

FREEDOM OF EXPRESSION IN VIETNAM

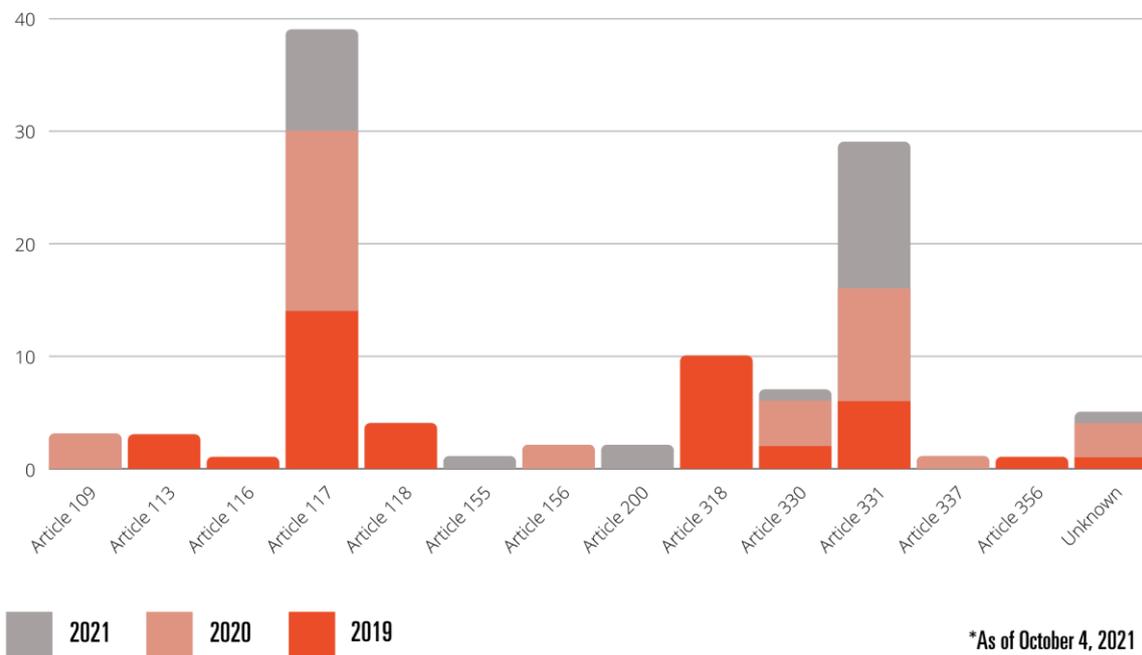
BY THE 88 PROJECT AND UNIVERSITY OF CHICAGO GLOBAL HUMAN RIGHTS CLINIC, NOVEMBER 2021

SUMMARY

The government of Vietnam continues to actively and systematically suppress the right to freedom of expression of its citizens, especially online, despite committing to uphold this right in its Constitution and in several international human rights treaties.

LEGAL RESTRICTIONS

TOTAL ARRESTS OF ACTIVISTS BY CHARGE 2019 - 2021*



Vietnam's 2015 Criminal Code:

Article 117: Making, storing, spreading information, materials, items for the purpose of opposing the State of Socialist Republic of Vietnam.
Article 331: Abusing democratic freedoms to infringe upon the interests of the State, lawful rights and interests of organizations and/or citizens.

Figure 1: Type and frequency of charges under Vietnam's 2015 Criminal Code against activists since January 2019. The two charges most frequently applied (under Articles 117 and 331) directly violate citizens' right to freedom of expression.

- Overly broad, and poorly defined laws such as Articles 109, 116, 117, 118, 318 and 331 of the 2015 Criminal Code and the 2018 Cybersecurity Law severely restrict freedom of expression.
- The lack of clarity and specificity in the law – especially in the use of vague terms such as “sowing division,” “disrupts security” or “abuse” – deprives people of knowledge regarding what speech is prohibited, leading to further self-censorship.
- Certain articles are fundamentally incompatible with the right to freedom of expression as they criminalize speech made “for the purpose of opposing the people’s government.”

ONLINE CENSORSHIP

- The 2018 Cybersecurity law is too broad as it gives Vietnam discretion in determining which speech endangers social order and national security.
- The government frequently shuts down websites which are critical of the government, while actively searching for and arresting the publishers themselves.
- Vietnam has pressured social media platforms like Facebook to comply with the enforcement of political censorship.
- A state-backed cyber army is used to regulate social media content through mass reporting in order to get Facebook to remove posts or block accounts that are unfavorable to the government.

FORMS OF SUPPRESSION

- The most common tool of suppression is arrest and detention, but the state also engages in surveillance, harassment, physical assault, forced eviction, travel restrictions, and extrajudicial kidnapping.
- Activists regularly face arbitrary detention and a failure to be notified of the criminal charges against them. Once arrested Vietnam denies or delays activists access to legal counsel.
- Often, neither the activists nor their lawyers are allowed to read the government's investigative file or examine the official charges until after the investigation is complete, leaving little time to prepare a defense.
- Political prisoners face harsh conditions, including psychological abuse, violence, torture, denial of medical treatment and solitary confinement.

RECOMMENDATIONS TO VIETNAM

1. Unconditionally release all political prisoners,
2. Revise vague and overly broad provisions of the 2015 Criminal Code—specifically, Articles 109, 116, 117, 118, 318 and 331—to ensure that they comply with international law, particularly Article 19 of the ICCPR which Vietnam has ratified,
3. Repeal the 2018 Law on Cybersecurity,
4. Support the U.N. Guiding Principles on Business and Human Rights, and demand that technology and social media companies abide by these guidelines in ensuring the respect of the right to freedom of expression,
5. Ensure that citizens have access to websites which promote and allow for free political, artistic and cultural expression, in line with human rights standards,
6. Disband any cyber armies that suppress speech through mass reporting,
7. Renounce harassment and other extrajudicial and unlawful investigatory tactics,
8. Bring the treatment of prisoners in compliance with international standards on humane treatment,
9. Guarantee to defendants accused of national security violations the immediate right to counsel, and the right to access all evidence that will be used against them at trial. The trial should be presided by a truly independent judiciary, free from political influence.

The full report is available in English [here](#), and in Vietnamese [here](#).