long prison terms chiefly because they organized a "Club of Free Journalists."

Vietnam does not figure among the deadlier countries to be a journalist. The State doesn't need to kill journalists to control the media because by and large, Vietnam's press card-carrying journalists are not allowed to do work that is worth being killed for. Reporters are rarely independent and investigative; there is nothing close to anti-corruption journalism and therefore the press does not pose a danger to vested interests.

A writer for the dissident blog Anh Ba Sam commented recently that "in this beautiful socialist country of ours, there are only two inner sanctums from which no secrets emerge. One is our prisons; the other is the party's politburo." That's absolutely right.

Every matter that may erode the legitimacy of the regime or threaten the survival of the party is treated as a state secret or as a "special case." Chief among these in recent years is Vietnam's relationship with China.

The press will never find a written explanation of the party's posture vis-a-vis its Chinese counterpart or a document addressing its management of the media in this matter.

The public can perceive at best that this is a highly sensitive matter, proven by the occasional punishments meted out to media that stray over an invisible red line, by the lengths that organizers go to limit reporters' access to international academic conferences on the South China Sea territorial disputes or by stipulations that reportage on anti-China street demonstrations must "expose the plots of reactionaries to exploit patriotic sentiment."

The official media can see the regime's unease more clearly. It's expressed in the countless cautionary telephone calls to editors, publishers and even ordinary reporters when a story is breaking. The media are forbidden to relay this anxiety to the public, no matter how hungry readers are for insights on the deepening crisis with China.

Coverage of South China Sea disputes becomes a forbidden fruit so appealing that some newspapers and journalists feel tempted to cross red lines to harvest it, although they may not have done proper spadework. Sovereignty disputes are an inherently challenging subject, and the press has few reliable experts and reference resources.

There's truth, therefore, in MOFA spokeswoman Nguyen Phuong Nga's complaint that "some of the media appear to consider national sovereignty as a hot topic for building readership and increasing advertising revenues."

Shocking headlines, unverified anecdotes and misleading "facts" crowd out quality reportage. Reporters search out sources with a strong bias against China. The poor quality of mainstream journalism provides the regime plenty of excuses to maintain its grip on the press, especially with regard to the South China Sea crisis.

Defenders of the regime often argue that the answers are perfectly clear to those who really seek to become informed, e.g., if one is sufficiently concerned about the trend of Vietnam's relations with China, one must study harder. Put that way, the regime is under no obligation to be more transparent or informative in its dealings with the public or the national media.

Parties and party systems

In “Politics for the Common People”, the chapter on parties and party systems can be compared to a small introductory book to political parties and party systems. By defining what a political party is and what it typically does, it nullifies the traditional argument by the VCP that “a multiparty system only brings chaos.”

A political party is an organized group whose members have the same ideology or political positions and work together to obtain and maintain political power. Some parties may be too small and weak to pursue the purpose of obtaining political power; in those cases, they would rather aim at gaining a foothold in the political arena.

This means when a political party states that they don’t aim to challenge the ruling power of the VCP, it is likely that they are telling lies. Likewise, when the VCP writes in the Constitution that they are “the leading force of the State and society,”⁴ it only means that the VCP has placed themselves in the position of a permanent and sole political leader; other parties, if any, shall not be allowed to share that monopoly of power.

What does a typical party do? Or what are the functions of a political party? They are, to name some,

- raising public awareness, reducing apathy and encouraging political participation;
- recruitment of politicians;
- making public policy;
- evaluating and criticizing public policy.

Viewed in that light, this nullifies the traditional argument by the VCP that “a multiparty system only brings chaos.” To the contrary, the reality is that most of the economic and political crises in Vietnam in the recent decades came as a result of the single party system. The oppressive VCP, facing no political rival for more than 75 years in the country, is under no pressure to do something better for the people.

The truth is, while a multiparty system may not necessarily make a democracy, a single party system definitely leads to dictatorship.

Election

Election is one of the four elements that underpin a democracy, as pointed out in a previous chapter on “the four pillars of a liberal democracy.” A free and fair election is the most crucial indicator of a democratization process. Furthermore, while dictators like the VCP always seeks to control and manipulate elections, they also use those elections as an instrument to reinforce their legitimacy. In other words, no matter how much dictators hate elections, they will always need them in order to pretend to be democratic.

Are there elections in Vietnam? Yes. But they are not free and fair elections, as the VCP spends considerable efforts controlling and manipulating them.

⁴ Article 4 of the Vietnam Constitution stipulates, “The Communist Party of Vietnam - the Vanguard of the Vietnamese working class, simultaneously the vanguard of laborers and of the Vietnamese nation, the faithful representative of the interests of the working class, laborers and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the leading force of the State and society.”

The electoral process

In Vietnam, an election doesn't just mean someone runs for office and voters are voting for that candidate or not. It is a lengthy process where candidates unfavorable to the VCP are weeded out.

Step 1

The Standing Committee of the NA works with the VFF to “negotiate” the structure of the NA to be elected and the representatives of each office or organization. This step is called “the first round of negotiation” and it is reserved only for candidates “expected to be nominated” by offices and/or organizations.

These offices and organizations should be state/ Party entities, such as public offices, political-social organizations under the VFF, and state-owned corporations. Anyone nominated by the private sector is deemed to be an independent candidate.

Independent candidates are not yet involved in this step.

Step 2

The Standing Committee of the NA decides the number of constituencies (184 for the 2016 election) and the number of deputies to be elected for each constituency, then gives these numbers to concerned offices or organizations and constituencies.

These offices or organizations, upon receiving the information and instructions from the Standing Committee and the VFF, nominate candidates; the list of candidates is submitted to the VFF, which is formally the organizer of the elections.

At the same time those who run for the post as independent candidates, i.e. not being recommended by any state/Party entity, need to register at the local branch of the VFF. These people are currently referred to as “self-nominees” in all official documents pertaining to the elections; the VCP's propagandists seem to avoid the term “independent” or “free”.

Step 3

The VFF holds the “second round of negotiation”, whose main component is the “meeting the constituents” procedure. This procedure appears to be unique to elections in China and Vietnam. It involves vetting meetings where constituents are asked to give their direct assessments on the candidates in their residencies and organizations, and to confirm whether the candidates are eligible to run for the NA and/or the People's Council.

In reality, these “negotiations” become public forums where the candidates, especially the independent ones, are subjected to fierce criticism by voters gathered by local governments. Most importantly, they are often rejected for such simple reasons as “they do not regularly attend Party-held meetings in the residency,” or “they do not say hi when they see us pass by,” etc.

The vetting meetings thereby evoke memories of the land reform in China and Vietnam in the mid-20th century, where those accused of being “exploitative landlords” would be taken to “people's courts” for violent public denunciation before being executed.

The evidence shows that the VFF and the local organizers of these “negotiations” often employ people from other areas nearby to the event and have them join the local people in disparaging candidates not favored by the VCP.

The candidates' supporters, if any, are usually not permitted to attend an event organized by local authorities and the VFF.

Step 4

In this “third round of negotiation”, the VFF reviews the list of candidates and rejects those they consider to be unqualified. These meetings are conducted secretly by the VFF and other VCP officials, without the candidates’ presence.

The final list of official candidates, or those chosen to be named in the official ballot on the polling day as candidates for the NA and the People’s Council, shall only be released after these three rounds of negotiations.

Step 5

After the final list of official candidates is approved by the VFF and concerned state bodies, until the polling day the VFF shall organize “conventions with constituents” for the candidates to meet constituents and launch their “election campaign” which is now legally accepted. The state-owned press may also be present at these conventions and conduct interviews with the candidates.

Once the final list of official candidates is approved, however, these conventions are mostly symbolic procedures. Candidates are asked to present their agenda to an audience who are carefully selected by the authorities and unlikely to give any opinion against the candidates.

* * *

Analysis on the legal and political groundwork for elections

1. No meaningful choices

Elections in Vietnam work on the basis of the VCP’s slogan, “the Party nominating, the people electing”. The problem is that there is only one political party in the country, the VCP, and the elections provide no real choice for voters. Citizens are not permitted to form parties or put forth candidates.

Possibly this is the root of all rights violations during the electoral process.

2. No recognition of independent candidates

None of the existing laws refer to independent candidates, not to mention recognizing or encouraging them. Pursuant to Article 27 of the Constitution and Article 2 of the Election Law, any Vietnamese citizen over 21 years old has the right to run for the NA and/or the People’s Council. However, laws pertaining to elections in Vietnam only focus on the candidates who are nominated by the VCP’s political organizations, socio-political organizations, the people’s armed forces (i.e. the military and the police), and public offices at state and local levels. In this report, these candidates are referred to as the “Party-nominated candidates.”

Accordingly, the term “independent candidates” may be defined in this book as those who are not recommended by the VCP’s political organizations, socio-political organizations, the people’s armed forces (i.e. the military and the police), and public offices at state and local levels.

Notably, even independent candidates may be categorized into two types:

- 1) Designated independent candidates, or those who are arranged by the VFF and its affiliates to run for the NA and the People’s Council as independent; and

- 2) Purely independent candidates, or those who voluntarily run for the NA and the People's Council without any prior arrangement or recommendation.

Both of them are officially referred to as “self-nominees” by the mainstream press and in all official documents issued by the VCP and the state.

In the 2016 election, prior to the second round of negotiations, there are 162 independent candidates of both types in Vietnam, including 48 in Hanoi and 50 in Ho Chi Minh City. Many of these candidates are put forth by the VCP but given the label “independent.”

3. Samples fail to represent the population



Traditionally the vetting meetings held by the VFF are where prospective candidates have their qualifications evaluated by a small group of constituents who are selected by the VCP proxy and local authorities and, in many cases, are old people with little education, having no idea about the candidates. As a result, they only focus on personal attack rather than giving fair and rational assessments. Sometimes the constituents are even hostile to self-nominees and the vetting meetings bring back bitter memories of the land reform in northern Vietnam in the 1940s and 1950s, where farmers were prompted to criticize landlords as strongly as they could before executing them.

they could before executing them.

In any case, the sample is too small to represent the population and the qualifications of the chosen constituents are highly doubtful.

Worst of all, this procedure has successfully ruled out many independent candidates, including the elite intellectual who gain great public support elsewhere in the country.

4. No recognition of independent enforcement and supervising bodies

None of the existing laws refer to independent law enforcement bodies or a mechanism to independently observe and monitor the electoral process.

Public offices are required by laws and the VCP's guidelines to comply with the Party's policies regarding the elections.

Instruction 51-CT/TW dated January 4, 2016 by the Politburo:

“The National Assembly and its affiliates, the Government and its affiliates, the Central Committee of the Fatherland Front, party organizations at all levels, the National Election Commission, provincial election commissions... shall actively and closely cooperate in leading, guiding and organizing the elections to the 14th National Assembly and the People's Council term 2016-2021 to make sure they will be of great success.”

Signed by VCP General Secretary Nguyen Phu Trong

Human rights violations in the electoral process

The table below provides a normative description of a free and fair election. Does the 2016 election in Vietnam meet the “free and fair” standards? No.

Freedom	
Freedom of movement	Independent candidates are tightly watched by the police.
Freedom of speech and expression	Independent candidates are not allowed to seek support. They must not talk to the public or distribute advocacy/advertisement materials. The media (both mainstream press and independent, non-official media) are obstructed from meeting independent candidates.
Freedom of assembly	Independent candidates and their supporters are not allowed to meet in public places.
Freedom of information	Voters, especially young ones and human rights activists, are not informed of the meetings with constituents, especially those of the independent candidates.
Freedom from any kind of coercion	Voters are pressured, even threatened, by the police and local authorities in some constituencies. Many independent candidates are threatened by plainclothes police, local authorities and government supporters.
Transparency	The media (both mainstream press and independent, non-official media) are not allowed to report on the Party-nominated candidates, especially their assets and property. Independent candidates, on the contrary, are subjected to slanderous accusations and defamation by the government supporters, including the government-hired <i>du luan vien</i> (Vietnamese for “public opinion shapers”).
Fairness	
Fair laws regulating elections	The laws only mention the Party-nominated candidates and give absolute advantages to them as opposed to their unrecognized independent rivals.
Independent and impartial supervising body	There is no such body to observe or monitor the electoral process.
Fair treatment to all candidates	Most independent candidates are treated by the police, military, courts, and public offices at all levels as if they were criminals.
Equal opportunities to run for office	Independent candidates are obstructed right from the registration process which requires them to clearly state whether they are members of any non-communist political organization or any unrecognized religious group.

Equal access to resources	Independent candidates are not allowed to run any election campaign. Independent candidates are not allowed to raise or access to any kind of funding.
Possibility of complaint	There is little possibility for complaints regarding elections to be handled.

Further reading:

A Guide to the National Assembly Election ⁵

February 24, 2016

(Vietnam Right Now)

- *What is the National Assembly?*

The Vietnamese Constitution stipulates that "The National Assembly is the highest representative body of the people and the highest body of state power of the Socialist Republic of Vietnam. The NA exercises constitutional and legislative powers, decides significant national affairs and exercises supreme control over all activities of the State." It is a unicameral body elected to a five-year term and meets twice a year.

- *How many political parties are there in the NA?*

As Vietnam is a single-party state, there is only one ruling party, the VCP. 95% of the NA are communists. The rest are non-communists at the time they are elected, but often they will be recruited at a later date.

- *What is the relationship between the VCP and the NA?*

The political system in Vietnam comprises three components: 1. The VCP; 2. The State; and 3. The Central Committee of the VFF.

The State comprises the NA, the President, the Government, the Supreme Court, the SPPV, and local governments.

So, the NA is part of the state, which is, in principle, equal to the VCP. But, at the same time, the party line is demonstrated in one of their ambiguous slogans, "The Party leads, the State manages, the People are the owners."

- *How are they functioning in practice?*

The VCP system runs the same way as the state hierarchy does. In every public office, there is a party cell which is responsible to the local party cell, be it at the provincial or district level. In the military and the police force, there are party cells operating in compliance with the VCP's charter and instructions and national law.

- *How does the VCP "lead" the country as stated in the slogan?*

The VCP is authorised to lead the state and the civil society sector (or "political-social organisations as they put it) by adopting communist ideology and codifying its lines, resolutions and instructions into national laws. Furthermore, the VCP maintains its authority to recommend its "cadres" for election or appointment into public offices and political-social organisations.

- *What are the People's Councils?*

Under the Constitution, "the People's Council is the local body of state power; it represents the will, aspirations and mastery of the local people; it is elected by the local people and is accountable to them and to the superior state bodies."

"The People's Council shall decide on local issues provided by the law; supervise conformity to the constitution and the laws at local level and the implementation of the resolutions of the People's Council."

⁵ Available at: <http://vietnamrightnow.com/2016/02/a-guide-to-the-national-assembly-election/>

"The People's Committee elected by the People's Council is the latter's executive body, the body of local state administration, and is accountable to the People's Council and superior state bodies."

- *What is the Fatherland Front?*

According to Article 9 of the 2013 Constitution, the Fatherland Front is "a political alliance and a voluntary union of political organisations, socio-political organisations, social organisations and individuals representing their social classes and strata, ethnicities, religions, and overseas Vietnamese."

"The Labour Federation, the Peasant Society, the Ho Chi Minh Communist Youth Union, the Women's Association and the Veteran Society are socio-political organisations that cooperate with others members of the VFF and unify the activities of the VFF."

So the VFF acts like a token "civil society" organisation that unifies other CSOs in the country. It plays a major role in the NA election.

- *How many deputies are there in the NA?*

According to the Law on Organization of the NA, the total number of deputies shall not exceed 500.

- *How long is a term of office?*

Five years, in conformity with the term of each NA. Meetings are convened twice per year, one month for each.

- *How many committees does the NA have?*

The NA has a standing body, an ethnic council, and nine committees: (1) Committee on Laws; (2) Committee on Judicial Affairs; (3) Committee on Economic Affairs; (4) Committee on Financial and Budgetary Affairs; (5) Committee on National Defence and Security; (6) Committee on Culture, Education, Adolescents, and Children; (7) Committee on Social Affairs; (8) Committee on Science, Technology, and Environment; and (9) Committee on Foreign Affairs.

And now, on the election process

- *Officials often refer to the term "to structure" when it comes to NA election. What does it mean?*

It means that the Standing Committee of the NA reserves the right to carefully structure the NA and the People's Councils according to their own plan. The structure must ensure a "balance of interests" among all social groups.

For instance, this forthcoming 14th NA shall include women to be 35 percent of the total deputies. It shall have 15 representatives of the Ministry of National Defence, 3 deputies from the MPS, and 7 from the business sector. The Standing Committee also confirmed in January 2016 that the 14th NA will have 500 deputies chosen from 896 candidates.

Only 25-50 non-communist candidates may stand for the election, according to Nguyen Sinh Hung, the Chairman of the NA, in remarks on January 16, 2016.

- *How can they make sure that the structure will go as planned?*

First, the Standing Committee of the NA will work with the VFF to "negotiate" the structure of the NA to be elected and the representatives of each office or organisation. This step is called "the first round of negotiation."

In the next step, the Standing Committee will decide the number of constituencies and the number of deputies to be elected for each constituency, then inform these numbers to concerned offices or organisations and constituency.

The concerned offices or organizations, upon receiving the information or instruction from the Standing Committee and the VFF, shall nominate candidates; the list of candidates shall be submitted to the VFF, which is formally the organiser of the election.

Those who run for the post as independent candidates need to register at the local branch of the VFF.

Then comes the "second round of negotiation" held by the VFF, where constituents will be asked to give their assessments on the candidates in their constituency and office or organisation.

Very often these "negotiations" become public denunciations, when the candidates, especially independent ones, are fiercely criticised by the voters in public forums. It is believed that the VFF and the organisers of the "negotiations" sometimes employ people from other areas to the event and join the public in disparaging candidates not favoured by the party.

The candidates' supporters, if any, are usually not permitted to attend an event organised by the local authorities and the VFF.

If the candidates pass this round of negotiation, there is still the third round ahead of them. In this "third round of negotiation", the VFF will review the list of candidates and reject those they consider to be "unqualified", and they do this in the candidates' absence.

The final list of official candidates will be released after these three rounds of negotiation.



Dr. Nguyen Quang A, a government critic, ran for the NA 2016 as an independent candidate, and the vetting process was rigged to ensure he would fail. Photo by Hoang Dinh Nam/ AFP.

- Are the candidates required to present their legislative agenda?

Not all of them. Only "qualified" candidates. Those who are chosen and pass all three rounds of negotiation may have a chance to present their agenda in the meetings with constituents arranged for them by the VFF. However, once they pass the three rounds with the hidden support from the VFF, they will have a greater chance to be elected as NA deputies. So the "meetings with constituents" are more like a formal and symbolic procedure. The state-owned press will also be on the side of those "arranged" candidates.

Finally the election day will come, and very often the turnout will be extremely high in every constituency of the country.

Political organizations and interest groups

This chapter provides definitions and classifications of political organizations and interest groups, also called pressure groups. It also seeks to distinguish an interest group from a political party, stressing that all of these concepts are not negative as the majority of Vietnamese people may possibly think.

An interest or pressure group, for example, is actually a channel of communication between the government and the people, which to some extent may enhance democracy.

Interest groups may be categorized into private and public ones. Examples of private interest groups include trade unions who protect the interests of their members so long as those unions are independent. On the other hand, HRW and WWF can be counted as examples of public interest groups whose mission is to promote common interests.

Regarding public interest groups, there are NGOs and INGOs. HRW, for instance, is a large INGO that many prisoners of conscience and their families may find sympathetic and supportive but is considered by the VCP as its “state enemy”.

“The Vietnamese government think of HRW as an anti-communist organization,” Phil Robertson, deputy director of HRW’s Asia division, told the author in a 2013 interview. “Perhaps they do not know that HRW does not pay attention to any specific regime and the ideology it pursues. We only care about human rights. No matter if a government is communist or not, if they violate human rights, we will protest their violations.”

“Maybe the Vietnamese government has not heard about this, but in our history, HRW has criticized the US government, too,” he added.

Apart from that, HRW has raised their voice against giant corporations that shook hand with tyrannical states, such as Yahoo!. The INGO publishes annual reports on human rights violations in world countries as part of their job, such as *No Country for Human Rights Activists* (2017), a report on government-endorsed assaults on bloggers and democracy campaigners in Vietnam.

* * *

Civil society

Civil society: an overview ⁶

In the years after reunification in 1975, Vietnam did not recognize civil society as a sphere independent from the party state. The state conducted people’s mobilization through large “mass organizations” that remain connected to the state from the central to the village levels. The Doi Moi (renovation) of 1986 was a turning point in Vietnam and marked a new period of relative openness, including to civil society. During the 1990s, a substantial number of international nongovernment organizations (NGOs) began operations in the country, alongside increased foreign investment. Vietnamese local NGOs have also existed since 1990, although organizations that fit an NGO profile are only a small part of civil society in Vietnam.

CIVICUS ⁷ describes civil society in Vietnam today as very broad-based—many people

⁶ Asian Development Bank, *Civil Society Briefs: Vietnam*, September 2011

⁷ CIVICUS is the World Alliance for Citizen Participation, an international network of members and partners, which aims to support civil society and its development.

are members of one or more civil society organization (CSO), and numerous CSOs of varying levels of independence are active in the country⁸. However, this high level of participation is offset, in the CIVICUS study, by a lack of civil society independence and potentially limited impact.

Not all organizations are deeply anchored in civil society; for example, some members of Vietnam's mass movements automatically become members through their public sector employment.

There are few advocacy NGOs, although some informal groups exist, and some large NGOs have begun to play an advocacy-like role by commenting on certain laws in advance of Parliamentary ratification (although it is arguable whether this role will be allowed to continue).

CIVICUS identifies four general types of CSOs in Vietnam:

- community-based organizations (CBOs)
- mass organizations
- professional associations
- Vietnamese NGOs

Underground civil society

This section casts light into an unwritten and unofficial line of history in contemporary Vietnam: the history of the unregistered, even outlawed, civil society.

Typically, those are organizations working for change. No matter what changes they are seeking, say, an improvement in working condition for laborers or the abolishment of death penalty, the government simply think of them as “groups that attempt to make a political change”, even “to overthrow the administration”, or “anti-state” for short. Southeast Asia has never been known as a good land for freedom, and for Vietnam, things are even worse. Unlike other regional countries, there is hardly any free space for civil society in Vietnam, especially if those civil society organizations are labeled as “anti-state” ones.

Larry Diamonds in one of his essays writes that civil society is “the realm of organized social life that is open, voluntary, self-generating, at least partially self-supporting, autonomous from the state, and bound by a legal order or set of shared rules”, and “an intermediary phenomenon, standing between the private sphere and the state”⁹.

Civil society, as defined by Larry Diamonds, must have existed for thousands of years in Vietnam. It dated as far back as ancient times in the form of family clans and autonomous villages, or simply autonomous communities gathering around a temple or pagoda that linked them together spiritually and mentally. However, since the VCP emerged in Vietnam's political arena, they have intentionally adopted the policy of destroying civil society. Perhaps the first effort of this was the notorious land reform of the 1950s when people were forced to denunciate parents, siblings and spouses in public sites; thousands of people were convicted by “people's courts” and executed immediately.

The bitter result of intentional efforts to destroy civil society was that it was almost eradicated in Vietnam as the term “civil society” sounds strange to generations. Since the early

⁸ CIVICUS, *The Emerging Civil Society: An Initial Assessment of Civil Society in Vietnam*, 2006

⁹ Larry Diamonds, *Civil Society and the Development of Democracy*, Estudio/Working Paper 1997/101, June 1997

1990s, following the “Doi Moi” reform and under the influence of the wave of democratization in Central and Eastern Europe, civil society began to revive. Pioneers paid high prices, such as Club of Former Resistance Fighters ¹⁰ and Bloc 8406 ¹¹ were all heavily suppressed.



No U football club on a charity trip.

In 2011, anti-China protests broke out massively in Hanoi and Saigon, connecting people and leading to the establishment of dozens of spontaneous groups. While registered CSOs specialize in development work, these groups are dedicated to promoting democracy and human rights, so they are outlawed quickly. In Vietnam nowadays, the term “civil society” is attached to democracy and human rights, all of which are politically sensitive terms. Unregistered CSOs are considered as hostile, anti-state forces. An editorial ¹² published in the “Commentaries & Criticism” column of the Nhan Dan (People’s Daily), the VCP’s official newspaper, on August 31, 2012 wrote,

“Notably, some opportunists with their extreme anti-state mind have taken advantage of lawful CSOs to organize workshops, seminars and forums in which they demanded bringing back the 1946 Constitution, holding referendum on Article 4 of the Constitution, conducting judicial review, promoting civil society and exercising democratic freedoms based on Western standards, even advocating private ownership of land. If we realize the demands of these subjects as they plot, the socialism regime will no longer exist in Vietnam. This is a very dangerous warfare. If we fail to keep ourselves vigilant, it will help hostile forces to take

¹⁰ Club of Former Resistance Fighters (Vietnamese: Cau lac bo Khang chien Cu) was established in May 1986 as a registered CSO of communist veterans. Its members included the then-famous retired government officials and military generals, such as Nguyen Ho, Tran Bach Dang, and Tran Do. Originally critics and revisionists of the communist ideology, later they were criticized and labelled by the VCP as “traitors”, and the Club was crushed amidst the “Third Wave of Democracy” in Central and Eastern Europe.

¹¹ Bloc 8406 (Vietnamese: Khoi 8406) is named after the date of the group’s Manifesto on Freedom and Democracy for Vietnam, April 8, 2006. The manifesto, declaring the need for democratic reforms in Vietnam, was signed by 118 dissidents. Less than one year later, most of the bloc’s active members were imprisoned, including priest Nguyen Van Ly, lawyers Nguyen Van Dai and Le Thi Cong Nhan.

¹² Duong Van Cu, *Civil Society – A Plot to Adopt Peaceful Evolution* (Vietnamese: Xã hội dân sự - một thủ đoạn của diễn biến hòa bình). Usually editorials in Nhan Dan are meant to represent the VCP’s official position.

advantage of lawful CSOs to petition for political change, replacing our socialism law with bourgeois capitalism law.”

Quan Doi Nhan Dan (People’s Army), the mouthpiece of the communist army, even maintains a weekly column, “In Prevention of Peaceful Evolution,” which is regarded as a kind of weapon in the communication war against the “hostile forces” that the VCP trumps up, including human rights activists and CSOs.

There will be a very long way to go before CSOs working for change are fully recognized and treated with due respect by the ruling VCP.

Further reading:

Cyber Civil Society... But It Is Real

Despite the daunting control by the ruling communist party, civil society has been burgeoning and broadening its influence in Vietnam, with the Internet as its starting point.

October 21, 2011 may have been a black Friday for Tran Gia Thai, the director of the state-owned Hanoi Television. Being a member of the ruling Communist Party of Vietnam and a journalist with years of experience of working under its leadership, he had never faced such a strange thing: a group of ten to twenty people gathering in front of the gate, chanting "justice and truth", "objection to the Hanoi Television", "journalists, respect the truth", etc. Those people were launching a small protest against the station for having broadcast "slandorous information about patriotic protestors." Apart from this common purpose, they shared another characteristic, that is, all of them were either facebookers or bloggers, or both. At the same time, a "live coverage" of their demonstration was being shared rapidly on social media networks and on "Sidewalk News Agency", one of the leading political blogs in Vietnam.

Two months before, in its evening news program of August 21, Hanoi Television – an official mouthpiece of the local party apparatus in Hanoi – broadcast a report labelling all anti-China protestors in Hanoi as fomenters and hostile forces trying to sabotage national solidarity and disrupt social order "under the guise of patriotism".

Just that morning, a protest by Hanoi bloggers was quickly suppressed with 47 people arrested, some of them accused of "disrupting public order". This was the last one in their series of anti-China protests in the summer of 2011, which suffered from brutal suppression. Participants were arrested by the busloads, some carried like pigs. Blogger Nguyen Chi Duc was pushed down and stamped on the face by a young policeman. Although an anonymous video of this dramatic scene went viral on Facebook, the police simply alleged it to be a fake.

In Ho Chi Minh City, protests were stamped out with much more violence and ended after three Sundays. Photos circulated on Internet showing plainclothes policemen punching and knocking down young protestors on main streets.

Apart from the police, state-owned media had also been mobilized thoroughly in "propagating the mass" against these protests. Mass media was used actively to alienate the protestors from the public, equating comments critical of the government with "defaming the state", and discrediting whoever appeared influential to the public but not yet arrested.

With such machinery of media, the VCP may have rested assured that things were well under its control: People keep being brainwashed, and if a minority of people want to speak out their different opinions, they simply cannot find any way to do so. Also, there is no way for people to get connected: no communication, no right to assembly. No way.

But the light at the end of the tunnel came with the advent of Internet media.

Dawn of the blogs

Internet was introduced in Vietnam in November 1997. Initially it was a luxury: Only wealthy people could afford the high rates charged for access and usage. However, the rates were brought down over time and Vietnam is currently among the countries with highest Internet growth rates.

Apart from using the Internet for chatting and playing games, the Vietnamese prove to be particularly interested in social networks. On June 24, 2005, Yahoo! 360° was in the US. It quickly became a phenomenon later on in Vietnam, a country where the people have for years just read, watched and listened to what the government allows them. Now with Yahoo! 360° blogs, people

can write what they think, first for themselves and then for those they want to share the contents with. They don't need to rely absolutely on the state-owned media any more.

Soon afterwards Vietnam witnessed a new wave in mass media realm: 2006-2008 was Yahoo! 360's boom years in Vietnam. Vietnamese net users wrote notes, posted photographs, shared files and links to sources outside the government's realm. A whole new world opened to them with a lot of "first-time" wonders: for the first time in Vietnamese history, people can self-publish; a generation of "net-writers" formed as fiction authors wrote chick-lit and posted to blogs; and, most importantly, people could connect with each other in ways that were totally out of state control.

There were some prominent net-writers, such as Tran Thu Trang, Trang Ha, and Ha Kin. It was understandable that most famous net-writers were women in their twenties and they stayed away from politics: after all, politics remained risky in communist Vietnam. After years of propaganda, the mass media and the education system have succeeded in making people, especially young ones, think of politics as either a bad and dangerous thing or the business of "the Party and the state" only.

While politics is forbidden, chick-lit is a good option. Short stories and novels on popular topics such as urban life, love, and sex were produced and posted to blogs in series like some kind of soap opera, but on the Internet instead of television. Some bloggers tried to increase page views by publishing titillating entries and photos as well as contents related to celebrities. Co Gai Do Long (The Dragon-Killing Lady) and Only You were two such bloggers.

There were also a few political bloggers, or to be exact, politics-oriented bloggers. But they were so few in number that could be counted on the fingers of one hand, and none of them were famous yet: Vang Anh (meaning "Oriole", mainly known for sex-related entries and thrillers, interspersed with political commentaries), Nguoi Buon Gio¹³ (meaning "the Wind Trader"), and the Sidewalk News Agency of Ba Sam¹⁴ (meaning "The Gossiper", also Anh Ba Sam, "Brother Gossiping"). Gio and Sam would later become very famous names in the community of Vietnamese bloggers.¹⁵

Proletarians, you can't unite!

The ability to get connected and to communicate is the most important criterion for people to form groups as the platform of civil society. The VCP must be well aware of this fact, so it controls the press strictly as discussed above. In addition, it keeps a close eye on the ability of people to build real-life networks. Using the law as a powerful tool, the ruling party prevents organizations from being formed and operated without state intervention. Article 79 of the Penal Code¹⁶, for example, imposes even life imprisonment and the death penalty on those who "carry out activities, establish or join organizations with intent to overthrow the people's administration." With this the VCP deters the establishment of any potential political party.

¹³ Nguoi Buon Gio (b. 1972, real name Bui Thanh Hieu) is a dissident writer in Vietnam. He started blogging in 2005 and emerged as a writer of the common people, a "Vietnamese Maxim Gorky". He has been living in exile in Germany since 2013. Nguoi Buon Gio is best known for his series of "Dai Ve chi di" (The Weird Tales of the Great Ve), which is a parody of ancient Chinese novels, exposing the VCP's subservient attitude toward China, and "Trinh Xuan Thanh the scapegoat" about the runaway communist official Trinh Xuan Thanh, who was abducted from Germany in 2017 by the Vietnamese security forces.

¹⁴ Ba Sam (b. 1956, real name Nguyen Huu Vinh) is a famous blogger and independent journalist in Vietnam. He founded his "Sidewalk News Agency" blog on September 9, 2007. The blog won a large readership as one of the first independent media agencies in Vietnam. Ba Sam was arrested on May 5, 2014 and was sentenced to five years in prison for allegedly "abusing democratic freedoms to infringe upon the State's interests."

¹⁶ In the amended Penal Code of Vietnam, valid from July 1, 2016, Article 79 is renumbered as 109 with an additional provision that "any person preparing to commit this crime shall be sentenced to between one and five years of imprisonment."

Article 258 goes further in the vague legal language, saying “Those who abuse the rights to freedom of speech, freedom of press... assembly, association... to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens” shall all be sentenced. This vague and confusing provision paved the way for arbitrary arrests and sentences imposed on journalists and bloggers.

On May 12, 2008, the circle of Vietnamese journalists and Yahoo! 360° community were shocked by the arrest of two investigative journalists, Nguyen Van Hai (not to be confused with blogger Nguyen Van Hai, a.k.a. Dieu Cay) and Nguyen Viet Chien, who had reported on a major multi-million-dollar corruption case. Both were charged under Article 258. The arrest and the subsequent sentence against Hai and Chien dealt a harsh blow on anti-corruption media and news coverage on this “sensitive” topic has been plummeting since.

Co Gai Do Long, one of the most popular bloggers in Vietnam since the time of Yahoo! 360°, was arrested on October 26, 2010, for having posted an entry “defaming” a public security officer, General Nguyen Khanh Toan, and, again, she was charged under Article 258. The problem was, as many bloggers pointed out, it was hard to distinguish between fighting corruption and infringing “upon the interests of the State.”

The government also used Decree 38 (2005) on public order to stamp out demonstrations, and Article 88¹⁷ of the Penal Code on propagating against the state to imprison dissidents. In the past two years, dozens of demonstrators were taken to rehabilitation camp and accused of violating Decree 38. In 2012 alone, 52 people were either detained or charged under Article 88.

Well, we unite online then!

When the communist lawmakers issued legislation to restrict democratic rights, they did not think of a forthcoming powerful “enemy”: Internet. Its power began to be noticed by the government at the end of 2007.

The Sunday morning of December 9, 2007 marked a noticeable event: protests by bloggers broke out in Hanoi and HCMC in opposition of China’s ratification of a plan setting up “Sansha City” to administer the Spratly and Paracel islands. Those were the first demonstrations in Vietnam since 1975. What should be newsworthy was that the protests originated from calls for demonstrations spread via Yahoo! 360°. The traditional media, as usual, stayed silent. But Internet media, on the other hand, was excited. People kept sending photos and blog entries covering the first-ever demonstrations. Dieu Cay was among the most active participants. Even apolitical bloggers must have heard that there were anti-China demonstrations “somewhere”.

The government, however, saw the event from another angle. The subsequent protests on the two following Sundays were soon cracked down upon. Four months later, on April 19, 2008, Dieu Cay was arrested, then sentenced to 2 years and 6 months in prison for “tax evasion”. He would later be given another sentence of 12 more years for “propagating against the state” under Article 88.

However, despite the arrest of Dieu Cay, the authorities failed to break the network of independent journalists or “citizen journalists” he had built, the “Free Journalists’ Club.” They did not think that even a blogger – a non-professional writer and photographer like Dieu Cay – could have his audience, even “fans”.

A campaign of suppression upon protesters and other members of FJC began with Dieu Cay’s arrest. Many young people were made jobless, even homeless if they were not residents in Hanoi and HCMC. Two other founders of FJC, Phan Thanh Hai (a.k.a. Anh Ba Saigon) and Ta

¹⁷ In the amended Penal Code of Vietnam, which comes into effect as of January 1, 2018, Article 88 is renumbered as 117. The new provision is tougher as it stipulates that “any person who makes preparation for the commitment of this criminal offence shall face a penalty of 01 - 05 years’ imprisonment.” This means that one can be imprisoned up to five years just for preparing to criticize the state.

Phong Tan, were successively detained in 2010 and 2011. Together with Dieu Cay, they would be given harsh sentence of 4 and 10 years in prison at a notorious trial on December 28, 2012.

However, persecution seemed not to create the fear that the government had hoped for, especially when the persecuted bloggers began to report on blogs what happened to them. This was a big change. In the past, there used to be campaigns against political dissidents or those deemed to be defectors, such as the “Nhan Van - Giai Pham” (Humanities & Masterpieces) of the 1950s and the “anti-revisionist” of 1960s. Suppression, though brutal and inhuman, went almost unnoticed because everyone kept silent. Now things were different: Bloggers were always ready to write about interrogations, pressures and the many forms of persecution they faced, in doing so they revealed some truth about the authorities. It turned out that government officials, police, and other representatives of the state were not infallible or superior to the people. Even the technique of interrogation was incredibly bad sometimes, as facebooker Goc Say (The Reed) once reported on his page such an interrogation:

Policeman: *Why do you go protesting? Defending national sovereignty is none of your business. The Party and the Government are in charge.*

Protestor: *Let the government do what it is in charge of. I am just an individual, a citizen having no space to voice my opinion, so I go protesting.*

Policeman: *By doing so, you just worsen the situation. You let those bad people, those reactionaries and hostile forces take advantage of you.*

Protestor: *That's your opinion. But it is nothing like "hostile forces taking advantage of demonstrators." We are mature citizens, we are educated, and never let anyone use us for their purpose..."*

On July 13, 2009, Yahoo! 360° closed down. Initially this close-down looked like a big loss to political bloggers in Vietnam, when their community split up. Some automatically moved to Yahoo! 360° Plus, which is managed from Yahoo!'s office in Vietnam. Others chose WordPress, Blogger, Multiply, Weblog, etc. However, they would soon gather again, this time in a new, powerful and influential forum: Facebook. Statistics updated in March 2013 showed that Vietnam is among the leading countries in Facebook growth rate, with 11 million accounts. Such must be a frightening battlefield for the VCP.

Some political bloggers emerged. Anh Ba Sam's blog became a hot “meeting point” for those who pay attention to politics. Anh Ba Sam is the nickname of a blogger, who named his blog “Thong Tan Xa Via He” (Sidewalk News Agency), mocking Vietnam News Agency. (Sidewalk news is Vietnamese slang for “gossip” or “canards” that people tell each other when they are passing their time at sidewalk cafes). What the editors have been doing so far is to publish a daily news summary about Vietnam, whether by Vietnamese mainstream media or by blogger (citizen journalists) or by international media agencies. For each item, the editors post its link and add their personal comments to it, often in a humorous and satirical style. The job seems too simple to attract such a huge audience – over 100,000 readers per day, the desirable readership for any state-owned printed newspaper. But for sure it is not at all simple. Anh Ba Sam's blog has satisfied an audience tired of lifeless and overly serious propaganda who are thirsty for alternative media. The Sidewalk News Agency appeared to be more appealing than any other mainstream media agency: It provides a good variety of news in domestic and international politics, business, education, science and technology, with an unprecedented idiosyncrasy – a mixture of straightforward, humorous southern Vietnamese language and critical analyses of the sober northern Vietnamese mind.

Beside Anh Ba Sam, there are some other famous blogs such as Nguoi Buon Gio, Que Choa, Xuan Dien, and Truong Duy Nhat ¹⁸ (just detained on May 26, 2013 under Article 258 of the

¹⁸ Truong Duy Nhat (b. 1964) was sentenced to two years in prison from 2013 to 2015 under Article 258 (now 331) of the Penal Code. In January 2019, he escaped to Thailand seeking political asylum and was allegedly

Penal Code). The number of political blogs has been growing at an unexpected pace in the years since 2011, and now it amounts to around 30 – such an unimaginable figure four or five years ago.



*An anti-China protest rally in Hanoi, July 24, 2011.
Activist Bui Thi Minh Hang can be seen on the first row holding the megaphone.
Human rights lawyer Le Quoc Quan was behind her on the second row.
Both would be arrested and become POCs in the following years.*

Unlike officially sanctioned or Party-owned media, these alternative media are highly interactive: Indeed, they are online forums where people give free comments, and authors can discuss, even quarrel with audience about topics of concern. This important feature of “citizens’ newspapers” made them ideal rallying points for people, whether domestic or overseas, anonymous or identified, to assemble online. Some people even grew famous because of their comments, not for their works. Dan Lam Bao (People Do Journalism), one of the most vocal dissident blogs, even called itself a “hamlet”. Herein lay a new form of civil society: the civil society on the net.

Online relationships may go offline. Some people would soon meet in real life to become small groups, for sure without registration or state recognition. They did a lot of practical things: they helped the families of imprisoned bloggers like Dieu Cay, Ta Phong Tan and Anh Ba Saigon; they went to the trials of new political dissidents such as legal activist Cu Huy Ha Vu; they shared and even printed self-published books on the taboo realm of politics. And, perhaps most importantly, they made up the platform for forthcoming demonstrations.

State-owned vs. Citizens’ journalism

China seems to play a particularly important role in Vietnam’s politics. Apart from the allegation that the Chinese Communist Party kept unjustifiably interfering into its counterpart’s domestic concerns, the fact is that “objections to aggressive China” has always been taken by Vietnamese bloggers as a good reason for protests, especially in light of the sea dispute between Vietnam and China.

On May 26, 2011, Chinese maritime surveillance vessels cut seismic exploration cables of PetroVietnam’s Binh Minh 2 vessel in Vietnam’s exclusive economic zone. A burst of anger spread

kidnapped by Vietnamese secret agents and went into missing until March when the MPS confirmed that he was jailed in a Hanoi prison camp.

on the blogosphere and Facebook. The Nhat Ky Yeu Nuoc (Diary of Patriotism, a Facebook page created in April 2010) called for protests against China, and the result was, on June 5, protests broke out in both Hanoi and HCMC. Together with Nhat Ky Yeu Nuoc's Facebook page, Xuan Dien and Anh Ba Sam emerged as prominent rallying points for protestors. They published notices of demonstration, even calling on the police to "make way for citizens to exercise freedom of expression."

Such calls were unacceptable to the government in a country where demonstration had been a taboo since 1975 when the war ended and the VCP took power. This could be explained by what a public security officer told the author in an interrogation in July 2012, "We can never let a small flame grow into a fire. We must extinguish it as soon as we can." On one hand, the authorities reacted immediately by sending the police in, employing violence to crack down on protests. On the other hand, suppression campaigns grew on the Internet. A simple technique was to launch site attacks. Anh Ba Sam, Que Choa, Goc Say, and other influential blogs were regularly hacked, data removed and replaced by information insulting the victims. Every site attack was considered by the blogger community to be a disaster, but the good news was that the blog was usually restored quite soon. Arguably all site attacks were attributed to Vietnamese Internet police, sometimes even to Chinese hackers.

The classical way of Internet control – site blockade – was also widely used. Since 2009, Facebook, Blogspot, Multiply, etc. experienced blockades now and then. The police also did not give up persecuting bloggers. Numerous bloggers have been summoned, interrogated, detained, and assaulted by the police in the last five years. Xuan Dien was fined by the Hanoi's Department of Information and Communication for his publishing "bad contents" on his blog.

In addition, the state-owned media has been mobilized thoroughly in "propagating the mass" against demonstrations which are now labeled "anti-state acts". The mass media machinery played an active role in alienating the protestors from the public, equating comments critical of the government with "defaming the state", and discrediting bloggers who appeared influential to the public but not yet arrested. Protestors reacted by writing more, shooting more film and sharing more on Facebook, YouTube, and blogs. Some held a small demonstration just in front of Hanoi Television in objection to "calumnious reports on patriotic protestors." The demonstration did not gain much: Tran Gia Thai and the television as a mouthpiece of Hanoi's Party Cell would never apologize to "reactionaries". But at least it was the first time the state-owned television saw the wrath of victimized audience.

The communication battle turned fierce when the authorities started to use "bloggers against bloggers". Head of the Hanoi Party Committee's Propaganda Department, Ho Quang Loi, in a meeting to review the press' activities in 2012, said the Department had set up a force of 900 "rumormongers" (i.e. public opinion shapers) in Hanoi alone "to fully exploit the power of propagandists." The Propaganda Department, Loi added, also succeeded in building "teams of professionals" to directly participate in pen wars on the Internet against dissidents; until then they had set up 19 news sites and 400 net accounts. These hired commentators are really savage cyber troops. Anonymous, faceless, and perhaps ill-educated, they act like Internet guards, browsing political blogs and bombing them with whatever fallacious and crude language they can think of.

But it seemed too late for the authorities to deter people from grouping online and speaking out about their opinions. Facebook, with the utility of allowing users to hold secret groups, became the first choice of platform. It seems the more strictly Facebook is blocked, the more strongly facebookers aspire to log in, and the more Internet-savvy they turn. No firewall can impede them. And what must come around, came around. In August 2011, when the crackdown on protestors reached its peak in Hanoi with an official warning from the People's Committee to disperse all kinds of assembly, the first secret groups of "patriotic protestors" were created ¹⁹. It was understandable that they never registered and would never be licensed. For the first time in

¹⁹ This secret group, named "100 Young Patriots Taking to the Street Every Sunday" and set up on Facebook on August 10, 2011, was the forerunner of No U football club, which was to be established on October 30, 2011.

the history of democracy process in Vietnam, dissidents could connect in organized, though underground, groups.



Within a few months since August 2011, underground groups developed into a large network of activists all over Vietnam's Internet. No one really knows or can tell how many groups there are in Vietnam at this moment – it is what the police are really hunger to grasp. Now the government and their police are fully aware that demonstrations are not "spontaneous" any more.

Most significantly, those online groups have gradually extended their concern from the China-Vietnam territorial dispute to other issues in present Vietnam, for example, the struggles of farmers for land rights. From protestors inspired by nationalism, they became democracy and human rights activists. Actually, those groups are far from opposition parties under the current circumstance, but at least people concerned about socio-political issues are able to form themselves in groups, in which they share experience and skills in confronting the police, report cases of human right abuses, do charity and launch various social projects together. No U FC, for example, is a football team whose members meet every Sunday ostensibly for football matches, but whose real aim is to "propagate against China's ox-tongue line" (or the nine-dotted line, the U-shape line, which is used by China as the extent of its territorial claims). Established in October 2011, it soon became the target of police surveillance and harassment. But that did not stop it from broadening membership and social activities such as charity work, helping disadvantaged children and holding seminars on South China Sea disputes – activities on which the state had maintained a monopoly for decades.

Conclusion

For years the VCP has succeeded in portraying Vietnam to the world as a small beautiful country with impressive economic growth rates, a dynamic government and hospitable people. There is a widely held belief that China and Vietnam can be two prominent examples of how a country can make economic progress even without political reform, or, in other words, development does not necessarily require democracy.

But looking into the undercurrent struggle of bloggers against repressive rulers can bring a totally different insight. The fact is that under the surface of (by now very weak) economic development lies authoritarian policies, a corrupt and repressive government which shuts up voices of dissent and constrains freedom rights. Definitely what this government hates most is accountability and transparency. Consequently, the Internet, with its power to bring everything to light, soon becomes "enemy of the state." This is especially true when social media sees its boom in Vietnam. When obsolete mainstream media fails to win the heart of the audience and the public sphere is lost to bloggers, the authorities resort to force.

But, once the people know the taste of freedom, they will not give it up. Democracy and freedom always tend to broaden. In Vietnamese there is a metaphor of "the ceiling": Once the ruler imposes a ceiling upon the people, everyone must stay below it; but if some people manage to push the ceiling upward to broaden the limited space, the whole community will benefit and they will want more. Thereby the ceiling will soon be pushed upward more and people will enjoy more space to get more addicted to freedom.

Things are the same with freedom of expression in Vietnam in the Internet era.

It is hard to say that civil society organizations have been operating effectively and contributing to the country's democratization. Nor can it be said that with the support of Internet, democracy is gaining speed and there will soon be an "Arab spring" in Vietnam. However, all the groups that have been created on the Internet, though poorly organized, politically inexperienced and far from being opposition parties, are the forerunners of civil society in real life, which at least can familiarize the masses with ideas of a freer space with less state control. Ideally, these online civil society organizations will be the sources of non-communist candidates for public offices in future democratic elections.

Social movements

Social movement is a form of collective action that focuses on addressing a public problem, thus changing the society. As a collective action, a social movement is organized rather than spontaneous. But it totally differs from a CSO in the sense that it does not have a hierarchical structure or disciplines, and, unlike a political party, a social movement does not seek power.

However, a social movement may finally give birth to a political party. For instance, there is a possibility that an environmental protecting movement may someday turn into a green party.

Jonathan Christiansen in his essay, “Four Stages of Social Movements”, wrote that “one of the earliest scholars to study social movement processes was Herbert Blumer, who identified four stages of social movements’ lifecycles. The four stages he described were: ‘social ferment,’ ‘popular excitement,’ ‘formalization,’ and ‘institutionalization’ (De la Porta & Diani 2006, p.150).”

Since Blumer’s work, scholars have refined and renamed these stages but the underlying themes remained relatively constant, according to Christiansen. Today, the four stages of social movements are: Emergence, Coalescence, Bureaucratization, and Decline.

In Vietnam, because the right to peaceful assembly is restricted, collective actions in the form of social movements are unusual and gain little success in the policy process. There have been several social movements that caught public attention in the beginning, but finally declined through repression or co-optation. In early 2015, as the Hanoi authorities launched a big project of massively chopping urban trees, two social movements emerged, the “For A Green Hanoi” and the “6700 Green Trees.” The “For A Green Hanoi”, renamed as “Green Trees” a few months later, suffers from tough suppression and keeps struggling not to end through repression, while the “6700 Green Trees”, apparently less confrontational, seems to have declined through co-optation.

Further reading:

Timeline of the Tree-felling Project and Tree-protecting Campaign in Hanoi ²⁰

June 17, 2015

(Vietnam Right Now) The government's tree-felling project may have started in 2013 when the Hanoi Department of Construction came up with the plan of "overhauling and replacing urban trees in Hanoi during the period 2014-2015." Or it may have started earlier in 2010 with a government decree, called Decree 64.

May 14, 2010

The Hanoi People's Committee issues Decision 19/2010/QĐ-UBND enacting the "Regulation on managing the green urban trees, public parks, gardens, and zoos in the city of Hanoi" whose Article 3, point 2, stipulates that "the selection of trees... shall not damage or adversely impact the infrastructure beneath, on or over the ground, and shall be based upon the list of trees eligible to be grown in urban areas."

The Regulation also includes Article 14 on "trimming, cutting and replacing green trees," Article 17 on banned activities, including "wrongful or unpermitted trimming, cutting and replacing green trees" (point 2) and "growing trees in nonconformity with urban planning or trees that are not in the permitted categories" (point 8).

June 11, 2010

The government issues Decree 64/2010/ND-CP "on the management of urban trees." Article 14 of the Decree states that tree felling must be licensed in cases of: trees on the list of conservation; shade trees on the street; shade trees; tree for preservation; trees that are marked in public parks, gardens, public sites and areas under construction; shade trees of at least 10-meter height; trees conserved in the campuses of organizations and individuals.

Article 14 also provides that it is only in the following cases that tree felling is exempt from license: trees that need felling immediately in case of emergency due to natural disasters; decayed trees. A tree, prior to being chopped down, must be inspected and the status quo must be documented with its snapshot taken.

November 1, 2013

The Hanoi Department of Construction submits to the Hanoi People's Committee with Proposal No. 8542/TTr-SXD, asking for the approval of the scheme of "overhauling and replacing urban trees in Hanoi during the period 2014-2015". The scheme will later be referred to by bloggers as "Project 6700 green trees" for short.

Under the scheme, the process of "overhauling and replacing urban trees" will take place over two years in the following locations:

- 2014: 46 streets in Ba Dinh district, 60 streets in Hoan Kiem district, 25 streets in Hai Ba Trung district, 16 streets in Dong Da district.

²⁰Available at: <http://vietnamrightnow.com/2015/06/timeline-of-the-tree-felling-project-and-tree-protecting-campaign-in-hanoi-updated/>

- 2015: seven streets in Tay Ho district, five streets in Thanh Xuan district, nine streets in Long Bien district, six streets in Hoang Mai district, six streets in Ha Dong district.
- Estimated cost for the project is 73.38 billion Vietnamese dong. The total number of trees being cut down and/or replaced is 6708 on 190 streets.

November 11, 2013

The Hanoi People's Committee issues Decision No. 6816/QD-UBND, approving the scheme drafted by the city's Department of Construction.

January 25, 2014

The Hanoi Department of Construction submits Proposal No. 718/TTr-SXD to the Hanoi People's Committee for the approval of "planning the system of trees, parks, gardens and lakes in Hanoi until 2030, with a vision for 2050."

March 18, 2014

The Hanoi People's Committee issues Decision No. 1495/QD-UBND to adopt the above proposal by the Department of Construction.

August 20, 2013

The Hanoi Department of Natural Resources and Environment submits Proposal No. 4585/TTR-STNMT-CCMT to the People's Committee, requesting the approval of a biodiversity conservation plan for Hanoi until 2030.

September 24, 2014

The Hanoi People's Committee issues Decision No. 4924/QD-UBND to approve the above proposal by the local Department of Natural Resources and Environment.

November 4-5, 2014

More than 500 trees on Nguyen Trai street are felled to serve the high-speed railway between Cat Linh (Hanoi) and Ha Dong. Many are big trees with diameters ranging from 50 to 80cm.

2015

January 14, 2015

The Department of Construction suggests "replacing green trees that do not fit in the category of urban green trees or conserve urban landscape, and trees that are bent, tilted, bad-looking, or decayed in 5 streets: Trang Thi, Ly Thuong Kiet, Thanh Nien, Phan Chu Trinh, Hai Ba Trung". The cost is proposed to be covered by "socialization". (Photo courtesy of VnExpress)

January 29, 2015

150 mahoganies along the streets of Nguyen Trai (Hanoi) and Tran Phu (Ha Dong), some up to 30 meters high with diameter of over 50 centimeters, are massively cut down. The office in charge of chopping down these trees is the state-owned Hanoi Green Tree company, and they do so at the request of the Hanoi Department of Construction and with the prior permission of the Hanoi authorities, who explain that trees must be chopped down to get more space for the high-speed railway between Cat Linh (Hanoi) and Ha Dong.

January 30, 2015

In a document numbered 695/UBND-XDGT, the Hanoi People's Committee approves the January

14 proposal by the Department of Construction.



February 10, 2015

The Department of Construction, in the implementation of “the guidance by the Hanoi People’s Committee, as written in Document 695/UBND-XDGT”, requests some other relevant offices to “socialize the replacement of trees that do not fit in the category of urban green trees or meet required standards” on the 5 streets mentioned above. “To socialize” is an euphemism for “privatization”, “equitization”, or simply “doing together”. The Department also urges relevant authorities to rapidly implement the guidance so that “all things are done within May.”

So the tree-felling project commences. Trees have been chopped down in different parts of Hanoi starting in early March.

March 14, 2015

Trees alongside Nguyen Chi Thanh, the street once elected as “the most beautiful road in Vietnam”, are felled.

March 16, 2015

Former journalist Tran Dang Tuan sends an open letter to Nguyen The Thao, Chairman of the Hanoi People’s Committee, suggesting a delay in cutting trees for more research.

March 17, 2015

At a weekly meeting where the Party’s Propaganda Meeting gives instructions to the press, the Department’s Deputy Head, Phan Dang Long, is asked about the open letter from journalist Tran Dang Tuan. He replies, “Mr. Tran Dang Tuan is an ordinary citizen. The City has already had a master plan with many public offices involved. Even if he does not agree to it, he is just one among many ordinary citizens. What if there are many other people who agree?”

Reporter: “You mean, the citizenry has not been consulted?”

Phan Dang Long: "Do you mean we have to consult the people on everything? It's just a project to cut trees. I am asking you: If we have to consult the people about everything, what is the point of electing the government?"

March 18, 2015

Regarding the open letter from former journalist Tran Dang Tuan, a spokesman for the Hanoi People's Committee says Mr. Nguyen The Thao, Chairman of the Committee, has instructed the Department of Construction to "directly supervise the overhaul and replacement of trees in the city and make sure that it complies with urban planning and meets the requirement in urban management and development." At the same time, the Department of Construction is requested to "work closely with the local authorities and the media to release information and create consensus in the implementation of the project."



March 19, 2015

Young students from different universities in Hanoi hang slogans calling on people to protect trees, and they tie green ribbons around the mahoganies in Giang Vo street.

On the same day, three lawyers Tran Vu Hai, Nguyen Ha Luan and Le Van Luan co-signed an urgent letter to Prime Minister Nguyen Tan Dung, requesting him to stop the tree-felling project and seriously punish those who are involved and who have violated laws.

March 20, 2015

In the morning, dozens of people launch a protest against tree felling in Hanoi.

In the afternoon, the Hanoi People's Committee holds a press conference on "Project 6700 trees". Reporters raise dozens of questions, which demonstrates a public concern about the massive felling of trees. However, Deputy Chair of the People's Committee, Mr. Nguyen Quoc Hung, does not answer any question. He just says the Project is a good policy, but that "the impatience of the sponsors, added with a lack of transparency in the implementation period, makes the public nonconsenting.

While all reporters are asked to submit their official press card and official invitation to attend the press conference, there is an individual introducing himself as "a representative of the people" who praises the Project. This "representative of the people" also criticizes the press for raising such questions.

March 21, 2015

A spokesperson for VP Bank confirms to the press that VP Bank, as a sponsor of the Project, only finances planting, not felling trees in Nguyen Chi Thanh street, implying that they are not impatient as mentioned by the authorities in the previous press conference. Another sponsor, VinGroup, also says they support this Project at the request of the Hanoi authorities.

Many young people in Hanoi begin to participate in the campaign "Tie a yellow ribbon around each tree trunk." Wherever the ribbons are tied, the police and civil defense forces come and "confiscate" them.

March 22, 2015

In the morning, many people join the Tree Hug event held by some civil society organizations at Thien Quang lake. People take photographs and pose with trees, singing, holding banners, wearing advocacy T-shirt, and calling to stop cutting trees and to protect the environment.

In the evening, a group of people hold a commemoration ceremony between tree stumps in Nguyen Chi Thanh street. The commemoration is aimed to pray for the “souls” of the trees that have been chopped down so that they will rest in peace.

March 23, 2015

A seminar, “From the Project 6700 trees to Hanoi planning issues”, co-organized by two NGOs, MEC and PanNature, suffers from an unexpected power outage right at the beginning. Despite the unexplained outage, the seminar still takes place, many questions are raised. Some scientists confirm that the new trees being planted to replace the felled trees in Nguyen Chi Thanh street are actually manglietia conifer, not magnolia dandyi as stated by the Hanoi authorities.

Professor Pham Ngoc Dang, Deputy Chair of the Vietnam Association for Conservation of Nature and Environment, even adds, “The project of Cat Linh-Ha Dong high-speed railway does not mention chopping down the mahoganies alongside Nguyen Trai street.”

According to lawyer Tran Vu Hai, felling 6700 trees, including 500 mahoganies alongside Nguyen Trai street, constitutes a violation of the 2012 Capital Law and the government’s Decree 64/2010/ND-CP “on the management of urban trees.”

March 29, 2015

A rally called Green Walk is held in Hoan Kiem Lake area. Hundreds of people are walking around the lake, holding banners protesting the tree cutting and urging the government to be transparent and accountable.



March 30, 2015

Protesters are split up when some people want the rallies to focus merely on calling for tree protecting but the others go further by requesting government transparency and accountability as well. At the end of the conflict, the environmental group “Vi Mot Ha Noi Xanh” (For A Green Hanoi) is founded on Facebook, with members demanding a more vocal and straightforward voice in environmental protection, even if that means they will possibly be more confrontational.

April 2, 2015

Five lawyers Tran Vu Hai ²¹, Nguyen Ha Luan, Tran Thu Nam, Le Van Luan and Truong Chi Cong write an open letter to the Hanoi People's Committee and the Department of Construction, urging them to be accountable for the felling of mahoganies alongside Nguyen Trai street and the replacement of green trees in Nguyen Chi Thanh street with cheap manglietia conifer.

April 5, 2015

Despite strict police siege, around 50 people hold a bike ride from West Lake to Hoan Kiem lake to advocate environmental protection and oppose the felling of trees in the capital. They are obstructed and split by the police into small groups before they reach the final destination at Hoan Kiem lake, where they are disturbed by police and civil defense forces.

April 9, 2015

Under cold rain, a group of 20 students cycle 10 kilometers around Hanoi in T-shirts advocating tree protection. This is part of their activities to raise public awareness of environmental protection and preservation and to pressure the government to be transparent and accountable.

April 12, 2015

About 200 people in Hanoi, including largely NGO workers, business staff, civil servants and students, march around Hoan Kiem lake, chanting slogans requesting for environmental protection, government transparency and accountability. The march is organized by a Facebook group, For A Green Hanoi, which is considered to be an "anti-state" organization because it is not legally registered.

April 15, 2015

At the quarterly press conference, Deputy Inspector General Nguyen Duc Luong says the Hanoi People's Committee reported to the Government Inspectorate two days before on the process of dealing with wrongdoings in the project of "overhauling and replacing green trees in Hanoi." However, he does not elaborate on who commit the wrongdoing or how they will be sanctioned. Rather, Nguyen Duc Luong repeats the rhetoric that "this issue will be settled" and that Hanoi is still working on it.

April 19, 2019

The unregistered group "For A Green Hanoi" organizes the second march around Hoan Kiem lake.

April 22, 2015

Blogger Trinh Anh Tuan (aka. Gio Lang Thang – Wandering Wind), one of the admins of the Facebook group "For A Green Hanoi", is assaulted by plainclothes police. The group calls for the third march which adds issues of violence and police harassment to the agenda in addition to tree protection and government transparency.

²¹ Lawyer Tran Vu Hai (b. 1962) is known as an outspoken critic of local and central governments in Vietnam. Besides his online posts, Hai has been actively represented political activists, including the high-profile case of Cu Huy Ha Vu in 2011. It is said that his consultant role in the tree-protecting campaign in Hanoi in 2015 and protecting the Dong Tam land-lost victims in 2017 made him a thorn in the eye of Hanoi mayor Nguyen Duc Chung. On July 2, 2019, when Hai and his wife were charged with "tax evasion", the police took away dossiers of major cases that he was representing. Many people believe that this was either Chung's retaliatory action against Hai or a defensive attack taken by "Chung's partisan" in their inner-VCP fight to prevent Hai from taking sensitive cases and "knowing too much."

April 26, 2015

The third march organized by the group "For A Green Hanoi" is suppressed by hundreds of police and "civic order defenders". The police arrest 22 people, including five women in Vietnamese traditional *ao dai*, take them in a bus to the Long Bien police station for interrogation, and try to accuse them of "causing public disorder". The detainees are released in the afternoon that same day.

May 6, 2015

Representatives of the group "For A Green Hanoi" bring to the headquarter of the Hanoi People's Committee the open letter of April 2 composed by lawyers, as a reminder to them that there are questions for which they must be answerable.

May 8, 2015

Young members of the group "For A Green Hanoi" go to the Hoan Kiem district hall with a list of queries for the National Assembly deputies. They were notified on the day before that the Hanoi National Assembly delegation will meet constituents of Hoan Kiem district on May 8, and that of Ba Dinh and Tay Ho districts on May 9. So, they believe the meeting will be an opportunity for the group to exercise their citizens' rights by questioning their representatives.

However, all the young constituents are stopped outside the hall. Dozens of police and plainclothes security agents are developed in the area to prevent them from getting inside.



May 11, 2015

Another active member of the group "For A Green Hanoi", Mr. Nguyen Chi Tuyen (a.k.a. Anh Chi), a human rights activist in Hanoi, is brutally attacked by five masked men who hit him on his head with iron bars in what looks like an assault by police-sponsored thugs. The savage assault provokes a huge anger in social media networks. Hundreds of Vietnamese facebookers inside and outside of the country change their avatar into Tuyen's bloody head.

May 17, 2015

Despite police harassment and intimidation, nearly 100 members of the group "For A Green Hanoi" visit Nguyen Chi Tuyen at his hometown near Chua Huong [Huong Pagoda], a scenic tourist spot in the suburb of Hanoi.

May 28, 2015

The 22 protesters contemporarily arrested in the march "Walking for the Green Trees" of April 26 file a complaint to the police department of Hanoi, denouncing police and the so-called "civil order defense" forces for arbitrary detention of peaceful activists. This is the first time Vietnamese protesters take a legal action against those who suppress them, although there is very little chance that any authority will deal with their complaint.

The "For A Green Hanoi" group hands their second reminder to the Hanoi People's Committee that there are unanswered questions regarding the "6700 green trees" project.

Hanoi suffers from the first heat wave in this year's summer, with daily temperature reaching 42 Celsius degrees (approximately 107 Fahrenheit degrees). According to Mr. Le Thanh Hai, Deputy Director of the National Hydro-Meteorological Service, this is the most excessively hot weather in northern and central Vietnam in the recent 15 years.

May 29, 2015

A woman is found dead under extreme hot weather in the public garden of Duong Thanh, central Hanoi, at 5 p.m. The victim is later identified as Ms. Pham Thi B., a sixty-year-old homeless woman from Hung Yen, a province 64 kilometers southeast from Hanoi. It is highly likely that she is killed by a heat stroke.



Several newly planted trees blown down by a storm on June 13, 2015 show they were planted with roots still balled in plastic wraps. Photo courtesy of VietNamNet.

June 13, 2015

Questioned by Huynh Nghia, a deputy from Da Nang, in a morning session of the seventh meeting of the 13th National Assembly, Deputy Prime Minister Nguyen Xuan Phuc says, "There are some shortcomings in bringing trees down in Hanoi, but just to the extent of incorrectness. What is more important is that Hanoi has gained some experience and has reported to the Government and the Politburo how it earnestly rebuked those who committed wrongdoings in the process of overhauling and replacing trees. The Government highly appreciates that earnestness."

Two persons are killed and five injured, 140 houses have their roofs blown off, 21 pylons collapse and more than 1000 trees are uprooted in a short but fierce tornado in Hanoi at the end of the day. The disaster provokes a strong debate and conflict when the people who oppose "those anti-state tree protectors" now arise to fight back and blame the environment activists in Hanoi for all the deaths and damage caused by tree collapses.

Worse still, most of the old trees planned to cut down stand strong in the wind while the others, including the newly planted trees, fall over. Many uprooted trees are found with nets and nylon bags covering their roots, and these nets and nylon bags stay intact, showing how recklessly the trees have been planted so that the roots cannot penetrate the nylon.

CHAPTER VI.

MACHINERY OF THE GOVERNMENT

Constitutions and the law

This part gives a list of definitions of a constitution and makes it clear that a standard constitution should consist of the main components as follows:

- the organization, or the structure, and the purposes of the state;
- the rights and duties of the people;
- the relationships between the state and the people;
- the nation's economic system;
- the procedures for constitutional amendment.

The constitution, in essence, is a social contract between the people and the government of a nation. In the case of the SRV, however, the so-called "constitution" is an invalid contract because consent is not given by the people. Under the communist regime, the Vietnamese constitution is purely imposed by the ruling VCP upon the state via a communist legislature. The VCP even publicly considers the constitution as a method to "legitimize" its resolutions.

Though a constitution is the nation's basic law, a number of provisions in the Vietnamese constitution involve the phrase "as stipulated by law," and if a law restricts freedom rights, or if a law is unconstitutional, the law predominates over the constitution. By this fact the government restricts basic freedom rights in a subtle and effective way. To name some:

Article 23. The citizen shall enjoy freedom of movement and of residence within the country; and can freely travel abroad and return home from abroad. The exercise of these rights shall be *provided by the law*.

Article 25. 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 practice of these rights shall be *provided by the law*.

Article 54. The recovery of land must be public, transparent and compensations must be *provided in concordance to the law*.

In Vietnam, when a law is unconstitutional itself, there is no way for the society to amend or abolish it. This comes as a result of the lack of judicial review. Not surprisingly, many laws are found unconstitutional. According to a 2015 report by Ministry of Justice, 9017 regulatory notes or twenty-two percent of the regulations issued within the first nine months of 2014 might have been unconstitutional.

One of the most frequently used unconstitutional law is Decree 38/2005/ND-CP providing measures to ensure public order. In fact, it appears to be a very effective instrument for the police in quelling assemblies, though this runs counter to Article 25 of the 2013 Constitution guaranteeing "the right to freedom of opinion and speech, freedom of the press, of access to information, to assemble, form associations and hold demonstrations."

Further reading:

The Constitution That Echoed All People's Voices

Looking back at the 1946 Constitution of Vietnam, many would say it was the most humane, democratic constitution that united the whole country. It's not just that, after all. The first constitution of Vietnam, though initiated, drafted, and ratified under significantly difficult circumstances, ensured the "people-centered" spirit, putting people above all.

"Discussions on the 1946 Constitution automatically point to the role of Ho Chi Minh and the general election in early 1946," said Le Mau Han, associate professor on Vietnam's modern history. He said Ho Chi Minh's thoughts of a democratic republic state had been traced back to decades before the first constitution of Vietnam was composed in 1946. As far back as in 1919 when the "Claims by An Nam People" was submitted to the Versailles Convention, it reflected his constitutional theory. The seventh of eight claims urged that the people of Vietnam should be protected by a constitution. "Seven, we request a constitution would be issued. Above all, all things shall be under the divine rule of law," Ho Chi Minh wrote in his "Song of Vietnam's Claims," a versified version for the purpose of propaganda.

On September 3, 1945, just one day after the Declaration of Independence, Ho Chi Minh in the first meeting of the interim government mentioned the need of "a democratic constitution", and he requested the government "conduct as soon as possible a general election securing universal suffrage" to establish the NA for the constitution building process.

On September 8, 1945, the Government issued Order 14-SL, which stated, "the people of Vietnam, represented by the supreme power of the NA, will write a democratic constitution for the country of Vietnam." The Order also declared a general election to be held.

The historic general election

The democratic general election – the original source of the spirit of the 1946 Constitution – took place under extremely hard economic and social circumstances when the country faced domestic and foreign enemies. It was, in fact, a fierce struggle to ensure the sovereign rights of the people and national self-determination. Archival records of the national assembly show: newspapers like Vietnam, Pragmatism, Consensus, etc. (owned by Viet Quoc [Vietnam National Party], Viet Cach [Vietnam Revolutionary Party]), in their efforts to defame Viet Minh, called for a boycott of the general election, arguing that social awareness was too low for people to enforce their civic right and the country should therefore focus on the struggle against colonialist France rather than wasting time on voting.

National Salvation, a newspaper of the Viet Minh Front, on November 24, 1945 responded by affirming "Only a general election can give people a chance to voice their desires [...]. After all, only a general election can give Vietnam a new constitution to ensure the rights of its people."

In the north of Vietnam, Nationalist Chinese (Chiang Kai-shek's Koumintang army) and their Vietnamese supporters attempted to destroy the general election by plundering the ballot box, attacking guard men in Hai Phong. In the south, the French army launched brutally terrorist bombardments. Scores of people were killed or injured, but people still went to the polling places, shedding their blood to exercise their rights of freedom and democracy. Eighty-nine percent of the population voted. The percentage even reached 95% elsewhere.

That's how the first national assembly of Vietnam was established.

This national assembly on March 2, 1946 saw the first session within the shortest time ever of four hours, given the threat of a new French invasion looming over the inchoate national independence. During the meeting, an 11-member working committee on constitution drafting

was set up, including Tran Duy Hung, Ton Quang Phiet, Do Duc Duc, Cu Huy Can, Nguyen Dinh Thi, Huynh Ba Nhung, Tran Tan Tho, Nguyen Cao Hach, Dao Huu Duong, Pham Gia Do, lady Nguyen Thi Thuc Vien. All of these were intellectuals coming from different political parties, for example, Pham Gia Do was a member of Viet Quoc, that is the Vietnam Quoc Dan Dang.

Ardent and democratic ²²

It is said that the 1946 constitution was a rallying point of people's vehement petitions, and it took a page out of the constitutions of many European and Asian countries. As Associate Professor Le Mau Han said, the specific sources that the 1946 Constitution learnt from remain unknown after years. The writers of the Constitution, however, were all intellectual minds originating from French schools where they absorbed Western thoughts. It is thus pertinent to say the Constitution was marked with a spirit of democracy and rule of law.

The working committee wrote the first Constitution of Vietnam in just a few months, and submitted it to the NA on November 2, 1946. Do Duc Duc was the orator. Representatives of parties giving their evaluations included Ho Duc Thanh of Viet Cach, Hoang Van Duc of the democratic group, Le Thi Xuyen of the social group, Nguyen Dinh Thi of Viet Minh, Tran Trung Dung of Viet Quoc, Tran Huy Lieu of the Marxist group.

Discussions and debates prior to the ratification of the 1946 Constitution took place in a highly vehement and democratic atmosphere. Le Mau Han said, the debate was the most vehement when it came to the choice between unicameralism and bicameralism. Tran Trung Dung, for example, deprecated unicameralism, saying it might not be suited to Vietnam, where people had long been politically illiterate. Pham Gia Do also refuted unicameralism, arguing that it was nothing more than "the tyranny of the majority." However, most of the congressmen approved unicameralism. Dao Trong Kim said it was advisable as "centralization and allocation is highly applicable to real-life situations."

Tran Trung Dung spoke much of citizens' freedoms of which he condemned the government for not bringing to the people. He was interrupted by Pham Van Dong, who said Tran Trung Dung was wrong in his condemnation given the Government was trying to struggle in their foreign policies to preserve independence.

After a great many discussions and debates on every single article, on November 9, 1946, the NA put the first constitution to the vote and it was passed with 240/242 votes in favor. The two votes against it were from Nguyen Son Ha and Pham Gia Do. Nguyen Son Ha voted against the Constitution as it failed to include economic freedom of commerce, while Pham Gia Do reserved his opposition against unicameralism.

President Ho Chi Minh said in his speech, "After more than ten days of hard working, the NA reached a glorious result when the discussion process was completed." Although the constitution may not be perfect, it declared to the world that Vietnam is now an independent nation-state, the people of Vietnam now enjoy all freedoms (...), Vietnamese women are now equal to men as citizens enjoying such freedoms.

As the war was expanding, the NA, though voting the Constitution through, decided not to submit it to a referendum. They also agreed that the Constitution would not be issued or enforced immediately. The vote for the establishment of People's Parliament (once every three

²² Though using adjectives may not be encouraged in professional journalism, it is a typical style of writing for official media in Vietnam, especially when you cover politically sensitive topics in which praising what the VCP and the state do may be a wise way to ensure that your article will be published.

This article of mine was published on HCMC Legal Daily in 2010 on the 65th anniversary of Vietnam's National Day (September 2, 1945). Its implication was that the first constitution of Vietnam was written and ratified in a more democratic way than all other constitutions that followed under the communist administration. This argument, for sure, was highly sensitive, so I had to add adjectives in praise of the VCP and Ho Chi Minh to my writing.

years, as stated by the 24th Article) was also delayed.

Despite all that, the 1946 Constitution is of a great value as it was drafted and passed in a democratic way by a democratically-elected NA. It affirms all people's right to freedom, right to be the master of their country, and demonstrates Ho Chi Minh's thoughts of national liberation, independence and freedom. Dr. Pham Duy Nghia once described it as a constitution of which "every single word, every single sentence echoes the voice of the people," in an interview by Tuoi Tre (Youth) newspaper. Associate Professor Le Mau Han gave another appraisal when he said, "We are much indebted to the 1946 Constitution."

A Chronology of the Constitutional Amendment in Vietnam

2011

January: The political report, disclosed at the 11th National Congress of the VCP, stipulates that “the 1992 Constitution (which was amended in 2001) be promptly researched, amended and supplemented to be in line with new realities.” The over 100-page report, being rhetorical and full of usual clichés, does not elaborate on what these “new realities” are, but reads, “Since late 2007, early 2008, the economy and life have faced many difficulties. Hostile forces maintain their acts of sabotage and fomentation and intensify ‘peaceful evolution’ activities.”

August 2: The Standing Committee of the NA submits to the NA the Statement “On the Implementation of the Policy of “Research and Amendment of the 1992 Constitution.” The statement makes clear that the Constitutional amendment aims at “constitutionalizing opportunely the Party’s major guidelines and policies,” and that “the Constitutional amendment must adhere closely to the Party’s political credos, resolutions and political documents”, “acknowledging huge achievements of the country constituted by the Party.”

The Statement also draws up some guidelines for the Constitutional amendment, including “Reinforcing the entire rule of the VCP over the State and the society, the rule that has been recognized and constitutionalized by the people, whose supreme representative is the NA.”

August 6: The NA issues Resolution No. 06/2011/QH13, titled “On the Amendment of the 1992 Constitution and the Establishment of the Committee for the Revision Draft of the 1992 Constitution.”

The members of this Committee include:

- Mr. Nguyen Sinh Hung, Politburo member, Chairman of the NA, Chairman
- Mr. Uong Chu Luu, Central Party commissioner, Deputy Chair of the NA, Deputy Chairman
- Mr. Le Hong Anh, Politburo member, permanent member of the Party Central Secretariat
- Ms. Nguyen Thi Doan, Central Party commissioner, Vice President of the State
- Mr. Nguyen Xuan Phuc, Politburo member, Deputy Prime Minister
- Ms. Tong Thi Phong, Politburo member, Deputy Chair of the NA
- Mr. To Huy Rua, Politburo member

All of them are members of the ruling VCP and are holding high positions of political leadership.

August 24: The Committee for the Revision Draft of the 1992 Constitution holds their first meeting.

2012

February 21: The Committee for the Revision Draft of the 1992 Constitution holds their second meeting to discuss on “The Report by the Editorial Board on Basic Issues in the Amendment.”

May 22: The Central Department of Propaganda and Education issues the document No. 52-HD/BTGTW to all Party cells, guiding the Party members to hold courses and seminars to study and comprehend the Resolutions of the fifth Conference of the 11th Central Committee of the VCP, which has been held on May 7, 2012. These Resolutions stipulate “basic guidelines for the Amendment of the 1992 Constitution”, including “to keep constitutionalizing more fully and deeply the policy of promoting socialist democracy, guaranteeing that all the power of the state belong to the people, based on the alliance between the workers’ class, the peasants’ class, and the intellectual team led by the VCP.”

November 23: The NA issues the Resolution titled "Conducting the Collection of People's Opinions on the Amendment Draft of the 1992 Constitution". The process of opinion collection is intended to take place "from January 2, 2013 to March 31, 2013."

December 29: The Politburo releases their Instruction of "conducting the collection of people's opinions on the amendment draft", commanding "the Central Military Commission and the Central Party Committee of Public Security" to "strictly lead and supervise the activities of ensuring national security and social order; work with concerned agencies to counter and to deter acts of abusing democracy and taking advantage of the people's opinion collection process to spread misleading propagandas against our Party and the State."

On the same day, in a press conference on the collection of people's opinions on the Amendment Draft, Mr. Phan Trung Ly, Head of the Legal Committee of the NA and the Editorial Board of the Draft, firmly said, "There is nothing like a taboo when people contribute their opinions to the 1992 Constitution reform," "People may express their viewpoints about Article 4 of the Constitution as well as any other article in the Draft, without any taboo."

2013

January 2: The Politburo issues the Instruction No. 22-CT/TW on collecting people's opinions on the Amendment Draft of the 1992 Constitution, Provision 3 and 4 of which said:

"The Central Military Commission and the Central Party Committee of Public Security co-lead and co-supervise the opinion collection within the Military and the Police; strictly lead and supervise the activities of ensuring national security and social order; work with concerned agencies to counter and to deter acts of abusing democracy and taking advantage of the people's opinion collection process to spread misleading propagandas against our Party and the State."

"The Central Department of Propaganda and Education, the Party Affair Committee of the Ministry of Culture, Sports and Tourism, and the Party Affair Committee of the Ministry of Information and Communication instruct and guide media agencies at central and provincial levels to develop strategies and plans to disseminate propaganda in diverse forms and to create favorable conditions for the people to contribute opinions; to set up subpages and columns on the Draft and to opportunely reflect public opinion."

January 11: Professor Hoang Xuan Phu writes in his article "The Two Dead Points of the Regime":

"The VCP may have thought that its ruling power over the State and the society, and the regulation that land is owned by the people with the State as the administrator, as stipulated in Article 4²³, Article 17 and 18 of the 1992 Constitution, are two dead points of the regime. Consequently, the more the people wish to either abolish or to amend those two provisions, the more the VCP wishes to reserve them. They are part of the Party's Immutable Policies, and they are restated in Article 4 and 57 of the Revision Draft of the 1992 Constitution."

January 19: 72 intellectuals sign on "the Petition for the 1992 Constitution Amendment", suggesting the separation of power, the adoption of constitutional court, and the new Constitution be in accordance with the 1948 Universal Declaration of Human Rights. They also call on the military to pledge loyalty to the nation and the people rather than the VCP as stipulated in Article 70 of the Draft prepared by the Committee for the Revision Draft of the 1992 Constitution.

The petition is posted to Bauxite Vietnam and Anh Ba Sam blog. Subsequently, some legal experts who remain anonymous draw up a new Constitution draft to be attached; accordingly, Vietnam becomes a multi-party democracy.

²³ Article 4 of the 1992 Constitution of Vietnam stipulates that the Communist Party is "the supreme leader of the State and the society."

Together with the petition dated January 19, 2013, this document will later be referred to as "Petition 72", the first Constitution draft which is not written by the Committee for the Revision Draft of the 1992 Constitution, i.e. the first among the drafts not produced by the VCP.

February 1: Website *Cùng viết hiến pháp* (Let's Draw up the Constitution) is launched at hienphap.net with the purpose of "creating a space for democratic dialogues on constitutional reform" as prefaced by the initiative group (including Professor Ngo Bao Chau, Professor Dam Thanh Son, and Nguyen Anh Tuan, former editor-in-chief of the VietNamNet).

February 2: Mr. Le Nhu Tien, Deputy Chair of the Committee of Culture, Education, Youth and Children, in his interview with the Inspectorate magazine, restates, "There is no forbidden zone in amending the Constitution."

February 4: 16 people, as representatives of the Petition 72 movement, go to the NA headquarters at 37 Hung Vuong St., Hanoi, to hand in the Petition in written form. The delegation is headed by Mr. Nguyen Dinh Loc, former Minister of Justice. Subsequently some media agencies will report on this, such as the HCMC Legal Daily.

They are welcomed by Mr. Le Minh Thong, Deputy Chair of the Legal Committee of the NA, Deputy Head of the Editorial Board of the Constitution Amendment Draft.

February 21: Several alumni of the Hanoi Law University submit "Petition for the Amendment of the 1992 Constitution", suggesting (1) to cancel the deadline for the process of public opinion collection, and (2) to hold referendum so that the Vietnamese people can exercise their right to ratify the Constitution.

February 25: General Secretary of the VCP, Mr. Nguyen Phu Trong, said in a meeting on Monday with the Vinh Phuc Party's Standing Committee, "Recently there have been currents of ideas that can be considered as political, ideological, and moral deterioration. (For instance) Is there anyone who wants to remove Article 4 from the Constitution? (Anyone) Who wants to deny the Communist Party's leading role? (Anyone) Who wants pluralism and multi-party system? (Anyone) Who wants separation of power? (Anyone) Who wants to depoliticize the military? There have been people with such opinions, and their opinions have been disseminated by the mass media. This must be nothing else but deterioration! What can it be to pursue mass litigation, demonstration and class action lawsuit?"

His speech, broadcast on the major state-owned television VTV in its evening news program, stirs a public outcry in the blogosphere and the Facebook community.

February 26: Nguyen Dac Kien, a reporter for the Family and Society, writes an article in which he openly criticized the General Secretary as being too judgmental and having committed libel in considering freedom of expression as deterioration. He initially posts the article to his personal blog and sends it also to Anh Ba Sam ("Sidewalk News Agency", a popular blog advocating for democracy in Vietnam) and *Cùng viết Hiến pháp*. Later, the article is published on Anh Ba Sam in the morning, and in early that afternoon, the newspaper's leaders hold a meeting with Kien, in which they announce his dismissal. The notice of Kien's dismissal is published afterwards on the newspaper's website.

February 28: The "Declaration of Free Citizens", originated from the DLB (Citizen Journalism), receives thousands of signatures from Vietnamese people, both domestic and overseas. It goes beyond a petition to become a declaration demonstrating a political will, "We not only want to remove Article 4 from the current Constitution, but we also want to conduct a constitutional referendum and to draw up a new Constitution which truly reflects the political will of all Vietnamese people, not the will of the VCP like the current Constitution imposes. We advocate pluralism and a multi-party system where political parties compete fairly for the sake of freedom,

March 2: A working delegation of the Committee for the Revision Draft of the 1992 Constitution, headed by Mr. Nguyen Sinh Hung, Chair of the NA and the Committee, makes a visit to HCMC to work on the process of collecting public opinions on the Constitution Revision Draft in the city.

Later on, every household in HCMC receives a 79-page documents comparing the current Constitution with the Revision Draft drawn by the Committee and a "Request for Opinion on the 1992 Constitution Amendment Draft." This so-called request offers signees with two options:

- I totally agree with the 1992 Constitution Amendment Draft
- I agree with other provisions in the 1992 Constitution Amendment Draft and I would like to suggest amendment to these particular points. (See picture on the next page)

March 6: An official letter from Mr. Nguyen Sinh Hung, Chairman of the NA, extends the deadline for the contribution of opinions to the Constitution Revision Draft to September 30, instead of the previous deadline of March 30. He also urges authorities at all levels, and local state agencies to "create favorable conditions for the people to contribute their opinions."

March 8: Vietnam Television embarks on a huge media campaign at "prime time" – the daily 19:00 Evening News – to condemn those who have signed Petition 72, reaffirming and praising the leading role of the VCP.

On the same day, blog Anh Ba Sam – until then the most straightforward website in publishing out of the mainstream viewpoints differing from the VCP and the government on constitutional reform – is hacked, with all of its data removed. The website editors seek to regain their control, and the unequal battle between them and a corps of hackers began.

Along with the media campaigns launched by Vietnam Television, Nhan Dan (People), Quan Doi Nhan Dan (People's Army) and Cong An Nhan Dan (People's Police), many of the people who have signed Petition 72 (initiated by 72 intellectuals) report to Internet media their being questioned and harassed by local authorities and police staffs.

March 9: Dai Doan Ket (Great Solidarity) newspaper publishes an article, "Attempted Counterfeit", alleging the signees of Petition 72 in Ha Tinh province to be phantom. The group of co-authors write in their conclusion, "Forging signatures to exert pressures upon the VCP and the Government means taking advantage of democracy and the opinion contribution process for sabotage, and this originates from the dark motive of some political dissidents."

March 10: Vietnam Television bolsters Dai Doan Ket with TV reportage "Counterfeiting signatures in the petition for Constitution amendment", broadcast in the 19:00 Evening News. In the reportage, Ms. Nguyen Thi Huong, Vice Principal of the Ha Tinh University, is reported saying, "Regarding the Article 4 of the current Constitution, all students consent to it. There is not any view of dissent at all."

March 12: Nhan Dan (People) newspaper, the official mouthpiece of the VCP, publishes the article "When Social Debates Are Employed as a Guise" by Huynh Tan, implying that the initiators of all online petitions "must have had nothing else to do," "must be anti-Party."

March 13: Hackers attack other sites of Anh Ba Sam, posting fake photos and stories they made up about the site editors to discredit them.

March 15: Anh Ba Sam resumes blogging at another site address.

March 17: Cong An Nhan Dan (People's Police, official mouthpiece of the public security force) publishes an editorial by Phuong Nhi, highlighting that Article 4 is an integral part in the national history of constitution making, and that to protect this Article means to defend national sovereignty and revolutionary achievements out of deference to national history and dignity.

March 18: An editorial on Quan Doi Nhan Dan (People's Army), official mouthpiece of the communist military, declares that the military cannot be placed out of the leadership of the VCP. Vietnam Television, as usual, involves itself in advocating this viewpoint.

Many people in Ho Chi Minh City grumble on Facebook, Bauxite Vietnam and Anh Ba Sam, about being "guided" by local authorities to sign "totally agree" on the Request for Opinion, i.e. the opinion contribution form prepared by the Committee for the Revision Draft. They are being told, for example, "Just sign "totally agree" and that is all," "You should not choose the second option, especially don't mention Article 4 and other things related to the police. If there's anyone who chooses the second, local administrative employees must remember to note down his or her home address."

March 20: In the 19:00 Evening News, VTV and the Chair of the Ha Tinh Fatherland Front, Mr. Tu Van Dien, say that although Thai Binh and Ha Tinh are lands of revolutionary tradition, there are many people in these two provinces whose signatures were forged in Petition 72. They allege this to be the evidence that the Petition is a political plot to subvert the VCP's guidelines and the government's policies.

However, both VTV and Mr. Tu Van Dien fail to present any concrete example or evidence of counterfeit. Ten days later, Professor Hoang Xuan Phu points the fallacies committed by VTV out in his article, "You Want to Hold Monopoly even in Telling Lies?" posted in his blog and reported by Anh Ba Sam.

March 22: News reporters of the Vietnam Television conduct an interview with Mr. Nguyen Dinh Loc, former Minister of Justice, head of the representative delegation of Petition 72 group. He says, "I was not involved. I did not participate. I did not participate in compiling those documents."

On the same day, in an interview with the Voice of Vietnam, Professor Do The Tung, Ph.D., former Head of the Institute of Economics, Ho Chi Minh National Academy of Politics and Public Administration, stresses that public ownership of land remains inevitable.

April 2: The initiators of Petition 72 issue a statement, claiming, "Resorting to violence and bad political tactics to maintain the authoritarian regime, despite the will of the people, will cause great harm to the country, the people and even to the VCP."

April 3: Local authorities in the southern province of Binh Duong hold a press conference to announce the results of the public opinion contribution process. Accordingly, the number of opinions contributed from March 12 to March 27 amounts to 44,459,628, given the population of 1.7 million within the province. Of which, 44,455,188 people "totally agree" to the Revision Draft, accounting for 99.99% of the population.

April 13: The Free Citizens make the second declaration, "Constituent Power Must Belong to the People", calling on people to refuse cooperating with any act of coercing citizens into signing documents related to the Constitution, and urging the Government to "stop going from door to door, forcing people to sign on the Constitution Revision Draft" and to "strictly ban and punish any act that aims to intimidate independent opinions".

April 18: The Free Citizens issues the notice of "Human Rights Gatherings", which are outdoor social gatherings to discuss human rights, to be held on Sunday, May 5, 2013, at Nghia Do Park (Hanoi), April 30th Park (HCMC) and Bach Dang Park (Nha Trang).

April 21: Quan Doi Nhan Dan (People's Army) quotes the Standing Committee of the NA as saying, "Three months of earnestly implementing the NA's Resolution, the Politburo's Instruction on collecting people's opinions on the 1992 Constitution Revision Draft have elapsed. In total, there have been over 26 million opinions from organizations and individuals regarding the Revision Draft, and 28,140 conferences and seminars contributing opinions have been organized."

May 5: At the invitation by the Free Citizens group, some people in Hanoi, Nha Trang and Ho Chi Minh City go to public parks to participate in "Human Rights Social Gatherings". In Hanoi, the picnic turns to a rally of right activists and land-lost farmers (known in Vietnamese as "dan oan", or victims of miscarriage of justice). Many people are confined by local police in their homes as if they were under house arrest.

In HCMC, the police launch brutal crackdowns on bloggers who prove to be active participants. Blogger Nguyen Hoang Vi, her mother and younger sister are assaulted by "ruffians" in the presence of the police.

November 28: The communist-dominated NA adopted the 1992 Constitution Revision Draft with a 98% consensus, putting an end to all controversies around the constitutional amendment initiated by the VCP and the legend that they tried to create of a "democratic government".

Crazy about “High Consensus”

November 28, 2013

KẾT QUẢ BIỂU QUYẾT		
THỜI GIAN	00:00	
THAM GIA	488	97.99%
TÁN THÀNH	486	97.59%
KHÔNG TÁN THÀNH	0	0.00%
KHÔNG BIỂU QUYẾT	2	0.40%

Photo: Voting results: How the communist NA adopted amendments to the Constitution.

Attendants: 488 deputies - - - - - 97.99%
Approval: 486 deputies - - - - - 97.59%
Disapproval: 0 deputies - - - - - 0.00%
No voting (abstention?) 2 deputies - - - 0.40%

One of the apparent traits that distinguish a dictatorial regime from democratic ones is the very high turnout and percentage of approval.

This may be traced back to a common psychological trait of dictators, particularly the communists, that is, they are very fond of numbers and quantification. In Vietnam's wartime, for instance, communist propagandists even quantified and shortened many terms unrelated to numbers such as “three sides, four conflicts” to describe the world’s political situation, “three preparations” to describe three qualities required from youths and “three responsibilities” to mean the same for women.

Dictators are also crazy about statistical figures in favor of their rule, at least ones that can get them in the ninety percent club.

- In 1973, Philippine President Ferdinand Marcos proclaimed the new Constitution with 95% of the barangays' votes. In that same year, a referendum was held whose ballot question was whether the people wanted President Marcos to continue his rule. 90.67% of the voters said yes.

- In 1979, Khomeini's referendum in Iran won 98% of the votes, reinforcing the ruler's will to build an Islamic republic.

- In 2002, Iraqi president Saddam Hussein was re-elected with an absolute triumph: 100% of the votes.

- In 2012, Turkmen President Gurbanguly Berdimuhamedov was re-elected with 97% of the votes. Ten years before that, his predecessor Saparmurat Niyazov won even larger confidence of 99.5%.

- The Castro rulers in Cuba very often received 99% of the votes.

- Elections in the Soviet Union saw the average percentage of votes for communist candidates in local soviets reached 99%.

Thursday, November 28, 2013, is the day the NA voted on adopting the amendments of the 1992 Constitution as drafted by the ruling VCP. Further, what is worth noting is that 95% of its deputies are members of the VCP; the remaining five percentage are either non-partisan or going to be sworn in as communists.

This result is what people must have foreseen.

The political system of the SRV

The political system in communist Vietnam comprises three components: 1. The VCP; 2. The State; and 3. The VFF.

The VCP is authorized to lead the state and the civil society sector (or “political-social organizations as they put it) by adopting communist ideology and codifying its resolutions and instructions into national laws. Furthermore, the VCP maintains its authority to recommend its “cadres” for election or appointment into public offices and political-social organizations.

The VCP system runs the same way as the state hierarchy does. In every public office, there is a party cell which is responsible to the local party cell, be it at the provincial or district level. In the military and the police force, there are party cells operating in compliance with the VCP’s charter and instructions and national laws.

The State comprises the NA, the President, the Government, the Supreme People’s Court, the SPPV, and local governments.

The VFF, according to the Constitution, is “a political alliance and a voluntary union of political organizations, social organizations and individuals representing their social classes and strata, ethnicities, religions, and overseas Vietnamese.” “The Labor Federation, the Peasant Society, the Ho Chi Minh Communist Youth Union, the Women’s Association and the Veteran Society are socio-political organizations that cooperate with other members of the VFF and unify the activities of the VFF.”

So, the VFF acts like a token “civil society” organization that unifies other civil society organizations in the country. It plays a major role in the NA elections, as was shown in the previous part on elections.

The legislative branch

The Vietnamese Constitution stipulates that “The National Assembly (Vietnamese: Quốc hội) is the highest representative body of the people and the highest body of state power of the SRV. The NA exercises constitutional and legislative powers, decides significant national affairs and exercises supreme control over all activities of the State.”

The NA is a unicameral body elected to a five-year term. According to the Law on Organization of the NA, the total number of its deputies shall not exceed 500. Meetings are convened twice per year, one month for each.

The NA has a standing body, an ethnic council, and nine committees: (1) Committee on Laws; (2) Committee on Judicial Affairs; (3) Committee on Economic Affairs; (4) Committee on Financial and Budgetary Affairs; (5) Committee on National Defense and Security; (6) Committee on Culture, Education, Adolescents, and Children; (7) Committee on Social Affairs; (8) Committee on Science, Technology, and Environment; and (9) Committee on Foreign Affairs.

As Vietnam is a single-party state, there is only one ruling party, the VCP, with no opposition, and at least 95% of the NA deputies are communists. The rest may be non-communists at the time they are elected, but often they will be recruited at a later date, or they must be supporters of the VCP. At least, they must not adopt a different ideology to communist doctrines.

Under the Constitution, “the People’s Council is the local body of state power; it represents the will, aspiration and mastery of the local people; it is elected by the local people

and is accountable to them and to the superior state bodies.” “The People’s Council shall decide on local issues provided by the law; supervise conformity to the Constitution and the laws at local level and the implementation of the resolutions of the People’s Council.” “The People’s Committee elected by the People’s Council is the latter’s executive body, the body of local state administration, and is accountable to the People’s Council and superior state bodies.”

The executive branch

The executive arm of the SRV is the government (Vietnamese: Chính phủ), and the members of the government are elected by the NA.

Under the Constitution, the government is “the highest executive state body of the highest body of state authority.” It is accountable to the NA. It has sixteen ministries and four ministerial-level bodies, including the Office of the Government, General Inspectorate of the Government, State Bank, and the Committee on Ethnic Minority Affairs. Below is the list of the sixteen ministries as of May 2019.

Ministry of Agriculture and Rural Development	Ministry of Information and Communication
Ministry of Construction	Ministry of Justice
Ministry of Culture, Sports and Tourism	Ministry of Labor, Invalids and Social Affairs
Ministry of Education and Training	Ministry of Natural Resources and Environment
Ministry of Finance	Ministry of Planning and Investment
Ministry of Health	Ministry of Public Security
Ministry of Home Affairs	Ministry of Science and Technology
Ministry of Industry and Trade	Ministry of Transport

The judiciary branch

Since Vietnam is a one-party political system, the judiciary falls under the leadership of the VCP, with all judges and procurators being its members. The judiciary is nominally accountable to the NA. It is made up of the “people’s courts”, military courts, and procuracies.

The highest court in the country is the Supreme People’s Court, headed by its Chief Justice, who is appointed by the NA.

The people’s procuracies serve as the prosecutorial authority in Vietnam. In reality, the only thing they do is to approve what the police, or the investigating bodies, request them to do.

The procuracies also have the responsibility to supervise and inspect judicial compliance by government agencies and officials. With regard to this function, in fact, they fail to supervise any agency, especially the police.

The biggest problem with Vietnam's judiciary system, after all, is that it is not at all independent. The process is police-dominated, and prior to each court, there is often a closed meeting between the bodies of investigation, prosecution and adjudication, called "the inter-body meeting", to give instructions on the final decision to the trial panel in the forthcoming court, which will surely be a kangaroo court with all the sentencing papers and verdicts written beforehand.

VOLUME II

A HANDBOOK FOR FAMILIES OF PRISONERS



Photo by Khanh An

CONTENTS OF THE ORIGINAL BOOK

Why should you read this book?

Part I. Basic law concepts you need to know

Part II. When the terror begins

- *Chapter I.* Political repression as part of your life
- *Chapter II.* Arrest and house search
- *Chapter III.* The “To-Do-Immediately” checklist

Part III. Encountering the police

- *Chapter I.* What is a police state?
- *Chapter II.* Characteristics of a police state
- *Chapter III.* The psychology of police under totalitarianism
- *Chapter IV.* Police tactics and strategies in oppression

Part IV. Using the law to fight

- *Chapter I.* International human rights laws
- *Chapter II.* A comparison with Vietnamese laws
- *Chapter III.* How the Vietnamese government evade international human rights standards

Part V. Communication and mass media as your weapon

- *Chapter I.* When it comes to weapon, what is “communication and mass media”?
- *Chapter II.* Communicating on and for POCs
- *Chapter III.* How to write professionally
- *Chapter IV.* Anti-propaganda communication
- *Chapter V.* Countering public opinion shapers
- *Chapter VI.* FAQs on communication and mass media

Part VI. Advocacy campaigning

- *Chapter I.* What is advocacy?
- *Chapter II.* Why should we advocate for POCs?
- *Chapter III.* Advocacy campaign inside Vietnam
- *Chapter IV.* International advocacy
- *Chapter V.* FAQs on international advocacy

Part VII. Your physical and digital security

- *Chapter I.* Why do we need all these things?
- *Chapter II.* What should we keep secret?
- *Chapter III.* How can the police know it?
- *Chapter IV.* Physical security
- *Chapter V.* Digital security

Part VIII. Basic supplies for prisoners

WHY SHOULD YOU READ THIS BOOK?

The answer is short: Because it is quite possible that someday you may desperately need this book.

Let me tell you the following story. Though it is a true story, I'd like to call its main character as "you" for the sake of clarity and conciseness.

* * *

One day, your son suddenly received an "invitation sheet" from the police in your district, asking him to go to the local police station (or local people's committee headquarter) to work with the police.

He accepted the invitation and went there the next morning. Then he didn't come back home and you didn't hear anything from him. Several days, even weeks, passed and you were finally told by the local police that your family member had been arrested and charged with rape, plundering property, and murder. That's all what you heard.

At least six months later were you allowed to meet him again behind bars, amidst police. He cried out that he was innocent, but the police stopped him immediately. They only allowed him to send regards to the family.

You came home and began to hire a lawyer. But the lawyer charged too much and it appeared that he couldn't help much; he said it was because "the police are too powerful."

You had neighbors who offered to be witnesses to alibi your arrested son. However, when the neighbors came to the police station to give testimonies, they themselves got arrested. A few days later, they were released in bad health condition with bruises all over the body. Though they kept their mouth shut, it was likely that they had been tortured in custody. No one dared to alibi your son anymore.

Almost two years later, your son was taken to court and sentenced to death for murder, despite his desperate cries that he was innocent and he had confessed only as a result of being tortured and extorted.

Deep inside your heart, you know for sure that your son is innocent. You vowed to save his life, and your quest for justice began. You went from door to door, met all the people you could meet, did all the things you could do to save your son – the prisoner in death row.

Many times, you were hopeful and optimistic, then you turned hopeless and pessimistic, then hopeful and optimistic again. Things went on that way for years.

A decade passed by. Then one day you received a notice from the court that the death penalty of your son was to be executed in a couple of days to come. The court told you to request in writing for the retrieve of your son's dead body. It also told you to promise to "guarantee public order and security" with a clear implication that you should not abet the others to protest. It reminded you to pay costs related to hygiene and environmental clean-up.

You rushed to the capital of Hanoi, where you would meet the NA. Deputies told you to go to the Hanoi-based Central Office of "Meeting People". You went to the Central Office, only to be told to visit the SPPV for more information. You went to the SPPV, they told you to go to the court instead. You went to the court, they told you to go to the nearest police station.

No public office or government official ever gave you a look, not to mention inviting you in for talk.

You kept running around between public offices in such a way. Not much time left for your son, so you desperately joined with “dan oan” – the thousands of victims of injustice gathering around government offices in Hanoi day by day. They helped you organize a public sit-in to claim justice for your innocent son. The police came along immediately, beating you up, taking you to a nearby post where they threatened to arrest you for “inciting public disorder” and “resisting people performing official duties”. You were scared to death, so you signed all the statements they made earlier for you, admitting guilt and begging them to set you free. At the end of the day, you were released, completely wretched and exhausted.

Perhaps God saved your son. At midnight, you read on the Internet that the local court was to be re-consider your son’s case, so the execution was suspended. You broke down in happy tears. However, just the next morning, you saw a newspaper reporting in a scary tone that “the execution was just delayed, not abolished.” That newspaper had previously turned their blind eye to your son’s case, as did almost all other state-owned media agencies.

That was all right, you thought to yourself. At least your son had not been executed yet. And your quest for justice went on. It would go on for one or two decades, or even longer, as long as you stayed alive.

Such may possibly be the destiny of any low-class citizen in Vietnam nowadays.

Even if you come from a middle or high-class family, miscarriage of justice can make you and the whole family bankrupt. It is believed that having a family member get into trouble with the law is exactly like having him/her get a deadly cancer: You all suffer intense and unspeakable misery, you have no way out but to spend all your money on them, you may go bankrupt, and you still lose them.

Actually, in the latter case, you and your family suffer less, at least because you don’t have to face grievances caused by the police, the procurators, the courts, and the prisons as you do in the former case.

Moreover, if your family member gets a dangerous cancer, you can still take care of them until they pass away. But if your family member is arrested and sentenced to death, you will never be able to care for them, or even hold them in your arms again since their arrest. Never.

* * *

Let me tell you other true stories: You may have heard that within less than one year since June 2018, dozens of people have been arrested and charged with “inciting public disorder” and “conducting propaganda against the state.”

Specifically, they have been imprisoned either because of their protest rallies against the SEZ law or because of their Facebook posts that objected government policies.

You may get shocked to learn that many were imprisoned just because they had liked or shared or commented on a video or a post critical of the government. A blogger was arrested for being a member of the Facebook pages “I love BBC Vietnamese” and “Saigon urban city”. The others were detained because of their livestream videos in which they chatted with some well-known facebookers on political issues. The question is why it was them who would be arrested, not those well-known facebookers. Well, you may think it was because they “talked politics”. But the fact is that there were people arrested just because they had reported on the African swine fever in the northern province of Bac Ninh.

Being arrested and questioned by the police, and imprisoned have never been as easy before as it is now.

Since the introduction of social media networks to Vietnam (starting with Yahoo! 360, and the most popular service now being Facebook), for the first time in the nation's thousand-year-history, the Vietnamese people can share with each other almost immediately their thoughts, emotions, and experience. For the first time ever, the people can publish and disseminate their books, photos, clips, and artworks without depending on any newspaper or publishing house. The need for esteem and self-actualization, or the desire to become the most that one can be, is satisfied in the Internet era more than ever before in history.

Nonetheless, now that just liking, sharing or commenting on a content undesired by the government may put you at the risk of being questioned by the police or even imprisoned, the need for esteem and self-actualization has been restricted cruelly.

* * *

Among the worst public problems of contemporary Vietnam, we can quickly list poisonous food, polluted environment, low quality infrastructure, high traffic fatality rate, dogmatic and impractical education, expensive and unreliable health care, to name some.

However, there is an extremely serious problem which is hard to recognize, that is the absence of justice.

Absence of justice is the root of all the above-mentioned public problems. In a society where the state fails to administer justice, impunity and criminal covers-up are widespread, the evil finds no reason to stop and the good finds no reason to be sowed and grow. Law and human rights violations can be found massively.

Even the richest person is not likely to live happily in a merciless society. Moral degradation, uncertainty and chaos are what all the Vietnamese citizens are now facing. It is especially disastrous if you or your family member unfortunately gets into trouble with the law. Remember: Having a family member get into trouble with the law is exactly like having him/her get a deadly cancer.

That is the reason why you should read this book as soon as you or one member of your family gets into trouble with the law. It may not help you put away with all the sufferings, distress and humiliation, but it can get you calmer and wiser to understand many things you have never experienced before, thereby you will protect yourself and your family better.

You should read this book even if you feel definitely sure that you and your family will never get into any trouble with the law. It's just like we read books guiding us how to avoid cancer, diabetes and other dangerous diseases.

I know beforehand that the book will be targeted by the police, who will surely label it as an "anti-state document", "defaming the government", "aiding and abetting criminals", "causing difficulties for investigators", so on.

On my part, I want this handbook to be an indictment of the communist regime, or an in-depth report revealing defects of the existing system. But, more importantly, I wish that the readers can use this book as a practical tool to protect themselves and, at the same time, force government offices to obey the law and respect human rights.

Finally, this book gives you an insight into Vietnamese law and politics, especially into the regime we are living under. Training and empowering ourselves is always a wise way to determine our destiny.

CHAPTER I.

BASIC LAW CONCEPTS YOU NEED TO KNOW

As long as they are not at all involved in any legal issue, almost all Vietnamese people are ignorant of the knowledge that the following chapter covers. It can be said that they hate law and try to stay away from the boring world of law as far as they can. Ironically, law is one of the first things that they must learn immediately after a member of their family is arrested.

This chapter explains, in the form of frequently asked questions and answers, the most basic law concepts that people caught in legal problems are likely to hear.

* * *

1. Who are the investigators and what do they do?

To investigate means to find criminal signs, collect evidence, determine the facts of criminal cases in an objective, versatile and full manner. These activities are conducted by investigating bodies, or the bodies with competence to investigate criminal cases.

Under Vietnamese law, there are three investigating bodies of the police, the military, and the SPPV.

The investigators are individuals who conduct investigating activities. They work for the investigating bodies.

2. Who are the procurators and what do they do?

Procuracies mean to supervise the law observance of the procedure-conducting bodies in the proceedings for criminal cases. The procurators are those who exercise the right to prosecute and supervise the law observance in criminal proceedings.

3. Then, who are the procedure-conducting bodies?

Procedure-conducting bodies include: 1. Investigating bodies; 2. Procuracies; 3. Courts.

4. What about the procedure-conducting persons?

Procedure-conducting persons are those who work in the above-mentioned procedure-conducting bodies. They include:

- a) The heads and deputy heads of investigating bodies, investigators;
- b) Chairmen, vice-chairmen of procuracies, procurators;
- c) Presidents and vice-presidents of courts, judges, jurors, court clerks.

5. Who are participants in the procedure?

Participants in the procedure include:

- persons held in custody;
- the accused;

- defendants;
- victims;
- civil plaintiffs;
- civil defendants;
- persons with interests and obligations related to criminal cases;
- whistleblowers;
- witnesses;
- experts;
- interpreters;
- defense counsels.

6. *What is the judiciary system?*

It is a set of public offices that protect the law from being violated and settle conflicts among citizens. Their activities cover three areas of investigation, prosecution, and adjudication.

In Vietnam, the investigating bodies are in charge of investigation, procuracies of prosecution, and courts of adjudication.

7. *What is legal system, or law system?*

It is the procedure or process for interpreting and enforcing the law. Three major legal systems of the world consist of common law, civil law and religious law.

8. *What are the differences between common law and civil law system?*

There are several differences between the two systems. First, in common law countries, case law is of primary importance, whereas in civil law countries, codified statutes predominate.

Second, common law countries adopt the adversarial system, where fact-finding is conducted through the open competition between the prosecution and the defense, while civil law ones use the inquisitorial system, where fact-finding is made through extensive investigation and examination of all evidence.

Vietnam is a civil law country.

Despite the differences, one thing the two systems of civil law and common law share is that in both of them, the courts must be independent, impartial and competent.

9. *What are the differences between “civil” and “criminal” matters?*

Civil law deals with disputes between one entity and another. The entity can be a person or an organization. Breach of contract, property damage, intellectual property theft, and defamation are some examples of civil cases.

Criminal law deals with an individual’s offenses against the state or the community as a whole. Murder, the crime ostensibly committed by a person against another person, is still defined as an offense against the state, or harming the community as a whole, thus a criminal offense. Often the conduct in criminal cases are more serious than in civil cases. Examples of criminal offenses include murder, assault, and treason.

10. *What does it mean by “to institute a criminal case”?*

When determining that criminal signs have existed, the investigating bodies must issue decisions to institute criminal cases. Decisions to institute criminal cases must clearly state the time and grounds for institution, the applicable articles of the Penal Code, and the full names

and positions of the decision issuers.

Only when decisions to institute criminal cases are issued can the investigating bodies embark on the investigating process. If they conduct investigating activities without such decisions being issued, they are breaking the law.

Kindly notice that “to institute a criminal case” is distinguished from “to initiate criminal proceedings against the accused.” Only when the investigating bodies have issued decisions to initiate criminal proceedings against a person identified as the accused can they decide to apply deterrent measures, to pursue, summon and interrogate the accused, or to execute orders for arrest, custody, and temporary detention. If they summon and interrogate someone without such decisions, they are breaking the law.

11. Can the investigating bodies institute a criminal case without initiating criminal proceedings against anyone?

Yes. Indeed, there are times when the investigating bodies institute a criminal case without initiating criminal proceedings against the accused, because they cannot identify anyone as the accused.

12. What about “ceasing investigation”?

There are times when the investigating body decides to institute a criminal case and, sometime later, issues a decision to cease investigation. That may be because of the following reasons: 1. There is no offense; 2. The committed acts do not constitute an offense; 3. The offenses have been granted general amnesty.

13. What are those “less serious”, “serious”, “very serious” and “especially serious” offenses?

The Penal Code categorizes crimes as follows:

- Less serious crimes are crimes which cause no great harm to society and the maximum penalty bracket for such crimes is three years of imprisonment;
- serious crimes are crimes which cause great harm to society and the maximum penalty bracket for such crimes is seven years of imprisonment;
- very serious crimes are crimes which cause very great harm to society and the maximum penalty bracket for such crimes is fifteen years of imprisonment;
- particularly serious crimes are crimes which cause exceptionally great harms to society and the maximum penalty bracket for such crimes shall be over fifteen years of imprisonment, life imprisonment or capital punishment.

14. For how long can the investigators conduct investigating activities?

Yes, there must be investigation time limits. The time limits for investigating criminal cases, counting from the time of institution of criminal cases to the time of termination of investigation, shall not exceed:

- two months for less serious offenses;
- three months for serious offenses;
- four months for very serious offenses and especially serious offenses.

15. Can the time limits be prolonged?

Yes. In those cases, the investigating bodies must request in writing the procuracies to extend the investigation time limit.

- For less serious offenses, the investigation time limit may be extended once for no more

than two months;

- For serious offenses, the investigation time limit may be extended twice, for no more than three months for the first time and no more than two months for the second time;
- For very serious offenses, the investigation time limit may be extended twice, for no more than four months each;
- For especially serious offenses, the investigation time limit may be extended three times, for no more than four months each. If the charge is related to national security, the investigation time limit may be extended up to five times, for no more than four months each. Therefore, in cases of national security charges, the total time for investigation may amount to: 04 months + 5 times of extension * 04 months each = 24 months, or two full years.

16. What does “proceedings in law” or “legal proceedings” mean?

Proceedings in law, or legal proceedings, mean the procedures conducted in an orderly process (due process) as required by law, specifically the Criminal Procedural Code in the case of Vietnam, to resolve any case.

Example: If the investigating bodies find it necessary to place a citizen under temporary detention, they shall need a warrant and an approval of the warrant, except for cases of urgent arrest. If they arrest someone without any warrant or approval of the warrant, it means they are violating the Criminal Procedural Code.

Another example: Under the Criminal Procedural Code, it is forbidden to conduct interrogation at night, except for cases where interrogation cannot be delayed, provided that the reasons therefor must be clearly recorded in the minutes.

17. What is “due process”, and “due process violation”?

Due process is the legal requirement that the procedure-conducting bodies must observe all legal rights that are owed to a person.

Let us take this as an example: In the 2016 marine life disaster in central Vietnam, if we want to examine whether the local sea water is poisonous and whether it was the result of toxic waste discharge from Formosa’s steel factory, we must collect water samples, and the process of collecting water samples must not be conducted at our discretion, rather it must satisfy strict requirements and standards to ensure reasonable results.

Similar are proceeding activities, including investigation, prosecution, and adjudication.

So far, almost all miscarriages of justice in Vietnam originate from due process violations, such as extortion, by the procedure-conducting bodies. Notice that due process violations may constitute human rights violation, particularly violation of the rights to fair trial.

18. How can the common people like us know if the procedure-conducting bodies have violated due process?

General principles regarding due process are typically prescribed in all national laws. In Vietnam, they can be found in the Criminal Procedural Code and other legislations. It is hard for the non-professionals to grasp that kind of knowledge, but at least we can read the Criminal Procedural Code and this handbook.

19. What is the difference between “công an”, “an ninh” and “cảnh sát” in Vietnamese?

“Công an” is composed of three forces: public security (an ninh), police (cảnh sát), and provincial/

local police (công an xã). So, “công an” is a general term that covers “an ninh” and “cảnh sát”.

“An ninh”, or public security officers, are obliged to fight “anti-state” activities, or activities that allegedly go against national security, as they put it. In other words, it can be said that public security forces are the forces that protect the communist regime from any form of opposition. Thereby, political dissidents, human rights defenders and democracy campaigners are surely their targets.

“Cảnh sát”, or police forces, are obliged to protect social order and fight domestic crimes.

All the police are placed under the VCP’s absolute control.

20. *What is the difference between custody and temporary detention?*

Although both custody and temporary detention mean the appropriation of someone’s liberty, Vietnamese law makes a clear distinction between them.

a) Custody

Custody may apply to persons arrested in urgent cases, offenders caught red-handed, offenders who confessed or surrendered themselves or persons arrested under pursuit warrants.

The custody time limit must not exceed three days, counting from the time the investigating bodies receive the arrestees.

In case of necessity, the custody decision issuers may extend the custody time limit but for no more than three days. In special cases, the custody decision issuers may extend the custody time limit for the second time but for no more than three days. Therefore, the total time to place a person under custody is nine days. When these nine days are over, the investigating bodies must either release the arrestee or initiate criminal proceedings against him/her and place him/her under temporary detention.

b) Temporary detention

Temporary detention may apply to the accused or defendants in the following cases:

- The accused or defendants have committed especially serious offenses or very serious offenses.
- The accused or defendants have committed serious or less serious offenses punishable under the Penal Code by imprisonment for over two years and there are grounds to believe that they may escape or obstruct the investigation, prosecution or trial or may continue committing offenses.

The time limit of temporary detention of the accused for investigation shall not exceed two months for less serious offenses, not exceed three months for serious offenses, not exceed four months for very serious offenses and especially serious offenses.

The extension of temporary detention time limits is prescribed as follows:

- For less serious offenses, the temporary detention time limit may be extended once for no more than one month;
- For serious offenses, the temporary detention time limit may be extended twice, for no more than two months for the first time and no more than one month for the second time;
- For very serious offenses, the temporary detention time limit may be extended twice, for no more than three months for the first time and no more than two months for the second time;
- For especially serious offenses, the temporary detention time limit may be extended three times, for no more than four months each.

21. *We've mentioned the investigation time limit (Questions 14 and 15). Is it different from the temporary detention limit, and how?*

Investigation time limit and temporary detention limit are two distinguished terms. On principle, if the investigating bodies fail to reach any conclusion while the investigation time limit is due, then they shall have to release the detainees, possibly on bail.

In reality, however, when they fail to complete the investigation process and reach a due conclusion, the investigating bodies always prolong the investigation time limit and continue keeping the "subjects" in detention although the temporary detention limit may be well over.

22. *How do the persons in custody, the accused and the defendants differ?*

The persons in custody are the ones arrested in urgent cases, offenders caught red-handed, persons arrested under pursuit decisions, or confessing or self-surrendering offenders against whom custody decisions have been issued.

The accused are persons against whom criminal proceedings have been initiated. Those who are held in custody but against whom no criminal proceedings are initiated are not the accused.

The accused must appear in response to the summonses of investigating bodies or procuracies; in case of non-appearance without plausible reasons, they may be escorted; if they escape, they shall be pursued.

Defendants are persons whom the courts have decided to bring for trial. They may well have been placed under temporary detention.

Defendants must appear in response to the subpoenas of the courts; in case of non-appearance without plausible reasons, they may be escorted; if they escape, they shall be pursued.

23. *How legally valid are the "invitations" and the summonses?*

Invitations to work (with the investigating bodies), as the police often put it, are not legally binding to the recipients. The recipients can either accept or refuse it without giving an excuse.

The summonses are sent by the investigating bodies to the accused, the defendants, the victims, the witnesses, and the persons with interests and obligations related to the criminal case. Most significantly, this means that they can only issue the summonses when they have already instituted a criminal case, thereby identified the accused and other stakeholders just mentioned.

The summonses must contain the full name and residence of the accused, date, hour, and place of his/her presence; the person he/she will meet, and his/her responsibility for non-appearance without plausible reasons.

That the investigating bodies send invitations or even summonses to citizens although no criminal case has been instituted, as they have usually done so far, is absolutely wrongful.

24. *Who can the police send summonses to?*

The police, or the investigating bodies to be exact, can only summon the following persons:

- the accused;
- the defendants;

- the victims;
- the witnesses;
- the persons with interests and obligations related to criminal cases;
- experts;
- interpreters;
- civil plaintiffs;
- civil defendants

To sum up, in any case, the investigating bodies can just summon the person related to the case, and that is when such a criminal case has been instituted.

25. *Who are the judges?*

The judges are the ones assigned by the president of the state to settle and adjudicate criminal cases. They study the case files before the opening of court sessions, participate in adjudicating criminal cases, and conduct proceedings under the jurisdiction of their courts.

26. *Who are the jurors?*

The jurors are the ones assigned to adjudicate criminal cases. They study case files before the opening of court sessions, participate in adjudicating criminal cases according to first-instance or appellate procedures, and conduct proceedings. In the course of trial, jurors shall be equal in rights to judges. Judges and jurors conduct trial independently and abide by law only.

27. *What are “decrees” and “circulars”?*

A decree is a legal document issued by the government to guide the implementation of laws. At times, a decree is also issued to regulate matters that have not been regulated by any previous or existing law. In this aspect, a decree is not different to a law or a legislation. However, it should be noted that a decree is always issued by the government.

Example: Decree 38/2005/ND-CP by the government of the SRV provides some measures to ensure public order. This decree was issued on March 18, 2005 at the request of the MPS, and has since then been used to stamp down on all forms of public gatherings or assembly.

A circular is a legal document that applies within a specific circle or area of profession. It is released by a public office to explain and guide the people in implementing higher-rank documents such as a law or a decree.

Example: Circular 37/2011/TT-BCA, dated June 03, 2011, is a circular by the MPS on the classification of prisoners.

28. *How legally valid are they?*

On principle, both decrees and circulars are sub-law documents.

In reality, both decrees and circulars can be applied the same way as a law is, and a law-abiding citizen may still be punished for having violated a decree or a circular which are different from the law that he/she abides by. Likewise, a citizen who abides by the constitution may still be a law-breaker in case that law is in breach of the constitution.

Law enforcement bodies in Vietnam are accustomed to using decrees and circulars to punish citizens. For example, Circular 37/2011/TT-BCA dated June 03, 2011 authorizes the prison camp to put a prisoner in solitary confinement between three and six months, even to prolong the solitary confinement, just for the prisoner’s “attitudes”. Meanwhile, the Law on

Execution of Criminal Judgments provides that an inmate violating prison regulations or committing an illegal act, if disciplined in the form of solitary confinement, may be confined to a disciplinary room for up to 10 days only.

CHAPTER II.

WHEN THE TERROR BEGINS

This chapter focuses on what happens to a family when one of their members is arrested by the security forces, with or without a written warrant. Definitely the arrest shall turn their lives upside-down; it is the starting point of an exhausting saga of torment and sufferings for both the prisoner and their family. Therefore, all of them should be prepared well beforehand.

There are many things that the family should do before, during and after the detention of one of their members. But, before proceeding to that part, let us find the answer to one of the most frequently asked questions when an activist is arrested: Why him/her?

Why is an activist arrested?

Almost immediately when an activist is arrested and a criminal case (a political case indeed) is instituted, dozens of questions are raised among the concerned public. Why do the police arrest that activist at that time? Which elements do the police consider before they decide to put an activist in jail? Why is it him/her? Is it because he/she is a charismatic figure in the eye of the public? Is it because he/she attempts to overthrow the government? Or because he/she acts against China (not necessarily against the VCP)? Or because he/she is actually working for some faction in the VCP and that faction has been defeated in party infighting?

Such questions remain unanswered because the authorities keep hiding the answers. The police's investigative report, the procuracy's indictment, and the court's decision never tell us know the exact reasons for each political case. We can never know why a lot of people were imprisoned just for speaking up their minds, such as Pham Thanh Nghien, Nguyen Xuan Nghia, Dieu Cay, Nguyen Dang Minh Man, Ba Sam. At the same time, it is hard to know why many vocal activists have not been imprisoned yet (including this author).

Generally, there are a great number of reasons why an activist is detained,

- The authorities want to create fear and deter other activists from doing what they are doing;
- The authorities want to distract other activists and disrupt their fight;
- The authorities want to stamp out a growing group that may someday become their political rival, so they arrest its members ²⁴;
- The authorities want to destroy potential rivals and oppositions ²⁵;
- The authorities may need some kind of advantage to negotiate a treaty, mostly with the United States and EU;
- The authorities may want to convey a certain message to the international community, mostly to China, the United States, or EU; ²⁶

²⁴ This might be what happened to members of the group Brotherhood for Democracy in 2015-2017.

²⁵ This used to happen to members of the exile party of Viet Tan.

²⁶ Between 2008 to 2011, there were successive arrests of anti-China protesters, including Pham Thanh Nghien, who just made an indoor sit-in, and Nguyen Dang Minh Man, who painted "TS-HS-VN" (Vietnamese acronyms for Truong Sa - Hoang Sa - Vietnam, or Spratly-Paracel-Vietnam) on several public walls. Many people believe that these arrests must be aimed to send an implicit message of Vietnam's concession of territorial sovereignty to China.

- The police have an enormous state-sponsored budget on counteracting “hostile forces” and need to spend it;
- Police want promotion, and arresting an activist or an “anti-state” group may be an effective way to get it;
- Some police officers or interest groups hold a private grudge against an activist, they arrest him/her to satisfy the grudge;
- A partisan within the VCP arranges the arrest of an activist to give a bad name to human rights situation in Vietnam, and blames it on their competitor.

By and large, while low ranking police usually crave arresting activists (and dissidents) simply to get merit promotion, high ranking police and government officials will consider arresting them when there is a need for trade deals or treaties with Western governments.

It is believed that the VCP also arrests dissidents when they need to flatter the Chinese government that they are faithful to the communist ideology to the extent that they are willing to imprison anti-China citizens. Such an idea is unverifiable, but not necessarily unfounded, especially if we look at the list of POCs in recent years, many of whom were anti-China protesters and tent to be nationalists rather than anti-communist dissidents.

Finally, it may be concluded that the decision to arrest or not to arrest an activist/dissident is based on the secret considerations of only a few police and government officials. Sometimes their calculation may sound illogical to the ordinary people. It’s not that famous and influential online activists will be arrested and less known ones will not. In fact, many of the unknown activists have been jailed, the most recent and obvious example of whom is Le Dinh Luong, a facebooker in Nghe An sentenced to 20 years of imprisonment in 2018. Before his arrest, very few people knew him.

Activists may be convicted of crimes unrelated to politics, which helps the authorities conceal the political motives behind the imprisonment and reinforce their rhetoric that “there is no such ‘prisoner of conscience’ or ‘political prisoner’ in Vietnam, only law-breakers are punished.” The following cases are some of the political trials under the cover of “ordinary trials.”

- On July 30, 2019, truck driver Driver Ha Van Nam and six other people who protested against unfair private toll booths (commonly called BOT in Vietnam, for “Build-Operate-Transfer”) were given sentences of between 18 and 36 months in prison for “inciting public disorder.”
- Activist Bui Thi Minh Hang was arrested on February 11, 2014 and sentenced to three years of imprisonment for “inciting public disorder.”
- Blogger Nguyen Van Hai and human rights lawyer Le Quoc Quan was arrested in 2008 and 2012, respectively, and charged with “tax evasion.”

In the case of Nguyen Van Hai, although there was not any tax minimizing behavior, the blogger was still charged with tax evasion and the case was criminalized. Inciting public disorder, though a tort in essence, is often considered as a criminal offense and the offenders - activists given lengthy prison terms. Here we can find one more reason why the police arrest an activist. It is because the activist may have done something that made it easier for the police to arrest him/her, for example, he/she was running a business, which might have facilitated the police in trumping up tax evasion charges.

Another important motive for arresting an activist or dissident, as mentioned above, is the private grudge that some police officers or interest groups may keep against him/her. In the recent years in Vietnam, a few corporations well connected with the government have emerged successfully, and they collude with the government, using state power to attack and imprison activists who act against their interests.

The nexus between the business class and the government is always a potential threat to any democracy. In the case of Vietnam, interest groups, with the backing of the communist government, have become a frightening destroyer of democracy.

Before the detention

When the harassment against an activist escalates to a higher extent than usual, it may indicate that he/she is going to be arrested. This happens when there are more police prowling in the neighborhood watching him/her, even overtime or overnight. The activist is actually kept under siege and unable to go out.

Activist Tran Thi Nga (a.k.a.Thuy Nga) was arrested on January 21, 2017, just a few days before Vietnam celebrates the Lunar New Year. Nga had complained of a prolonged period of harassment by security officials. The night before the arrest – at her home in Ha Nam in the Red River delta – dozens of police had surrounded her house and banged on the door. Because she could not leave the house, Nga asked a neighbor to buy some food for her and the two little sons, but even the neighbor was prevented from handing her the food. At 8 p.m., Nga uploaded footage of the police action to Facebook, asking in despair what the police wanted from her. Twelve hours later, she was arrested by some 200 police officers, who blocked all ways to her residence to make sure no one could come to support her.

In December 2015, just one week before lawyer Nguyen Van Dai was arrested and imprisoned for the second time, he and his companions were seriously ambushed and attacked by the Nghe An police. That was a clear sign of escalating harassment.

But there are cases when the police simply tighten their surveillance without the person knowing, so when police forces come and arrest a family member – an activist – it will be disastrous for you and the family. Causing fear to an activist and their family is actually one of the techniques that the police employ in suppression, and if they want to create fear, it is important that they choose the right time to take actions, gaining control and catching their “preys” by surprise. The Lunar New Year, for instance, traditionally is a time of amnesty, reconciliation and family reunion. Unfortunately, it is a good time for the police to come and arrest you, if you are an activist, dissident or democracy supporter. You will possibly be shocked and demoralized, your family upset.

Until blogger Nguyen Van Hai was arrested on April 20, 2008, his wife, Duong Thi Tan, did not know anything about his work. When the police took him home for house search, she collapsed and nearly fainted for the whole day.

If you are an activist, be careful when you see signs of escalating harassment. Don't simply think, “I am not doing anything wrong, so they can't arrest me.” If possible, leave your residence quickly and find a safe place to shelter. Remember that the police may have tapped your cell phone as well as those of your relatives and friends, and may be closely watching you. So, leave quickly before it is too late.

If you choose to stay, be prepared for a sudden arrest.

Prepare your family for any bad consequence, too. Make a list of important contacts for them. Tell them what you want them to do in case you are jailed. Keep them informed to the degree you find relevant. Never let them uninformed, scared and isolated.

During the detention

If you are an activist, you surely must have been prepared for the moment when the police come and take you away in their vehicle. All you can do at that moment is to keep calm and fearless, and help your family stay strong, too.

If you are the family members of an activist and the police come to arrest him/her and conduct the house search, remember to be calm and fearless. Don't cry, moan, or beg the police to do or not to do anything. Don't ever hope that the police will feel sorry for you. Conducting arrests is part of their job; they are well trained for it so they can hardly sympathize with an arrestee and his/her family.

You don't need to pretend to be happy, either, because it is so hard to keep smiling and happy under such circumstance. Try not be afraid of or submissive to the police. Most importantly, closely monitor the behavior of the law enforcement body to make sure all the legal proceedings are observed. If possible, try to keep what you think can be evidence of due process violations. If you can't keep any evidence of the police's wrongdoings, at least bear in mind those wrongdoings in case you may file a lawsuit against them in the future.

Ask for personal information of the leader/commander of the arrest and house search, at least including: his/her full name, position, rank, office address. Ask for information in your family member's case: reasons for the arrest, warrant, location of detention, basic supplies in first days in jail, etc.

After the detention: The "To-Do-Immediately" checklist

In the first week after your family member is arrested, you should:

- Search for any clue on the arrestee: detention camp, the detaining body, warrant in written form, reason for arrest, and so on.
 - If the arrest was without warrant, go to the local police station in your neighborhood to ask for information.
 - If the arresters read a warrant in your presence, keep one copy for yourself. Go to the office who signed the warrant to ask for information.
 - Once you know the place where your family member is kept, demand the right to visit and feed them with basic supplies.
- Publicize the arrest
 - Remember that the information you give out must answer basic, frequently-asked questions, including: full name, address, job title of the arrestee, time and place of the arrest, reason for the arrest.
 - Make sure that you give out precise information with reliable sources, if any.
- Search for legal representation
- Get in touch with human rights defenders and human rights organizations to seek help.
- Learn the law.

Frequently asked questions and answers: on seeking legal representation

1. It is said that the courts in Vietnam are non-independent, especially in political cases where they are just kangaroo courts, giving pre-determined decisions. Lawyers play little role. So, should the family seek legal representation for the POC?

Yes. It's true that in political cases, the kangaroo courts just give pre-determined decisions, and the defense lawyers can hardly protect their clients or reverse the sentences. But at least they can provide you with legal consultancy, which is important for you in the fight to protect the POC – your family member. Sometimes, they can accompany you to the prison camp to visit the POC, which helps reduce the pressure and stress that you have to bear. Good lawyers can help the POC, too, in keeping his/her spirit.

Most importantly, lawyers can be the only agent to connect you and the POC, keeping you informed of the POC's condition, and vice versa.

2. What should I expect from a defense lawyer?

Legal advice and information on the prisoner's condition. Apart from that, you should not expect too much from the lawyer. There have been many cases where even the defense lawyers fall victim to police's retaliation. This means it's hard for them sometimes to protect themselves from the abusive police, not to mention protecting their clients.



Lawyers Le Luan (left) and Tran Thu Nam were badly assaulted by thugs and plainclothes police in Ha Tay on November 3, 2015. Le Luan recognized one of the attackers as a local policeman named Cuu.

Apart from that, remember that a lawyer may not necessarily be a human rights activist and he/she may have little knowledge about writing for advocacy, non-violent resistance techniques, or physical/digital security, whatsoever, in the Vietnamese context. There used to be a case where the defense lawyer advised his client to admit guilt as a measure to take for mitigation, but the client refused, because he knew beforehand that once he took that advice, the police would surely use his confession to tarnish his image.

Therefore, try to make sure that you and the lawyers have good teamwork. Be clear to them on what the family (and, if possible, the POC) want. The wife of blogger Ba Sam, Ms. Le Thi Minh Ha, for instance, was very determined when she told the defense lawyers that both she and her husband just wanted to take the trial as an opportunity to raise public awareness of

rule of law and due process principle, so they wouldn't care much about prison term. Indeed, the case of Ba Sam was a typical case where the POC and his family used law to fight.

3. What if I can't afford a lawyer?

It's time you seek support from human rights organizations, especially international human rights organizations that provide funding for legal aid. In case you don't have their contacts, you may ask the Vietnamese human rights activists to connect you with them or, if possible, to help you with all what you need to do to apply for the fund.

You don't need to hire a big squad of defense lawyers; just two or three are enough.

4. The police tell me that the POC – our son – rejects the defense lawyers that the family hires to represent him. What should I do?

Because the police usually think of lawyers as a kind of trouble that they need to get rid of, you should not believe in what the police tell you.

It would be ideal if your son – the POC – had talked to your family beforehand about what the family should do in case he is arrested, for example, which and how many lawyers to hire, what it means when the police say he has rejected the lawyers chosen by the family, etc. However, in most cases, the activist fails to prepare his/her family for a possible arrest, so it is often hard for the family to know what to do or how to respond to the police in such a situation. Therefore, just bear in mind that you should not believe in what the police tell you. Don't give up the idea of hiring a lawyer, and don't simply reject the lawyers you have chosen. Keep on working with them until you or these lawyers receive the confirmation of rejection directly from the POC.

Also be aware that Clause 2, Article 77 of the Criminal Procedural Code, on “replacement or rejection of defense counsels”, provides that “If kin of arrestees, temporary detainees or persons in detention reject defense counsel(s) during the stage of investigation, the investigator and such defense counsel(s) shall directly meet the person in custody to confirm the rejection.”

CHAPTER III.

ENCOUNTERING THE POLICE

What is a police state?

Since the communist took power in the whole country in 1975, Vietnam has been a totalitarian police state. A police state is the state in which the government relies on the police force to maintain and enforce its power. In such a state, the police's mission is not to protect freedom rights as it should be, but to detect, punish and destroy any resistant act or any potential political dissent. No political opponent is allowed to exist in a police state.



“Long live the Vietnamese Communist Party. The People’s Police just are fully aware that our existence depends on the existence of the Party.” An advocacy board in celebration of the VCP’s Foundation Day of February 3, 1930. Photo courtesy of AFP.

Characteristics of a police state

A police state is characterized by the following traits.

- Police forces are usually overstaffed, but the number of police personnel and the ratio of police to population are kept secret;
- Police are given unlimited privilege and can stand above the law;
- Police hold absolute power in law enforcement and can use that power at their discretion;
- Police hold advantage over other parties to the proceedings;
- Police are not accountable to any other institution in the society, no matter if it is the public, the press, the legislature or the court;

- Police can intervene into and control the policy-making process;
- Police can intrude in and control every aspect of civil life, for example by monitoring the people's communication or putting citizens under tight surveillance;
- Civil liberties are tightly restricted.

To learn about a police state within 5 minutes

On May 2, 2017, Nguyen Huu Tan (b. 1979), a Hoa Hao Buddhist follower, was arrested by the police of Thanh Phuoc ward in the southern province of Vinh Long for they suspected that he was storing a flag of the pre-1975 Saigon administration. The next day, the police told the man's family to come and retrieve his dead body, saying Tan had committed suicide by cutting his own throat with a letter opener he found in an investigator's pocket.

Tan's family disbelieved in what they were told, arguing that they found his head injured and no way could Tan cut through "nearly the entirety of his own neck, leaving only a little bit of flesh connected." Activists doubted this was a suicide, too, because they learnt from experience that it is almost impossible to do anything in the interrogation room, not to mention finding a letter opener in the investigator's pocket.

Let us raise some questions and then answer them ourselves.

- Who arrested Tan? *The police did.*
- Where was Tan kept in custody? *In the police station.*
- Who accused Tan of storing the flag of the old Saigon administration? *The police did.*
- Who interpreted the law to conclude that storing a flag of the old Saigon administration is an offense? *The police did.*
- Who interrogated Tan? *The police did.*
- Who filmed the interrogation process? *The police did.*
- Who called the victim's family to come and take his dead body? *The police did.*
- Who conducted autopsy, if there had been any autopsy? *The police did.*
- Who witnessed the autopsy on Tan's body, if there had been such an autopsy? *The police did.*
- Who determined the reason for Tan's death? *The police did.*
- Who would investigate Tan's death in police custody, if there were investigation? *The police did.*
- Who run the system of prison camps in Vietnam? *The police do.*

So, in fact, the police do everything, even when they may be the suspect or perpetrator. ²⁷

Now you know what a police state is like, don't you?

²⁷ A report published in 2015 by the MPS estimated the number of deaths in police custody for the 3-year period (from October 2011 to September 2014) at 226 cases but concluded the main causes of death were illness and suicides. Since 2014 until now, dozens more of deaths in police custody have been reported and many of the victims were found dead with brain damage and bruises all over the body. However, not any police officer has ever been held liable for these "mysterious" deaths.

Further reading:

Four Ways the Vietnamese Government Controls Religious Practitioners ²⁸

Apart from groups of measures such as using legal documents, dividing to rule and using propaganda apparatus, the authorities use the fourth group of measures – physical violence (police officers, prison) aiming at religious communities that they find it unable to control and supervise. The public security of Vietnam has its own separate force to exercise state management over religion, which is the specialized religious police force. Advisor to the former Prime Minister, Nguyen Tan Dung, on security and religion is Lieutenant General Nguyen Van Huong ²⁹. Head of the Government Committee for Religious Affairs is Lieutenant General Pham Dung (2012-2017) and Vu Chien Thang, head of the northwest security department (2017-now). All are extremely persistent members of the Communist Party.

The evidence is impossible to attain but it is thought that the underground and official police forces always keep an eye on important religious establishments in Vietnam, for example, Quan Su pagoda (located on 73 Quan Su Street, Hanoi), which used to be the Central Buddhist Sangha of Vietnam. Similarly, it cannot be denied that the underground and official police forces tightly monitored the headquarters of Redemptorist Church of Vietnam. The cameras on the electric posts along the roadsides supervised on a round-the-clock basis all activities the Provincial Redemptorist Church carried out.

Mobilizing a huge system to exercise the supervision and control over religious activities through secret and public measures is the corollary of the authorities' concern that national security issues will stem from religious communities and organizations that are capable of mobilizing the people. This matter forces religious communities to confront with real challenges if they refuse dialogues, otherwise, they must reach a compromise under the control of the authorities.

In many areas, especially in the rural or mountainous areas, local public security forces hold a very hostile and aggressive attitude towards religious followers. For instance, Hoa Hao Buddhists usually report (on independent websites) that they were brutally harassed and persecuted by the local police and authorities. Many Hoa Hao Buddhists, including women and children, were beaten to unconsciousness or even injured. Incidents like that occurred dozens of times each year. As they took place in the remote areas, it is very difficult to investigate the roots of the conflicts to see which sides started first and should be blamed. But it is certain that the police officers resorted to physical violence. While the "spontaneous masses" ³⁰ may often use

²⁸ Extracted from the report "Assessment of the 2016 Law on Belief and Religion in relation to the Exercise of the Right to Freedom of Religion and Belief in Vietnam", Pham Doan Trang et al., October 2017. The report suggests that there are four methods the Vietnamese government uses to control the practice of religion in the country: 1) using legal documents and other administrative regulations; 2) using the propaganda apparatus; 3) dividing to rule; 4) using physical violence (beating, intimidation, imprisonment). The report is available online at: https://www.thevietnamese.org/wp-content/uploads/2017/11/Report_on_FoR_Vietnam_10_2017.pdf

²⁹ Nguyen Van Huong is widely known as a "hardcore" communist, very tough and intolerant of religious minority communities whom the VCP usually describes as "extreme subjects". He is believed to be the leader of a brutal crackdown on the 2011 unrest among Hmong Christians in northwestern Vietnam. Since he retired in 2013, it has been unknown yet who is his successor in giving counsel to the current Prime Minister on religious matters.

³⁰ "The spontaneous masses" is a term coined by the VCP's propagandists to mean people who are outraged at the behavior of dissidents to the extent that they can spontaneously harm dissidents, for example, by throwing dirt into their residence or physically attacking them. "Masses" means they are civilians, not members of the

primitive weapons of stones, bricks, sticks, and knives to attack religious groups, the authorities failed to take preventive intervention, even when religious leaders appealed for help.



On May 30, 2017, such a mass surrounded the Van Thai sub-parish (based in Son Hai commune of Quynh Luu district, Nghe An province), shouting, intimidating the priest and throwing stones into the sub-parish's church.

The gang even surrounded houses of individual believers, throwing stones and smashing furniture and other property.

Since the marine life disaster caused by the Taiwanese steel corporation Formosa broke out in April 2016, religious communities in central Vietnam, the majority of whose members live on the

sea, have actively involved in speaking up for protection of the environment and the rights of the victims. However, as from 2017, peaceful rallies by religious practitioners have been stamped down ruthlessly by the local police. The MPS even sent in riot police sent from "the center", i.e. the capital of Hanoi, or other provinces for suppression. On February 14, 2017, religious believers going to the Ky Anh People's Court to submit their lawsuits against Formosa were surrounded and attacked by the Nghe An police with clubs, sticks, stones, and tear gas. At least 30 people were badly injured, including children and elder women.

In the night of April 2, 2017, a row between some local police and two human rights activists, Bach Hong Quyen and Hoang Duc Binh, led to a violent clash between the police and the Catholic group across the site of the Trung Nghia church in Ha Tinh province. Some people of both sides suffered from injuries. The next morning, the Catholics went to the People's Committee of Loc Ha district to demand compensation for the Formosa victims and to oppose "Loc Ha police shooting and beating civilians." In the following days, the police of Ha Tinh and Nghe An initiated proceedings for a "inciting public disorder" case and issued warrant for the arrest of Bach Hong Quyen. On May 15, 2017, they abducted Hoang Duc Binh and took him to the police station for torture and extortion. He was moved to Hanoi and has been detained in B14 since then ³¹.

.... It is worth noting that Article 79 of the Penal Code is an ambiguous article and aims at individuals who "establish or join organizations" with the assigned intent "to overthrow the people's administration". Therefore, members of every party or religious organization can easily be convicted of this crime.

More ambiguous and even tougher are Article 245 of the Penal Code, which prescribes the crime of causing public disorder, and Article 258, "abusing democratic freedoms." These articles are too ambiguous; therefore, followers of unrecognized religion can easily become convicted criminals according to one or two articles when practicing their religion.

Apart from beating and imprisonment, there are also other types of physical violence such as coercive measures, eviction from religious premises (to seize the land) or mobilizing gangsters to attack or throw explosives. This was what happened to Mennonite Protestant Church in My

police forces. In fact, it is believed that these people either are hired by the police or work as police themselves under the cover of civilians.

³¹ Hoang Duc Binh (b. 1983) was sentenced to 14 years in prison on February 6, 2018, for allegedly "inciting public disorder", "resisting people performing official duties" and "abusing democratic freedoms to infringe upon the State's interest." Bach Hong Quyen (b. 1989) fled from Vietnam seeking political asylum. He was resettled in Canada in May 2019.

Phuoc 1, Ben Cat ward, Binh Duong province on November 2, 2014.



Hundreds of thugs threw explosives into the Church hall where followers were worshipping and attacked them with canes so that some followers were wounded. Before that, from June 2014, gangsters had attacked the Protestant Church 10 times in a similar way. The local police officers did not turn up.³²

The scariest violent attack of the religious minority group in 2017 may be the killing of Mr. Nguyen Huu Tan (b. 1979, Hoa Hao Buddhist) while he was in custody in the police station of Vinh Long province. On May 2, 2017, Tan was urgently arrested and had his home searched by Vinh Long police for "disseminating anti-state documents." He was put into custody for questioning, and the next day his family received a phone call from the police, asking them to take back his dead body. The Vinh Long authorities said Tan committed suicide by cutting his own throat. The family, however, disbelieved the account, especially when they found Tan's dead body with his head injured and a deep cut through nearly the entirety of his neck. All requests for independent investigation were ignored while Tan's family kept being intimidated by Vinh Long police days after.

The case clearly went beyond the helm of religious freedom to become an alarm call against many serious issues in contemporary Vietnam: arbitrary detention, grudge and violence against religious followers as well as dissidents, and, above all, the lack of a mechanism to supervise law enforcing bodies, to independently investigate and punish violators in the section of law enforcement.

Being chased from religious facilities, preventing from migration is another control measure of the authorities towards religious followers and this is a serious infringement of the human right (the right to freedom of movement). There have been many cases in which the religious leaders were forbidden from exiting Vietnam from 2013, including: Buddhist monk Thich Khong Tanh, Reverend Dinh Huu Thoai, Reverend Le Ngoc Thanh, Reverend Phan Van Loi, Sub-dignitary Hua Phi, Sub-dignitary Nguyen Bach Phung, Pastor Nguyen Trung Ton, Pastor Pham Ngoc Thach, and others.

³² Available at: <http://danlambaovn.blogspot.com/2014/11/cong-binh-duong-dung-con-o-tan-cong.html>

The psychology of police under totalitarianism

In a police state, the police mindset is characterized by some features which may be good for the police themselves and their job, but bad for their victims and harmful for the society. Below are some of such features.

1. Trickery and brutality

Once they can be sure that they will not be held liable or accountable to anyone or anything, the police tend to become incredibly and defiantly brutal.

This can be seen obviously in the way they treat dissidents and democracy activists, who they simply view as “subjects”. When one becomes a “subject” in the eye of the police, he/ she is no more defined as a human being and thus subject to whatever form of political repression the police may decide to use.

Vietnamese police have long been known to act as “spontaneous masses” who throw dirt, including pungent shrimp sauce and excrement mixed with kerosene, into dissidents’ residence.

2. Hunger to know everything about everyone

One of the principles of police conduct is to know everything about everyone while hiding everything about themselves.

Most people living under totalitarian regimes may experience the sensation of being watched at least once in their lifetime. “Big Brother is watching you.” This collective sensation comes as a result of a police state where police forces are thirsty to know every little thing about the citizenry. In the ICT era, electronic surveillance devices are employed to the most, but physical following and watching still prove effective.

Apart from that, a huge amount of information comes from statements and confessions of “the subjects” during interrogation. The investigators are keen to collect even the smallest bit of information about you, such as what your favorite food is, what you often do in your spare time, what animal or insect you were scared of when you were small, which subject you were best at in your school time, who is your most reliable member in the family, and so on. All of such seemingly trivial and nonsense stuff, in fact, contribute to making a full and complete dossier on you as a “subject” of the police, with all strengths and weaknesses, so that the police can use when needed.

At the same time, the police need to hide everything about them. Tax-payers in Vietnam can never know the number of operating police in the community, the ratio of police to population, the average salary of police officers, and their undercover businesses, euphemistically referred to as the force’s “economic activities.”

If you are ever interrogated by the police, you may find that the more they want to extort from you, the less they let you know about them. You can never know what their real names are, what aliases they go under, where their residence or working place is, why they are interested in this story, what they are to do to you, why and how, etc.

It is simply because the police are well aware that transparency and accountability means an end to their job. For the VCP as a whole, they have automatically learnt that clandestineness and mystery build up their strength and power.



*A policeman, flanked by local militia members, guards the outside of the HCMC People's Court.
Photo courtesy of AFP.*

3. Arrogance

The communists are by nature arrogant. This arrogance dated back from the founding father of communism, Karl Marx, who acted as if he knew clearly what is best for human beings and only his doctrine can help the entire human race. He insisted that his doctrine is a science, not an ideology.

Marx's followers, the VCP, inherits his communist arrogance, and that is why such rhetoric mottos are found omnipresent, "Marxism & Leninism the champions," "The VCP is the great architect of all victories," "The VCP leads the Vietnamese people through history to attain victory after victory," etc.

It is no surprise that the police and the army – the two most powerful forces that support the VCP's rule – are tremendously arrogant and aggressive, sometimes in a childlike manner. Always they desire to win by any means, and they will be most satisfied if they are able to triumph completely over and put their enemy to the greatest shame.

This gives a good reason for the tradition of televising dissidents' confessions in communist China and Vietnam. Though the confessions are often extracted under duress, TV confession appears effective in shaming dissidents and confirming the police state's triumph over their potential political rivals.

* * *

Police tactics and strategies in oppression

Police tactics and strategies in oppression can be encapsulated in four words: “Trấn - Phân - Cô - Kéo”.

- “Trấn” in “trấn áp”, meaning “suppression” or “vanquishment”: This is the strategy of using physical force to crush the opponents, or “the subjects” as the police put it;
- “Phân” in “phân hóa”, meaning “division”: This is the strategy of “dividing to rule”, prompting conflict and sowing division among the opponents to make sure that the opponents can never unite to build up strength;
- “Cô” in “cô lập”, meaning “isolation”: This is the strategy of isolating the opponents from their community, thus demoralizing them;
- “Kéo” in “lôi kéo”, meaning “enticement”: This is the strategy of enticing supporters, including families, relatives, friends and colleagues, away from the opponents.

Frequently asked questions and answers

1. After my husband was arrested, many people contacted me, introducing themselves as “independent journalists”, “human rights activists”, or “legal consultants”. Some offered to help me raise my husband’s case, others requested an interview with me, even gave me money. Should I believe them? How can I know whether they are trustworthy or not?

To receive support from anyone under any form, including financial support, is NOT wrongful or illegal. However, in reality, there may be cheaters who take advantage of you and the prisoner of conscience to seek personal profit or to deceive you into doing what they want. To avoid being cheated, remember that all the support for you and your family must be unconditional. Do not receive support from a person or a group that links their support with a requirement.

2. After my son was arrested, some police officers met me and suggested me “buying justice”, or paying some hush-money and my son will be given a light sentence. At least my son will not be beaten up in jail. Should I rely on those officers?

No, never. Be vigilant to any of such suggestions. If you are lucky enough, you will only lose your money while your son still gets beaten up in jail without you knowing or sentenced to a lengthy prison term.

In the worst case, you yourself may be charged with offering bribes.

What you and the family should do when encountering a police state

- Bear in mind that intimidating any person or destroying their livelihood, even when he/she is the relative or friend of an arrested suspect, is unethical and unlawful. Only who breaks pays.
- It is immoral and mean of the government to target dissidents’ families, especially the elderly, the disadvantaged and children. Only tyrannical governments behave in such a manner, and you should expose them to light.
- Try to make different livelihoods. Do not let yourself depend on just one.

- Do not make any big deal or sign any big business contract under your name, such as a real estate contract.
- Try not to fall into debt traps.
- Keep your friends close. Do not isolate yourself from the others.
- Believe that you and your family member in jail are not alone. There are always some people somewhere thinking of you.
- Even if you are truly lonely, take it easy. Loneliness is what you may have to accept as part of your life since your family member becomes a prisoner of conscience. Your family member must have known it before they got into activism.

CHAPTER IV.

USING THE LAW TO FIGHT

A member of your family has been arrested. There are plenty of things for you to do immediately, but first of all bear in mind that under Vietnamese law and international human rights norms and standards, your family member has at least 12 rights as follows.

1	The right to personal liberty and not to be arbitrarily detained
2	The right to be informed of the reason for the arrest and of any charges against him/her
3	The right to be informed of one's rights
4	The right to silence
5	The right to legal assistance
6	The right to adequate time and facilities for the preparation of a defense
7	The right not to be held incommunicado
8	The right to trial within a reasonable time
9	The right to humane treatment and not to be tortured
10	The right to a fair trial
11	Presumption of innocence
12	The right to a public hearing

The following section will elaborate on these rights. But, before we start, think of a favorite saying by the Vietnamese police to deny one's rights, "You are not living in the U.S. This is Vietnam."

If a policeman says that to you, remember to tell them that there is always a legal tool to use in case of conflicts, which is Clause 1 of Article 6 of the 2016 Law on International Treaties (2016), stating, "If an international treaty to which the SRV is a party has clauses that differ from national law, the international treaty's clauses take precedence, except for the Constitution."

1. The rights to personal liberty and not to be arbitrarily detained

Everyone has the right to personal liberty and to not be arbitrarily deprived of liberty (including arrest, pre-trial detention and detention). An arrest, pre-trial detention or detention is permissible only if carried out in accordance with the law. It must not be arbitrary and can only

be carried out by authorized personnel. People charged with a criminal offense should not normally be held in detention pending trial.

In reality, since 2007, hundreds of people in peaceful assemblies have been arrested in Vietnam, and taken to police stations for custody and questioning without any warrant in written form. Many were even tortured. This constitutes arbitrary detention, a human rights violation.

2. The right to be informed of the reason for the arrest and of any charges against him/her

Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and notified without delay of any charges against him/ her.

The Vietnamese police traditionally use force to arrest peaceful protesters and refuse to cite any reason for the arrest. What they most often say is “shut up, you will soon know why you are arrested,” or “you must have known it better than us.”

3. The right to be informed of one’s rights

Anyone arrested or detained is entitled to be informed, in a language they understand, of their right to (a) legal representation; (b) examination and treatment by a doctor; (c) have a relative or friend notified of their arrest or detention; (d) communicate with or notify their consulate (in the case of foreign nationals) or a competent international organization (in the case of refugees or persons who are stateless or under the protection of an inter-governmental organization), and (e) be provided with information on how to avail themselves of such rights.

All of the above rights are frequently violated in Vietnam. Arrestees, especially in political cases, are denied access to legal representation, health care, family and friends, and information, including “information on how to avail themselves of such rights.” Only after the investigation process has been completed do they sometimes avail themselves of those rights to a limited extent, with permission from the police.

4. The right to silence

No one who is charged with a criminal offense may be compelled to confess guilt or testify against him/herself.

In Vietnam, however, prolonged detention in bad jail conditions, denial of access to legal presentation, family and friends, have been used systematically and widely to force the arrestees to confess or admit guilt.

Vietnamese police show much interest, as do their Chinese counterparts, in compelling dissidents to televise forced confessions. There have been several notorious cases of TV confessions, such as that of human rights lawyer Le Cong Dinh (2009), democracy supporter Tran Thi Xuan, freelance journalist Nguyen Van Hoa (2017), and protester Truong Huu Loc (2018).

5. The right to legal assistance

All persons who are arrested or detained have the right to immediate assistance from a lawyer during any pre-trial detention, interrogation and/or preliminary investigation. They have the right to a lawyer of their choice. If they are unable to afford a lawyer, then a defense counsel should be assigned to them free of charge.

Lawyer Nguyen Van Dai and his assistant Le Thu Ha were arrested in mid-December 2015. They had to suffer 26 months of continuous detention and interrogation before they were

allowed to see their defense lawyers for the first time amidst investigating officers. One of the defense lawyers, Ha Huy Son, said he had many times requested visiting Dai and Ha, but all of his requests were denied.

Under Vietnamese law, the police are the one who grant permission to lawyers to see their clients. Traditionally, they only do so when the investigation has been completed and they can make sure that the prosecutors already have a substantial advantage over the accused.

6. The right to adequate time and facilities for the preparation of a defense

All persons charged with a criminal offense should be given adequate time and facilities for the preparation of their defense, including the opportunity to communicate in confidence with a lawyer of their own choosing.

This right is totally strange to Vietnam's law enforcing and procedure-conducting bodies. Particularly in political cases, lawyers can only meet their clients after being granted permission by the investigating body, so that they have little time to study the case. For example, in the 2008 case of "the SRV vs. tax evader Dieu Cay", defense lawyers were given only five days to work on the case before the trial court took place.

7. The right not to be held incommunicado

Any person arrested or detained has the right to be provided with the facilities they require to communicate, as appropriate, with their lawyer, doctor, family and friends, to notify these people of their arrest or detention, including the place where the person is being detained or the place the person has been transferred to.

Blogger Dieu Cay (Peasant's Pipe) was arrested and charged with "tax evasion" in April 2008. He was sentenced to 2.5 years in prison. However, as soon as he was about to complete his prison term, his detention was prolonged and he was sentenced to 12 more years of imprisonment for "conducting propaganda against the state" though he had remained in jail all the time and unable to conduct any propaganda.

During his years in prison, Dieu Cay was moved between 12 prison camps across the country. Ironically, his family was never informed of his place; always they had to search for him and fight with different prisons under the MPS to find his whereabouts.

Human rights lawyer Nguyen Van Dai had been arrested for 11 months before he could meet his wife for the first time in jail, and 26 months before he could meet his defense lawyer. During the investigation process, Nguyen Van Dai and his assistant Le Thu Ha were held incommunicado without any access to the outside world.

8. The right to trial within a reasonable time

Anyone arrested or detained on a criminal charge has the right to be tried within a reasonable time or to be released pending trial.

Prolonged incommunicado detention is absolutely prohibited under international law. However, for decades in Vietnam, the "anti-state" or "anti-communism" suspects have been arrested without warrants and placed in solitary confinement for years without trial. Because there was no trial, there was no legal representation, indictment or court judgment, either. Those poor victims of human rights violations remained imprisoned until the public security body freed them at their discretion. "Rubber justice" is slang for such kind of imprisonment.

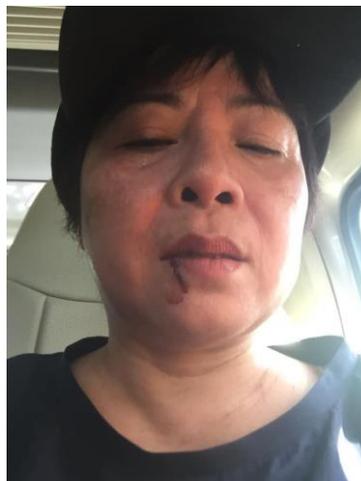
Scriptwriter Vu Thu Hien ³³, novelist Bui Ngoc Tan ³⁴, and dozens of other dissent authors and artists suffered from “rubber justice” during the cleansing campaign against “revisionists” in the 1960s. This originated from a legislation ratified by the NA in 1961, the “Collective Re-education” law, giving the MPS full power to imprison any citizen deemed as “harmful to social order and security” without trial.

9. The rights to humane treatment and not to be tortured

All persons deprived of their liberty have the right to be treated with humanity, with respect for the inherent dignity of the human person, and not to be subjected to torture or cruel, inhuman or degrading treatment or punishment.

In Vietnam, the police, including investigators and wardens, use subtle ways to persecute arrestees and prisoners. For example, the prisoners may not be allowed to use hot water during the chilling winter months in northern Vietnam. They may also be forced to sleep on cement floors and denied warm clothes, blankets or bed slabs.

In summer, the torment takes other forms. Nghe An, a province in the north central coast region of Vietnam, has a tropical climate with extremely tough weather in summer, characterized by high temperature and “Laotian wind” (Foehn wind), a hot and dry westerly wind from Laos to central Vietnam. From June 10, 2019, a group of prisoners of conscience in Prison Camp No. 6 of Nghe An went on hunger strike to protest the wardens, who refused to provide them fans despite the excessively hot weather, with indoor temperatures reaching more than 42 °C (107.6 °F). On July 12, the prisoners’ 32th day of hunger strike, when some twenty family members and supporters, mostly women, went to the camp on a monthly visit, they were stopped by the police. Then the police and police-employed thugs physically attacked the group and robbed them of their cameras. (*Photo: Activists Huynh Ngoc Chanh and Nguyen Thuy Hanh, the worst victims in the assault*).



³³ Vu Thu Hien (b. 1932) is a famous Vietnamese writer and journalist, author of *Darkness in the Daytime* (Vietnamese: *Đêm giữa ban ngày*, 1997). He was imprisoned for nine years without trial (1967-1976) for being allegedly involved in a trumped-up “anti-communism revisionist” group. His book is strictly banned and he has been living in exile in France since the 1990s.

³⁴ Bui Ngoc Tan (1933-2014) is a Vietnamese writer famous for his books on prison lives in Vietnam, especially *The Tale for 2000* (*Chuyện kể năm 2000*), a personal glimpse of the Vietnamese gulag. The book is strictly banned. He was imprisoned for five years without trial (1968-1973). He passed away in 2014 and his funeral was disrupted by the police, who came and tore off badges from flower wreaths sent by dissent individuals and groups.

During their detention awaiting trial, lawyer Nguyen Van Dai and his assistant Le Thu Ha were each kept in six-square-meter cells with another inmate. They suffered from sleep deprivation and a lack of natural light.

“I had to eat unripe food for twenty days. Sometimes they added soap to the soup, or something with unpleasant smell into our drinking water.... They usually cut electricity and water supplies. They raised roosters that crowed so loudly from midnight to 6 a.m. that we could hardly sleep. In brief, the police guarding the prison found numerous ways to cause us psychological and mental problems,” recalled lawyer Dai.

10. The right to a fair trial

The accused is entitled to a fair trial. The right to a fair trial encompasses all the procedural and other guarantees concerning due process laid down in international standards. For the sake of conciseness, the right to a fair trial means the accused is entitled to a trial before an independent, impartial and competent tribunal established by law.

This means that all of the “people’s courts” during the land reform initiated by VCP in the 1950s, where people were called together by state authorities to humiliate, convict and then execute those labelled as “landlords” and “traitors” were violations of human rights and international human rights conventions. None of those courts was an “independent, impartial and competent tribunal established by law.”

On April 4, 2011, Dr. Cu Huy Ha Vu, a legal activist, stood on trial for “conducting propaganda against the state.” He was accused of “demanding to abolish the leading role of the VCP.” At the beginning of the trial, Vu requested to replace the trial panel to avoid a conflict of interest whereas all of its members were also members of the VCP. The court simply ignored his request.

The same thing happened in 2016 in the case of Nguyen Huu Vinh (a.k.a. Ba Sam).

Vu and Vinh were not alone in being adjudicated by a communist trial panel. In fact, all political dissidents in Vietnam are adjudicated in trials where the judge, jurors, and trial panel are all members of the VCP. There is no way can the courts be independent in this situation. That is a clear violation of the “independent and impartial tribunal” principle.

11. Presumption of innocence

Everyone charged with a criminal offense has the right to be presumed innocent until proven guilty according to law.

To date, this principle has been violated often in Vietnam. Ironically, government officials and the press are those who tend to violate it the most often, especially in political cases. The authorities in general and the police in particular have the tradition of employing the press and *du luan vien* to personally attack the suspects or the accused, defaming them and manipulating public opinion in affirming their guilt. Even the defense lawyers may sometimes be attacked, too.

12. The right to a public hearing

Except in narrowly defined circumstances, court hearings in criminal proceedings should be open to the public and court judgments should be made public.

In Vietnam, all political cases are said to be adjudicated in “open courts”. The truth is that none of them is really open. In most cases, even parents or spouses of the accused are not allowed to enter the courtroom. Friends and supporters of the accused, if trying to access the

court to show their solidary and sympathy, will certainly be dispersed, even arrested and charged with “inciting public disorder.”

Further reading:

The Danger That Is Article 258: How Law Criminalizes Disagreement ³⁵

May 7, 2014

(Vietnam Right Now)

The recent arrest of the founder of the Ba Sam website highlights how the VCP uses penal code provision, Article 258 ³⁶, to take away anyone's freedom at any time for doing anything that the VCP does not sanction.

Article 258 is entitled "Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens." On its face, Article 258 is already an anomaly, as any attempt to criminalize the vague and ambiguous "abuse" of freedom will, almost by definition, wipe out such freedoms.

Article 258 has been used to prosecute a wide variety of people for allegedly "abusing" their freedom of speech or religion.

In 2011, two Hoa Hao Buddhism believers were convicted under Article 258 and sentenced to four and a half years in prison for distributing leaflets and CDs exposing government oppression of their church.

In 2010, journalist Le Nguyen Huong Tra was arrested and held under Article 258 for writing about the singer girlfriend of the son of a police general ³⁷. She was not prosecuted, and was released after the son got married to someone else. The reason for her arrest was that she allegedly "abused democratic freedoms to infringe upon the state's interests", or violated Article 258.

In 2008, journalists Nguyen Van Hai and Nguyen Viet Chien were prosecuted under Article 258 for writing about corruption at PMU-18, where several million dollars were siphoned off a government infrastructure project. Their case was later changed to be based on an alleged "abuse of position." In other words, they abused not "democratic freedoms" but "position", as the police-dominated court put it.

In 2014, two bloggers were separately convicted, sentenced, and imprisoned under Article 258 for their writings – bloggers Truong Duy Nhat and Pham Viet Dao.

No specific acts

So, what does this infamous Article 258 say? The provision states, in full:

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.

³⁵ Available at: <http://vietnamrightnow.com/2014/05/in-depth-the-danger-that-is-article-258/>

³⁶ In the amended Penal Code of Vietnam, valid from July 1, 2016, Article 258 is renumbered as 331.

³⁷ Though a general officer is typically an officer of high rank in the army, in Vietnam the VCP uses a system of general ranks for the police, too.

The most frequently used argument by the VCP' supporters is that it protects people's rights from all infringements by others. However, it is precisely that vague idea that makes the law itself an abuse.

Normally, a crime is defined by specific acts – killing, rape, theft, drug dealing, taking bribes, kidnapping, etc. The legislations related to these crimes are aimed to protect specific interests of organizations and/or citizens in the society from violence and injustice. More broadly speaking, the law in its essence is made to protect the interests of every member of society against violence and justice.

So, if specific bad acts are already banned, how can a law be created just to repeat this purpose? This suggests that Article 258 is broadly worded so that it can be used to suppress freedom in a way the government won't want to admit.

Criminal justice theory of Vietnam states that a crime has to be specific to an act or a failure to act. For example, Article 8 of the Penal Code defines a crime as "an act dangerous to the society." So, a crime must constitute specific acts instead of just ideas or concepts such as "to abuse democratic freedoms."

Very vague on violations

Vagueness is a flaw that lawmakers must always avoid. Suppose a decree requires government officials to create a good Internet environment in Vietnam, or else they will lose their jobs. The adjective "good" makes the decree vague and broad, and it becomes a problem because nobody can say whether an official has or has not committed a violation and whether he or she should be sacked.

A vague or ambiguous statute is the one that has indefinite application to particular cases. Article 258 contains a number of such vague words, including "abusing" and "interests of the state." They raise questions:

– What is "abusing"? What constitutes an abuse? Is it an abuse to protest against American war in Iraq? Or against Russian war in Crimea? There are no criteria in any law books in Vietnam that can help answer this question.

– To which extent can a citizen enjoy his/her freedom before being accused of "abusing" it?

– What does it mean by "the interests of the state"? By whom are these interests defined? Is there anything like a list of such interests so that people can avoid infringing upon?

The text of Article 258, for sure, does not answer any of these questions. Worse yet, the authority to interpret laws in Vietnam lies in the hands of security forces and the courts, all under the VCP's absolute control. That leaves unlimited space for the police to act as they please. Which leads to yet another question:

– What is to stop the government from claiming "the interests of the state" whenever anyone does anything the government does not like?

The answer is, nothing. There is nothing to stop that abuse.

Disagree? You've infringed upon state interests

Abuse of power is precisely what happens. In 2009, three people, including Pham Doan Trang, the author, were arrested under Article 258 for planning to produce T-shirts in objection of the bauxite mining projects in the Central Highlands and China's maritime claims in the South China Sea.

What did these people do that was "infringing upon the interests of the state"? What particular interest of the state was violated? How were those interests damaged?

Obviously, unlike earlier times, today it is legal to produce a T-shirt. Any supposed "abuse of democratic freedoms" must be in the content of what's printed. But how are these anti-China sentiments infringing upon the interests of the Vietnamese state?

What the police told those who were arrested was that the government had decided on the appropriate relationship with China. The T-shirts, police said, made it hard for the government to carry out that policy.

In other words, anyone who says anything that disagrees with government policy, will make it hard for that policy, and therefore risks being subjected to prosecution under Article 258.

So, it was that merely voicing disagreement with a court verdict, for example, became the basis for prosecution under Article 258. In 2013, Dinh Nhat Uy became the first Facebook user convicted under Article 258 after launching an Internet campaign calling for his brother's release.

Or an attempt to change burial practices and preach the Bible. That too was called an infringement of state interests and landed Hmongs Ly Van Dinh, Duong Van Tu, and Hoang Van Sang in prison under Article 258.

Article 258 thus became a very convenient tool to prosecute anyone simply for disagreeing with the ruling VCP. The Network of Vietnamese Bloggers have circulated a statement calling for abolishing Article 258. Even international NGO's have spoken out. HRW in October 2013 issued a statement saying "Vietnam should revoke Penal Code Article 258... and stop prosecuting people for peacefully exercising their civil and political rights."

Meanwhile, what happened to those bloggers who circulated the statement calling for abolishing Article 258 and told foreign diplomats about their effort? Police have been calling on them and bringing them in for questioning.

CHAPTER V.

COMMUNICATION AND MASS MEDIA AS YOUR TOOL

This part is a guidance for families of POCs on how to use the media, mostly Internet media, as a weapon in the struggle to protect the POCs. It gives readers the most fundamental rules to write professionally and to counter propaganda by paid public opinion shapers.

Regarding how to write professionally, the advice is to ensure preciseness and conciseness. Preciseness means you have to make sure that every bit of information you give is accurate and truthful, and at the very least the spelling must be correct. Conciseness means you provide the most information in the least words. The information provided should also be sufficient, meaning you can use it to answer six basic questions (who-what-when-where-why-how). A lack of essential information is not much better than untruthful information, because you will fail to write a good article in both cases.

There are some taboos in the art of writing, for example:

- Misspelling;
- Bad grammar;
- Wrongful or misleading information.

The chapter also describes newsworthiness and the standard structure of a news report, “the inverted pyramid in news writing.” The most important information, which gives answers to the 5W questions of who, what, when, where, and possibly why, is placed in the first lines of the report, or the “base” of an inverted pyramid. Then, less important or additional information is presented in descending order of importance.

* * *

Here is an example of a piece of badly written news, which is typical of the way most bloggers now write a news-report.

Presently facebooker Chicken and 3 other friends are being kept. She was taken away at 7 a.m. this morning. We fail to reach her ☹ We don't know where she is ☹ Pleaseeeee pay attention.

Apart from misspelling and grammatical errors, this “news-report” also lacks essential information. Who are keeping Chicken and her friends? Who are Chicken herself and her friends? Why are they kept?

It's a pity that this style of news writing can be found in abundance on social media. As the state-owned media turn their back to victims of injustice and human rights violations, the victims and their supporters must find their own way to publicize their stories, and the result is the unprofessional citizen journalism as we may see today.

The above piece of news could be rewritten in many ways, for example:

Until now, 2 p.m. September 23, Tran Cam Ha, better known by her facebook name Chicken, a 20-year-old law student in Hanoi, and her two friends are still being kept in custody by the Hanoi security officers. They were taken away from their boarding house at 7 a.m. this

morning and have not been heard of since then. It is unknown yet why and where they are arrested. Ha and her friends are known as active students of the Hanoi Law School. They used to participate in protest rallies against China and environmental protecting demonstrations.

The rewritten piece of news has answered four basic questions:

- *Who are kept?* Three law students, including Tran Cam Ha and her friends.
- *By whom?* The Hanoi security officers.
- *What?* They were taken away from their boarding house.
- *When?* They have been kept since 7 a.m. September 23.
- *Where?* They were taken from the boarding house to an unknown place.
- *Why and How?* No answer.

Although the reason for the detention is unknown, the reporter can still provide background information on the arrestees in order to give the readers some clues. Also, the reporter should not use such exclamation as “pleaseeee” because it adds no value to the piece but creates the impression that this news-report is written in an unprofessional way. Emojis and emoticons should be avoided, either, for the same reason.

* * *

Frequently asked questions and answers

1. Why is it that some POCs attract public attention, such as lawyer Nguyen Van Dai, while other POCs receive no attention at all?

This is definitely unfair, but it can hardly change. It originates from the fact that there are POCs who are widely-known long before their arrest, so when they get arrested, they will surely draw more attention from the media and, consequently, from the public.

There is hardly anyone or anything to blame here. Media tend to focus on famous people, because that is what sells their business.

Nonetheless, think of the saying, “Do not stop just because you are unknown. Instead, do what you can to make yourself known.” If the family, friends and supporters of a POC are able to bring attention to his/her case, then he/she may also become well-known. Communication skills matter to a large extent here, so you need to have a good command of them.

2. My husband has been imprisoned for his blogging activities. He was arrested without anyone knowing. We live in a remote area where public awareness is poor and the local police are so cruel. What should I do to protect him?

You can raise your husband’s case so that it is widely known. In doing that, you can connect with individual HRDs and human rights organizations in major cities, such as Hanoi and Saigon. Ask them for experience and communication skills, and ask them to help you bring attention to the case. You may also share information so that they can write or produce footage on your husband’s case.

Most activists will be willing to help you. Yet there are always bad people who intend to cheat you or take advantage of you, and you must be clear-sighted enough to know who is whom.

3. Shortly after I reported on Facebook about my daughter’s case, the police come and intimidate me. What should I do to protect myself from them?

First and foremost, make sure what you report is truthful, evidence-based and fact-based. That will help provide a legitimate basis to your claims.

It is equally important to consider whether or not to admit that your page is yours. It is your right to decide this for yourself, but you should be aware that what the police do to you – intimidating and harassing you just because of your blogging activities – is totally unlawful and blatantly violating human rights. After all, you should not support the law-breakers and rights violators by admitting what they want you to admit.

4. They printed my Facebook posts and asked me to sign on them to confirm I wrote it. Do I have to sign them?

No. The law does not require you to sign. You should only sign something if you are sure it will be good for you. For example, you may sign to confirm that the police have illegally confiscated your private belongings.

You are also not required by the law to sign on the documents that the police download from the Internet, printed out and give to you, asking for your confirmation. You can refuse to sign them without reason. If you feel necessary to explain something, just tell the police you can't abet their wrongdoings.

Even if the police download a document from your laptop or computer and force you to sign on it, you can refuse. Who knows if the police have inserted into your laptop or computer some "anti-state documents" that they created themselves?

5. There are many cases in which the wardens leak unverifiable information on a POC to his/her family. For example, the police and wardens themselves once spread a rumor that blogger Dieu Cay "lost one of his arms." Can the family make any report based on such information?

A main principle of journalism is you should not publicize unverifiable information. However, in the context of Vietnam, there is no way can we verify information leaked to us by wardens and the police. I suggest the best way to deal with this is to cite your source, or to tell the readers where the information comes from.

In the case of blogger Dieu Cay "losing one of his arms", it was a policewoman named Hong Diep who intentionally leaked untruthful information to his family, then the family reported on it, and the government-paid opinion shapers quickly came in to accuse his family of "fabricating the tragedy." Their purpose is to lower the prestige and reliability of Dieu Cay's family and friends in particular and independent media in general.

So, if the information that you publicize is untruthful by your mistake, you should quickly correct it and publish a disclaimer.

Citizen journalists in the realm of advocacy media must practice codes of conduct, too:

- Do ensure accuracy (be evidence-based, fact-based, truthful);
- Do protect sources;
- Do demonstrate humanity;
- Don't commit libel, i.e. not to spread false information damaging the reputation of an individual or organization.

Further reading:

If You Fail to Conduct Communication, the Police Will Do

July 21, 2018

In June 2013, prisoner of conscience, legal scholar Cu Huy Ha Vu went on strike at the Thanh Hoa prison camp No. 5. Less than one month later, blogger Dieu Cay went on strike at the Nghe An prison camp No. 6. In both cases, the way police forces and prisons treated these POCs remained unchanged.

On the one hand, the MPS arranged for their public opinion shapers to repeatedly deny on mainstream media that the two POCs were on strike. They quoted a police-doctor at prison camp #6 as saying "Dieu Cay is eating as usual, he is happily living in a highly spacious room equipped with a TV set and other facilities," even when Dieu Cay was in critical health condition.

On the other hand, the police set up hidden camera systems in cells, stalking the POCs so that whenever they accidentally touched the food supply, they would be filmed and the footage would soon be viral on media with public opinion shapers mocking, "There, they eat again. We thought they would commit themselves to hunger strike to death," "Sneaking into food, ha-ha," etc.

That's the way the police machine conducts communication, police-style communication.

They spend a huge amount of time on stalking POCs on hunger strike, because with their police mindset, as arrogant communists, they just couldn't make any concession to the people, especially to POCs, who were imprisoned for refusing to be submissive.

In recent years, as the national economy undergoes stagnation and public dissatisfaction spread, the police have grown increasingly oppressive and self-assertive. The more disaffected the people feel toward them, the more they want to demonstrate themselves as "efficient, humane and endearingly trusted". Propaganda depicting "the lovely police officers" can be seen everywhere on social media, though most of the cartoons or films are later found to be either fake or made-up stories.



But they keep doing their communication that way to polish up the image of the "people's police". At the same time, propaganda aimed at defaming government critics and dissidents is also

conducted to a large degree. Police and propagandists also work closely together to quell critical voices on social media. An article by Ha Tam, a police officer based in the northern province of Quang Ninh, published on the local police's official website (conganquangninh.gov.vn) on August 8, 2018, revealed a great deal how the VCP and its police forces considered social media as their enemy and fought with it in a systematical manner. The language it used demonstrated a highly police idiosyncrasy.

"... To be more actively involved in countering distorted information, in March 2018, members of the Commanding Board have produced documents to manipulate public opinion in public issues. Until now, they have written more than 70 articles to oppose wrongful public opinions, regarding the BOT toll station, Chinese tourist buses entering Ha Long, the defamation of local government officials,.... the SEZ bill and the Cyber Security law."

"... The Commanding Board has worked with local police to educate small businesses in the district of Cam Pha and Van Don on the SEZ bill, thus preventing them from assembling and inciting public disorder. In June 2018 alone, the Commanding Board detected many Facebook accounts in Quang Ninh that disseminated anti-SEZ contents. Some civil servants with low awareness were found sharing articles in objection to the long-term land lease in SEZs [to Chinese investors], but they have finally removed these contents after being educated."

A one-party monopoly on power, a well-established state media monopoly with more than 1,000 obedient media agencies under absolute control, a powerful and faithful police system... all such things are not enough for the police state of Vietnam.

CHAPTER VI.

ADVOCACY CAMPAIGNING

This chapter introduces to Vietnamese readers a regularly used political activity: advocacy, or the art and skill of persuading other people. This form of activity is extremely necessary for families of POCs. Advocacy campaigns can be categorized into two types: domestic and international.



*"We demand court of cassation for the wrongful convictions. Ho Duy Hai, Nguyen Van Manh [it should be "Le Van Manh"], Nguyen Van Chuong are GUILTLESS."
Hanoi activists were protesting against wrongful death penalty convictions, December 17, 2017.*

Domestic advocacy is closely linked to communication and the media. It should be started as soon as a POC is arrested. His/her family should publicize the arrest on social media and contact HRDs for support. They need to learn law and human rights to have a better understanding of the rights of the arrestees. They should also meet public offices to demand these rights for the jailed POC and make official complaints when those rights are violated.

You should keep a close eye on the POC's jail condition during both pre-trial detention

and post-trial imprisonment, so as to keep the public informed on any happening. The more informed the family and public are about the POC's condition, the better he/she is protected.

International advocacy, on the other hand, is to raise the attention on the case of a POC to an international. In international advocacy campaigns, you should target three different audiences:

- International media;
- International human rights NGOs
- Pro-democracy governments

Domestic and international advocacy are interrelated. If the people inside your country are very concerned about the POC's case, it is more likely that the international community will pay attention, too.

* * *

Frequently asked questions and answers

1. Who should I meet during my advocacy trip?

You should meet representatives from the above-mentioned groups: international media, international human rights NGOs, and pro-democracy governments.

You may also meet the Vietnamese diaspora in Western countries. Many of the overseas Vietnamese people are passionate about freedom and democracy for Vietnam and they may be highly supportive. Always remember to work closely with the CSO that organizes your advocacy trip.

2. Who should I avoid meeting during my advocacy trip?

Because international advocacy is meant to draw the attention of the international community, you had better not try to avoid meeting anyone. Yet for safety reasons, you may consider avoiding to meet people from Vietnamese diplomatic missions, some of whom are likely to be secret agents working for the MPS. It's so sad but true.

3. What should I do in preparation for each meeting?

Make sure you work on schedule but in a healthy manner. Do not let yourself be burnt-out and fall asleep during meetings.

Having a good command of the case you are raising is a must. You must know the POC and his/her case well. For example, at least you must be able to tell whether all legal proceedings have been correctly observed, whether the POC's rights are respected or violated, and whether the arrest runs counter to international human rights treaties to which the SRV is a signatory.

More than anyone else, you have to know clearly what you and the POC want: No more persecution? Or an immediate and unconditional release? Or a political refugee status?

Reports prepared beforehand in writing are always highly appreciated. At least, you may need to provide the audiences with a one-page report on the case. Do not assume that they have known everything about the POC and his/her case.

4. What about during the meetings?

Speak fluently and listen carefully. Be truthful. Do not tell lies, and neither exaggerate nor

minimize the story.

If you want to record, take photos, or film the talk for subsequent reports, you had better ask for consent from the stakeholders.

Be focused, and don't forget the purpose that you set earlier, which is to attract public attention to the case of your family member in jail. Therefore, do not seek financial support, scholarship, political asylum status, and the likes, during advocacy meetings.

Finally, do not linger in the country after the trip, or even worse, overstay your visa, which will badly affect the reputation of both you and the CSO that organizes your trip.

5. When I come back, is there any possibility that I am charged with espionage, treason, or damaging national security interest?

There is such a possibility, but if it were the case, be confident that, pursuant to international human rights norms, it is not guilty to expose violations of human rights, corruption, or any law-breaking act.

For your reference, The 2013 Global Principles on National Security and the Right to Information (“The Tshwane Principles”) stipulates that “a national security interest is not legitimate if its real purpose or primary impact is to protect an interest unrelated to national security, such as protection of government or officials from embarrassment or exposure of wrongdoing; concealment of information about human rights violations, any other violation of law, or the functioning of public institutions; strengthening or perpetuating a particular political interest, party, or ideology; or suppression of lawful protests.”

CHAPTER VII.

YOUR PHYSICAL AND DIGITAL SECURITY

This last chapter emphasizes the need for preservation of security and confidentiality. In preserving security, it lays importance on the awareness of that need and suggests that widely held but misleading views of security be eradicated.

First, it is the stereotype of the police as a “know-everything” force that must be erased. Although citizens living under a long-lasting totalitarian regime can experience the chilling sensation that “Big Brother is watching you,” in fact, it is hard for the oppressive machine to set a close eye on the citizenry on a round-the-clock basis. Their resources are simply insufficient for such work. This is especially true for the SRV, given its permanent deficit state budget.

Another firmly-held but wrongful belief is “transparency is always the best solution, so no confidentiality at all.” Transparency and accountability are two requirements that a good government shall aim to satisfy; they are not what individual citizens must practice before public offices, especially law enforcement bodies. In other words, citizens are not obliged to be accountable to the government for what they do in private sphere, though they must respect the law.

Subsequently, this chapter provides readers with a practicing guideline on physical and digital security. The part on physical security management includes different countermeasures for activists to use while being interrogated or followed by police officers.

Detainees awaiting trials are subjected to constant interrogations. It is important that they remain calm and fearless, know their constitutional rights, and do not admit guilt if they know they are guiltless. Never think of “confessing first, recanting later”, because the police are masters of interrogation and extortion. They have gained enough experience with detainees who pretend to confess and then recant before court; they won’t let any more Vo Dai Ton³⁸ deceive them.

WHEN QUESTIONED, YOU DO NOT NEED TO					
(Feel)	Afraid	thirsty to go home	furious	sorry for the police	confident of the police
(Act)	speak badly of other people	cry or weep	make promises	sign in confirmation	admit guilt

³⁸ Vo Dai Ton (b. 1936) is a founder of the Vietnam Restoration Union and commander of the Restoration Volunteer Army whose mission is to restore the Republic of Vietnam after 1975. In 1981, he was arrested in Laos in an attempt to enter Vietnam. He admitted guilt, and the then Minister of Home Affairs (now the MPS), Pham Hung, was confident to propose an open press conference for Ton to make a public confession before international media and diplomats.

However, at the conference held in Hanoi, Vo Dai Ton retracted his own statement, affirming his cause is “to fight against the totalitarian regime,” and denouncing the communist government’s maltreatment against him. Though the press conference was terminated immediately, Vo Dai Ton’ speech was broadcast abroad, which made the Vietnamese government lose their face. Vo Dai Ton was imprisoned until exiled to Australia ten years later. The Vietnamese police learnt a lesson, and from that time on, they never let POCs appear in public space any more. Confessions are broadcast only after they have been set up carefully.

Finally, digital security plays a tremendously important role in this era of ICT. HRDs, POCs and their supporters must always be aware and active in practicing the principles of guaranteeing digital security, for example, by countering electronic surveillance devices.

CHAPTER VIII.

BASIC SUPPLIES FOR PRISONERS

In Vietnamese detention and prison camps, food is not provided free and the prisoners must rely on supplies from their families to sustain life. After a person is detained, the detention camp works with the police to issue a “visiting logbook” to his/her family so that the family can visit the detainee in the detention camp as given on a timetable. The family can provide the detainee with food and other basic supplies on each visit. The same procedures are adopted in case of imprisonment, whether life or for a term.

So, if your family member is detained or imprisoned, feeding them is definitely one of your must-do’s. There are other things you should do – communicate and keep the public informed of the case, conduct an advocacy campaign – but you don’t have to do them. However, surely you must and need to feed your family member, who is locked in the camp. It doesn’t matter if your family member is a POC or an “ordinary” prisoner, if you don’t feed them they will starve.

Denial of food and basic supplies may even be a kind of punishment against the detainees who refuse to confess, or the prisoners who do not obey rules. To speak in a broader sense, the police-dominated government has been using prisons to break the will of those who dare to challenge the power of the ruling VCP, and that’s why support from the family plays a tremendously important role in helping the prisoners maintain their will and morale.

The “visiting logbook” is issued only to those who are the prisoner’s family members, whose names appear in the prisoner’s household registration (or family record) book, typically his/her parents, spouse, siblings, and children. All the rest, including friends, colleagues, neighbors and relatives, are not accepted.

So, it is impossible for you to visit a friend in prison if you are not listed in his/her household registration book. In case you want to send your friend something, you have to send it via his/her family member.

Check-list of supplies

Remember that the detention or prison camps do not allow you to visit your family member at your wish. You are only permitted to visit on a timetable given in the “visiting logbook”, usually once or twice a month. So, make sure that the supplies you bring to him/her on each visit are sufficient to sustain your family member until the next visit. Remember that there is no refrigerator in cells to preserve foods.

Below are some of the most important things that a prisoner may need, especially in the first few months of imprisonment:

- nonperishable foods, especially dried and salted foods;
- a small mat or rug to lie on, otherwise the prisoner will have to lie on hard, chilling cement floors;

- a thin and soft blanket (thick blankets may get musty due to damp and wet conditions in the cells, and they are usually not allowed, either);
- a pillowcase. But not a pillow. Pillows are usually not allowed;
- two mosquito nets, one of which is used to fill up the pillowcase as a makeshift pillow, the other to protect the prisoner from mosquitos and other insects;
- formal clothes to be worn during “working sessions” with the police, or interrogation (do not send jeans which are hard to wash and easily smell musty);
- casual wear;
- underwear;
- menstrual pads (for the female detainee/ prisoner);
- a pair of slippers;
- a bar of soap (do not send shampoo or body gel because liquids are banned in detention or prison camps);
- a tube of toothpaste;
- a toothbrush;
- a small plastic basin;
- a kit of plastic bowl, spoon and cup (metal things are normally forbidden);
- cash, just in case the detainee or prisoner needs it;
- newspapers and books, especially prayers’ books in case the prisoner is a religious believer.

Actually, prison camps maintain canteens selling food to prisoners, but at skyscraper prices and prisoners, especially POCs, may be denied access even to the canteens.³⁹ Menstrual pads should be found available in prison camps, too, but in fact, female prisoners often have to “fight” strongly with the wardens before they can have them. Blogger Nguyen Ngoc Nhu Quynh⁴⁰, during her first seven months in jail, subsisted on salted anchovies and was denied both menstrual pads and underwear. Only when one of her defense lawyers, Vo An Don, managed to report it to the outside world did the public hear about this serious maltreatment toward POCs.

Also, in principle, sutras and the Bibles are not banned in prison, but the police and the wardens usually set conditions for the detainee or prisoner to receive them.

Family members may not be able to meet the detainee or prisoner. In many cases, they are just allowed to send food and basic supplies to him/her via the wardens. Therefore, remember to ask the wardens to issue a written confirmation of what they receive from you. This confirmation should later be handed to the detainee or prisoner along with the supplies, and the detainee/ prisoner should sign on it, so that in the next visit you can check whether the supplies have reached the detainee/ prisoner or not. In fact, the wardens normally ignore this procedure, so you should remind them of it.

In case you are allowed to meet the detainee or prisoner, you will be given some time to talk with him/her via phone, under the eyes of the wardens who keep guarding you with their fingertips ready to hang the phone up. So, try to use the time efficiently and leave the hardest part until the last minute, as you may read in the story in the following section.

³⁹ It is said that the “black market”, or the chain of canteens, inside prison camps is the most expensive market in the world, where things are sold at prices dozens of times higher than the outside market. Arguably the wardens and the privileged prisoners earn their profits from these price differences. Prisons’ canteens, however, can be almost inaccessible to detainees or prisoners, for example, when they are locked in solitary confinement.

⁴⁰ Nguyen Ngoc Nhu Quynh (b. 1979), a.k.a. Me Nam (Mother Mushroom), member of the Network of Vietnamese Bloggers, was arrested in October 2016 and sentenced to ten years of imprisonment under Article 88 of the 1999 Penal Code. She was released and exiled to the United States of America in October 2018.

Important: When the POCs go on hunger strike

International human rights organizations and pro-democracy governments nowadays do not often support POCs doing hunger strike because they believe that it harms the body and is not necessarily a method of non-violent resistance. However, in Vietnamese prisons, hunger strikes may be the only way for prisoners to protect their rights and pressure the wardens to do (or not to do) something. In most cases, their goal is just to force the wardens to improve jail conditions.

Hunger strikes can be life-threatening, especially when the prisoners do it alone without the support from other inmates and the outside public. In such cases, the wardens may let them die on a hunger strike rather than realizing their demands. It is reported that Vu Hong To, a Falun Gong practitioner, died on February 6, 2014 during a hunger strike in custody. There might have been other prisoners fasting to death without anyone knowing.

So, it is crucial that the outside public knows it when prisoners go on hunger strike. The bottom line, then, is how to inform the public of a hunger strike in jail.

One of the most famous hunger strikes in Vietnamese prisons is the one blogger Dieu Cay underwent in 2013, when he was detained in Prison Camp No. 6 in Thanh Chuong district, Nghe An province. On July 17, 2013, Mrs. Nguyen Thi Nga, the wife of political prisoner Nguyen Xuan Nghia, a dissident writer who was detained in the same prison camp, visited her husband under the watchful eyes of the wardens. As she was about to leave, Nghia shouted out, “Did you know that Dieu Cay has been on hunger strike for the past 25 days?”

The wardens immediately gagged and dragged him away, but it was too late for them. Mrs. Nguyen Thi Nga later spread the news of Dieu Cay on hunger strike among the community of democracy and human rights activists, despite intimidation from the police. Activists began to launch hunger strikes “in solidarity with Dieu Cay”, and international human rights organizations raised their concern over his case. The whole police apparatus was so embarrassed that they had to mobilize the state-owned media, especially VTV, to proclaim that Dieu Cay was “treated well” so he was not on any hunger strike. Ironically, at the end of a TV news-report, they claimed, both falsely and in contradiction to their earlier assertion that Dieu Cay was not on any hunger strike, “Dieu Cay has given up his hunger strike.”

Once an ongoing hunger strike gains publicity, the wardens (and the authorities) know that they are being watched as villains, so they will not be able to let the prisoners die of starvation. This may help save the lives of prisoners on hunger strike.

Sometimes the public can help the prisoners in another way. In 2016, Tran Huynh Duy Thuc ⁴¹ endured a long fast, and a movement showing solidarity to him was organized. Many bloggers went on fasting to join Thuc, while the others posted statuses or commented on Facebook in praise of Thuc and his cause. Some even counted the days of the hunger strike as a way to remind people of his struggle, “Today is Thuc’s 30th day of hunger strike,” “35 – is the number of days that his hunger strike has lasted until now,” etc.

But the government showed no sign of concession. Or maybe they did concede his demands, but things were kept unknown to the public. A question arose, what to do next? The

⁴¹ Tran Huynh Duy Thuc (b. 1966) is a Vietnamese engineer, entrepreneur and human rights activist who was arrested in May 2009 and sentenced in 2010 to sixteen years of imprisonment under Article 79 of the 1999 Penal Code, “carrying out activities aimed at overthrowing the people’s administration.” Thuc has many times been offered release in exchange for permanent exile, but he refuses, insisting that he will never leave Vietnam. He is broadly admired as an intellectual devoted to the cause of democratization, a symbolic figure of the democratization movement in Vietnam.

activists simply could not keep counting the days to 40, 50, or even 60.

That was when Thuc's family and friends started a new strategy. They publicly called on Thuc to end his hunger strike to save his life. "You cannot die. You must live, because our country needs you." This message was widely publicized on the Internet, on social media, and was relayed by the family to Thuc in prison. In that way, activists were able to save both Thuc's life and his honor.

The moral of these stories is:

- Always watch out for news about the detainee or prisoner so that it can be communicated to the public;
- Use your intuition to sense what is happening to the detainee or the prisoner behind bars. Often information must be felt or deduced, rather than heard first hand, because information can be blocked from reaching family members on the outside;
- Place yourself in the detainee's or prisoner's situation to think and do what's best for them;
- Solidarity is needed between and among the detainee/ prisoner, family, friends, and the activist community;
- Must be proactive and always have contingency plans to raise public awareness and fight for the rights of the detainee or prisoner.

CONCLUSION

Now that you are reading these ending lines, I wonder what you are thinking of me – the author of this book.

Maybe you think I am abetting “anti-state activities” and, with this handbook, I am trying to cause difficulties to procedure-conducting bodies, especially the police, thus conniving at crimes that harm national security. Or you think this handbook is committing defamation against the SRV, especially its police forces.

I thought of what you may think, and I felt hesitant before writing. However, in the end, I decided to write the book, with a firm belief that:

1. Even the most sinful criminals are still human beings and need being treated as human beings, let alone prisoners of conscience who are guiltless and whose rights and freedoms are indicators of a liberal democracy.
2. Police are a crucial and much-needed institution in any society as long as they are aware of their missions, which are to protect freedom and rights, not to protect an authoritarian regime. When the police choose to take the side of the totalitarian government, they choose to be the enemy of the people.

It will be my greatest honor if this book can help pave the way for the establishment of a system of law enforcement and judiciary that meets international human rights standards and norms.

For sure it is definitely hard to reform or to build up a new police system in Vietnam. In this concluding part of the book, I just can come up with some recommendations:

- Foundational training for the police should be reviewed, with a fundamental reform in training philosophy and methodologies;
- The police system should be depoliticized, meaning that party cells should be eradicated from the police force;
- Ethical conduct of the police should be improved to guarantee the independence, impartiality and integrity of the police, as the police should be free from party affiliation and bias.

Finally, may I use my last words to let you know: The truth is, in confronting a totalitarian regime on an individual basis, each of us cannot avoid falling victim to persecution and suppression. In the short term, each of us cannot be victorious over the oppressors in a single battle. We may even be destroyed or severely defeated. So, this book, with all of its advice, can only help reduce your loss, damages and defeat. It cannot ensure you a victory over the police and prisons.

Nevertheless, in the long term or in the whole war, we – those who support democracy and freedom for Vietnam – will certainly win for it is a just cause that we pursue.

THE STORY OF AN INDEPENDENT JOURNALIST UNDER TOTALITARIANISM

August 9, 2019

Background



I am Pham Doan Trang, from Hanoi, Vietnam. I graduated in international economics from FTU (Foreign Trade University) and had been working as a journalist since graduation in 2000 until 2013. I used to work as a reporter, editor, and columnist for mainstream, state-owned media agencies in Vietnam, including VnExpress, VietNamNet, VTC, and HCMC Legal Daily.

I am the author and editor-in-chief of a number of non-fiction publications, inter alia, “*Vietnam and the Southeast Asia Sea Dispute*” (2012), “*Basic Techniques of Journalism and Communication*” (2014), “*From Facebook down to the Street*”, “*An Overview of the Marine Life Disaster in Vietnam*” (2016), “*On Nonviolent Resistance Techniques*”, “*Politics for the Common People*” (2017), “*Learning Public Policy through the Story of the Special Economic Zones*” (2018), “*A Handbook for Families of Prisoners*” (2019), “*Brother Ba Sam*” (first and second edition, 2016 and 2019).



Possibly as a result of my works, I have been targeted by the Vietnam Ministry of Public Security (MPS) for the past ten years.

Arrest in 2009

In August 2009, I was arrested by officers from MPS for being a suspect in a “plot to produce advocacy T-shirts against the Chinese bauxite mining projects in Vietnam”, as the police put it. I was detained for nine days. During the detention, the police searched my house in my absence, confiscating my laptop and copying all of its files, including my private photos. They even temporarily arrested my mother and used her as a pressure on me for extortion. I was forced to sign on forty photos, confirming the confession they had composed earlier that “this is my body while I was having sex with.....”. (They even wrote the name of my partner beforehand).

After nine days, they released me without any explanation or pardon for having conducted such an arbitrary detention. Subsequently, under much police pressure, the newspaper I was working for, VietNamNet, dismissed me without reason.

Regular harassment between 2009-2013

After being sacked from VietNamNet, I worked for the Hanoi office of HCMC Legal Daily. As a reporter and political columnist, I was confronted with continuous harassment from the police, who often summoned me for interrogation on my work. If I refused to see them, they would threaten the editors until I surrendered.

Also, I was denied access to major government-organized events, such as the semi-annual national assembly conventions. Some of my interviewees even reported that they were questioned and intimidated after the interviews; the police warned them not to give interviews to “that anti-state woman.”

In early 2013, as the harassment escalated, I left Vietnam for the Philippines and then the United States of America in search of post-graduate education.

Invasion of privacy

On January 26, 2015 I returned to Vietnam. I was kept for fifteen hours at the airport and was followed tightly days after. Two weeks later, just before the eve of the Vietnamese lunar new year, the police spread my private photos, which they had copied from my laptop in August 2009, on the Internet. They even created footage with the photos, accusing me of having “indecent behavior.” I got depressed, feeling my privacy was seriously violated. After all, no matter how strong you can be, it is not a pleasant sensation at all when you feel millions of eyes can watch your intimate moments. However, I tried to protect myself by writing to my readers a “confession before the New Year’s Eve” in tears and begging for their sympathy.

“Those were pictures documenting my intimate moments with my lover – at the time that I always thought of as the age of romance and innocence for me. It was a time when I believed “you give it all in love”. It was a time where I lived in a love-filled world with beautiful images and mystical melodies: writing my articles, loving him, listening to classical guitar, and enjoying the Beatles. Wherever I went, those images would vividly light up in my mind, the shadow of his smile, the way he looked at me, his lips, his hands... I have thought of love (and sex) as something sacred. Yes, sacred to the utmost.

And because of such belief, I suffered tremendously when my sacred moments were tainted, and my privacy was invaded and defiled. I would never forget the bitter feeling when I was faced with dozen pairs of police’s eyes, all hawking at those pictures. I would never forget the harrowing thought crossing my mind at that moment: Yes, it was true that I have had a few romantic relationships and have taken some intimate pictures to document some sensual moments. But I did them all out of love – for my lover, for my own body and my youth. I did

not do it so that a squad of security police officers could see them and allowed themselves the right to add their remarks as well as giving me a lecture on how an elite and a person with morals shall behave.”

The MPS officers who leaked my photos and spread them on the Internet, I think, were angry that what they did to me failed to create necessary fear. They wrote more accusations, describing me as “the shameless woman who takes photo of her sexual contacts” and my readers “the blind fans who support an immoral lifestyle.” My supporters fought back by reporting the posts attacking me as abusive. At last, nearly all of my private photos were removed from Facebook, only a few remained on Google’s weblogs. Libelous writings against me, however, were scattered on the Internet and we could not have them removed.

I am greatly indebted to my supporters. But the humiliation leaves such a deep scar on my soul that I know I will never be able to forget it.

Violent attacks since 2015

In February I was temporarily arrested while I was accompanying the families of two wrongful death-row inmates, Ho Duy Hai and Nguyen Van Chuong, to a meeting with the New Zealand embassy as an interpreter.

In March, the police poured glue in my apartment’s door lock to prevent me from going to a workshop at the German embassy.

In April, I took part in a peaceful rally protesting a Hanoi tree-felling project. That was a project to massively chop down 6,700 trees across the city, euphemistically referred to as “overhauling and replacing green trees”. In fact, the majority of trees chopped down were hardwood ones of great worth, including mahoganies that were grown since the French colonial period in the early twentieth century. The project stirred public outcry because of its controversial purpose of “urban development” and unaccountability. Thousands of people went down to the street to demonstrate. On April 26, at the third demonstration, we were suppressed by the police. Many of us were beaten up, and I found my legs bruised and hurt after the suppression. *(I was the one wearing the dark green backpack in the photo).*



As from May, pain grew and I could not walk normally. As I began to limp, I went to the hospital for examination and was diagnosed as having joint effusion and synovitis.

During 2015, I also took part in some public gatherings in Hanoi, for instance, going to the airport in September to show our support to Dr. Nguyen Quang A, who was kept and questioned after his trip to Europe. In most cases, the police used force to disperse us, physically attacked and caused injury to us. At the end of 2015, the pain in my legs grew unbearable.

Arbitrary detentions and house arrest in 2016

As pain grew, I went to Saigon for an operation on both knees. Nine days after the operation, I went back to Hanoi for a meeting with then US president Barack Obama on his visit to Vietnam, May 2016. Yet when I arrived in Ninh Binh, some 200 kilometers from Hanoi, I was arrested. The MPS police kept me for twenty-six hours and only released me when they

were sure that the meeting was over.⁴²

I went back to Saigon for post-operation treatment. During my stay there in a friend's apartment, police often came late at night and when my friend refused to open the door, they stood outside ringing the doorbell, inciting the dogs to bark so that the whole neighborhood got noisy.

In the end, I must go back to Hanoi. From that time on, I was continuously subjected to political repression. The police came any time and took me to the nearby police station for interrogation on a weekly basis. Whenever a Western delegation visited Hanoi, it was likely that I would be placed under house arrest for weeks before, during and after the visit. In case I tried to go out, they would use force to either push me in or take me to the local police station and keep me there until the end of the day.

Being hunted from 2017 - now

In July 2017, as the atmosphere of suppression was suffocating, I reluctantly escaped from Hanoi to Saigon. In September 2017, my samizdat book *Politics for the Common People* (Vietnamese: *Chính trị bình dân*) came out and was immediately under attack. Hundreds of government-paid public opinion shapers criticized it online, mostly using fallacies to defame its author, for example, by labelling it as “Doan Trang’s tool to earn dirty money and to manipulate the people into doing politics.”

On February 9, 2018, the Da Nang customs officers confiscated several parcels of “politically-sensitive” books as they put it, two of which consisted of copies of “Politics for the Common People”. State-owned media reported on this⁴³, even published the names and addresses of the buyers in Da Nang in what I found to be an unacceptable violation of privacy rights.

I learnt some time later that at least 300 copies of “Politics for the Common People”, printed in Poland, were confiscated in 2017 and 2018 either by Vietnamese Customs or by Thai police on the way to Vietnam.

Successive arrests and physical assaults in 2018

In mid-February 2018, I secretly went home to celebrate the lunar new year with my mother. However, I must have failed to keep my return secret, as officers from MPS soon came and took me to their headquarters in Hanoi for interrogation on my book. They only released me late at night after threatening to take me there for more interrogation in the upcoming days. Then they surrounded my apartment, putting me under house arrest again.

I managed to escape, but was arrested again in early March. They kept interrogating me despite my deteriorating health condition. Finally as I drooped onto the table, they said they “temporarily” released me. I escaped again at 3 a.m. the next day to Saigon.

In late May, I went back to Hanoi and got detained as soon as I arrived at the bus station at midnight. I was kept under house arrest once more as the police feared that I may trigger protest rallies against a bill on special economic zones (SEZs) and the cyber security law. With

⁴² An Washington Post report on the meeting is available at: https://www.washingtonpost.com/news/post-politics/wp/2016/05/24/president-obama-nudges-vietnam-on-human-rights-while-pressing-reconciliation-agenda/?utm_term=.f35ad47be0f0 (my name was misspelled as Doan Tran).

⁴³ Available at: <https://baotintuc.vn/phap-luat/hai-quan-da-nang-tich-thu-hang-loat-sach-co-noi-dung-nhay-cam-chinh-tri-20180209114651092.htm>

much support from friends and readers, I escaped again to Saigon with my hand injured for climbing too high walls while I was still limping.

On August 15, 2018, however, as I attended a concert of singer Nguyen Tin, “Memories of Saigon”, the police launched a big and sudden attack. Singer Nguyen Tin, his manager Nguyen Dai, and I were taken to separate places where we were assaulted badly. During the collective assault at around 11:30 p.m., six plainclothes police hit me on my head with helmets, and one of these “improvised weapons” was broken into pieces. I suffered a brain concussion and was taken to hospital for emergency aid the next day. Plainclothes police also robbed me of my laptop, cash, and all personal documents.⁴⁴



While I was in hospital, the police surrounded the area and attacked whoever came to see me, including former colleagues, friends and supporters. Nobody knew why they behaved in such an insane way. After all, it was just a concert and the songs played were mostly love songs.



I had to stay in bed for more than three weeks. The assault, however, failed to prevent me from publishing the book “Learning Public Policy through the Story of the SEZ Project” in December 2018.

Almost nine or ten months after the concert, the police still temporarily arrested some audiences, H.L. and P.T., for questioning, from whom I found out later that the police must

⁴⁴ A report by Human Rights Watch on the raided liveshow is available at: <https://www.hrw.org/news/2018/08/22/vietnam-activists-beaten-concert-raid>

have thought that we were to “take advantage of the concert” to distribute my book “Politics for the Common People” and other “anti-state” documents.

Continuous hunts



On January 4, 2019, just two weeks after I published my book on public policy and the SEZ project, police forces conducted a big eviction of the land where I was living, the Loc Hung “vegetable garden”, a six-hectare land located in Tan Binh district, HCMC.

Approximately 200 households had their land grabbed and houses smashed in this incident, including my landlord, Cao Ha Truc, who insisted that one of the reasons why the authorities evicted people from this land is that it was allegedly a shelter

for “anti-state people.” (Photo: *The rubble of one house in the Loc Hung garden*).

After the notorious land eviction, I became almost homeless. As I have no personal documents, it is very hard for me to lodge anywhere. Every time I find a lodging place, the police will come as soon as they learn it and surround the house, harassing the landlord for harboring “an anti-state subject” or “a blacklisted person” without registration. (Using the systems of temporary residence and household registration, the police in Vietnam and China keep a very tight check on immigration and they can easily restrict any citizen’s freedom to movement.)

At the same time, some of my neighbors in Hanoi told me that they were forced to sign “commitments” with the police, pledging that they would not harbor me and would report to the nearest police station upon seeing me anywhere.

Because all my personal documents were confiscated, I cannot travel by air or train for failure to submit my ID card.

Because of the injured legs, I haven’t been able to travel by motorbike anymore since 2016. Walking on foot is also a big problem because my legs hurt if I travel for more than a few hundred meters. I have an increasingly obsessive thought that my journalistic career has ended in such a bitter way. My work as an author is facing a lot of challenges, too, for I cannot travel freely to conduct interviews and collect fact-based evidence.

If the police happen to see me anywhere, they will immediately surround the place and follow me closely to find where I am lodging. They even temporarily arrested my friends in April and May to ask for my whereabouts, and sent an implicit message to me, “Go away. Get out of the country or we will jail you.”

Worst of all, I can hardly concentrate on my work, with half of my time and energy spent on searching for a shelter away from police surveillance.

The fate of writers under totalitarianism

To date, it is estimated that there are 18,000 working journalists in Vietnam. You may wonder why I seem to be the only one suffering repression.

Maybe it is because out of the 18,000 journalists, less than 100 are covering political issues. Of these 100 political journalists, less than twenty openly support democracy and

human rights values, and of these nearly twenty journalists, I am the only one who can write bilingually in Vietnamese and English to report human rights violations in the country. I was also the first journalist to write in-depth analyses of the highly politically sensitive Sino-Vietnam relations with regard to territorial disputes in the region (2008). After all, I know I am too stubborn and disobedient, a “crazily anti-state” journalist as described by the public opinion shapers, a thorn in the eye of the police-dominated state.

For two years since July 10, 2017 when I reluctantly left Hanoi to escape house arrest, I have lived in forty-two houses in Hanoi, HCMC, Da Nang, Binh Duong, and many other cities in Vietnam. Also, I have been subjected to dozens of arbitrary arrests, interrogations, and assaults. (*Photo: one of the forty-two houses where I used to stay.*)



I find it difficult to write about all of the harassment and repression that I have been suffering, as have many other activists in Vietnam. As a journalist, I always want to write about the other people, not about myself.

But I am convinced that my case is typical of how totalitarian regimes suppress authors and restrict freedom to expression. Being an independent journalist and author under a totalitarian regime means you may be arrested and questioned, even assaulted any time without any protection, unable to travel inside your country, not to mention travel abroad. You may also be placed under house arrest or become almost homeless. You may not be able to go out, walking normally on the street, because someone may well be watching you or worse, someone you don't know may suddenly attack you from behind. Your family is tightly watched, and your friends and supporters may also suffer from police

harassment though they do not do anything bad or harmful to the society. You must live in the permanent obsession that you are a state enemy deserving punishment.

The worst thing about living in such conditions is that you experience what the Stasi (the GDR's Ministry for State Security) once described as “mental disintegration”. For sure you can hardly die, because they do not mean to kill you. But you simply cannot live as normally as other people do or as you used to. Too much distress, depression, and mental disintegration will destroy and kill you gradually.

From a broader social perspective, a big question should be raised: What if a government, or its police machinery, can punish (or persecute, to be exact) any disobedient journalist or author in such a discretionary and ruthless manner?

I am completely aware that democratization must take time and democracy is a process, not a moment or an overnight story. Nonetheless, as a process, it needs to start now from the starting point, which is a space of civic freedom for dissenting voices, including but not restricted to journalists and authors.

We are in urgent need of such a space, however small. Presently, people like us can hardly exist, not to mention to be allowed to live and to work.

Only when dissenting voices like me have our basic rights, such as freedom to liberty and freedom to movement, can we say that the current Vietnamese government has a good will to improve human rights in the country.

APPENDIX

Articles in the 2015 Penal Code used to imprison activists/ dissidents

The articles listed below are those most often used to imprison activists or dissidents. Overall, they are vaguely and broadly worded, and contain such terms as “people’s administration,” “people’s government,” and “the socialism regime.” Some of these provisions are also described as “too tough”, especially when they criminalize the peaceful exercise of freedom of expression. More seriously, even those who just make “preparation for the commitment of the offence” may be punished.

Basically, this violates the universal principle of the legality of criminal offences, which requires that the definition of criminal offences must be precise and free of ambiguity.

Phrases that are ambiguous or biased toward communist ideology are underlined.

Article 108. High treason

1. Any Vietnamese citizen who colludes with foreign entities in infringing the independence, sovereignty, and territorial integrity of Vietnam, the socialism regime, and the SRV, its national defense and security shall face a penalty of 12-20 years’ imprisonment, life imprisonment, or death.

2. If the offence involves multiple mitigating factors, imprisonment duration shall be 07-15 years.

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

Article 109. Activities against the people’s government

Previously, it was Article 79 of the 1999 Penal Code, “carrying out activities aimed at overthrowing the people’s administration.” This article is often used to imprison activists who work in organized groups, for example, members of the Brotherhood for Democracy and Viet Tan party.

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 110. Espionage

Previously, it was Article 80 of the 1999 Penal Code. This article can be used to imprison those who give interviews to or work for foreign media agencies, or those who provide documents

deemed as “state secrets” to foreign organizations. Activists involved in international advocacy campaigns may be charged under this article.

In 2002, Doctor Pham Hong Son was arrested and sentenced to 13 years of imprisonment for “espionage.” He was released in 2006 under an amnesty.

1. *A person who commits any of the acts below shall face a penalty of 12-20 years’ imprisonment, life imprisonment, or death:*

a) *Espionage, sabotage, or establishment of facilities serving espionage against the SRV;*

b) *Establishment of facilities serving espionage or sabotage under the direction of foreign entities; spying, informing, concealing, guiding, or other acts that assist foreigners in espionage or sabotage;*

c) *Providing or collecting to provide classified information for foreign entities; collecting, providing other information and/or documents serving foreign entities’ activities against the SRV.*

2. *A less serious case of this offence shall carry a penalty of 05-15 years’ imprisonment.*

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

4. *A person who operates as a spy fails to accomplish his/her missions, and turns himself/herself in shall be exempt from criminal responsibility for this offence.*

Article 112. Rebellion

Any person who engages in armed activities or use violence act against the people’s government shall face the following penalties:

1. *The organizer 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 05-15 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 116. Sabotaging implementation of solidarity policies

Previously, it was Article 87 of the 1999 Penal Code, “Undermining the unity policy.” This article has often been used to imprison religious activists and members of ethnic minority groups such as the Hmong and the Montagnard.

Some anti-China protesters fear that they may be accused of sabotaging the implementation of international solidarity policies under this article.

1. *Any person, for the purpose of opposing the people’s government, commits any of the following acts shall face a penalty of 07-15 years’ imprisonment:*

a) *Sowing divisions between the classes of people, between the people and people’s government, the people’s armed forces, or socio-political organizations;*

b) *Causing hostility, discrimination, secession, infringement upon equality rights among the ethnic communities of Vietnam;*

c) *Sowing division between religion followers and non-followers, between religions, between religion followers and people’s government or socio-political organizations;*

- d) *Sabotaging the implementation of international solidarity policies.*
- 2. *A less serious case of this offence shall carry a penalty of 02-07 years' imprisonment.*
- 3. *Any person who makes preparation for the commitment of this criminal offence shall face a penalty of 06-36 months' imprisonment.*

Article 117. Making, storing, spreading information, materials, items for the purpose of opposing the SRV

Previously, it was Article 88 of the 1999 Penal Code, “conducting propaganda against the State.” This article seems to be used especially for bloggers who write or produce footage, including Facebook’s livestream videos, to criticize the government or its policies. Sometimes, even a placard demanding legal actions against Formosa could be counted as evidence of guilt, as in the case of blogger Nguyen Ngoc Nhu Quynh.

1. *Any person, for the purpose of opposing the SRV, 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 among the people;*
- c) *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.*

Article 118. Disruption of security

Previously, it was Article 89 of the 1999 Penal Code, “disrupting security.” This article is often used to imprison labor activists. Because part of their job is to organize strikes, they can easily be accused of “inciting laborers to disrupt security, obstructing the operation of organizations.” In 2010, labor activists Do Thi Minh Hanh, Doan Huy Chuong and Nguyen Hoang Quoc Hung were imprisoned to between seven and nine years of imprisonment under this article.

In the months following the anti-SEZ protests in June 2018, at least 10 people were arrested and charged under Article 118, including Tran Thi Ngoc Hanh, Hoang Thu Vang, Le Quy Loc, and others.

- 1. *Any person who, for the purpose of opposing the people's government, incites, persuades, gathers other people to disrupt security, resists law enforcement officers in the performance of their duties, obstruct the operation of agencies or organizations shall face a penalty of 05-15 years' imprisonment, except for the cases specified in Article 112 hereof.*
- 2. *Any accomplice shall face a penalty of 02-07 years' imprisonment.*
- 3. *Any person who makes preparation for the commitment of this criminal offence shall face a penalty of 06-36 months' imprisonment.*

Article 120. Organizing, coercing, instigating illegal emigration for the purpose of opposing the people's government

This article puts CSOs such as VOICE (Vietnamese Overseas Initiative for Conscience

Empowerment), whose mission is training and capacity building for Vietnamese civil society workers overseas, and its members at risk of being arrested and charged if they operate in Vietnam.

1. *Any person who, for the purpose of opposing the people's government, assists, forces, or persuades other people to emigrate illegally shall face a penalty of 05-15 years' imprisonment.*

2. *An extremely serious case of this offence shall carry a penalty of 12-20 years' imprisonment or life imprisonment.*

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

Article 121. Illegal emigration for the purpose of opposing the people's government

This article puts interns of CSOs like VOICE, who attend capacity building courses overseas, at risk of being arrested and charged when they come back to Vietnam.

1. *Any person who, for the purpose of opposing the people's government, emigrates illegally shall face a penalty of 03-12 years' imprisonment.*

2. *An extremely serious case of this offence shall carry a penalty of 12-20 years' imprisonment.*

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

Article 318. Disturbance of public order

Previously, it was Article 245 of the 1999 Penal Code, "inciting public disorder." This article has often been used as a tool to suppress demonstrations and other forms of unlicensed public gathering.

1. *Any person who causes disturbance of public order which negatively impacts social safety, order, or security, or previously incurred a civil penalty for the same offence or has a previous conviction for the same offence which has not been expunged, shall be liable to a fine of from VND 5,000,000 to VND 50,000,000 or face a penalty of up to 02 years' community sentence or 03-24 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 use of weapons or vandalism;*
- c) The offence results in serious traffic congestion or suspension of public activities;*
- d) The offender incites other people to cause disturbance;*
- e) The offender attacks the person who intervenes to maintain public order;*
- f) Dangerous recidivism.*

Article 330. Resisting a law enforcement officer in performance of his/her official duties

Previously, it was Article 257 of the 1999 Penal Code. This article has also been used substantially to quell demonstrations and prevent citizens from any act against law enforcement officers even when the officers may be abusing power.

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;
- e) Dangerous recidivism.

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

Previously, it was Article 258 of the Penal Code. This article has often been used to imprison bloggers critical of the government, but in a less strict manner than Article 88 (now 117). Blogger Nguyen Huu Vinh and his assistant Nguyen Thi Minh Thuy, for example, were sentenced to five and three years in prison respectively under this article.

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 344. Offences against regulations of law on publishing

This article is described as a big threat to publishing activities, especially when it criminalizes the act of “publishing a work having banned contents according to the Law on Publishing,” and the Law on Publishing is believed to restrict freedom of expression severely, under which a wide variety of contents are banned, mostly “anti-state” publications.

1. Any person who violates regulations of law on publishing in any of the following cases shall receive a warning, be liable to a fine of from VND 20,000,000 to VND 200,000,000 or face a penalty of up to 02 years' community sentence or 03-24 months' imprisonment:

a) The offender fails to comply with regulations on editing and approving drafts but still allows the publishing of the work despite the fact that he/she previously incurred a civil penalty for the same offence;

b) The offender has 2,000 copies of each work printed without certification of publishing registration, publishing decision, or license for publishing of non-business documents; without an approved draft bearing the editor's signature as prescribed by law;

c) The offender has a work which has been suspended from publishing, recalled, confiscated, banned, destroyed or illegally imported \geq 500 copies of each of such works;

d) The offender posts on electronic media a work which is banned or does not have a certification of publishing registration, publishing decision, or license for publishing of non-business documents, or does not have an approved draft bearing the editor's signature as prescribed by law;

e) The quantity of copies published is below the levels specified in Point b or Point c of this Clause but the offender previously incurred a civil penalty for any of the offences specified in therein or has a previous conviction for the same offence which has not been expunged;

f) The offender has a work published without submitting its deposit despite the fact that he/she previously incurred a civil penalty for the same offence.

2. This offence committed in any of the following cases, except for the cases specified in Article 117 hereof, shall face a penalty of 02-05 years' imprisonment:

a) The offence is committed by an organized group;

b) The offender falsifies the approved draft or draft of a non-business document bearing the seal of the issuer of the license for publishing in order to publish banned contents according to the law on publishing;

c) Publishing a work having banned contents according to the Law on Publishing.

3. The offender might also be liable to a fine of from VND 20,000,000 to VND 100,000,000 or prohibited from holding certain positions or doing certain jobs for 01-05 years.

* * *

National Security Law

Adopted in 2004 and valid from July 1, 2005, this is apparently the only legislation in Vietnam so far to focus on national security. In fact, no case of violation and prosecution has been reported. Perhaps just the Penal Code is more than enough to punish those who are accused of violating national security.

The term “national security”, as defined in Article 3, is very vague. “National security is the stability and sustainable development of the socialism regime and the SRV, the imprescriptible independence, sovereignty, territorial integrity of the nation.”

Article 13. Banned activities

1. Organizing, operating, colluding, abetting, manipulating, provoking, embezzling, cheating, enticing other people to oppose the people's government, ending the leading role of the VCP, splitting up the nation, sabotaging national solidarity.

2. Taking on for individuals/organizations assignments of infringing upon national security, or joining, assisting, providing financial aids, weapons and other means for individuals/ organizations to infringe upon national security.

3. Collecting, storing, transporting, selling/buying, using, revealing, providing, and disseminating information, documents and objects of state secrets.

4. Trespassing on targets of high importance for national security.

5. Resisting or preventing government office, organizations and individuals from implementing the task of protecting national security.

6. Taking advantage of national security protection to infringe upon the state's interests, the legitimate rights and interests of individuals/organizations.

7. Other acts that infringe upon national security as described in the Penal Code and other relevant laws.

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INDEX

A

A · 1, 2, 3, 5, 7, 9, 13, 19, 23, 24, 26, 27, 28, 30, 32, 36, 41, 42, 48, 49, 50, 53, 56, 57, 59, 60, 63, 64, 67, 68, 69, 70, 71, 76, 80, 84, 89, 91, 92, 93, 101, 104, 109, 110, 115, 118, 125, 127, 129, 131, 139, 143, 145, 147, 152, 153, 157

B

B · 71

bloggers · 24, 28, 40, 51, 55, 56, 57, 58, 59, 60, 62, 64, 82, 124, 126, 127, 139, 153, 155

C

C · 38, 121

China · 21, 24, 27, 30, 41, 43, 53, 55, 56, 57, 59, 60, 61, 103, 104, 115, 125, 126, 128, 148, 152

Club of Former Resistance Fighters · 53

Constitution of Vietnam · 73, 74, 77

D

D · 81, 98

death in police custody · 110

democracy · 2, 3, 9, 13, 14, 19, 21, 22, 24, 28, 31, 32, 33, 36, 37, 38, 42, 51, 53, 61, 62, 73, 74, 76, 77, 78, 79, 80, 99, 105, 114, 119, 133, 139, 141, 148, 149

demonstration · 28, 55, 60, 78, 145

E

E · 6

election · 27, 32, 42, 43, 44, 45, 47, 48, 49, 50, 73, 84

ethnic minority groups · 152

F

F · 121, 157

Fatherland Front · 11, 45, 49, 81

freedom of expression · 60, 62, 78, 151, 155

freedom of speech · 57, 124, 155

freedom of the press · 40, 72, 155

G

gerrymander · 31

H

H · 147

human rights · 1, 2, 11, 14, 21, 22, 24, 28, 32, 46, 51, 53, 54, 61, 70, 79, 81, 91, 94, 98, 99, 104, 106, 107, 108, 112, 116, 118, 119, 120, 122, 127, 128, 129, 132, 133, 134, 139, 141, 149

J

J · 157

judge · 122

judiciary system · 86, 96

L

L · 147

land eviction · 148

land reform · 43, 45, 52, 122

lawyer · 59, 68, 92, 104, 105, 107, 108, 119, 120, 122, 128

legal representation · 106, 107, 119, 120

legitimacy · 19, 26, 27, 41, 42

M

Marxism · 115

miscarriage of justice · 82, 93

N

N · 44, 53, 81, 82

Network of Vietnamese Bloggers · 24, 126, 138

P

P · 147

Penal Code of Vietnam · 56, 57, 124

Petition 72 · 78, 80, 81

police state · 13, 91, 109, 110, 114, 115, 116, 131

prisoner of conscience · 2, 11, 13, 104, 116, 117, 130

procuracies · 85, 95, 96, 97, 100

protest rallies · 13, 24, 93, 128, 146

R

reform · 36, 43, 45, 52, 53, 61, 77, 78, 80, 122, 124, 141

right not to be held incommunicado · 118, 120

right to a fair trial · 118, 122

right to a public hearing · 118, 122

right to be informed · 40, 118, 119

right to humane treatment and not to be tortured · 118

right to legal assistance · 118, 119

right to personal liberty · 118

right to silence · 118, 119

S

S · 1, 21, 24, 118

T

T · 67, 69, 113, 125, 126, 144, 147

the press · 21, 39, 40, 41, 56, 60, 66, 67, 72, 107, 109, 122, 135, 155

torture · 112, 121

Tran Huynh Duy Thuc · 139

V

V · 9, 10, 19, 20, 36, 91, 127

victims of injustice · 93, 127

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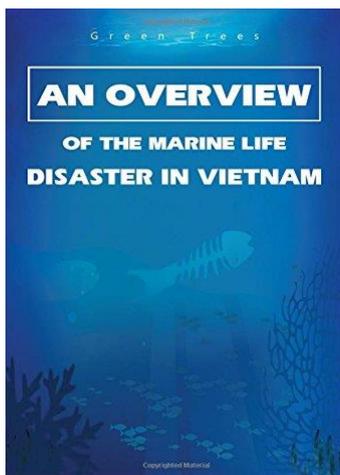
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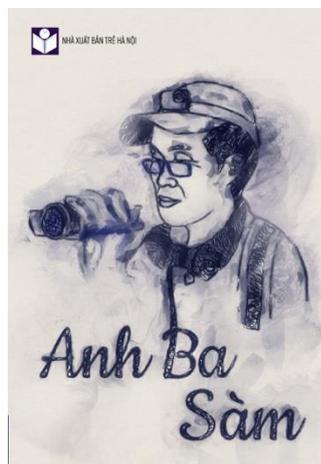
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