

**HỘI NGHỊ**  
**GÀY PHÁP LUẬT VIỆT NAM**  
**THEO HIẾN PHÁP VÀ PHÁP LUẬT**

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## **VIETNAM ARRESTS LABOR REFORMER AHEAD OF COMMERCE DEPARTMENT HEARING ON COUNTRY'S MARKET STATUS**

**First arrest of government reformer in new wave  
of repression after directive from country's  
leaders orders crackdown on human rights**

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**MAY 6, 24**

Hanoi police have arrested [Nguyen Van Binh](#) (51), the director general of the Legal Affairs Department at Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA), multiple sources have confirmed. While police have not yet announced his arrest or the charges against him, a source told Project88 that Binh is being detained under Article 337 of the criminal code by the Hanoi Security Investigation Agency (Cơ quan an ninh điều tra - Công an TP Hà Nội). Article 337 criminalizes the 'deliberate disclosure of classified information; appropriation, trading, [and] destruction of classified documents'.

Binh's name and title have been removed from MOLISA's website.

### Department of Legal Affairs officials listed on MOLISA's website



Binh's photo and title have been removed from MOLISA's website, which now lists only the three deputy directors.

Project88 has not been able to contact Binh, whose phone, on a popular messaging platform used in Vietnam, has been inactive since April 15, 2024.

Binh's arrest comes amid a new wave of repression in Vietnam. Last year, senior government leaders ordered a crackdown on human rights due to concerns about foreign interference. At the time of his arrest, Binh was leading efforts to ratify ILO Convention 87, which, if passed, would guarantee workers the right to form independent trade unions without prior authorization. Binh's arrest is the first arrest of a government reformer in recent years.

Nguyen Van Binh is a trade unionist who has agitated within the government to expand protections for workers. He has a doctorate in economic law from Hanoi National University, where he conducted research on trade union organizing and how to strengthen the independence and representation of trade unions in Vietnam. Binh worked his way up through the country's only trade union, the Vietnam General Confederation of Labor (VGCL), before spending five years at the Hanoi office of the International Labor Organization (ILO), and then becoming a policymaker in MOLISA's legal affairs department.

At MOLISA, Binh was responsible for overseeing labor law reform. He was a key force behind the 2019 Labor Code, which provided the legal basis for Vietnam to ratify ILO conventions that protect workers' rights. Before his arrest, Binh was preparing a dossier for the ratification of ILO Convention 87, with technical [support](#) from the ILO, to submit to the National Assembly. Under the EU-Vietnam Free Trade Agreement, Vietnam agreed to ratify the convention in 2023, although the government has delayed the process. The EU has not imposed any consequences for this delay.

### Nguyen Van Binh: The EU's man in MOLISA



Nguyen Van Binh (third from the left) with MOLISA Deputy Minister Le Van Thanh (fourth from left), Dora Correia, European Commission director of Trade and Sustainable Development (fifth from left), and Benoit Lory, senior expert, Directorate General for Trade (fourth from right), at a meeting in Hanoi on Oct. 18, 2022 about labor reform.

Several years earlier, Binh succeeded in pushing the government to ratify ILO conventions on collective bargaining and forced labor. Binh also published, for the first time, the text of all the core ILO conventions in Vietnamese.

Binh's labor politics had a pro-feminist orientation. In 2015, he drafted the first code of conduct on sexual harassment in the workplace in Vietnam. After he updated the code in 2022 to bring it in line with international standards, Binh stated, 'Freedom from discrimination is an international standard that Vietnam has committed to, and this is a commitment contained within a new generation of free trade agreements'.



Nguyen Van Binh speaking at a UNDP workshop on implementing reporting obligations under international conventions on human rights held in Hanoi on November 21, 2017.

Binh's extensive engagement with foreign governments and international organizations on labor reform was at odds with the hardening stance of the country's leaders towards foreign influence in legislative reform and policymaking activities. According to a source who spoke with Project88, Binh was increasingly isolated at MOLISA after powerful allies and reformers resigned in recent years.

## DIRECTIVE 24: A NEW WAVE OF REPRESSION

Binh's arrest follows revelations by Project88 about [Directive 24](#), a classified national security directive in which Vietnam's most senior leaders ordered the government to violate the human rights of the country's 100 million citizens. The directive, issued by the Political Bureau of the Communist Party of Vietnam (CPV), commands the government to tighten controls over civil society, foreign investors, NGOs, and even citizens who travel abroad for tourism. While Binh was ostensibly arrested for disclosing classified information, there is a direct link between his arrest and Directive 24.

Directive 24 frames reformers within the government as threats to national security. The directive [calls](#) for Vietnamese authorities to prevent reformist tendencies among officials 'that weaken our regime from within and threaten the interests of the nation, people, and the survival of the regime'. Binh's arrest, the only arrest of such a high-profile reformer in recent years, is a concrete expression of Directive 24.

Directive 24 also explicitly refers to ILO Convention 87, which Binh was leading efforts to ratify. In an astonishing admission, the directive [orders](#) the government to pilot seemingly independent trade unions so that Vietnam can posture as though it is compliant with ILO Convention 87, while 'ensuring the ongoing leadership of the party, leadership of party cells, and government management at all levels'. As such, the directive instructs the government to ensure that any new worker organizations created are controlled by the state. Directive 24 frames independent labor unions as a national security threat and Binh's arrest is clearly an effort to neutralize that perceived threat.

Doubts about the authenticity of Directive 24 were recently dispelled after Vietnam's Minister of Industry and Trade penned a [submission](#) to the U.S. Department of Commerce in which he defended key provisions of the directive. In the letter, the minister emphasized the importance of protecting national security in the context of international projects.

Western diplomats acknowledge in private that Directive 24 is troubling—one even describing it to Project88 as ‘fascist’. In public, however, they have embraced the false narrative that portrays the directive as ‘business as usual’ and not signaling a new wave of repression.

This narrative can be easily disproven. First, Directive 24 marks an intensification of state repression. In the last few years, Vietnam’s Ministry of Public Security has shut down the only independent journalists’ association, the only independent publishing house, and the only independent anti-corruption organization operating in the country, while imprisoning the leadership of the climate change movement on false charges of tax evasion. Directive 24 expands this campaign by making the destruction of civil society an official policy goal of the most powerful political institution in the country. This is a significant development.

Second, although Vietnam has long imprisoned anti-state activists and dissidents, Directive 24 expands state repression in several important respects. Vietnam is no longer only imprisoning democracy activists, but has also begun arresting NGO directors. The common thread in these arrests is that the directors ran organizations that conducted policy advocacy, received foreign funding to carry out their work, and participated in civil society coalitions. Directive 24 explicitly frames each of these activities as a threat to national security.

At the same time, the government has started to target government reformers. With the arrest of Nguyen Van Binh, along with the arrest of [Ngo Thi To Nhien](#) last September, Vietnam has begun jailing current and former government officials who at the time of their arrest were working directly with the government on issues that are official policy priorities. Like Binh, Nhien was also arrested on charges related to sharing confidential information. By arresting Binh and Nhien after issuing Directive 24, Vietnam’s leaders have signaled that any policy advocacy or reform efforts that are not driven by the CPV, no matter how benign, are off limits.

Third, Directive 24 represents an intensification of efforts to limit foreign influence in Vietnam. While the Vietnamese government has issued several [policies](#) (Decision 6

and decrees 56, 80, and 113) that increase restrictions on foreign funding, Directive 24 goes further. Under Directive 24, the country's top leaders prohibit the government from approving foreign aid for legislative reform and policymaking projects, such as the labor reform project that Nguyen Van Binh was involved in. The directive also [orders](#) the government to reject funding for 'projects that have complex and sensitive content'. In addition, the directive calls for strict regulation of civil society organizations and foreign NGOs operating in the country. The recently enacted decrees and decisions have significantly weakened the ability of Vietnamese organizations to operate. Directive 24 makes clear that the country's leaders believe these regulations do not go far enough.

State repression in Vietnam predates Directive 24. But Directive 24 has codified this repression into official policy, and has expanded its scope to include new actors and areas of activity. Moreover, Directive 24 reveals that repression is now being driven by the country's top leaders, not just by the country's security services.

## **KURT CAMPBELL'S 'PIVOT' TO ASIA**

While Directive 24 is an assault on the liberal values that Western states claim to cherish, not a single government has uttered a word of criticism in response to the policy. President Biden and the State Department, which in the past have criticized Vietnam for arresting human rights activists, have chosen to remain silent.

This reluctance to criticize Vietnam for violating human rights has its roots in the so-called pivot to Asia. Deputy Secretary of State Kurt Campbell explained the logic of this strategy in his 2016 [book](#), arguing that:

On security, the United States should increase exercises, exchanges, and training with Vietnam; bolster cooperation on [...] maritime domain awareness; and soften or outright lift its ban on lethal military sales to Vietnam. The United States, currently Vietnam's largest export market, should also undertake negotiations with Vietnam on lifting its designation of Vietnam as a nonmarket economy. Finally, a sustainable and stable

relationship with Vietnam will require a pragmatic approach to human rights. The United States should forgo public shaming in favor of dialogue, private counsel, and support for Vietnamese reforms.

And this is exactly what has happened. The United States lifted the arms embargo on Vietnam in 2016, and the Department of Commerce is currently considering designating Vietnam as a market economy. Furthermore, the State Department has been more muted in its criticism of the country's human rights record. There are also signs that the State Department will upgrade Vietnam's Trafficking in Persons ranking in June in response to lobbying by Hanoi.

According to a former State Department official who spoke with Project88, after Biden elevated diplomatic relations with Vietnam in 2023, the narrative out of Washington is that 'Vietnam is on the right path'. The official added that 'after so many high-level visits by leaders of the two countries, everyone is deeply invested in this narrative'. Tellingly, the State Department's 2023 [report](#) on the human rights situation in Vietnam did not mention Directive 24 and concluded that '[t]here were no significant changes in the human rights situation in Vietnam in the past year'.

Vietnam appears to be taking the same path that China took a decade ago. Directive 24 echoes [Document 9](#), a Chinese Communist Party (CCP) directive disseminated in April 2013 that expressed fears of foreign influence and identified activities that, according to the CCP, posed a threat to the party. Like Directive 24, Document 9 made clear that the Chinese Communist Party viewed civil society as a problem that needed to be solved. One decade later, Vietnam is following in China's footsteps. As one [commentator](#) perceptively put it: 'as [the] West draws closer to Vietnam, Hanoi gets more like Beijing.'

And yet, the Biden administration's national security policy clumsily [distinguishes](#) between authoritarian states, such as Vietnam, and authoritarian states with a revisionist foreign policy, such as China. From a human rights perspective, this is an arbitrary distinction. Countries tend to primarily violate the rights of their own citizens, not people abroad. By focusing on the foreign policy of authoritarian states and not



the authoritarian nature of the government, the Biden administration has found a way to let friendly authoritarian countries off the hook.

The decision to soften criticism of Vietnam's human rights record is by no means unique to the U.S. In Vietnam's current UPR cycle, not a single Western government plans to ask Vietnam about Directive 24, even though the United Nation's Human Rights Committee questioned Vietnam about the directive in its latest [review](#) of the country.

Vietnam has no intention of implementing human rights reforms, and Western governments are willing to give Hanoi a free pass. Perceived geopolitical interests have led the U.S. and their allies to turn a blind eye to intensifying repression in Vietnam. Just one week after Project88 revealed the existence of Directive 24, Australia rushed to [upgrade](#) diplomatic relations with the country.

## **TIME FOR A POLICY RESET**

The conventional wisdom in the West is that Vietnam 'in play'. On this view, the West, if it plays its cards right, can win Vietnam over to a U.S.-led anti-China alliance. Another version of this argument holds that pursuing closer ties with Vietnam is a means to promoting human rights reforms at some undefined point in the future.

But according to a recent Congressional Research Service [report](#), 'Vietnam's relationship with China is its most important bilateral relationship'. For that reason, the report adds, Vietnam does not undertake diplomatic moves, especially with the U.S., without first determining what China's reaction will likely be.

[Khang Vu](#), a scholar at Boston College, makes a similar argument. He points out that no matter what America does, Vietnam will continue to prioritize China as its main foreign partner. This, as Vu explains, is due to a combination of factors: the long history of ties between the two communist parties, China's proximity (the two countries share a long land border) and superior military power, Vietnam's economic dependence on China, and Hanoi's lack of confidence in America's ability to defend it from a Chinese

attack. Vietnam, after forging an alliance with the Soviet Union, has also learned the hard way that it does not pay to antagonize China and, for this reason, will continue to prioritize China as its main foreign partner.

The U.S. and its allies must rethink the prevailing assumptions underpinning their policy on Vietnam. Vietnam is not 'in play'. And the belief that pursuing closer ties with Vietnam will lead to progress on human rights has not borne fruit. Instead, Vietnam's international integration has coincided with increased violations of, and not greater respect for, human rights. It appears that the lack of international pushback may have empowered hardliners within the government. Vietnam's political bureau is now dominated by current and former security officials and Minister of Public Security To Lam appears to be making a [move](#) for the top leadership position in the country.

The arrest of Nguyen Van Binh is part of a new wave of repression sweeping through Vietnam. In Directive 24, the country's unelected leaders made clear that government reformers and independent trade unions pose a threat to party hegemony. Binh, a labor reformer who was leading the effort to ratify ILO Convention 87, exemplified both of these threats.

## COMMERCE DEPARTMENT HEARING ON MAY 8

Vietnam is currently one of 12 nations identified by the U.S. as a [non-market economy](#), a status that disadvantages the country in its trade with America. Ahead of President Biden's visit to Vietnam in September 2023, Vietnam formally asked the Department of Commerce to review this classification. In his March 2024 trip to Washington, Minister of Foreign Affairs Bui Than Son's highest priority was to advocate for Vietnam to be recognized as a market economy, a former State Department official told Project88.

The Department of Commerce will convene a [hearing](#) on Vietnam's economic status on May 8, and is expected to come to a final decision on this issue by July 26. Six [criteria](#) must be met for the department to designate a country as a market economy, one of

which is the extent to which wage rates in a foreign country are determined by free bargaining between labor and management.

In his [response](#) to questions from the Commerce Department about Directive 24, Minister of Industry and Trade Nguyen Hong Dien argued that the state-run trade union 'consistently advocates on behalf of worker's rights' (p.7). But no workers are actually involved in the deliberations of the National Wage Council and the state-run VGCL union, which is subordinated to the CPV, which is not representative of workers. Deliberations by the National Wage Council, which is made up of party and state organizations, do not amount to free bargaining between workers and employers.

Contrary to what Hanoi's [friends](#) in Washington may [say](#), it is not time to graduate Vietnam from its non-market economy status. Vietnam does not meet the commerce department's criteria and the arrest of Nguyen Van Binh, who was leading efforts to bring Vietnam's labor law into line with international standards, makes a mockery of these standards.

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