



New restrictions on freedom of expression in Vietnam

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EXECUTIVE SUMMARY

Vietnam has long restricted political speech. As early as the 1950s, the Democratic Republic of Vietnam shut down two major journals that called for loosening restrictions on speech and imprisoned those associated with the journals.¹ The introduction of the internet in the 1990s, however, ushered in a new era. As a result of the internet, Vietnamese citizens were able to access information from diverse sources and had more freedom to voice their political opinions (albeit at some risk) on a wide range of topics.

International human rights organizations have often portrayed Vietnam as extremely repressive when it comes to freedom of expression. Critiquing these assessments, Benedict Kerkvliet, the leading scholar on the subject, has argued that Vietnam reacts to dissent with a mix of responsiveness, toleration, and repression, with repression used as a method of last resort.²

While research like Kerkvliet's paints a nuanced picture of the actual state of political discourse in Vietnam, the trend toward openness he identified has not continued. After hardliners took control of the Communist Party of Vietnam (CPV) in 2016, the party elite enacted political resolutions to maintain party hegemony and which established a nationwide network of brigades to police online discourse. The government was quick to follow, passing laws to control online speech and the press.³ And over the last five years, the police have shut down the only independent journalists' association, publishing house, and anti-corruption organization operating in the country.

This report is not an exhaustive study of political speech or state responses to such expression. Instead, we attempt to provide an overview of the extraordinary efforts by Hanoi to restrict speech. A separate question, outside of the scope of this report, is whether these efforts have succeeded.

While the report does consider long-standing methods of repression, our focus centers on restrictions of expression, in particular online expression, that have been enacted in

recent years. In doing so, we have attempted to identify areas which have been most under attack since 2016 when the new wave of repression began. The report concludes with a series of recommendations on what actions Vietnam can take to respect the right to free expression. We also suggest a series of actions that countries which have recently upgraded diplomatic relations with Vietnam can take to support this agenda.

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GLOSSARY

CCPR	UN Human Rights Committee
CPV	Communist Party of Vietnam
DCHCP	Department of Cybersecurity and High-tech Crime Prevention
EVFTA	EU-Vietnam Free Trade Agreement
ICCPR	International Covenant on Civil and Political Rights
IJAVN	Independent Journalists Association of Vietnam
JETP	Just Energy Transition Partnership
MIC	Ministry of Information and Communications
MPS	Ministry of Public Security
VNNIC	Vietnam National Internet Center
VNPT	Vietnam Posts and Telecommunications Group

KEY POINTS

- Starting in 2016, after a period of relative openness, Vietnam again cracked down on dissent.
- Implementing party resolutions and directives, the government has developed an elaborate policy framework that limits political speech in the digital sphere.
 - The laws which have helped establish this censorship apparatus include the Cybersecurity Law, the Law on the Press, the Law on Information Technology, and the Law on Telecommunications, as well as numerous implementing decrees.
 - Hanoi has used this framework to remove content from social media.
 - On November 9, 2024, the government issued Decree 147, which threatens to further restrict online speech by empowering the government to access more user data and order social media platforms to remove content.
- Vietnam uses a range of criminal sanctions against individual free speech, including detention, imprisonment, and legal harassment.
 - Criminal sanctions for political speech provide the government with the legal basis to harass and imprison dissidents while also encouraging people to self-censor.
 - During the current crackdown, the government has principally charged those who voice dissent under Articles 117, 155, 156, 200, and 331 of the criminal code.
- In addition to criminal punishment, Vietnam fines individuals and organizations who speak critically of the government.
 - Online media platforms, as well as ordinary users, have been fined.
 - Generally, fines are issued for offenses considered not serious enough to merit criminal prosecution.
- The country's legal framework violates the privacy and data security of people in Vietnam.
 - The Cybersecurity Law requires internet service providers to authenticate user information upon registration.

- Draft legislation on personal data introduced in September 2024 would allow government officials to access user data without oversight.
- Decree 147, which was issued in November 2024, requires that social media platforms authenticate users by phone or personal identification number. These companies must store this user data in Vietnam and provide it to the government upon request.⁴
- While the Law on Access to Information supposedly protects the right of the people to obtain information in the public interest, contradictory policies such as the Law on Protection of State Secrets limit government transparency.

INTRODUCTION

This report provides an overview of the methods Vietnam uses to restrict speech. It does not, however, evaluate the effectiveness of these policies and the various ways in which they are resisted.

We begin by detailing Vietnam's obligations under international law, which we use to assess the permissibility of its restrictions on speech. Then, we discuss freedom of expression under the constitution and outline why formal constitutional protections do not result in free speech for the Vietnamese people.

In the next section, we describe the party resolutions and directives that set the CPV's political agendas in relation to speech. We explore how under Resolution 35, the CPV has deployed a nationwide network of cyber police.

Our focus then shifts to analyzing government policies related to expression. We describe the censorship apparatus that controls what information can be published online. In addition, we explore how criminal law and administrative sanctions are used to suppress speech.

Finally, we discuss policies and practices that relate to other aspects of freedom of expression, including the use of surveillance and personal data protection. We find that Hanoi has given itself the authority to access the user data of people who make posts critical of the government online. At the sub-national level, we document how provincial and city governments are partnering with telecommunication companies to monitor social media using AI technology. Finally, we summarize restrictions on access to information.

The report concludes that Vietnam has gone to extreme lengths to regulate political speech and silence dissent.

INTERNATIONAL LAW

Freedom of expression is the right to seek, receive, and share information and ideas without undue government interference. It includes the right to practice journalism, voice opinions on politics and public affairs, and discuss human rights and religion.⁵ Freedom of expression encompasses speech that may be highly insulting of the government, country, or political parties.⁶

Freedom of expression is foundational for transparency and accountability, which are, in turn, essential for the promotion and protection of other human rights.⁷ As stated by the UN Human Rights Committee (CCPR)—the expert group established to interpret and promote implementation of the International Covenant on Civil and Political Rights (ICCPR), freedom of expression helps to ensure that all other human rights norms are maintained.⁸

International law is especially protective of open political debate and the right of people to criticize public officials.⁹ The CCPR has written:

The free communication of information and ideas about public and political issues between citizens, candidates, and elected representatives is essential. This implies a free press and other media able to comment on public issues and to inform public opinion without censorship or restraint.¹⁰

Because of the importance of political speech for democracy, the CCPR has stated that restrictions on free expression can never be imposed ‘as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets, and human rights’.¹¹

The UN Human Rights Council and the UN General Assembly have emphasized that the right to freedom of expression also applies to online expression.¹² Likewise, the CCPR has confirmed that protected platforms for expression include ‘electronic and Internet-based modes of expression’.¹³ The CCPR has clarified that the definition of journalists under international law includes bloggers and any others who self-publish

their work on the internet.¹⁴ As such, any restrictions on websites or blogs are only allowed if they are otherwise permissible under international law.¹⁵

Frank La Rue, former UN Special Rapporteur on freedom of opinion and expression, stated that attempts by states to restrict, control, manipulate, and censor content disseminated via the internet, if enacted through vague laws without legal justification, are violations of international law.¹⁶ La Rue has also highlighted the importance of the internet in countries like Vietnam where access to information is limited.¹⁷ The internet, he says, offers a means for marginalized and disadvantaged groups to obtain information, assert their rights, and participate in public debates.¹⁸

PERMISSIBLE RESTRICTIONS ON SPEECH

Under international law, restrictions on expression are only permissible in certain, narrow circumstances. Article 19 of the ICCPR outlines a three-part test that restrictions on this right must satisfy to be permissible.

First, a restriction must be provided by law. That is, it must be set down in formal legislation and must not be vague. The restriction must be established by general rule to avoid arbitrary restrictions on human rights.¹⁹ In addition, the law must be precise enough to enable an individual to know what conduct is proscribed and the language of the law must be made accessible to the public.²⁰

Second, any restriction on expression must be necessary for the protection of national security, public order, public health, public morals, or the rights of others. This is a comprehensive list—no other government interests can justify a restriction on speech.²¹ It is essential that these restrictions are not discriminatory or intended to discourage government criticism or cause a chilling effect on speech.²²

Third, and finally, a restriction must be a necessary and proportionate means of achieving one of the permissible justifications outlined above. That is, it must be the least intrusive means of achieving its protective function. In addition, the detrimental impact of the interference cannot outweigh the resulting benefit of the restriction.

In addition to the general framework provided by the ICCPR, it is essential that any restriction on expression be content neutral. That is, the restriction must not be related to the message intended to be conveyed.²³

If the government's motivation in enacting a law is improper, the law itself is improper. The CCPR has stated that '[r]estrictions must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated'.²⁴

Throughout this report, we will apply this framework to analyze the legitimacy of various policies that Vietnam uses to regulate political speech. In the following sections, we will provide an overview of Vietnam's constitutional protections for speech, CPV resolutions and directives on speech, and the laws and policies that have been implemented by the Vietnamese government to silence dissent.

CONSTITUTION

Despite lofty proclamations in the constitution, Vietnamese citizens do not enjoy the right to free speech. Article 25 of the constitution guarantees that all citizens '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'.²⁵

However, the exercise of these rights is circumscribed by Articles 14 and 15 of the constitution. Article 14 clarifies that the exercise of the rights listed in Article 25 can be restricted to protect 'national security, social order and security, social morality, and community well-being'.²⁶ Article 15 specifies that 'the practice of human rights and citizens' rights must not infringe upon national interests'.²⁷

This report will demonstrate that the government has used these carveouts to justify a host of restrictions on speech. Further, while the constitution is characterized by Hanoi as the supreme law of the land, party directives and government laws and directives tend to take precedence over the constitution in deciding how political speech is regulated.

Because of the precedence of party directives and resolutions over the constitution, we will turn to an overview of these next. We will also discuss the role of institutions, particularly the Central Propaganda Department, and how through the committee, the CPV has deployed brigades on social media to police online speech and ensure official narratives prevail.

PARTY APPARATUS

DIRECTIVES AND RESOLUTIONS

Vietnam is a one-party state in which the CPV sets the political agenda and exercises hegemonic control over state institutions.²⁸ Article 4 of the constitution established the CPV as the only legitimate political party in the country.²⁹ Senior party members form the leadership of the state apparatus, parliament, the armed forces, and the police— institutions that are kept in check by embedded party cells.³⁰ While the party is supposedly accountable to the people, it cannot be voted out of power.

The most powerful party institutions are the Central Party Central Committee and its Political Bureau, which together set the party's policies. The committee has a party and a government wing. The party wing is made up of officials who rose up through the party apparatus, while the government wing is comprised of officials in the state bureaucracy.³¹ Over the years, party and government wings have vied to control the state, with the party wing winning out in 2016 and remaining in power since.

The CPV sets political agendas on speech through resolutions and directives which it implements through party institutions. In July 2023, the Political Bureau issued Directive 24-CT/TW, in which it orders the government to crack down on foreign influence and restrict political speech.³²

With regards to free expression, Directive 24 orders the government to:

- 'Promote the role of the press and media in fighting populist trends, civil disobedience, wrongful views and sabotage by hostile forces, and efforts to promote a hybrid foreign culture that does not conform to the customs and traditions of the nation' (p.5).
- 'Strictly handle the act of taking advantage of information communication infrastructure and social networks to spread false propaganda that sabotages the party, state, people, and our country's socialist regime' (p.5).

- 'Fight fake news, especially in cyberspace' (p.5).
- 'Develop rules of civilized behavior in state agencies, businesses, society, and cyberspace' (p.5).

Directive 24 orders the government to increase rules and regulations over media outlets and the internet to suppress speech critical of the state, highlighting how easily the CPV can override constitutional protections of speech.

Beyond Directive 24, the CPV issued several resolutions specifically designed to regulate political speech. First, in 2016, the Central Party Committee issued Resolution 04-NQ/TW, which restricts the political speech of party members and expresses hostility to the very concept of civil society.³³

Resolution 4 warns that party members calling for the development of civil society 'undermines the leadership role of the party'.³⁴ A guidance note on the implementation of the resolution states that the 'enemy and reactionary forces have stepped up activities against us', singling out 'the US and other Western countries [that] are using aid to shape [Vietnam's] law and policy' and 'providing aid to domestic "non-governmental" organizations to promote a Western model of "civil society"'.³⁵ Resolution 4 helps explain why, in recent years, the government has become more hostile to civil society and human rights.

Resolution 35-NQ/TW, which was issued by the Political Bureau on October 22, 2018, also restricts political speech.³⁶ Resolution 35 can be understood as a massive propaganda effort to mobilize party members and segments of the population to defend the supremacy of the CPV. Its stated aims are to strengthen 'protection of the ideological foundation of the party' and 'fight against wrong and hostile views in the new era'.³⁷ The resolution establishes that these aims are central to party-building activities and the responsibility of individual party members. Resolution 35, in creating the policy framework for state control over public discourse in the country, represents a massive effort to restrict political speech. We will discuss the implementation of this resolution in more detail in the section titled [Institutions](#).

Two other resolutions—Resolution No. 29-NQ/TW on the Strategy to Defend the Fatherland in Cyberspace and Resolution No. 30-NQ/TW on the National Cyber Security Strategy—were issued by the Central Party Committee on July 25, 2018. Resolution 29 frames cyberspace as an area of national sovereignty that needs to be protected, while Resolution 30 outlines a broad political strategy for ensuring cybersecurity.³⁸ Both resolutions are classified and therefore not in the public domain.

The CPV has issued a number of directives and resolutions relating to political expression in recent years. Taken together, these resolutions set political agendas within which the government makes policy to regulate speech.

INSTITUTIONS

The Central Propaganda Department promotes loyalty to the party and acceptance of its ideas among party members as well as the Vietnamese people.³⁹ The department heads the surveillance and censorship of speech deemed critical of the government or CPV.⁴⁰ Through the department, the party seeks to shape online narratives and public opinion.

The department oversees a nationwide network of brigades that manipulate online discussions and coordinate information operations.⁴¹ Members of these brigades—often state employees or volunteers loyal to the state—disseminate official narratives, harass dissidents, and censor social media.⁴²

Plan 14, issued by the Central Committee, provides guidance on how Resolution 35 should be implemented.⁴³ Key aims of the plan involve increasing ‘positive information’ and ‘fighting against and limiting toxic information and wrongful and hostile views in communications media, especially on the internet’ in order to ‘defeat all plots and schemes of hostile and reactionary forces’.⁴⁴ The plan is comprised of six parts:

1. Creating and training ‘ideological defense committees’ (the opinion-shaping brigades) in all provinces, cities, ministries, and industries.
2. Amending policy on the press, publications, the internet, and social media.
3. Planning editorial agendas for news agencies.

4. Creating training programs on Marxist-Leninist thought, socialism, Ho Chi Minh's ideology, and the history of the CPV.
5. Assigning teachers new responsibilities to protect the ideological foundation of the party and fight against wrong and hostile views.
6. Protecting state secrets.

Decision 169-QD/TW, issued on Jan. 7, 2019, establishes the institutional framework for the enactment of this plan.⁴⁵ Decision 169 reportedly establishes committees at all administrative levels to implement Resolution 35. These committees, known as Ban Chỉ Đạo 35, or Committee 35s, were even assigned a role in the government's response to the Covid-19 pandemic.⁴⁶

The Vietnamese military also engages in online brigading. Force 47, a group under the control of the military, was established to fight 'wrong views' online.⁴⁷ Col. Gen. Nguyen Trong Nghia, who is now the CPV's chief propagandist, claimed that at one point the group consisted of 10,000 members.⁴⁸

Though much of the information about how these public opinion-shaping brigades operate is unknown, an investigation by The Intercept in 2018 provides some insight.⁴⁹ The investigation exposed the operation of E47, a secret Facebook group established at the end of 2017. E47 served several functions, including silencing criticism of the government and communist party, manipulating public opinion by spreading disinformation, and acting as a tool of state surveillance and harassment.⁵⁰ Strategies used to achieve these aims included compiling lists of activists and dissidents to harass, abusing Facebook's content moderation rules to have posts deleted and accounts locked, spreading disinformation, and reporting government critics to the police.⁵¹

At its height, E47 had over 3,000 members.⁵² Many members appeared to be employed by the state and were primarily motivated by ideology. Facebook removed the group from the platform in 2021, but did not close the accounts of the group's administrators or members.⁵³

More recently, the military-run telecommunications company Viettel released Mocha 35, an app that is used by public opinion-shaping brigades to coordinate their

messaging and targets.⁵⁴ As of June 2024, there were 79 Mocha 35 groups on Facebook with 1,325 members that share information and coordinate actions.⁵⁵

These brigades are able to control messaging on social media. By flooding social media with disinformation, and by shouting down and harassing anybody who dissents from official narratives, these brigades suppress speech.

This section has described party policy and institutions on political speech. In the next section, we will outline state policies that enable the Vietnamese authorities to violate the right to free expression.

GOVERNMENT POLICY

Since 2016, a raft of new policies and practices have been enacted that aim to restrict political speech. These include policies which have expanded the censorship regime in the country, granted the government legal permission to access personal data, and prevented people from accessing information that should be publicly available. In addition to these policies, the government surveils the online activity of its citizens and uses various provisions of the country's criminal code to silence dissent. Through these laws and policies, the government has silenced criticism, particularly online.

CENSORSHIP REGIME

The Vietnamese government has developed an elaborate policy framework to censor the internet. The following table lists the relevant laws, and decrees that make up the censorship system, detailing the problematic aspects of these policies.

Vietnam's censorship apparatus

Name	Year	Problematic aspects
Cybersecurity Law	2018	<ul style="list-style-type: none"> Grants the government the authority to regulate online content. Requires social media platforms to store data in Vietnam and submit user data to the government upon request.
Law on the Press	2016	<ul style="list-style-type: none"> Restricts who can participate in journalism. Codifies control over the media. Allows the government to regulate content from news outlets.
Law on Telecommunications	2023	<ul style="list-style-type: none"> Allows the government to control the architecture of the internet itself.

		<ul style="list-style-type: none"> • Regulates licenses for telecommunications companies. • Regulates the management of SIM cards, customer information, and digital services such as data centers and cloud computing services.
Law on Information Technology	2006	<ul style="list-style-type: none"> • Provides the framework for more specific user registration processes and data storage rules. • Provides general procedures for the registration of websites. • Stipulates the obligations of search engines and regulations on the storage of personal information.
Decree 70	2021	<ul style="list-style-type: none"> • Requires that any website that hosts advertisements must comply with certain regulations. • Gives websites 24 hours to comply with a government demand to remove ads deemed illegal and to provide the government with information about the offending advertisers upon request.
Decree 53	2022	<ul style="list-style-type: none"> • Provides guidance on the procedures for the removal of online content. • Designates MPS, MIC, and Ministry of Defense as the authorities responsible for issuing takedown orders. • Empowers MPS to suspend information systems and revoke domain names.

Decree 147

- 2024
- Orders social media platforms to store user data in Vietnam and authenticate social network user accounts with a phone number or ID number.
 - Empowers state agencies to order social media platforms to remove content.
 - Creates legal responsibility for owners of public WIFI networks if people use the network to post illegal content.
-

In extreme circumstances, websites deemed critical of the government are blocked. The websites of Project88, Human Rights Watch, and the BBC are all inaccessible without a VPN in Vietnam. According to a report by the MIC, Vietnam blocked over 2,705 websites in 2022, and in just the first six weeks of 2023, blocked another 529.⁵⁶ The Open Observatory of Network Interference estimates that in 2022, 75% of blocked websites featured content related to politics, news, or human rights.⁵⁷

Instead of blocking social media platforms outright, Hanoi orders these platforms to comply with orders to restrict political speech.⁵⁸ Vietnamese authorities have used takedown requests to remove a huge amount of content from social media that is critical of the government or the CPV.

In February 2020, for instance, Vietnam took Facebook's local servers offline, rendering the social media platform unusable.⁵⁹ Access was restored seven weeks later, after Facebook agreed to comply with the government's order to 'restrict access to content which it has deemed to be illegal'.⁶⁰ In November 2020, the government again threatened to block Facebook if it did not comply with additional content restrictions. The Washington Post reported that, in the end, Facebook complied with these demands, 'giving the government near-total control over the platform'.⁶¹

According to the MIC, Facebook blocked or removed 8,981 posts in 2024 that, according to the Vietnamese authorities, contained false content and anti-state

propaganda.⁶² That same year, at the behest of the Vietnamese government, Google censored 6,043 pieces of content and TikTok censored 971 videos.⁶³ The three companies complied with more than 90% of censorship requests made by Vietnamese authorities.⁶⁴ Tellingly, Google reported that 95% of the removal requests the company received from the Vietnamese government in 2022 were for content critical of the government.⁶⁵

By enacting the Cybersecurity Law, the Law on the Press, the Law on Telecommunications, and the Law on Information Security, as well as Decrees 53, 70, and 147, the government has established a framework to control online content.

CYBERSECURITY LAW

The Cybersecurity Law, enacted in 2018, grants the government the authority to regulate online content, including on platforms such as Facebook and Google.⁶⁶ The law requires these corporations to store user data in Vietnam and provide this data to the government upon request.

MPS officials have stated that the law was inspired by China's cybersecurity law, which was enacted in 2016.⁶⁷ China's law has faced harsh criticism from human rights organizations due to concerns that it has strengthened censorship, surveillance, and government control over the internet.⁶⁸

From a human rights perspective, there are several problems with Vietnam's Cybersecurity Law. First, it appears that the government's motivation behind that law was in large part to suppress political dissent. Second, the law allows officials to wield unfettered authority in removing content. Third, the law grants the government the power to shut down the internet. Fourth, and finally, the law allows the government to access the personal data of social media users.

Improper motivation for the law

The government's motivation for enacting the Cybersecurity Law is impermissible under international law. According to government documents, the law was enacted, at least in part, to prevent reactionary groups from using the internet to undermine

the state and advocate for regime change.⁶⁹ These documents claim that reactionaries in Vietnam use the internet to insult the leadership of the CPV, and, for this reason, the Cybersecurity Law is necessary.⁷⁰

Vietnam alleges that the prevention of government criticism is essential to protect national security. But under international law, Vietnam can only restrict speech on national security grounds if doing so will protect the existence of the nation, its territorial integrity, or its political independence.⁷¹ The entrenchment of a particular ideology or of a particular party are not national security interests.⁷² Vietnam cannot invoke national security concerns to suppress political debate or criticism of the state.⁷³

As such, the government's interest in preventing reactionary groups from using the internet to undermine the leadership of Vietnam and advocate for regime change is not a permissible justification for enacting the law. Speech criticizing, or even insulting, the government or party does not threaten national security under international law.⁷⁴

Prohibition of “offending” speech

The Cybersecurity Law grants far too much power to the government to censor online speech. Specifically, the law prohibits all online speech that falls into any of the following categories:⁷⁵

- Speech that is anti-state.
- Speech that encourages people to oppose the government.
- Speech that distorts history or denies the achievements of the revolution.
- Speech that offends the nation, the national flag, the national emblem, the national anthem, leaders, notable people, and national heroes.
- Speech that is discriminatory against religious or racial groups.
- Speech that can incite riots, disrupt security, or cause public disorder.
- Speech that causes embarrassment or is slanderous of organizations, agencies, or individuals.

When content is deemed illegal by the government, the Cybersecurity Law requires social media companies to remove it upon request by the authorities within 24 hours.⁷⁶

Any content determined to be illegal is subject to removal under the law, with no oversight or opportunity to appeal. This law grants government officials the unfettered authority to censor anything they deem illegal. Given the breadth of what might constitute propaganda against the state or what might, according to the government, cause public disorder, it is extremely difficult for people to determine if their speech is illegal. The use of vague language empowers government officials to act in an arbitrary manner.

Internet shutdowns

Article 21 of the Cybersecurity Law grants the government the power to cut off a specific geographic area from the internet.⁷⁷ Though internet shutdowns are not commonly carried out in Vietnam, the government has at times shut down the internet to prevent news of human rights abuses from spreading. In January 2020, for example, Vietnam shut down the internet during the police attack on Dong Tam commune, the site of a land rights dispute.⁷⁸

Internet shutdowns not only restrict expression, but also interfere with many other fundamental rights. When the internet is shut down, people are cut off from emergency services, mobile banking, and reporting on major events.⁷⁹

For this reason, in their 2011 Joint Declaration on Freedom of Expression and the Internet, four UN experts declared, '[c]utting off access to the Internet, or parts of the internet, for whole populations or segments of the public can never be justified, including on public order or national security grounds'.⁸⁰

Data protection

The Cybersecurity Law requires internet service providers to collect user data, store it in Vietnam, and provide authorities access to it upon request. The law does not outline any procedural safeguards to protect people's privacy. With access to user data, the government may be able to more effectively target those who are willing to speak out online. We will discuss this issue in more detail in the section [Privacy and anonymity](#).

In sum, several of the provisions contained within Vietnam's Cybersecurity Law are impermissible under international law. The motivations of the government in enacting

the law are improper. The law grants the government far too much power in censoring speech, and the language of the law is too vague. The government's ability to shut down the internet is impermissible. And finally, the law violates privacy rights.

LAW ON THE PRESS

The Law on the Press, enacted in 2016, outlines who can participate in journalism in the country. The law codifies the government's control over the media and allows the government to censor content from news outlets and electronic media.⁸¹

Article 9 of the law prohibits the publication of information ranging from speech that questions the legitimacy of the state to speech that "offends" the nation. Like the Cybersecurity Law, the Law on the Press contains provisions that are poorly defined and which grant the government discretion to punish the publication of material deemed problematic. Among the categories of information banned by the law are:

- Information distorting or defaming the state.
- Information that divides the Vietnamese people and the government, armed forces, or political organizations.
- Information that distorts history, negates revolutionary achievements, or insults the nation or national heroes.

Articles 31 and 33 of the law give the MIC the authority to determine which Vietnamese media organizations can publish information online. Invoking this law, the Vietnamese government has mandated the closure of numerous news outlets.⁸²

In 2022, in response to the proliferation of news websites and journalistic activities online, the MIC issued Decision 1418/QĐ-BTTTT, which prevents non-approved sources from competing with state media organizations.⁸³ Specifically, it institutes sanctions for a range of practices, including:

- Websites that use journalistic language such as: 'daily news,' 'daily digest,' 'television,' 'tv,' 'hot news,' 'breaking news,' or 'online'.
- Media organizations that employ a disproportionate number of journalists in relation to their mission or have too many local correspondents.

- Websites that send journalists into the field to collect news and information.

Taken together, the Law on the Press and Decision 1418 give the government far-reaching control over the media.

Under international law, however, restrictions on the operation of websites must be content-specific.⁸⁴ Further, aside from limited systems that provide journalists with privileged access to certain places or events, state systems of registration or licensing of journalists are not permissible.⁸⁵

According to the CCPR, '[t]he penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression'.⁸⁶ As such, Vietnam's policies that establish government control over the ability of media outlets to operate are incompatible with international law.

LAW ON TELECOMMUNICATIONS

The Law on Telecommunications, which was enacted in 2023, regulates licenses for telecommunications companies as well as the management of SIM cards and accounts, customer information, and digital services such as data centers and cloud computing services.⁸⁷

While the Law on the Press allows the MIC to control online news media, the Law on Telecommunications allows it to control the architecture of the internet itself.⁸⁸ Under the law, internet resources such as IP addresses, domain names, and the country code top-level domain ('.vn') are all subject to official registration procedures.

The Vietnam National Internet Center (VNNIC) is the administrative agency responsible for internet affairs under the MIC. Through the VNNIC, the government can control almost all aspects of internet operations in Vietnam. By overseeing the administration of IP addresses and domain names, for instance, the government can limit who can access the internet and share information over cyberspace.⁸⁹

Vietnamese authorities have used this power to cast doubt on international and independent news sources. For instance, VNNIC's official mouthpiece, ICT Vietnam, has said that '[v]ery often, websites in Vietnamese that have foreign domain names (.com, .org) are the source of toxic and fake news. Websites with Vietnam's domain name (.vn) are more reliable sources of news'.⁹⁰ In this way, the government has used its administration of internet resources to sow distrust of certain media outlets.

LAW ON INFORMATION TECHNOLOGY

The Law on Information Technology, which was enacted in 2006, helps provide the framework for user registration processes and data storage rules.⁹¹ The law, along with several decrees that will be discussed below, provides the general procedures for the registration of websites, the obligations of search engines, and regulations on the storage of personal information.

Two particularly problematic aspects of the Law on Information Technology are articles 19 and 20. Article 19 mandates search engines to submit to government oversight. Under the law, companies operating search engines must exclude every search result that the government considers illegal.⁹² Article 20 outlines the requirements for the registration and control of electronic information.⁹³ Under the law, every piece of electronic information that is accessible to the public through search engines is subject to approval by government authorities.

This level of control over search engines and electronic information is not consistent with international law. No government justification permits this level of oversight.

RELEVANT GOVERNMENT DECREES

In addition to the laws discussed above, several decrees institute government control over social media platforms, online media sources, and activities of internet users. Decrees 70, 53, and 147 are particularly noteworthy and will be discussed below.

Decree 70

Decree 70/2021/ND-CP, issued in July 2021, requires that any website that hosts advertisements must comply with certain regulations.⁹⁴ The decree gives websites 24

hours to comply with a government demand to remove advertisements deemed illegal and to provide information about the offending advertisers upon request.⁹⁵ At least 15 organizations and 73 websites were fined in 2022 for violations of the decree.⁹⁶

Decree 53

Decree 53/2022/NĐ-CP, issued on August 15, 2022, provides additional guidance on procedures for the removal of online content under the Cybersecurity Law.⁹⁷ According to the decree, online information can be removed if it violates 'national security, social order, or the safety, rights and legitimate interests of agencies, organizations, and individuals'⁹⁸. In addition, Decree 53 empowers MPS to 'suspend information systems and revoke domain names'.⁹⁹

Decree 147

On November 9, 2024, the Vietnamese government issued Decree 147/2024/NĐ-CP, replacing Decree 72/2013/NĐ-CP. Decree 147 grants additional control to the government over online activities. First, social media platforms operating in Vietnam must store user data in Vietnam and require users to authenticate their accounts using a Vietnamese phone number or ID number.¹⁰⁰ This user data must be provided to the MIC or MPS upon request.¹⁰¹ Only users that have authenticated their accounts are permitted to post, comment, or livestream on social media platforms. In addition, Decree 147 orders internet providers to block users and remove content deemed illegal after a request from Vietnamese authorities.¹⁰² Any social media accounts or groups that regularly post illegal content, including those based outside the country, must be blocked in Vietnam within 24 hours of a request by the government.¹⁰³ Finally, the decree empowers the government to hold the owners of public internet access points at hotels, restaurants, and cafes liable if people use their Wi-Fi network to post illegal content.¹⁰⁴

Through these law and decrees, the Vietnamese government has created a legal apparatus for censoring virtual spaces. Such policies add to an existing framework of criminal and administrative penalties that punish criticism of the government.

CRIMINAL LAW

The Vietnamese authorities have imposed a range of criminal sanctions on individual free speech, including detention, imprisonment, and summonses. In addition to silencing specific individuals, the possibility of criminal punishment serves to create fear and discourage citizens from expressing political opinions online.

The application of criminal law remains Vietnam's most punitive tool to punish political speech. Since 2016, the government has charged those who dare to speak out primarily under articles 117, 155, 156, 200, and 331 of the criminal code.¹⁰⁵

ARTICLE 117

Article 117 prohibits 'making, possessing, storing, or spreading information, materials, or items for the purpose of opposing the State of the Socialist Republic of Vietnam'. In past years, Article 117 was the most common charge used to prosecute activists.¹⁰⁶

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

1. Any person, for the purposes of opposing the State of the Socialist Republic of Vietnam, who commits any of the following acts shall face a penalty of 5-12 years' imprisonment:
 - a. Making, possessing, storing, or spreading information, materials, or items that contain distorted information about the people's government.
2. An extremely serious case [...] shall carry [...] 10-20 years' imprisonment.

The way Hanoi applies Article 117 is in violation of international law. Because the language is so vague, it is impossible for people to know precisely what is considered distorted information, fabricated information, or what constitutes opposing the state. Due to this, Article 117 grants the Vietnamese authorities unfettered discretion. Further, the language is not precise enough to enable an individual to know how to regulate their conduct to comply with the law.¹⁰⁷

In 2021, four UN human rights experts stated that Article 117 is 'overly broad and appears to be aimed at silencing those who seek to exercise their human right to freely express their views and share information with others'.¹⁰⁸ Two years earlier, the CCPR called on Vietnam 'as a matter of urgency' to revise vague and broadly formulated legislation including Article 117, and to end violations of the right to freedom of expression.¹⁰⁹

ARTICLE 331

Article 331, which criminalizes criticism of the government and public figures, is now the most common political charge in Vietnam.¹¹⁰

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

1. Any person who abuses their 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 [...] shall [...] face a penalty of up to 3 years' community service or 6-36 months' imprisonment.
2. If the offence has a negative impact on social security, order, or safety, the offender shall face a penalty of 2-7 years' imprisonment.

There are many examples that illustrate how Article 331 has been used to silence dissent. We will explore three emblematic cases, those of Le Nguyen Hung Tra, Nguyen Phuong Hang, and Dao Ba Cuong.

In 2010, Le Nguyen Hung Tra, one of the most prominent journalists in Vietnam, was charged under Article 258 of the 1999 Criminal Code (Article 331 replaced Article 258 in the current criminal code).¹¹¹ Tra was accused of slander for claiming that Deputy Public Security Minister Nguyen Khanh Toan provided favors to women who had romantic relations with his son.¹¹² Tra was not a political dissident and, as such, her arrest was emblematic of how this article has been used to silence people who are not anti-state.

In 2023, Nguyen Phuong Hang was charged under Article 331.¹¹³ Hang, a Vietnamese influencer and businesswoman, was accused of slandering celebrities and government officials after she alleged that they had misappropriated emergency relief funds and stolen personal donations. She made these accusations on YouTube and TikTok livestreams that amassed hundreds of thousands of views.¹¹⁴ Hang is not a human rights activist but was nevertheless convicted of abusing democratic freedoms and sentenced to nearly three years in prison.¹¹⁵ The unusual attention paid to Hang's trial by state media appeared aimed at making an example of her.

On April 27, 2023, Dao Ba Cuong was arrested and charged under Article 331 after he attempted to seek the truth about his son, who died while in police custody.¹¹⁶ Cuong's son, Dao Ba Phi, was found dead inside his prison cell two days after his arrest for theft. The police refused to release Phi's body to the family. When a video of Cuong confronting police officers surfaced on social media, he was arrested and sentenced to two years in prison for accusing the police of causing his son's death.¹¹⁷

While it is permissible for Vietnam to restrict speech to protect national security or uphold public order, that is not how Vietnamese authorities have used Article 331. International law makes clear that criticism of the state, government, agencies, or officials are not legitimate threats to national security.¹¹⁸ As such, the use of Article 331 to arrest dissidents cannot be justified on national security grounds. Likewise, Article 331 cannot be justified as necessary to protect public order. Protection of public order permits restrictions on expression when necessary for public welfare and social order of a state.¹¹⁹ The use of Article 331 as a catch-all charge highlights how it is not narrowly tailored to protect any other government interest, as required by international law.

ARTICLE 200

While not a crime related to expression, Vietnam has used Article 200 of the criminal code to prosecute people engaged in activism and advocacy to silence their speech. In the past three years, the government has begun bringing tax evasion charges against directors of non-governmental organizations.¹²⁰

Article 200. Tax evasion

1. Any person who commits any of the following acts of tax evasion with an amount of tax evaded between VND 100,000,000 and VND 300,000,000 [...] shall be liable to a fine of between VND 100,000,000 and VND 500,000,000 or face a penalty of 3-24 months' imprisonment.
 - a. The offence is committed against a law enforcement officer [....]
 - b. The offence is committed using a computer network [...]

Starting in 2021, the Vietnamese authorities have imprisoned five leaders of the country's climate change movement on false charges of tax evasion.¹²¹ These arrests are emblematic of efforts to criminalize policy activism and stifle public debate on contentious issues. Project 88 has documented clear evidence that these prosecutions were politically driven and designed to ensure Vietnam's compliance with international obligations.¹²²

The arbitrary application of tax evasion charges has created a climate of fear surrounding policy activism that has made members of civil society organizations cautious about weighing into policy discussions. According to the United Nations High Commissioner for Human Rights, Marta Hurtado, the chilling effect of the government's use of Article 200 against NGO leaders 'is palpable among civil society in Vietnam, and risks stifling debate on issues of importance to society as a whole'.¹²³

ARTICLES 155 AND 156

Finally, Articles 155 and 156 are criminal defamation provisions. Article 155 criminalizes the insulting of another person. Article 156 criminalizes the spreading of false information that harms the rights or reputation of others. Both laws carry additional punishment if the target is a law enforcement officer.

While these charges are not commonly used against dissidents, they are nevertheless impermissible under international law. Civil defamation laws are an important means of addressing unwarranted reputational attacks and, for that reason, are permissible under international law. Criminal penalties for defamation, such as articles 155 and 156, however, are not. Because civil defamation suits provide sufficient protection against reputational harm, imprisonment for defamation is not an appropriate punishment under international law.¹²⁴

In addition, people should not be convicted of defamation if they are telling the truth.¹²⁵ However, Article 155 does not distinguish between true and false statements. One can be found guilty even if the “insult” is true.

Finally, it is widely acknowledged in international law that public officials must tolerate a greater degree of criticism than private individuals. According to Abid Hussain, then-UN Special Rapporteur on freedom of opinion and expression, governments must ensure that defamation laws are not abused by public officials, because defamation laws ‘should never be used to prevent criticism of government’ and ‘should reflect the principle that public figures are required to tolerate a greater degree of criticism than

private citizens'.¹²⁶ Articles 155 and 156, however, impose a more severe punishment for defamation of public officials than of private citizens.

SUMMONS SYSTEM

In addition to criminal charges, Vietnamese officials also issue summonses to suppress online dissent. This is a far more common and less costly method to silence criticism as compared to criminal prosecution.

The MPS has the power to summon individuals for questioning, which it uses to deter people from engaging in political speech. At times, the government summons social media users to demand they remove offending content.¹²⁷ The legal basis for this power is found in Article 37 of the 2015 Criminal Procedural Code and the 2015 Law on the Organization of the Investigating Agencies.¹²⁸

Criminal investigation agencies, most often the Security Investigation Agency, can summon people for an official investigation relating to their speech.¹²⁹ In addition, the MPS Department of Cybersecurity and High-tech Crime Prevention (DCHCP) can summon residents within its jurisdiction any time an online post is deemed to violate public order or safety.¹³⁰ From the end of 2020 to September 2021, the DCHCP summoned over 1,800 individuals to warn them about their online activities and demanded that they delete posts deemed critical of the government.¹³¹

Project88 has observed that most political prisoners in Vietnam were summoned before they were arrested. People who have been summoned range from people such as Bui Tuan Lam for posting parody videos,¹³² to people such as Nguyen Thuy Hanh, who managed a fund that provided support to families of political prisoners.¹³³

In 2016, comedian Nguyen Phuc Gia Huy, also known as Dua Leo, was summoned by police after he posted a video to his YouTube channel titled "Freedom of speech is different from personal insults".¹³⁴ In the video, Dua Leo stated that there was no freedom of speech in Vietnam.¹³⁵ More recently, on August 15, 2023, Dua Leo was taken to a police station for questioning.¹³⁶ While in custody, police ordered him to take down several videos, that, according to the officers, spread false information.¹³⁷

On July 11, 2024, Le Thi Ha, the wife of political prisoner Dang Dang Phuoc, was summoned by police, who allegedly threatened her employment if she did not stop speaking out about her husband's detention.¹³⁸

Similarly, on June 19, 2024, Doan Bao Chau, a journalist who has worked extensively with the New York Times, was summoned to appear at a police station in Hanoi.¹³⁹ Chau told Project88 that when he reported to the police station, he was interrogated for nearly 10 hours about video interviews he had made and posted on Facebook.¹⁴⁰ Police accused Chau of publishing five videos that spread misinformation in violation of the Cybersecurity Law.¹⁴¹ In the videos, Chau conducted interviews with human rights lawyers, activists, journalists, and family members of political prisoners.¹⁴²

Summonses are an important and effective tool in the government's arsenal to suppress political speech. The practice of law enforcement summoning people has served to silence dissent and create a chilling effect on the willingness of people in Vietnam to speak critically about the government.

VIETNAM'S CRIMINAL CODE IN LIGHT OF INTERNATIONAL LAW

Vietnam's use of the criminal code to punish protected speech violates international law. International law is highly protective of speech critical of government officials. The ability to voice dissent against the actions of the government is a fundamental right.

The Vietnamese government has not clarified a legal threshold for determining whether criminal charges will apply in any given circumstance. The government is not transparent about which topics are off-limits for social media posts. Moreover, the provisions are often too vague to allow Vietnamese people to understand what speech might subject them to criminal punishment. In using these laws to punish protected speech, Vietnam has failed to live up to its obligations under the ICCPR.¹⁴³

FINES

In addition to criminal sanctions, Vietnam imposes economic fines on individuals and organizations who speak critically of the government. Online media platforms, as well as ordinary users, have been subjected to fines and suspensions based on the content

they publish. Generally, fines are issued for offenses considered not serious enough to merit criminal prosecution.

Decree 14/2022/NĐ-CP, Decree 15/2020/NĐ-CP, and Decree No. 129/2021/ND-CP provide the legal basis for economic sanctions. The decrees impose fines for vaguely defined offenses, including creating and disseminating false and misleading information, and slandering or insulting the reputation of government agencies.¹⁴⁴

Under decrees 14 and 15, prohibited acts of online expression that are subject to a fine include:¹⁴⁵

- ‘Providing and sharing fake information, or information that distorts, slanders, or insults the reputation of governmental agencies or organizations, honor, and dignity of individuals’.
- ‘Providing and sharing information promoting customs, superstitions, lewdness, and debauchery, which are not suitable with national customs and traditions’.
- ‘Providing and sharing fabricated information causing public confusion, inciting violence, crimes, social evils, or gambling’.
- ‘Providing or sharing journalistic, literary, artistic, or published works generally without the consent of the intellectual property right holder or works that have not yet been allowed to circulate or have been banned from circulation’.
- ‘Advertising and sharing information about banned goods and services’.
- ‘Providing and sharing images of Vietnam's map that do not rightly reflect the national sovereignty’.
- ‘Providing and sharing links to online information with prohibited content’.

Providing or sharing links to online information with prohibited content is also subject to a fine. However, what constitutes prohibited content is not defined.¹⁴⁶ As such, the sharing of any links, posts, or videos that are deemed inappropriate by either MPS or MIC is potentially subject to a fine.

In January 2022, authorities amended Decree 15 to institute larger fines on media outlets for publishing “false” information.¹⁴⁷ Decree 15 was introduced during the Covid-19 pandemic and imposed fines of 10-20 million dong (\$426-853) on people who used

social media to share ‘false, untruthful, distorted, or slanderous information’ about the country’s response to the pandemic.¹⁴⁸

According to MPS, hundreds of people who took advantage of Covid-19 to criticize the government were fined.¹⁴⁹ In total, between January and March 2020, 654 people who made Facebook posts critical of the government’s response to the pandemic were forced to attend ‘working sessions’.¹⁵⁰ In these sessions, people were required to state that the information they posted was false, delete the posts, and pledge not to post anything else “false” about Covid-19 or the government’s response to the pandemic.¹⁵¹ In one case, a woman from Ha Tinh province was fined for incorrectly claiming on Facebook that there were Covid-19 cases in her community.¹⁵²

Official statistics suggest that the government is increasingly fining people for their online speech. A 2020 MIC report details all the fines related to speech for that year. According to the report, 65 fines imposed over the first six months of 2020, totaling approximately 1.2 billion dong (\$51,000).¹⁵³ In 2021 and 2022, at least 600 administrative fines were imposed totaling 6 billion dong (\$254,000).¹⁵⁴

Fines have even been introduced for advertisers who operate online. On Dec. 30, 2021, the government issued Decree No. 129/2021/ND-CP.¹⁵⁵ Decree 129 imposes fines on online advertisers for failing to accurately report information related to cross-border advertising services to the MIC.¹⁵⁶

In the next section, we will outline efforts by the government to violate the right to privacy of the country’s citizens, another aspect of freedom of expression. We find that despite data protection laws that ostensibly uphold this right, large carveouts in the laws allow the government the unfettered discretion to obtain personal data at will.

PRIVACY AND ANONYMITY

Vietnam’s legal framework threatens the privacy and data security of people in the country. In September 2024, the National Assembly introduced draft legislation that ostensibly would provide personal data protection. But if passed, this law will nevertheless allow government officials to access user data without proper oversight.

Existing laws also threaten user privacy. The Cybersecurity Law requires internet service providers to authenticate user information upon registration and Decree 147 requires users to provide their name and phone number to use social media.¹⁵⁷

PERSONAL DATA PROTECTION FRAMEWORK

The Cybersecurity Law mandates that internet service providers must store user data in Vietnam and provide this data to Vietnamese authorities upon request.¹⁵⁸

Decree 53/2022/NĐ-CP provides guidance on how the Cybersecurity Law should be implemented. Under Decree 53, if foreign companies do not comply with the Vietnamese government's requests for user data, the government may order them to store user data—including IP addresses, usernames, and phone numbers—within Vietnam.¹⁵⁹ According to a document written by the Binh Phuoc provincial party propaganda organ, among the information that must be stored in Vietnam is the personal information of users and data about family and friends of users.¹⁶⁰

The Cybersecurity Law and Decree 53 each lack procedural safeguards or oversight mechanisms.¹⁶¹ Many government actors have the power to request personal data from service providers, including ministries, government agencies, provincial people's committees, and political organizations.¹⁶² And yet, no adequate safeguards exist to protect the privacy of the people.¹⁶³ As such, the Cybersecurity Law and Decree 53 mandate that telecommunications companies must provide data to the government upon request and yet do not specify procedures or oversight mechanisms to prevent misuse.¹⁶⁴

Last year, Vietnam issued legislation that purportedly would provide personal data protection. Decree 13/2023/ND-CP, which went into effect on July 1, 2023, was Vietnam's first comprehensive legislation on personal data protection.¹⁶⁵ Most of the decree's provisions are in line with international standards for data privacy. However, Article 17 of the decree provides a long list of exceptions that permit the government to access personal data, including 'when there is a threat to security and national defense' and 'to prevent and fight riots and terrorism'.¹⁶⁶ These broad exceptions open the door for government abuse and, for this reason, the decree does not adequately protect data.¹⁶⁷

On September 24, 2024, the government announced a new draft law on personal data protection intended to expand Decree 13. According to the MPS, the draft law intends to establish the country's legal framework for personal data protection and improve the ability of organizations and individuals in the country to protect personal data.¹⁶⁸

Unfortunately, the new draft law has many of the same limitations as Decree 13. Article 17 of the draft law allows state agencies to access data in case of national defense and security emergencies, major disasters or dangerous epidemics, and when there is a threat to national security and defense, as well as to fight riots, terrorism, and prevent crime.¹⁶⁹ Thus, this new draft law will likely do nothing to prevent the government from legally obtaining personal data on vague and ill-defined grounds.

Finally, in November 2024 the government issued Decree 147, which requires social media platforms to authenticate social media user accounts using a Vietnamese phone number or ID number.¹⁷⁰ Only users that have authenticated their accounts will be able to use social media in the country. Moreover, this user data must be provided to the MIC or MPS upon request by the government.¹⁷¹

AI SURVEILLANCE OF SOCIAL MEDIA

There is evidence that Vietnam has attempted to upgrade its social media surveillance capabilities by using AI technology. On Feb. 27, 2024, the Ho Chi Minh City Department of Information and Communications began using SocialBeat, an AI-powered social listening software, to monitor social media platforms.¹⁷² In addition to Ho Chi Minh City, the government of Bac Kan province is also using the technology to monitor social media use in the province.¹⁷³

SocialBeat can be used to trawl social media platforms for data and reportedly can collect and analyze more than two billion posts a day.¹⁷⁴ According to a Ho Chi Minh City official, the software will be used to help city officials identify 'hostile forces who are taking advantage of social networks and internet platforms to incite protests against the government'.¹⁷⁵

Likewise, according to the Bac Kan provincial government, SocialBeat is used to monitor and observe associations, groups, and individuals on social media in order to detect information hostile to the government so the users can be identified and the posts can be ‘handled’.¹⁷⁶ In 2024, the Bac Kan provincial government used SocialBeat to monitor negative comments about the administration of a local hospital, a local mining project, and to help direct state media to refute arguments seen on social media in the aftermath of Typhoon Yagi.¹⁷⁷ Thus far, no oversight mechanisms or limits on the government’s use of SocialBeat have been announced.

Reputa, a similar tool, was developed by the military-owned conglomerate Viettel.¹⁷⁸ Like SocialBeat, Reputa is a social listening tool that tracks news stories shared over social media, including popular sentiments, the slant of news articles, and comments about news events.¹⁷⁹ The Hau Giang provincial government has reportedly used Reputa to measure how the province has been portrayed on social media.¹⁸⁰

A third program, VnSocial, was developed by the Vietnam Posts and Telecommunications Group (VNPT), which is owned by the Vietnamese government.¹⁸¹ Like SocialBeat and Reputa, VnSocial is used by local governments in Vietnam to help monitor conversations and trends on social media.¹⁸² According to its website, VnSocial helps government organizations keep tabs on discussions of sensitive topics and receive warnings of suspicious behavior on social media.¹⁸³ Thus far, it has been adopted by 39 provinces and cities across Vietnam.¹⁸⁴

VnSocial system deployed in Ba Ria-Vung Tau¹⁸⁵



In sum, the Vietnamese government has deployed AI-powered social listening software to monitor and identify people voicing critical opinions of the government on social media.

THE RIGHT TO PRIVACY UNDER INTERNATIONAL LAW

Vietnam has an obligation to respect and protect the privacy rights of its citizens.¹⁸⁶ The ability of the government to collect large amounts of user data creates the possibility of mass surveillance, which constitutes an interference in privacy.¹⁸⁷

The lack of effective safeguards against abuse in Vietnam is enough to render these data collection regimes impermissible. According to then-UN Special Rapporteur Frank La Rue, '[s]tates should ensure the existence of domestic legislation that prohibits unlawful and arbitrary interference and attacks on privacy'.¹⁸⁸ In Vietnam, no safeguards exist to prevent government misconduct. And, in the absence of safeguards, Vietnam's data collection regime violates international law.

In the next section of the report, we will discuss the status of access to governmental information in Vietnam. The Vietnamese government operates in an opaque, nontransparent manner and, for this reason, it is difficult for citizens to obtain information on a multitude of topics.

ACCESS TO INFORMATION

Vietnamese law purports to protect the people's right to access information held by public bodies. Lofty principles espoused in the country's constitution guarantee that this right is far reaching and circumscribed by only narrow and necessary exceptions. Article 25 of the constitution states that citizens have the right to access information.¹⁸⁹

The right to seek and receive information is an essential aspect of the right to freedom of expression. Under Article 19 of the ICCPR, Vietnam must guarantee the right to seek, receive and impart information.¹⁹⁰ This right includes access to records held by a public body that are of public interest. As UN Special Rapporteur David Kaye stated:

Public authorities act as representatives of the public, fulfilling a public good; therefore, in principle, their decisions and actions should be transparent. A culture of secrecy is acceptable only in very exceptional cases.... There is consequently a strong public interest in the disclosure of ... information.¹⁹¹

This right is ostensibly given effect by the Law on Access to Information.¹⁹² In practice, however, an expansive legal framework has been enacted to prevent access to information of public interest on a broad range of topics.

Article 6 of the Law on Access to Information outlines information that citizens do not have the right to access, including information classified as state secrets; information with important content relating to science and technology; information that if made public could harm the interests of the state; information that could harm the life, liberty, or property of others; work secrets; information on internal meetings of state agencies; and documents drafted by state agencies for their internal affairs.¹⁹³

The State Secrets Protection Law, enacted in 2018, further restricts what information citizens are allowed to access. Article 7 creates blanket provisions that render large swaths of information of legitimate public interest off limits, including information about politics, the policies of the CPV and the government, and the activities of the Central Party Committee, Politburo, and the Secretariat.¹⁹⁴

Vietnamese law restricts access to information across a wide range of topics. The CCPR, however, has clarified that it is not permissible under international law for a state to invoke national security interests 'to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information'.¹⁹⁵ As such, the Law on Access to Information and the State Secrets Law likely go beyond what is permissible under international law.

CONCLUSION

While research suggests that Vietnam had a higher degree of tolerance for political speech since the advent of the internet in the 1990s, this trend has not continued until the present day.

Since 2016, a raft of new policies and practices have been enacted that aim to further restrict political speech. These include laws which have expanded the censorship regime in the country, including the Cybersecurity Law, the Law on the Press, the Law on Telecommunications, and the Law on Information Technology, as well as numerous implementing decrees. In addition, several laws have been introduced which together have deprived the Vietnamese people of privacy online, including a draft law on data protection introduced in September 2024, and Decree 147, which was issued in November 2024. Finally, while the country's legal framework for access to information was created by the Law on Access to Information, contradictory policies such as the Law on Protection of State Secrets prevent the public from obtaining much information that should be publicly available.

Such policies have been enacted to restrict political speech by expanding the country's censorship apparatus, granting the government legal permission to access user data, and preventing the Vietnamese people from accessing information. These policies add to an existing framework of criminal and administrative penalties that punish criticism of the government. Together, these restrictions have created a legal apparatus that severely limits people's ability to speak out or advocate for changes in government policy.

The result of this massive effort to restrict political speech is that people are afraid to speak out. This fear extends from ordinary citizens to NGO leaders and even government and CPV officials. And no oversight exists to ensure that the government complies with international human rights standards.

But the Vietnamese people have the right to voice their opinions and access information free from censorship, surveillance, and harassment. Human rights law on this matter is clear: restrictions on expression are impermissible if they are designed to entrench a particular ideology or political party.¹⁹⁶

RECOMMENDATIONS

In light of the analysis presented above, Project88 offers the following recommendations to the **Vietnamese government**:

- Release all political prisoners and commit to a moratorium on arrests for expression.
- Repeal Directive 24 and stop issuing policies that violate human rights.
- Ensure that civil society can engage in policy advocacy free from the threat of intimidation, harassment, and reprisal.
- Halt the misuse of tax evasion charges under Article 200 of the criminal code.
- Repeal or amend Articles 117 and 331 of the criminal code, the Law on the Press, the Law on Telecommunications, Decree 147, the Cybersecurity Law, and all other laws that the government uses to censor information and criminalize dissent.
- Amend the Law on Access to Information and the Law on Protection of State Secrets to ensure they are in line with international standards.
- Stop all efforts to monitor the Vietnamese people with AI technology.
- Do not remove online content that is merely critical of the government or CPV.
- Develop and implement training programs to improve the knowledge of government officers at all levels about the right to freedom of expression.

Project88 offers the following recommendations to **telecommunications companies and social media platforms**:

- Articulate clear, accessible, and easily understandable policies governing expression on your platform. All content rules must be available in Vietnamese.
- Ensure that decisions on content moderation are made by people who speak Vietnamese and have an understanding of the national context.
- Put in place internal complaint and dispute resolution mechanisms, including for the wrongful removal of content.

- Publish comprehensive transparency reports that include detailed information on content removal requests received and acted upon. Provide additional information on appeals processes, including the number of appeals received and their outcomes.

Project88 offers the following recommendations to the **United States**—given the warrantless eavesdropping program of US intelligence agencies and the potential TikTok ban—to avoid any hypocrisy when the US criticizes Vietnamese human rights:

- The Supreme Court should grant an emergency injunction to block the Protecting Americans from Foreign Adversary Controlled Applications Act from banning TikTok on January 19, 2025.
- Ensure that any interference with the right to privacy, including surveillance of the public, complies with international human rights law.
- Adopt and enforce, through independent and impartial authorities, data privacy legislation that complies with international human rights law.
- Take immediate measures to effectively increase the transparency of the use of surveillance technologies.
- Ensure that victims of human rights violations and abuses linked to the use of surveillance systems have access to effective remedies.

And finally, Project88 offers the following recommendations to **France and Australia**, who each recently upgraded their relations with Vietnam to a Comprehensive Strategic Partnership:

- In its troubling prosecution of Telegram CEO Pavel Durov, France must strictly adhere to the rule of law and procedural safeguards, as well as human rights standards and transparency.
- Australia must not reintroduce the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2024, which threatens to grant Australian officials the authority to censor digital platforms in the country.

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