



‘LET US BREATHE!’

CENSORSHIP AND CRIMINALIZATION OF ONLINE EXPRESSION IN
VIET NAM

AMNESTY
INTERNATIONAL



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Cover photo: This image depicts an artist's impression of the censorship and criminalization of freedom of expression online in Viet Nam. It was produced by Doan Truong (also known as BomTtd), a Vietnamese artist living in Canada.

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EXECUTIVE SUMMARY

“I would like to call on Facebook to stop cracking down on accounts that circulate political content. That is the very basic right of the people,” human rights defender Nguyen Van Trang told Amnesty International after content critical of the Vietnamese government that he posted on Facebook was removed by the company in mid-2020.¹

Like many Vietnamese human rights defenders, Nguyen Van Trang relies primarily on his social media platforms to share news and information related to politics and human rights in Viet Nam.² His Facebook account has approximately eight thousand friends and followers, and he manages three Facebook pages that have more than one million followers in total.

“I have lost faith in Facebook, so I don’t post much anymore. Imagine if you spend years and years growing your Facebook account, posting and writing about your passion for democracy, but then in one easy act, Facebook just erases all the work you have done over the years. That really discouraged me,” Nguyen Van Trang explained. “We have been stripped of our ability to express our opinions. Our ability to reach the public is now very limited.”

On 21 April 2020, Facebook announced a major shift in its content moderation policy in Viet Nam. Under this policy, it has increasingly complied with the Vietnamese authorities’ repressive censorship of online expression deemed critical of the state.³ Facebook has disclosed that it agreed to “significantly increase” compliance with requests from the Vietnamese government to censor “anti-state” content in Viet Nam after concerted pressure from the Vietnamese authorities, including an enforced slowdown of Facebook services within the country.⁴ The Vietnamese government routinely deems peaceful and legitimate criticism of the government or information related to human rights abuses as “anti-state”, even though this type of expression is protected under international laws and standards.⁵

The decision by Facebook may have far-reaching global consequences, as other repressive governments around the world may now seek to apply a similar strategy by forcing Facebook and other technology companies to restrict online expression. As one industry observer noted: “How Google and Facebook deal with Viet Nam could offer clues to how they will protect user privacy and handle calls for censorship in other authoritarian regimes around the world.”⁶

Facebook’s decision has marked a sea change in the social media landscape in Viet Nam. Once the great hope for the expansion of freedom of expression in the country, social media platforms are fast becoming human rights-free zones, where any peaceful dissent or criticism of the Vietnamese government is liable to be censored and where users seeking to post such content face the risk of being suspended or otherwise barred from the platforms. Facebook’s latest Transparency Report on Viet Nam – the first since it revealed its policy of increased compliance with the Vietnamese authorities’ censorship demands – offers a glimpse into

1 Amnesty International interview with Nguyen Van Trang, 9 July 2020.

2 Amnesty International interview with Nguyen Van Trang, 9 July 2020.

3 James Pearson, “Exclusive: Facebook agreed to censor posts after Vietnam slowed traffic – sources”, Reuters, 21 April 2020, uk.reuters.com/article/uk-vietnam-facebook-exclusive/exclusive-facebook-agreed-to-censor-posts-after-vietnam-slowed-traffic-sources-idUKKCN2232K3 (hereinafter: J. Pearson, “Exclusive: Facebook agreed to censor”).

4 J. Pearson, “Exclusive: Facebook agreed to censor”

5 Johannesburg Principles on National Security, Freedom of Expression and Access to Information (Johannesburg Principles), Principle 7, <http://www.article19.org/data/files/pdfs/standards/joburgprinciples.pdf>

6 Wayne Ma, “Facebook and Google Balance Booming Business with Censorship Pressure in Vietnam”, *The Information*, 10 December 2019, www.theinformation.com/articles/facebook-and-google-balance-booming-business-with-censorship-pressure-in-vietnam (hereinafter: W. Ma, “Facebook and Google”).

the scale of this shift, revealing a 983% increase in content restrictions based on local law as compared with the previous reporting period.⁷

Vietnamese YouTube users have also complained of increasing censorship of content which is deemed sensitive by the Vietnamese authorities. One human rights defender and YouTuber, An*, told Amnesty International: “YouTube is trying to prevent people from telling the truth, even when people are just reporting fact ... This affects everyone in society, including victims of human rights violations.”⁸

An* described to Amnesty International how the increasing restrictions imposed by technology companies at the behest of the Vietnamese authorities are having a chilling effect on the right to freedom of expression in Viet Nam, which in turn is having a major impact on the promotion and protection of human rights in the country: “It is unjust. It is impacting the people who are advocating for democracy and human rights in Viet Nam. Now we have to self-censor.” An* told Amnesty International: “They should not restrict content that expresses the truth. Once they do that, they just become a tool for the government to control information and expression.”⁹ Speaking on behalf of other Vietnamese human rights defenders who have been silenced, her message to technology companies operating in Viet Nam was clear: “Let us breathe!”¹⁰

This report – based on interviews with 31 Vietnamese human rights defenders and activists, including former prisoners of conscience and their family members, lawyers, journalists and writers – documents the systematic repression of the right to freedom of expression online in Viet Nam. It reveals the persecution, harassment and abuse of human rights defenders and activists engaged in online expression by the Vietnamese authorities and analyzes the increasingly complicit role of technology giants Facebook and Google in the censorship of peaceful dissent and expression in the country.

The right to freedom of expression is guaranteed by Viet Nam’s constitution and the International Covenant on Civil and Political Rights (ICCPR), which Viet Nam has ratified. The UN Human Rights Council has affirmed that the same rights people have offline must also be protected online, and that states should create and maintain an “enabling online environment” for the enjoyment of human rights.¹¹ Nonetheless, there are multiple offences in the country’s Criminal Code, such as Articles 117 and 331, that empower the authorities to prosecute people for engaging in the legitimate exercise of their right to freedom of expression online.

Companies – including Facebook and Google – have a responsibility to respect all human rights wherever they operate, including throughout their operations and supply chains. According to international human rights standards, Facebook and Google should respect freedom of expression in their content moderation decisions globally, regardless of the existence of local laws that muzzle freedom of expression. While companies sometimes point to the difficulties posed by conflicting obligations under local and international legal standards, they should be guided by the UN Guiding Principle on Business and Human Rights, which states: “The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights.”¹²

This report reveals that Facebook and Google play an increasingly prominent and complicit role in the Vietnamese authorities’ systematic repression of freedom of expression online in Viet Nam. Amnesty International interviewed 13 Vietnamese human rights defenders and activists who have had their social media content censored even though the content they posted was protected under international human rights law.

The increasing censorship of political expression on social media in Viet Nam is occurring against a background in which the rapid expansion of internet access has profoundly changed Vietnamese society and opened up unprecedented space for the free exchange of information and ideas, including on human rights and political issues. In the context of strict censorship applied to all forms of traditional publication in Viet Nam, the internet has become a key source of independent news and information in which people can raise their voices, express opinions and engage in political debate.

7 Facebook, Transparency, Content Restrictions, Vietnam, transparency.facebook.com/content-restrictions/country/VN

8 Amnesty International interview with An (pseudonym), 9 July 2020.

9 Amnesty International interview with An (pseudonym), 9 July 2020.

10 Amnesty International interview with Nguyen Van Trang, 9 July 2020.

11 UN Human Rights Council, *The promotion, protection and enjoyment of human rights on the Internet*, UN Doc: A/ HRC/38/L.10/Rev.1 (2018).

12 Commentary to Principle 11 of the UN Guiding Principles on Business and Human Rights (UNGPs).

As Trinh Ba Phuong, a land rights activist, told Amnesty International: “The internet has made everyone a journalist and every Facebook page now becomes a news outlet. The government can no longer hide their wrongdoing from the public, which will ultimately bring more justice and fairness to our society.”¹³

But the story of social media in Viet Nam is not only about expanded space for freedom of expression – it is big business, too. Viet Nam has become a highly lucrative market for international technology companies. According to industry experts, it is now the biggest country by revenue for Facebook and Google in Southeast Asia.¹⁴ In 2018, Facebook’s income from Viet Nam neared \$1 billion – almost one third of all revenue from Southeast Asia. Google earned US\$475 million in Viet Nam during the same period, primarily based on YouTube advertising.¹⁵ The size of these profits underlines the importance of maintaining market access for Facebook and Google in Viet Nam. Increasingly, however, it must be asked: market access at what cost?

While the internet has provided an unprecedented opportunity for the Vietnamese people to express and exchange political opinions, it has also left users at increased risk of harassment, intimidation, physical assault and prosecution by state authorities bent on eliminating dissent. In addition to the content censorship implemented by technology companies, this report documents how human rights defenders and activists in Viet Nam – as well as their families – face significant threats to their freedom and safety due to their online activism. On the morning of 30 August 2018, Nguyen Ngoc Anh, an aquatic engineer and prominent human rights defender engaged in online activism, was arrested shortly after leaving his home in Ben Tre province. Shortly after his departure, dozens of police officers and local militia members broke into his house in search of “anti-government documents” and began shouting at his wife, terrifying their three-year-old son.¹⁶

Because of his Facebook activity, Nguyen Ngoc Anh was charged under Article 117 of the 2015 Criminal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”, a charge that is not in compliance with Viet Nam’s international human rights obligations.¹⁷ In June 2019, he was sentenced to six years in prison. Nguyen Ngoc Anh’s case exemplifies the harsh repression faced by bloggers, human rights defenders and online activists in Viet Nam in the digital era.

Viet Nam today is one of the most repressive environments in the world with regards to freedom of expression online. At the time of publication, Amnesty International recognized at least 170 prisoners of conscience imprisoned in Viet Nam, the highest number since Amnesty International began monitoring prisoners of conscience in the country. Among this number, 69 are imprisoned on the basis of the peaceful exercise of their right to freedom of expression online (see Annex A). Among the 27 prisoners of conscience newly imprisoned in 2020, 21 (78%) were targeted on the basis of online expression.

This report documents the experiences of dozens of Vietnamese human rights defenders and activists who operate under the constant threat of arbitrary arrest and lengthy imprisonment simply for peacefully expressing themselves online. The widespread use of the Criminal Code to suppress legitimate online expression underlines the need for international technology companies to adopt globally applicable content moderation standards and policies that are explicitly based on – not merely informed by – international human rights laws and standards. Technology companies’ current approach to content moderation based on local laws simply facilitates the repressive and arbitrary demands of governments seeking to suppress the right to freedom of expression.

Bloggers, human rights defenders and other activists who engage in online expression in Viet Nam are not only faced with the constant threat of arbitrary arrest and prosecution, they also endure the menace of brutal physical assault, insidious surveillance and intimidation, harassment of family members and online abuse and bullying. These extra-legal tactics are sometimes perpetrated by agents or supporters of the Vietnamese authorities or the Communist Party of Viet Nam (CPV), but generally by unidentified, plainclothes individuals. Remedies and accountability for such abuses and ill-treatment are elusive to the point of non-existence – human rights defenders who complain to the authorities after being beaten or harassed are rarely, if ever, taken seriously. In respect of the cases documented in this report, Amnesty International could find no evidence of credible investigations conducted by the police or any cases in which those suspected to be responsible for violations and abuses of the rights of human rights defenders had been brought to justice.

Several of the human rights defenders interviewed by Amnesty International described being severely beaten by police while they were held in police custody. Others described being ambushed by groups of

¹³ Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

¹⁴ W. Ma, “Facebook and Google”.

¹⁵ W. Ma, “Facebook and Google”.

¹⁶ Amnesty International telephone interview with Nguyen Thi Chau, 7 September 2019.

¹⁷ Amnesty International interview with Nguyen Thi Chau, 7 September 2019.

unidentified, armed assailants and beaten to unconsciousness in full view of onlooking police officers who failed to intervene. Many reported suffering serious injuries, including broken ribs, collarbones and hands.

This report further documents the activities of Viet Nam's "cyber-troops" known as "Force 47" – a military unit established with 10,000 people whose mission is to "fight against wrong views and distorted information on the internet" by harassing and intimidating human rights defenders and activists on social media platforms.¹⁸ The report additionally documents the similar activities of the more informal "public opinion shapers" of "Du Luan Vien", a volunteer troll army made up largely of activists of the Communist Party of Viet Nam.

These state-sponsored groups subject human rights defenders and individuals who express critical views online to death threats and vicious psychological abuse, leaving some activists in fear for their lives. They further undertake coordinated reporting campaigns that often trigger restrictions on the content and suspensions of the accounts of their targets. In this report, Amnesty International has documented and analyzed dozens of reports from activists across Viet Nam about their experiences of being targeted by cyber-troops and public opinion shapers in the last two years.

As noted by the UN Human Rights Committee: "Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society ... Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights."¹⁹

The systematic repression of the right to freedom of expression online in Viet Nam requires urgent remedial action. The Vietnamese authorities must ensure a safe and enabling environment for human rights defenders and all those engaged in the peaceful exercise of their human rights both on- and offline. The authorities must immediately and unconditionally release all prisoners of conscience held solely for the peaceful exercise of their human rights and protect human rights defenders, activists and others who express themselves online from physical attacks, threats and online abuse. They must additionally launch thorough, independent, transparent and effective investigations into all allegations of such abuses and bring those responsible to justice.

Technology companies including Facebook and Google must urgently overhaul their content moderation policies to ensure that they are firmly grounded in international human rights standards. These reformed policies must meet the highest standards of transparency and accountability, with meaningful participation from users and civil society. The reformulation of these policies will provide the companies with firm ground to stand on as they seek to resist the repressive censorship demands of the Vietnamese authorities and other governments around the world.

The US government must also take immediate steps to regulate technology companies domiciled there in order to ensure they respect human rights throughout their global operations in line with the UN Guiding Principles on Business and Human Rights and ensure that individuals who have suffered human rights abuses due to the actions of US firms have access to effective remedies.

METHODOLOGY

This report is based on research conducted by Amnesty International between September 2019 and July 2020. Information was obtained from a wide variety of sources, including 31 interviews with Vietnamese human rights defenders and activists affected by severe restrictions on freedom of expression, including online activists within Viet Nam, members of the Vietnamese diaspora abroad including asylum seekers facing political persecution, former prisoners of conscience, family members of current prisoners, and human rights lawyers.

Due to fear of retribution, some of those interviewed requested anonymity, while others wished to share their identities publicly. Because of security concerns and the fact that Amnesty International is barred from entry into Viet Nam by the authorities, interviews were conducted remotely by researchers based outside of Viet Nam. Amnesty International used the most secure communication methods available for these interviews, all

www.amnesty.org/en/latest/news/2018/07/viet-nam-authorities-must-protect-activist-from-mob-attacks

18 Hơn 10.000 người trong 'Lực lượng 47' đấu tranh trên mạng, 25 December 2017, tuoitre.vn/hon-10-000-nguoi-trong-luc-luong-47-dau-tranh-tren-mang-20171225150602912.htm

19 UN Human Rights Committee, *General Comment 34, Article 19: Freedoms of opinion and expression*, UN Doc. CCPR/C/GC/34 (hereinafter: "General Comment 34"), para. 3.

of which were conducted in Vietnamese. The information gathered from these interviews was then corroborated with local activists, news coverage, journalists and other available sources.

All interviewees gave informed consent in advance of being interviewed. Before asking for consent, Amnesty International's researcher explained the purpose of the research, how the information would be used, and potential risks to all interviewees, and only proceeded with the interview once consent was given. Amnesty International did not provide any incentives, material or otherwise, in exchange for interviews.

The organization also carried out extensive desk research using information from open sources, including relevant national law and international human rights standards, civil society organization reports, domestic and international news media, academic journals and monitoring of Vietnamese human rights defenders' social media accounts. Researchers also reviewed relevant national laws and policies as well as the international legal framework pertaining to freedom of expression online.

On 17 August 2020, Amnesty International wrote to Facebook and Google and asked questions regarding the companies' content moderation policies and practices in Viet Nam. Amnesty International again wrote to Facebook and Google on 6 November 2020 to inform the companies of relevant allegations contained in this report. At the time of publication, Facebook had responded to both letters and Google had responded to the first but not the second letter. Relevant excerpts from the responses sent by both companies have been included throughout this report and the full responses are included in Annex B. Amnesty International also wrote to the Vietnamese Ministry of Public Security and the Ministry of Information and Communications in relation to the allegations contained in this report on 9 November 2020. However, at the time of publication, the organization had received no response.

1. INTRODUCTION

1.1 ONLINE EXPRESSION IN VIET NAM

Viet Nam has a population of approximately 97 million people, of whom 60% are under the age of 35.²⁰ In recent years, the country has seen an explosion in internet connectivity. Over two thirds of the population of Viet Nam – 64 million people – now have internet access. The rapid expansion of internet access has transformed many aspects of life there – from social life and commerce to political discourse and human rights activism.

The exponential rise in internet connectivity only began in earnest in Viet Nam in 2006, when the Yahoo! 360° platform migrated to Viet Nam and quickly became popular. Facebook and YouTube (which is owned by Google) have more recently become the most popular social networks in Viet Nam; indeed, they have become the main public forums for expression of information and opinions on a range of issues, including social justice, human rights and politics, which the government has traditionally targeted for censorship and repression.

One of the major reasons for the popularity of social media in Viet Nam has been its relative freedom from censorship, in sharp contrast to traditional media in the country. Describing the state of media freedom in Viet Nam to Amnesty International prior to her arbitrary arrest in October 2020, prisoner of conscience Pham Doan Trang, the co-founder of *Luat Khoa Tap Chi*, an independent online legal magazine, explained: “There are hundreds of newspapers, but there is only one chief editor who decides what appears in every newspaper in Viet Nam and that person is the head of the [Communist Party of Viet Nam’s] propaganda department.”²¹

“The internet, especially social media, has transformed Vietnamese society significantly. It gives people the ability to make their voices heard and [has] put an end to the government’s domination over news and information. Now, everyone can be a journalist and publish whatever they want with just a Facebook account.”

Trinh Ba Phuong, land rights activist and human rights defender (arbitrarily imprisoned since being interviewed)²²

The rise of social media has provided people in Viet Nam with a platform on which they can express their opinions relatively freely, a right that most in Viet Nam had never enjoyed before. The first independent online news outlet, *Anh Ba Sam*, was launched in September 2007. This encouraged the establishment of

²⁰ Tổng Cục Thống Kê, kho du lieu dan so 2009, portal.thongke.gov.vn/khodulieudan2009/Tailieu/AnPham/ChuyenKhaoCoCauDanSo/Chuong3.pdf

²¹ Amnesty International telephone interview with Pham Doan Trang, 3 September 2019.

²² Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

other news sources and helped create a movement in which independent media became the dominant force in news coverage. An August 2020 representative study conducted by the British Council on “Next Generation Viet Nam” spoke to the importance of the internet and social media in the lives of young Vietnamese people:

[O]pening Viet Nam to the world has led to dramatic societal changes felt by the next generation. Their lives are intensely digitised, interwoven with internet access and social media, the latter of which plays a crucial role in defining identity for around one-third of respondents across Vietnam. For many, life without the internet or social media is unimaginable.²³

The expansion of internet access has, on the one hand, increased opportunities for the exercise of human rights and, on the other, equipped the Vietnamese authorities with an efficient means of conducting surveillance and targeting government critics. Accompanying the expansion of internet access and associated freedoms has been a year-on-year escalation in the number of prisoners of conscience – people detained solely for peacefully exercising their human rights – in Viet Nam. Amnesty International recognized 75 such prisoners of conscience in 2013, and by November 2020 the number had reached at least 170, the highest number ever recorded by the organization. Currently, at least 69 prisoners of conscience are imprisoned in connection with their online activism.

Viet Nam is a one-party state in which the constitution recognizes the Communist Party of Viet Nam (CPV) as “the leading force of the State and Society” and effectively outlaws political opposition. Human rights defenders, activists and those who express dissent or criticism of the authorities online in Viet Nam are met with repression, as detailed in Chapter 4 of this report. The authorities routinely target and punish those who attempt to challenge their power or “go against the party way”.²⁴

Viet Nam’s fast-growing economy attracts investment from all over the world, and it has become a highly lucrative market for international technology companies. It has become the biggest country by revenue for Facebook and Google in Southeast Asia.²⁵ In 2018, Facebook’s income from Viet Nam neared US\$1 billion – almost a third of all its revenue in Southeast Asia. Google earned US\$475 million in Viet Nam during the same period, primarily based on YouTube advertising.²⁶

Although the Vietnamese constitution provides for a range of human rights guarantees, the Criminal Code contains numerous provisions used to prosecute people for peacefully exercising those rights. Amnesty International has been documenting cases of arrest and prosecution of human rights defenders and activists in Viet Nam in retaliation for their online expression since 2006, with the arrest of former prisoner of conscience Truong Quoc Huy at an internet café in Ho Chi Minh City.²⁷

Today, the landscape of repression in Viet Nam has substantially shifted online. Recognizing internet freedom as a serious threat to its power, the government of Viet Nam started to respond in 2006 by using a variety of methods aimed at quashing political activism and dissent online, including online harassment, intimidation, physical assault and prosecution.

Technology companies – notably social media giants Facebook and Google, which dominate the market in Viet Nam – have sought to expand their operations and market share in the country amidst this highly repressive environment. This has led to numerous tensions between the Vietnamese authorities and technology companies over the years, with the Vietnamese government demanding a range of concessions from them, including the handover of user data (including private information) and requests to the technology companies to censor criticism of the government posted on their platforms.

1.2 BIG TECH AND HUMAN RIGHTS

In November 2019, as major technology companies such as Facebook and Google cemented their dominance of social media and reached unprecedented levels of growth, influence and reach, Amnesty International published a report entitled *Surveillance Giants: How the Business Model of Google and*

23 British Council, Next Generation Vietnam, August 2020, www.britishcouncil.org/sites/default/files/next_generation_vietnam.pdf, p. 7.

24 Kiemsat.vn, “Tự do ngôn luận” hay “ngôn luận tự do” để xuyên tạc, kích động chống phá Đảng, Nhà nước và nhân dân, kiemsat.vn/tu-do-ngon-luan-hay-ngon-luan-tu-do-de-xuyen-tac-kich-dong-chong-pha-dang-nha-nuoc-va-nhan-dan-56473.html

25 W. Ma, “Facebook and Google”..

26 W. Ma, “Facebook and Google”.

27 Amnesty International, “Truong Quoc Huy: Global Letter-Writing Marathon” (Index: ASA 41/012/2006).

*Facebook Threatens Human Rights.*²⁸ *Surveillance Giants* highlighted the systemic cost of the companies' surveillance-based business model that is predicated on human rights abuse.

The report detailed the companies' assault on the right to privacy on an unprecedented scale, as well as the related threats to human rights – including the rights to freedom of expression and opinion and to non-discrimination. The report found: “Both companies have stood up to states' efforts to obtain information on their users; nevertheless, the opportunity to access such data has created a powerful disincentive for governments to regulate corporate surveillance.”²⁹

Facebook is the world's dominant social media company and sets the terms for much of human interaction in the digital age. If you combine users of its social platform, its two messenger services (WhatsApp and Facebook Messenger) and applications such as Instagram, a third of humans on Earth use a Facebook-owned service every day.³⁰

Google is arguably even more powerful. Search engines are a crucial source of information, and Google accounts for around 90% of global search engine use. Google's Chrome browser is the world's dominant web browser. Its video platform, YouTube, is the world's second largest search engine, as well as the world's largest video platform. Google's mobile operating system, Android, underpins the vast majority of the world's smartphones.³¹

Amnesty International's *Surveillance Giants* report concluded that it “is now evident that the era of self-regulation in the tech sector is coming to an end: further state-based regulation will be necessary, but it is vital that whatever form future regulation of the technology sector takes, governments follow a human rights-based approach.”³² Nonetheless, since the time of the report's publication, there have been few developments of note in respect of state regulation of big technology companies to ensure their business practices conform with human rights.

Facebook and Google have attempted to self-regulate content on their platforms through “Community Standards”, bodies of rules that dictate what users may say on the platform. In recent years, Facebook has experienced increasing pressure to become more accountable and transparent regarding the creation and enforcement of its policies governing speech on the platform.³³

Both Facebook and Google are members of the “Global Network Initiative” (GNI), a multi-stakeholder platform launched in 2008 with the intent of providing human rights-grounded standards around content moderation. According to the GNI: “Every day, technology companies receive requests from governments around the world to censor content, restrict access to communications services, or provide access to user data.” GNI seeks to address this by providing “an evolving framework for responsible company decision making in support of freedom of expression and privacy rights”.³⁴ With regard to the right to freedom of expression, the GNI Principles state:

- Participating companies will respect and work to protect the freedom of expression of their users by seeking to avoid or minimize the impact of government restrictions on freedom of expression, including restrictions on the information available to users and the opportunities for users to create and communicate ideas and information, regardless of frontiers or media of communication.
- Participating companies will respect and work to protect the freedom of expression rights of users when confronted with government demands, laws and regulations to suppress freedom of expression, remove content or otherwise limit access to communications, ideas and information in a manner inconsistent with internationally recognized laws and standards.³⁵

The GNI implementation guidelines further state in respect of content moderation:

When faced with a government restriction or demand that appears overbroad, unlawful, or otherwise inconsistent with domestic laws or procedures or international human rights laws and standards on freedom of expression or privacy, participating companies will in appropriate cases

28 Amnesty International, *Surveillance Giants: How the Business Model of Google and Facebook Threatens Human Rights* (Index: POL 30/1404/2019) (hereinafter: Amnesty International, *Surveillance Giants*).

29 Amnesty International, *Surveillance Giants*, p. 26.

30 Amnesty International, *Surveillance Giants*, p. 5.

31 StatCounter Global Stats, gs.statcounter.com (Mobile Operating System Market Share Worldwide, October 2018–October 2019).

32 Amnesty International, *Surveillance Giants*, p. 7.

33 Kate Klonick, “The Facebook Oversight Board: Creating an Independent Institution to Adjudicate Online Free Expression,” *Yale Law Journal* Vol. 129, No. 2418 (30 June 2020), ssrn.com/abstract=3639234 (hereinafter: K. Klonick, “The Facebook Oversight Board”).

34 The Global Network Initiative (GNI), “About GNI”, globalnetworkinitiative.org/about-gni/

35 GNI, “The GNI Principles”, globalnetworkinitiative.org/gni-principles/

and circumstances:

- a. Seek clarification or modification from authorized officials of such requests;
- b. Seek the assistance, as needed, of relevant government authorities, international human rights bodies or non-governmental organizations; and
- c. Challenge the government in domestic courts.³⁶

Facebook and Google both passed the latest GNI assessment in 2018/19 on the basis that they are “making good-faith efforts to implement the GNI Principles with improvement over time”.³⁷ Both companies also passed the previous review in 2015/16.³⁸ However, the GNI assessment does not include a holistic assessment of whether the company is effectively implementing these policies and procedures in practice, including by identifying and addressing human rights impacts throughout its business, or whether companies like Google and Facebook are undertaking due diligence to identify and address the human rights impacts of their business model as a whole.³⁹

In a further effort to address the negative human rights impacts of some of its operations, specifically with regard to content moderation, Facebook has established its widely publicized “Oversight Board”, a quasi-judicial, quasi-independent body with the power to make binding final decisions on content moderation. Regarding this board, which comprises human rights and legal experts, Facebook says:

The Board will review whether content is consistent with Facebook and Instagram’s policies and values, as well as a commitment to upholding freedom of expression within the framework of international norms of human rights. We will make decisions based on these principles, and the impact on users and society, without regard to Facebook’s economic, political or reputational interests. Facebook must implement our decisions, unless implementation could violate the law.⁴⁰

Amnesty International conducted an analysis of the Oversight Board’s bylaws and found a significant limitation to its potential to mitigate Facebook’s impact on freedom of expression in repressive legal contexts such as Viet Nam. Specifically, Amnesty International’s analysis found that content that is restricted pursuant to local law but protected under international human rights law is not subject to the review of the Oversight Board.⁴¹

In response to a query from Amnesty International, the Oversight Board confirmed this interpretation of its bylaws, stating: Actions taken by Facebook pursuant to legal obligations are not subject to board review, no matter the jurisdiction. If the underlying content has been blocked following the receipt of a valid report of illegality, it is not eligible to be brought before the Board regardless of the geographic area of the specific local law at issue. Only cases where Facebook took action by enforcing our Community Standards are capable of being taken before the Board.”⁴²

Many of the most problematic cases of content restrictions implemented by Facebook in Viet Nam involve expression that is protected under both international human rights law and US law (where Facebook is domiciled) but that violates the overly broad and restrictive provisions of Vietnamese law, including Decree 72. As such, the Oversight Board will be of no benefit to individuals whose freedom of expression has been violated by Facebook pursuant to local laws in Viet Nam or in other repressive legal contexts.

Regardless of the efforts of Facebook and other technology companies to improve their efforts to moderate online expression in line with international human rights standards, self-regulation is not an adequate replacement for state regulation. As noted by Professor David Kaye, academic and former UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: “Major company rethinking is only one part of the way forward. Government regulation is the other necessary fix. Government regulation should monitor company behavior, protect the space for individual expression, reinforce the need for transparency by the companies and themselves, and invest in the infrastructure necessary for freedom of expression in their countries.”⁴³

³⁶ GNI, “Implementation Guidelines”, globalnetworkinitiative.org/implementation-guidelines

³⁷ GNI, *Public Report on the Third Cycle of Independent Assessments of GNI Company Members 2018/2019*, April 2020, globalnetworkinitiative.org/wp-content/uploads/2020/04/2018-2019-PAR.pdf

³⁸ GNI, *2015/2016 Company Assessments*, July 2016, globalnetworkinitiative.org/2015-2016-company-assessments

³⁹ Amnesty International, *Surveillance Giants*, p. 26.

⁴⁰ Oversight Board, “Announcing the First Members of the Oversight Board”, 6 May 2020, www.oversightboard.com/news/announcing-the-first-members-of-the-oversight-board/

⁴¹ Facebook Oversight Board Bylaws, Article 2.1.2.1. See also Evelyn Douek, “Facebook’s Oversight Board Bylaws: For Once, Moving Slowly”, *Lawfare*, 28 January 2020, www.lawfareblog.com/facebook-oversight-board-bylaws-once-moving-slowly

⁴² Oversight Board email response to Amnesty International, 10 October 2020, on file with Amnesty International.

⁴³ David Kaye, *Speech Police: The Global Struggle to Govern the Internet*, 2019, Conclusion.

2. LEGAL FRAMEWORK

2.1 INTERNATIONAL HUMAN RIGHTS LAW

2.1.1 FREEDOM OF EXPRESSION

The right to freedom of expression is guaranteed under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Viet Nam ratified in 1982.⁴⁴ Freedom of expression is not unlimited, however: the right may be restricted under certain narrow circumstances that are outlined in the ICCPR. The UN Human Rights Committee – the treaty body that offers authoritative interpretations of the ICCPR – notes that the right to freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.⁴⁵

Any attempt to restrict the right to freedom of expression must meet all elements of a stringent three-part test: the restriction must be provided by law (which must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly); demonstrably necessary and proportionate (that is, the least restrictive measure to achieve the specified purpose); and for the purpose of protecting specified public interests (national security, public order or public health or morals) or the rights or reputations of others.⁴⁶

The forms of expression protected under the ICCPR include “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse”.⁴⁷

The UN Human Rights Committee has stated with regard to political expression:

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 without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output.⁴⁸

2.1.2 FREEDOM OF EXPRESSION ONLINE

International human rights law is clear that the right to freedom of expression applies as equally to online expression as it does to offline communication.⁴⁹ In regard to states’ obligations to respect freedom of expression in the context of internet technology, the Human Rights Committee has further stated: “States parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto.”⁵⁰

44 UN Office of the High Commissioner for Human Rights, “Viet Nam treaty ratifications”, tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=192&Lang=EN

45 General Comment 34, para. 3.

46 General Comment 34, para. 21.

47 General Comment 34, para. 11.

48 General Comment 34, para. 13.

49 General Comment 34, para. 12.

50 General Comment 34, para. 15.

The rapid expansion of digital technology and the central role that private companies have played in that expansion has led to a situation whereby a handful of private corporations now control the main forums for public debate and freedom of expression globally. From a legal and regulatory perspective, this situation presents many challenges, particularly because these corporations operate transnationally in diverse legal and social contexts.

2.1.3 TECHNOLOGY COMPANIES' HUMAN RIGHTS OBLIGATIONS

Under international human rights law, states are the primary duty-bearers of human rights and have a duty to protect people against human rights abuses by third parties, such as corporations. The UN Human Rights Council has affirmed that the same rights people have offline must also be protected online and that states should create and maintain an “enabling online environment” for the enjoyment of human rights.⁵¹

Business also have obligations to respect human rights under international human rights law and standards. According to Principle 11 of the United Nations Guiding Principles on Business and Human Rights (UNGPs), all companies have a responsibility to respect all human rights wherever they operate, including throughout their operations and supply chains. The corporate responsibility to respect human rights is independent of the state's own human rights obligations. This means that, in order to meet their responsibility to respect, companies might need to go beyond what is legally required in the relevant jurisdiction. Under the UNGPs, a company could have an adverse human rights impact in three ways: (1) causing an impact; (2) contributing to an impact; or (3) being “directly linked” to an impact by a business relationship.

Principle 17 of the UNGPs states that companies should conduct ongoing and proactive human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights. Human rights due diligence requires companies to identify human rights impacts linked to their operations (both potential and actual), take effective action to prevent and mitigate against them, and be transparent about their efforts in this regard. This includes addressing high-level risks of adverse human rights impacts prevalent within a sector because of its characteristics.

Technology companies should ensure that they are adequately addressing the risks their products and services pose to human rights. In the context of government requests to restrict content or to provide access to data, the GNI Principles and Implementation Guidelines provide a framework for technology companies to respond to such requests as part of human rights due diligence. Recently, the UN Office of the High Commissioner for Human Rights (OHCHR)'s B-Tech Project affirmed that tech companies' due diligence must also include addressing situations in which “business model-driven practices and technology design decisions create or exacerbate human rights risks”.⁵²

Transparency is a key component of human rights due diligence. As the UNGPs make clear, companies “need to know and show that they respect human rights” and “showing involves communication, providing a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders.” When faced with government requests that pose a threat to human rights, technology companies must ensure maximum transparency to make clear their policies and procedures for dealing with such requests, specific requests they have received, whether they were complied with, and what action the company has taken to mitigate risks to human rights.

Principle 18 states that an impact could be potential (that is, a risk) or actual (that is, it has happened). Companies must avoid causing or contributing to human rights abuses through their own business activities and address impacts with which they are involved, including by remediating any actual abuses. Companies must also seek to prevent or mitigate adverse human rights impacts directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

It is important to note that where an operational decision – such as a decision on content moderation – conflicts with international human rights law, a company cannot simply justify its actions by saying it was required to do this under the relevant national law. Moreover, the company should take certain specific steps before complying with any problematic content moderation requests. Failure to take such steps could mean that the company failed in its responsibility to respect human rights.

51 Human Rights Council, Resolution on the promotion, protection and enjoyment of human rights on the Internet, UN Doc: A/HRC/38/L.10/Rev.1 (2018), para. 5(a).

52 UN Office of the High Commissioner for Human Rights, B-Tech Project, *Addressing Business Model Related Human Rights Risks*, August 2020, www.ohchr.org/Documents/Issues/Business/B-Tech/B_Tech_Foundational_Paper.pdf

The major technology companies – such as Facebook, Twitter and Google – operate transnationally in diverse legal contexts, with differing local legal interpretations of what is considered legitimate expression. The companies are then tasked with responding to the expression of problematic content on their platforms, including “hate speech”, abuse and disinformation.

The rapid expansion of these internet companies globally has given them enormous regulatory power over the new public spaces of the 21st century. In practice, however, major technology companies – such as Facebook, Twitter and Google – apply their own content moderation policies (or “community standards”) rather than strictly applying international human rights standards as the basis for evaluating the legitimacy of content moderation requests by governments. The UN Special Rapporteur on the freedom of expression has noted in respect of this situation:

Despite taking steps to illuminate their rules and government interactions, the companies remain enigmatic regulators, establishing a kind of “platform law” in which clarity, consistency, accountability and remedy are elusive. The United Nations, regional organizations and treaty bodies have affirmed that offline rights apply equally online, but it is not always clear that the companies protect the rights of their users or that States give companies legal incentives to do so.⁵³

While some content restrictions would be considered permissible restrictions under international human rights law (for example in respect of representations of child sexual abuse, direct and credible threats of harm and incitement to violence, presuming they also meet the conditions of legality and necessity) the Special Rapporteur has expressed concern about certain states going beyond these types of legitimate restrictions and engaging in “censorship and criminalization to shape the online regulatory environment”.⁵⁴

The Special Rapporteur has noted that certain states impose obligations on companies to restrict content under vague criteria without prior judicial review and with the threat of harsh penalties.⁵⁵ The Special Rapporteur has further noted that obligations to monitor and rapidly remove content have also increased globally, establishing punitive frameworks likely to undermine freedom of expression even in democratic societies.⁵⁶ This has led to concerns that “companies perform public functions without the oversight of courts and other accountability mechanisms”.⁵⁷ The Special Rapporteur has reported that companies face “pressure to comply with State laws that criminalize content that is said to be, for instance, blasphemous, critical of the State, defamatory of public officials or false”.⁵⁸ He has further noted: “Private norms, which vary according to each company’s business model and vague assertions of community interests, have created unstable, unpredictable and unsafe environments for users and intensified government scrutiny.”⁵⁹

2.2 FREEDOM OF EXPRESSION ONLINE UNDER VIETNAMESE LAW

Article 14 of the Constitution of the Socialist Republic of Viet Nam (2013) states that “human rights and citizens’ rights in the political, civic, economic, cultural and social fields are recognized, respected, protected and guaranteed in concordance with the Constitution and the law” and that they “shall only be restricted when prescribed by law in imperative circumstances for the reasons of national defence, national security, social order and security, social morality and community well-being”.

While these provisions are worded similarly to the ICCPR, the grounds for restrictions are notably broader than those permitted under international human rights law. In particular, “community well-being” is not a permissible ground for restrictions of human rights under the ICCPR.

The Constitution also contains further restrictions on human rights that are grounded in the country’s socialist legal traditions but that undercut the human rights guarantees outlined in the Constitution and international human rights law. For example, Article 15 states: “Citizens are responsible to practice their

53 Report to the Human Rights Council, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Doc. A/HRC/38/35 (hereinafter: “Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35”), para. 1.

54 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 30.

55 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 15.

56 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 16.

57 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 20.

58 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 23.

59 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 41.

duties to the State and society ... [and] the practice of human rights and citizens' rights cannot infringe national interests and legal and legitimate rights and interests of others."

The right to freedom of expression is guaranteed under the Vietnamese Constitution under Article 25, which states: "The citizen shall enjoy the right to freedom of opinion and speech, freedom of the press, of access to information, to assemble, form associations and hold demonstrations. The practice of these rights shall be provided by the law."

2.2.1 CRIMINAL CODE PROVISIONS USED TO RESTRICT ONLINE EXPRESSION

Viet Nam's current Criminal Code was enacted in 2015 and came into force in January 2018. The Criminal Code contains numerous vaguely worded and overly broad offences that fail to meet Viet Nam's international human rights obligations and contradict Chapter II of the 2013 Constitution, which guarantees a range of human rights including the rights to freedom of expression, association and peaceful assembly.⁶⁰

In 2019, the UN Human Rights Committee recommended that Viet Nam amend Articles 109, 116, 117 and 331 of its Criminal Code, which it found had been used to criminalize legitimate activities, including acts protected by the right to freedom of expression.⁶¹ Two of these offences in particular – Articles 117 and 331 – are most frequently used to prosecute people on the basis of their online expression and are analyzed further in Chapter 4 of this report.

2.2.2 LAW ON CYBERSECURITY

On 1 January 2019, a controversial Law on Cybersecurity granting the government sweeping new powers to limit online freedoms came into force in Viet Nam, having been promulgated in June 2018. The law empowers the Vietnamese authorities to compel technology companies to hand over vast amounts of data, including personal information, and to censor internet users' posts.

According to the government, the new Law on Cybersecurity aims to protect internet users from cybercrime; however, some articles within this law suggest otherwise. Articles 8 and 15 could be used to charge people for the exercise of their rights on the basis of extremely vague offences, such as "negating revolutionary achievements" or giving "misleading information causing confusion among the people".⁶²

Prior to its promulgation, numerous concerns about the human rights implications of the proposed law were voiced by local civil society, international human rights organizations, UN bodies and the business sector.⁶³ The UN Human Rights Committee highlighted the Law on Cybersecurity as an example of "severe restrictions on freedom of opinion and expression in the State party ... that appear not to comply with the principles of legal certainty, necessity and proportionality".⁶⁴

The Law on Cybersecurity includes numerous impermissible restrictions on freedom of expression online. For example, Article 8 lists prohibited conduct and activities such as "distorting history, denying revolutionary achievements, destroying the national solidarity block" and "providing false information, causing confusion amongst the citizens, causing harm to socioeconomic activities".

Such prohibitions are unjustifiable under international human rights law. The Human Rights Committee has stated that:

Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression ... The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events. Restrictions on the right of freedom of opinion should never be imposed and, with regard to freedom of expression, they

60 Vietnam, 2015 Criminal Code, 27 November 2015, www.wipo.int/edocs/lexdocs/laws/en/vn/vn086en.pdf

61 Concluding observations of UN Human Rights Committee: Viet Nam, UN Doc. CCPR/C/VNM/CO/3 (2019), para. 45.

62 Amnesty International, "Viet Nam: Proposed cybersecurity law threatens to stamp out online freedom", 9 June 2018, www.amnesty.org/en/latest/news/2018/06/viet-nam-proposed-cybersecurity-law-threatens-to-stamp-out-online-freedom/

63 See, for example: Amnesty International, "Open Letter: Viet Nam Must Respect Human Rights in the Cybersecurity Law" (Index: ASA 41/9258/2018); Concluding observations of UN Human Rights Committee: Viet Nam, UN Doc. CCPR/C/VNM/CO/3 (2019), para. 45; Asia Internet Coalition, "AIC Submits Comments on the Vietnam Draft Decree Guiding the Implementation of Law on Cybersecurity", 13 December 2018, aicasia.org/2018/12/14/aic-submits-comments-on-the-vietnam-draft-decree-guiding-the-implementation-of-law-on-cybersecurity-13-december-2018/

64 Concluding observations of UN Human Rights Committee: Viet Nam, UN Doc. CCPR/C/VNM/CO/3 (2019), para. 45.

should not go beyond what is permitted in paragraph 3 or required under article 20.⁶⁵

Similarly, the provisions of Article 16 on “Prevention of and dealing with information in cyberspace with contents being propaganda against the Socialist Republic of Viet Nam; information contents which incite riots, disrupt security or cause public disorder; which cause embarrassment or are slanderous; or which violate economic management order” violate Viet Nam’s international human rights obligations. Subsections 1–5 prohibiting types of speech considered “propaganda” against the state, are littered with problematically vague and over-broad provisions. Subsections 1–5 further provide protections for the government against vague prohibitions against “hate speech”-type offences that fall short of the requirements of Article 20.2 of the ICCPR.

Subsections 6–9 of Article 16 create problematic requirements on website hosts and mechanisms for extra-legal censorship. Article 16.6 states that the “system administrator is responsible to implement managerial and technical measures in order to prevent, detect, stop and/or remove information with the contents prescribed in Subsections 1–5 ... on the system it administers when there is a request from the CTF [Cybersecurity Taskforce]”. This is problematic because this allows CTF, which is part of the Ministry of Public Security, to place the onus on system administrators to proactively monitor and remove content, creating an incentive for excessive censorship, seemingly without any procedural safeguards such as independent judicial oversight.

Similarly, Article 16.7 empowers the CTF to suspend information systems or withdraw domain names in response to content listed in Sections 16.1–5. The language is vague, but it seems likely that this provision creates powers to block content or shut down services based on the demands of the CTF, without the requirement for judicial oversight. Article 16.9 additionally makes hosts responsible for compliance with CTF orders to remove content.

Article 17.1.d prohibits “Putting in cyberspace information being State secret or work secrets, business secrets, personal secrets, family secrets and private life contrary to law”. This provision is problematic because “state secrets” are defined exceptionally broadly in Viet Nam, serving to undermine access to information that is a vital component of the right to freedom of expression under Article 19 of the ICCPR. Viet Nam’s State Secrets Protection Law of 2018 defines state secrets as “undisclosed information carrying important contents which is specified by the head of a competent body or organization according to regulations of this Law and the divulgence or loss of which may bring harm to national interest” – a definition so broad that it could encompass almost any information that state officials wish to conceal, regardless of the public interest in the information.⁶⁶

The provision raises further concerns from the point of view of whistle-blowers. While states may restrict the ability of employees to pass on secret materials, people should not be punished for publishing secrets that they themselves did not leak.⁶⁷ Article 17.2.b–c places responsibilities on system administrators to proactively monitor for this content and to remove it at the request of CTF – again, without reference to judicial oversight.

Article 26 (“Guarantees relating to information security in cyberspace”) imposes a number of problematic requirements on private companies – both foreign and domestic. Article 26.2.a requires companies to authenticate user information and to provide this to the CTF when requested in writing for an investigation. This allows CTF to gather identifying information without any stated requirement for a warrant or judicial oversight.

Article 26.2.b requires companies to delete or block transfer of information deemed contrary to the impermissibly vague provisions of Article 16 upon request of CTF or other ministries – again without judicial oversight or warrant. Article 26.2.c requires companies not to provide services to people at the request of CTF if they have shared content in violation of Article 16.1–5. Even assuming a lawful conviction was required – which does not appear to be the case – these provisions are mostly impermissibly vague or broad. This provision seemingly allows the extrajudicial imposition of this sanction based on the requests of CTF, and it is unclear whether there would be any possibility of appeal or other recourse. Aside from these concerns, a total ban on use of a service is an impermissible restriction on the right to freedom of expression as it is unlikely to be the least restrictive means of protecting legitimate state interests.

Article 26.3 has been met with significant opposition from technology companies and civil society advocates alike, as it requires foreign companies with Vietnamese customers to store data in Viet Nam for a period to be stipulated. The provision could force internet companies operating in Viet Nam to grant law enforcement

⁶⁵ General Comment 34, paras. 15, 49.

⁶⁶ State Secrets Protection Law 2018, Law No. 29/2018/QH14, article 2.

⁶⁷ See, among others, The Global Principles on National Security and the Right to Information (Tshwane Principles), Principle 47, www.justiceinitiative.org/uploads/bd50b729-d427-4fbb-8da2-1943ef2a3423/global-principles-national-security-10232013.pdf

agencies access to user data upon request, creating a grave threat to the right to privacy of internet users. Although it depends on the content of the implementing regulations, which have yet to be finalized, this provision may be intended to make access to private user data by the authorities easier, which could then be used to prosecute or harass internet users for exercising their human rights.

There are certain provisions of the law that still need to be further guided by implementing regulations and guidelines. There are currently draft guidelines under consideration by the Vietnamese authorities, including: a decree to implement in detail some provisions of the law, which includes guidance on the controversial Article 26 on data localization (the implementation decree); a decree to regulate in detail the procedures for application of cybersecurity protection measures; and a decision of the prime minister on promulgation of the list of national security information systems.⁶⁸

Asia Internet Coalition, an industry association that represents global internet companies such as Google, Facebook, Amazon and Twitter on matters of public policy, issued a statement in November 2018 raising their “serious concerns” with the draft implementation decree that contains the provisions for data localization under Article 26. They said that the draft decree “raises serious privacy and civil liberty concerns for the people of Vietnam and stands to significantly damage the country’s economic growth prospects”.⁶⁹

2.2.3 DECREE 15

On 3 February 2020, the Vietnamese authorities introduced a new decree impacting on the right to freedom of expression online, “Decree 15/2020/ND-CP on penalties for administrative violations against regulations on postal services, telecommunications, radio frequencies, information technology and electronic transactions”, also referred to as “Decree 15”. Decree 15 took effect on 15 April 2020 and replaced the previous decree on penalties in the technology and telecom sectors (Decree No. 174/2013/ND-CP).⁷⁰

Decree 15’s 122 articles provide for a wide range of technical regulations governing the information and postal sectors and create numerous administrative offences and heavy administrative fines in the event of a breach. In the context of internet communications, Decree 15 provides for a wide range of administrative offences for both internet users and internet service providers. The decree contains a range of severe administrative penalties which threaten freedom of expression and access to information in Viet Nam. For example, under Article 3.2.a, technology companies that violate the decree can have their operating licences suspended for up to two years.

Article 99 provides for a wide range of penalties for websites (aside from social media sites) that host prohibited content. Under Article 100, which pertains specifically to “social networking sites”, some of the punishable offences under which a company’s licence can be suspended include:

- “Deliberately storing/delivering information which does not match the national interests” (Article 100.3.dd)
- “Failing to provide private or personal information of service users who get involved in terror acts, crimes or other violations against law at the request of competent authorities” (Article 100.2.b)
- “Failing to operate a server in Viet Nam to serve the inspection, retention and provision of information at the request of a competent authority or resolution of clients’ complaints about services provided in accordance with regulations of Ministry of Information and Communications” (Article 100.2.c)
- “Failing to block and remove violating information as prescribed” (Art 100.3i).

Although Decree 15 does not specify that such “licences” are currently required of major international technology firms such as Facebook and Google, Decree 15 nevertheless appears to be intended for application to the global tech giants. The creation of penalties for failure to block or remove content as prescribed by the authorities raises further concerns regarding the role of tech companies in the censorship of legitimate expression in Viet Nam. Similarly, Article 100.2.c adds to concerns regarding the right to privacy

⁶⁸ Thomas J Theutler, “Update on the Implementation of Vietnam’s New Cybersecurity Law and Status of Implementing Decrees”, Tilleke and Gibbons, 18 December 2019, www.tilleke.com/resources/update-implementation-vietnam-s-new-cybersecurity-law-and-status-implementing-decrees

⁶⁹ Asia Internet Coalition, “AIC issues statement on Vietnam’s draft’s implementation decree for the Law on Cybersecurity”, 5 November 2018, aicasia.org/2018/11/08/aic-issues-statement-on-vietnam-s-draft-implementation-decree-for-the-law-on-cybersecurity-5-nov-2018/
⁷⁰ Tilleke & Gibbons, “New Penalties for Posting Fake News on Social Networks”, 8 April 2020, www.tilleke.com/resources/new-penalties-posting-fake-news-social-networks

raised by the Law on Cybersecurity which require tech companies to operate servers within Viet Nam and to make private user data available to the Vietnamese authorities.

Much of the content prohibited by Decree 15 falls within the definition of protected expression under Article 19 of the ICCPR, rendering these prohibitions in violation of Viet Nam's international human rights obligations. For example, the censorship of information that "does not match the national interests" is a restriction on the right to freedom of expression without a legitimate aim, as "national interest" is too vague and broad to justify restrictions on the right to freedom of expression.

Decree 15 also introduces specific administrative penalties for users who post or share "fake news" on social networks that can be imposed in addition to any civil or criminal punishments. Article 101 of Decree 15 sets out punishments for social network users. These include administrative fines of between VND 10 million (approx. US\$ 430) and VND 20 million (approx. US\$ 860) for users who commit the following violations:

1. Posting or sharing false information (fake news) or untruthful, distorted, or slanderous information that offends the reputation of agencies or organizations or the honour and dignity of individuals;
2. Posting or sharing information that advocates unsound customs, superstition, obscenity or depravity which is not in line with the traditions and fine customs of the nation;
3. Posting or sharing graphic depictions of acts of slashing, killing, accidents or horror;
4. Posting or sharing fabricated information that causes panic among the population or incites violence, crime, social evils or gambling, or that serves gambling activities;
5. Posting or sharing press, literature and art works or publications without the permission of the copyright holder, or works that have not been approved for circulation, or have been banned or revoked;
6. Advertising, promoting, or sharing information about banned goods and services;
7. Posting or sharing inaccurate maps of Viet Nam;
8. Posting or sharing links to websites with banned content.

Higher administrative fines of VND 20–30 million (approx. US\$ 860–1,290) are imposed for the disclosure of information classified as state or personal secrets. As previously noted, the Vietnamese authorities' widespread invocation of state secrecy to limit access to information raises additional concerns about the potential for this provision to be misused to punish whistleblowers.

2.2.4 DECREE 72

Decree 72/2013/ND-CP on the management, provision and use of internet services and online information (Decree 72) came into force on 1 September 2013. This wide-ranging regulation, which aims to regulate information on the internet in Viet Nam, is littered with vague and ill-defined provisions that arbitrarily penalize expression protected under international human rights law.

Content restriction requests sent by the Vietnamese authorities to technology companies including Facebook and Google (as discussed in Chapter 3, below) are routinely based on this highly problematic regulation – in particular, Article 5. According to Facebook's transparency reports, all of the restrictions it has implemented pursuant to local legal obligations since July 2018 were based on government requests that referenced Decree 72.⁷¹

Many of the provisions of Decree 72 that restrict freedom of expression are so broadly worded and ill-defined that they could encompass almost any form of criticism of the Vietnamese authorities. For example, Article 5 prohibits using the internet for "[o]pposing the State of the Socialist Republic of Vietnam; undermining the national security and social order and safety; sabotaging the great national unity bloc; conducting propaganda about wars and terrorism; sowing hatred and contradictions among nations, races and religions". These provisions are too vague and imprecise to meet the requirements of legality under international human rights law. Article 25 further states that social media websites are prohibited from publishing any of content shared by social media users that is prohibited under Article 5.

Article 22 states that "[f]oreign organizations, enterprises and individuals that provide public information across the border, which is used in Viet Nam or accessed from Viet Nam, shall comply with Viet Nam's relevant laws". In effect, this provision establishes that companies such as Facebook and Google are obliged

⁷¹ Facebook, Transparency, Content Restrictions, Vietnam, transparency.facebook.com/content-restrictions/country/VN

to comply with all Vietnamese laws – including laws restricting freedom of expression that may not comply with international human rights law and standards.

Article 25.9 obliges social media companies to “register, store and manage personal information of the persons that establish private websites and other information providers on social networks”. This provision mirrors a similar provision in the Law on Cybersecurity and threatens the right to privacy of social media users in Viet Nam, putting them at further risk of harassment and intimidation at the hands of the Vietnamese authorities.

Concerningly, the already problematic provisions and arbitrary restrictions on freedom of expression that characterize Decree 72 may possibly lead to further violations of international human rights standards if a proposed draft amendment to Decree 72 is promulgated.

In April 2020, the Ministry of Information and Communications released a draft amendment to Decree 72 that contains proposed changes to the regulations on online information and the use of internet services. These include: (1) the creation of new categories of online information; (2) new provisions on cross-border transfer of information; and (3) new licensing requirements for establishing websites, aggregated news websites, social networks, application distribution stores and online games.⁷²

Article 23.d of the proposed amendments is of particular concern, as it contains provisions that gravely threaten the rights to freedom of expression and privacy of social media users in Viet Nam, including by requiring social networks to:

- Ensure that only social network members (accounts that have been verified with two-step verification of real name and phone numbers) are allowed to interact on the platforms;
- Have a mechanism for removing illegal content within three hours after self-discovery or upon request from the Ministry of Information and Communications;
- Maintain a pre-approval mechanism for filtering content generated by users; block content presented as journalistic products; and only allow users to post or livestream cultural, entertainment, advertising, scientific, technology and educational content.⁷³

These amendments threaten to further restrict the space for freedom of expression online in Viet Nam and could also further increase the prevalence of arbitrary censorship of online speech. The draft provisions threaten to expose the identities and personal information of social media users, which could put individuals who express critical views at risk of persecution and harassment by the authorities.

The draft amendment has been met with opposition from business groups. In May 2020, the Asia Internet Coalition, American Chamber of Commerce Hanoi and Japan Electronics and Information Technology Industries Association (JEITA) submitted a response to the draft to the Vietnamese authorities and raised several concerns about its contents.⁷⁴ Also in May, Asia Internet Coalition publicly stated that the “proposed content controls raise serious data privacy and governance concerns”.⁷⁵

72 Baker McKenzie, ‘Vietnam: Ministry of Information and Communications release new Draft Decree amending earlier Decrees covering the management, provision, and use of internet services and online information’ 25 May 2020, www.lexology.com/library/detail.aspx?g=f4f1a76f-db37-4bf9-8152-a61c50375aac

73 Baker McKenzie, “Vietnam: Ministry of Information and Communications release new Draft Decree amending earlier Decrees covering the management, provision, and use of internet services and online information”, 25 May 2020, www.lexology.com/library/detail.aspx?g=f4f1a76f-db37-4bf9-8152-a61c50375aac

74 The Asia Internet Coalition, American Chamber of Commerce Hanoi and Japan Electronics and Information Technology Industries Association, “Joint Industry Submission on Decree 72 of 2013 on the management, provision and use of Internet services and online information (Amendment) (‘Decree No. 72/2013 / NDCP’ or ‘the Draft Decree’ or ‘Decree No. 72’)”, 22 May 2020, aicasia.org/wp-content/uploads/2020/05/May-22-English_Joint-Submission-on-Decree-72-of-2013-on-the-management-provision-and-use-of-Internet-services-and-online-information-Amendment1.pdf

75 Asia Internet Coalition, “Media Statement from the Asia Internet Coalition (AIC) on VIETNAM’s amendments to Decree 72 of 2013 on the Management, provision and use of Internet services and online information”, 26 May 2020, aicasia.org/wp-content/uploads/2020/05/AIC-statement-Vietnam-amendments-to-Decree-72-Internet-Regulations-26-May-2020.pdf

3. CENSORSHIP FOR PROFIT: BIG TECH'S SILENCING OF VIETNAMESE HUMAN RIGHTS DEFENDERS

“How can we struggle for human rights when our voices are silenced?”

Duong Van Thai, Vietnamese human rights defender⁷⁶

3.1 INTRODUCTION

On 5 September 2018, Sheryl Sandberg, the chief operating officer of Facebook, attended a hearing at the Senate Intelligence Committee of the US Congress. In this hearing, a senator raised Viet Nam's Law on Cybersecurity as an example of how repressive regimes adopt laws governing expression which do not align with international human rights standards. When asked whether Facebook supports democratic principles when operating in other countries, she said: “We support these principles around the world ... We would only operate in a country when we can do so in keeping with our values.”⁷⁷

Despite this assurance, on 21 April 2020 Facebook confirmed a major shift in its content moderation policy in Viet Nam that would see the company stepping up its compliance with the Vietnamese authorities' repressive censorship regime in respect of expression deemed critical of the state.⁷⁸ Facebook disclosed that it had agreed to “significantly increase” its compliance with requests from the Vietnamese government to censor “anti-state” content within Viet Nam.⁷⁹ The manager of a popular Facebook page that shares political

⁷⁶ Amnesty International Interview with Duong Van Thai, 7 July 2020.

⁷⁷ NPR, “Senate Committee Vents About Hijacking Of Big Tech For Information War”, 5 September 2018, www.npr.org/2018/09/05/644607908/facebook-twitter-heavyweights-set-to-appear-at-senate-hearing-google-may-be-mia; “Watch Live: Twitter CEO Jack Dorsey, Facebook COO Sheryl Sandberg testify before Congress”, YouTube, 5 September 2018, www.youtube.com/watch?v=mE1-Jyt2Src

⁷⁸ J. Pearson, “Exclusive: Facebook agreed to censor”.

⁷⁹ J. Pearson, “Exclusive: Facebook agreed to censor”.

and human rights-related content told Amnesty International that since the policy shift by Facebook led to increasing restrictions on content posted on the page, their page had suffered an estimated 40% reduction in engagement on average.⁸⁰

Facebook has revealed that this policy shift came about after the Vietnamese authorities put pressure on Facebook by taking its local servers in Viet Nam offline, thereby slowing Facebook services to a crawl and making it difficult for the company to operate in the country. A Facebook source told Reuters that they “believe the action was taken to place significant pressure on [Facebook] to increase [its] compliance with legal takedown orders when it comes to content that [Facebook] users in Viet Nam see”.⁸¹

Amnesty International called the move by Facebook a “devastating turning point for freedom of expression in Viet Nam and beyond.”⁸² Whereas social media has positively transformed the landscape for freedom of expression in Viet Nam, this has only been the case because Vietnamese internet users have used these platforms to express critical views and uncover human rights abuses. Contrary to Facebook’s communications regarding their policy shift, it is the right to freedom of expression – not ‘market access’ – that should be protected at all costs.⁸³

Pressure on Facebook and other technology companies operating in Viet Nam has increased since Nguyen Manh Hung became Minister of Information and Communications in October 2018. The former CEO of Viettel, the biggest telecommunications company in Viet Nam, and a military general, Nguyen Manh Hung has repeatedly stated that “foreign owned social media must comply with Vietnamese laws”.⁸⁴ He has also often targeted Facebook and Google in his speeches, accusing these platforms of being the main sources of “fake news and toxic information” in Viet Nam.⁸⁵

Minister Nguyen Manh Hung was reported to have stated in August 2020: “Over the past year, the department has been very active in fighting these networks. In respect of Facebook, when the State previously made a request, they complied with about 30%, whereas now, [Facebook’s] rate of compliance is about 70–75%. YouTube complies better, [it was previously] about 60%, now [it has increased to] around 80–85%.”⁸⁶

By 8 October 2020, state-owned media reported Minister Nguyen Manh Hung as saying that the rate of tech companies’ compliance with the removal of “bad information, propaganda against the Party and the State” reached the highest level ever.⁸⁷ The same article reported that in 2020, Facebook removed 2,036 posts – a 500% increase compared to 2019, complying with 95% of the government’s requests whereas YouTube complied with 90% of all requests.⁸⁸

Viet Nam is believed to be the first country in Southeast Asia – and possibly the world – where Facebook has officially acknowledged a policy to increase compliance with censorship of political expression in accordance with a government’s requests, even though such speech is protected by international human rights law. Facebook’s decision to comply with the Vietnamese government’s censorship regime may have global ramifications, as other repressive governments around the world may now seek to apply a similar strategy by forcing Facebook and other technology companies to restrict online expression.

In fact, there are worrying signs that regional neighbours may already be following Viet Nam’s lead. In August 2020, Thailand’s Minister of Digital Economy reportedly threatened legal action against Facebook and accused it of not complying with government requests to restrict content deemed illegal, including alleged insults to the Thai monarchy”.⁸⁹ Soon afterward, Facebook revealed that it had taken the decision to shut

80 Amnesty International Interview with Nguyen Van Trang, 9 July 2020.

81 J. Pearson, “Exclusive: Facebook agreed to censor”.

82 Amnesty International, “Viet Nam: Facebook must cease complicity with government censorship”, 22 April 2020, www.amnesty.org/en/latest/news/2020/04/viet-nam-facebook-cease-complicity-government-censorship/

83 Amnesty International, “Viet Nam: Facebook must cease complicity with government censorship”, 22 April 2020, www.amnesty.org/en/latest/news/2020/04/viet-nam-facebook-cease-complicity-government-censorship/

84 Tuổi Trẻ, Không làm mạng xã hội Việt để thay thế mạng xã hội nước ngoài, 8 November 2019, tuoitre.vn/khong-lam-mang-xa-hoi-viet-de-thay-the-mang-xa-hoi-nuoc-ngoai-20191108074902647.htm

85 Thanh Niên, Bộ trưởng Nguyễn Mạnh Hùng: Facebook và Google có tỉ lệ chấp hành tăng cao, 8 November 2019, thanhnien.vn/thoi-su/bo-truong-nguyen-manh-hung-facebook-va-google-co-ti-le-chap-hanh-tang-cao-1146078.html

86 Doanh Nhân Việt Nam, YouTube, Facebook tuân thủ tốt hơn yêu cầu của Việt Nam, 16 August 2019, doanhnhanviet.net.vn/chinh-tri-thoi-su/youtube-facebook-tuan-thu-tot-hon-yeu-cau-cua-viet-nam-5921.html

87 Hai Trieu, Facebook sẽ chặn quảng cáo chính trị từ các tài khoản phản động, *Cong An*, 8 October 2020, congan.com.vn/tin-chinh/facebook-se-chan-quang-cao-chinh-tri-tu-cac-tai-khoan-phan-dong_100905.html

88 Hai Trieu, Facebook sẽ chặn quảng cáo chính trị từ các tài khoản phản động, *Cong An*, 8 October 2020, congan.com.vn/tin-chinh/facebook-se-chan-quang-cao-chinh-tri-tu-cac-tai-khoan-phan-dong_100905.html

89 Patpicha Tanakasempit, “Thai minister threatens Facebook with legal action over restriction requests”, Reuters, 3 August 2020, www.reuters.com/article/us-thailand-facebook/thai-minister-threatens-facebook-with-legal-action-over-restriction-requests-idUSKBN24Z1RA

down “Royalist Marketplace”, a pro-democracy Facebook group critical of the Thai monarchy, but said that it planned to challenge the decision in court, without specifying further details.⁹⁰

3.2 CENSORED: CONTENT RESTRICTIONS BASED ON LOCAL LAW

“I have lost faith in Facebook, so I don’t post much anymore. Imagine if you spent years and years growing your Facebook account, posting and writing about your passions for democracy, but then in one easy act, Facebook just erases all the work you have done over the years. That really discouraged me ... We have been stripped of our ability to express our opinions. Our ability to reach the public is now very limited.”

Nguyen Van Trang, a pro-democracy activist currently seeking asylum in Thailand⁹¹

Since the April 2020 announcement from Facebook that it would increase its compliance with content removal requests in Viet Nam, Amnesty International has documented a significant increase in content removals reported by Vietnamese Facebook users – in particular, by human rights defenders.

Amnesty International has interviewed 14 human rights defenders and activists whose political or human rights-related social media content has been restricted in 2020, 11 by Facebook and three by YouTube. All available restricted content was analyzed by Amnesty International and verified as protected expression under international human rights law. In some cases, content could not be analyzed because it had been removed without notification and had not been recorded anywhere else.

Rather than deleting content from the platform, both Facebook and Google generally block content from being visible in a specific country when the content is deemed to violate local law. This practice is known as “geo-blocking”. In respect of Facebook, Amnesty International research suggests that users are not provided with any opportunity to appeal content restrictions which are based on local law.

⁹⁰ Reuters, “Facebook says plans to challenge Thai government demand to block group critical of monarchy”, 25 August 2020, www.reuters.com/article/us-thailand-facebook-statement/facebook-says-plans-to-challenge-thai-government-demand-to-block-group-critical-of-monarchy-idUSKBN25L0BR

⁹¹ Amnesty International interview with Nguyen Van Trang, 9 July 2020.

Truong Chau Huu Danh is a well-known freelance journalist in Viet Nam. He focuses on issues such as alleged corruption, social justice, and alleged abuse of power by government officials. He uses his personal Facebook account, which has almost 150,000 followers, to publish his work. Thousands of people interact with his posts daily.⁹²

In June 2020, Truong Chau Huu Danh posted on Facebook about an alleged corruption scandal in Binh Duong province. He posted around 15 pieces of content on Facebook about this issue, with each post attracting thousands of public interactions. Four of these 15 posts were removed in Viet Nam.⁹³

According to Truong Chau Huu Danh, Facebook sent him notifications that said: “[D]ue to the local legal restrictions we have restricted access to your post in Vietnam”. The posts then became invisible for Facebook users in Viet Nam, as stated in the notification Facebook sent to Truong Chau Huu Danh (pictured right).

Truong Chau Huu Danh told Amnesty International that he could not contest the restriction because he was not given any option to appeal. This lack of an option to appeal was confirmed by other human rights defenders and activists who suffered restrictions based on local law by Facebook.

Nguyen Van Trang is a pro-democracy activist currently seeking asylum in Thailand after fleeing an arrest warrant in Viet Nam for his involvement with the Brotherhood for Democracy, a pro-democracy group.⁹⁴ He has a Facebook account with around 8,000 followers and takes part in the management of three Facebook fan pages that have more than a million followers combined.⁹⁵ He is also active on YouTube, where he manages channels with half a million combined subscribers. Trang uses social media platforms to share news and information related to political developments in Viet Nam, social issues including allegations of corruption and land grabbing, and human rights violations including arrests and beating of activists.

Nguyen Van Trang told Amnesty International that he began to experience content restrictions after Facebook announced its new policy in April 2020.⁹⁶ In May 2020, Trang received a notification from Facebook informing him that one of his posts was restricted due to “local legal restrictions”. The post then became invisible for users in Viet Nam. Trang told Amnesty International that, since May 2020, Facebook has restricted every piece of content he posted that contained names of two particular politicians, Nguyen Phu Trong, the secretary general of the CPV, and Tran Quoc Vuong, a senior party member.⁹⁷

The restrictions, according to Nguyen Van Trang, have had a severe impact on his political activism and forced him and fellow activists to self-censor in order to safeguard their remaining access to Facebook. He said: “The worst thing of all about this policy is that it has forced people like us to self-censor our content. That is so dangerous to freedom of expression in Viet Nam. While in real life, we already suffer crackdowns by the government – now, even online, we also suffer restrictions.”⁹⁸

Nguyen Van Trang also told Amnesty International that he suspects he is suffering from a ban on advertising on Facebook. Although he received no such notification, he and others who manage his activist pages have been unable to “boost” (purchase paid advertising for) any content since December 2019. Nguyen Van Trang alleged that a Facebook representative verbally informed his organization that they will no longer allow his group to advertise because of political pressure. Nguyen Van Trang told Amnesty International that his group tried to email Facebook to get a written confirmation of this ban; however, he says that Facebook did not respond.⁹⁹



Facebook notification sent to Truong Chau Huu Danh, informing him that his post had been restricted inside Viet Nam (image supplied)

⁹² Facebook profile of Truong Chau Huu Danh, www.facebook.com/huudanh.truong.5.

⁹³ Amnesty International Interview with Truong Chau Huu Danh, 9 July 2020.

⁹⁴ Facebook profile of Nguyen Van Trang, www.facebook.com/tienlen.01.02.1990.

⁹⁵ Amnesty International Interview with Nguyen Van Trang, 9 July 2020.

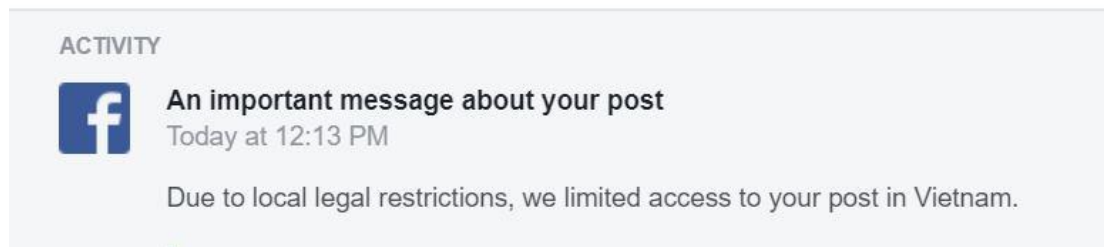
⁹⁶ Amnesty International Interview with Nguyen Van Trang, 9 July 2020.

⁹⁷ Amnesty International Interview with Nguyen Van Trang, 9 July 2020.

⁹⁸ Amnesty International Interview with Nguyen Van Trang, 9 July 2020.

⁹⁹ Amnesty International Interview with Nguyen Van Trang, 9 July 2020.

Apparently confirming Nguyen Van Trang's suspicions, Minister of Information and Communications Nguyen Manh Hung told state-controlled media on 8 October 2020: "At the request of the Ministry of Information and Communications, Facebook [has] agreed to block political ads from fan pages and accounts of reactionary and terrorist organizations."¹⁰⁰ The term "reactionary" is frequently used by the Vietnamese authorities to refer to legitimate criticism of the government and CPV.



A notification sent by Facebook to a Vietnamese human rights defender in mid-2020 (screenshot supplied)

While Facebook has publicly acknowledged its content moderation policy in Viet Nam, and its effect has been known widely among the activist community, YouTube's content restrictions on expressions of political opinion in Viet Nam have been scarcely scrutinized. However, Amnesty International interviewed several human rights defenders and activists whose content was similarly restricted by YouTube.

In fact, YouTube's record of compliance with such requests has won praise from Minister of Information and Communications Nguyen Manh Hung.¹⁰¹ Whereas Facebook only recently relented in the face of pressure from the Vietnamese authorities, the Vietnamese government has reported consistently high rates of compliance from YouTube with its content moderation requests.¹⁰²

Nguyen Van Trang told Amnesty International that his content is often subject to geographic restrictions and made invisible to YouTube users in Viet Nam based on alleged violations of local law. He explained that when this happens, YouTube always provides notifications and an opportunity to appeal, but they do not provide any detailed explanation as to the reason behind the restriction.

Translation of email from YouTube, pictured left:

"We have received a legal complaint from a government agency about your video. After reviewing, we have decided to restrict the following video and this video will no longer appear on YouTube in the following countries: [hidden content]"

This content has been restricted and will no longer appear on YouTube in (the) following countries: Viet Nam

If you think your video was mistakenly restricted, you can notify us within 30 days starting from the day you received this report. You can only send this form once for each video's URL.

In order to comply with local laws, YouTube will delete content when necessary. Please re-read the article about legal complaints on our Support Center."

Nguyen Van Trang contrasted this opportunity to appeal with his experiences with Facebook, which provides for no appeal option when content is restricted based on local law (as opposed to community standards). Trang explained that he has occasionally been told that his content violated community standards –

100 Hai Trieu, 'Facebook sẽ chặn quảng cáo chính trị từ các tài khoản phản động', *Cong An*, 8 October 2020, congan.com.vn/tin-chinh/facebook-se-chan-quang-cao-chinh-tri-tu-cac-tai-khoan-phan-dong_100905.html

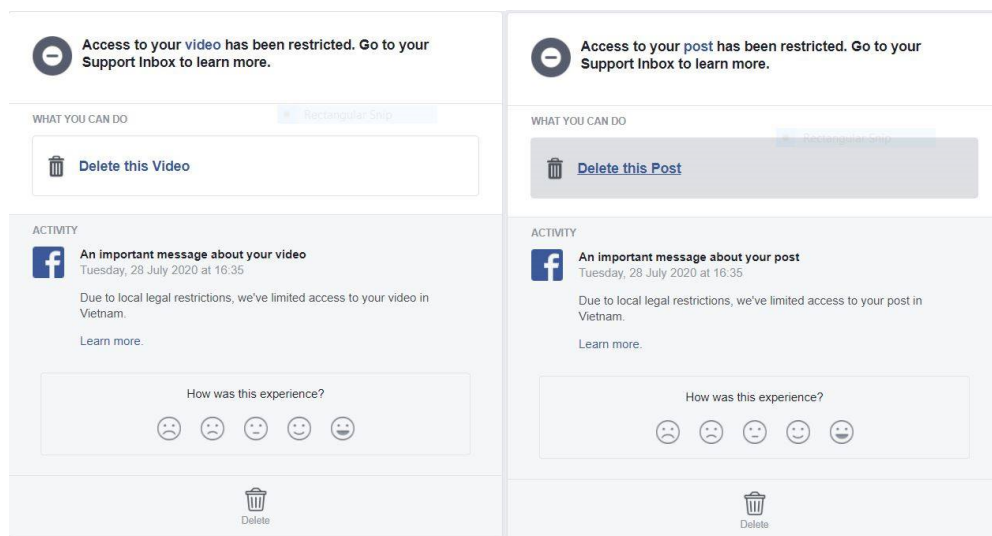
101 Doanh Nhan Viet Nam, YouTube, Facebook tuân thủ tốt hơn yêu cầu của Việt Nam, 16 August 2019, doanhnhannviet.net.vn/chinh-tri-thoi-su/youtube-facebook-tuan-thu-tot-hon-yeu-cau-cua-viet-nam-5921.html

102 Zing News, Chặn 7.000 video, gỡ 19 kênh nội dung xấu độc trên YouTube, 14 August 2019, zingnews.vn/chau-7000-video-go-19-kenh-noi-dung-xau-doc-tren-youtube-post977947.html

generally when his videos related to specific politicians – and in such cases his appeals have sometimes succeeded and others not. Trang stated that his appeals to Facebook have always failed if the posts discussed the secretary general of the CPV.

Geographic content restrictions also affect members of Vietnamese diaspora communities around the world, many of whom have utilized social media to promote respect for human rights in Viet Nam after fleeing political persecution. One example is **Nguyen Van Dai**, a Vietnamese human rights lawyer and co-founder of the Brotherhood for Democracy who is currently seeking asylum in Germany after being released from prison on humanitarian grounds two months into a 15-year sentence handed down in April 2018.¹⁰³ He was previously convicted in May 2007 and received a five-year prison sentence under Article 88 of the 1999 Criminal Code for “conducting propaganda against the state”. He has faced years of harassment at the hands of the Vietnamese authorities, including multiple brutal physical assaults, harassment, intimidation and arrests for his activism.

Nguyen Van Dai told Amnesty International that he had 15 posts subjected to content restrictions on Facebook between June 2020 and August 2020. He has received notifications from Facebook every time his content has been restricted, as shown below:



Notifications received by Nguyen Van Dai (supplied)

When asked about Facebook’s acquiescence to the Vietnamese authorities’ efforts to restrict political expression, Nguyen Van Dai said that it was “unacceptable” for Facebook to “collude with authorities to violate international law and Vietnamese laws”. He also said that the restriction has affected his ability to spread knowledge about human rights and democracy to Vietnamese people inside the country, which is the main reason he uses Facebook.¹⁰⁴ He suggested: “Facebook should stand up against the Vietnamese government’s request to censor political speech because those requests violate Vietnamese laws and international laws. It’s illegal.”¹⁰⁵

Both Facebook and Google report information regarding their compliance with government requests to restrict content based on local law in their periodic transparency reports. In Viet Nam, Facebook began reporting its compliance with requests to remove content from the authorities in 2017, when a total of 22 restrictions were implemented in the second half of that year. The number of restrictions jumped to almost 2,000 in 2018, but restrictions then decreased to nearly 200 in 2019.¹⁰⁶

On 20 November 2020, Facebook published its first Transparency Report since acknowledging its increased compliance with censorship requests from the Vietnamese authorities. The report, covering January–June

¹⁰³ Amnesty International interview with Nguyen Van Dai, 25 August 2020.

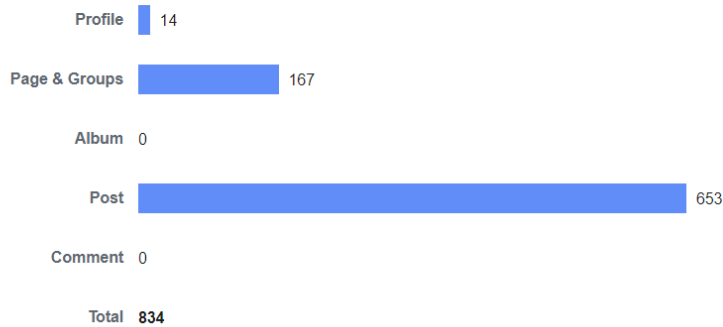
¹⁰⁴ Amnesty International interview with Nguyen Van Dai, 25 August 2020.

¹⁰⁵ Amnesty International interview with Nguyen Van Dai, 25 August 2020.

¹⁰⁶ Facebook, Transparency, Content Restrictions, Vietnam, transparency.facebook.com/content-restrictions/country/VN

2020, showed a 983% increase in content restrictions based on local law, increasing from 77 in the preceding six-month period to 834 in the latest report – despite the reporting period covering only three months of Facebook’s new content moderation policy in Viet Nam. According to Facebook’s report, “[t]hese reports related to content alleged to violate Decree No. 72/2013/ND-CP, including content opposing the Communist Party and the Government of Vietnam [and] COVID-19 misinformation.”¹⁰⁷

Facebook



Facebook Transparency Report Jan – Jun 2020: Viet Nam (“Restrictions by Product”)

In the report, Facebook also includes Viet Nam in its list of countries which experienced internet disruptions during the reporting period, referring to a seven-week disruption from February to April 2020.¹⁰⁸ The report defines internet disruptions as “intentional restrictions on connectivity that limit people’s ability to access the internet or specific websites and apps.”¹⁰⁹ This disruption, which was confirmed by Vietnamese activists to Amnesty International, was apparently enacted by the Vietnamese authorities to increase pressure on Facebook to increase its compliance with the authorities’ censorship demands.

According to Google’s Transparency Report (which covers restrictions on YouTube content): “Often times, government requests target political content and government criticism. Governments cite defamation, privacy, and even copyright laws in their attempts to remove political expression from our services. Our teams evaluate each request and review the content in context in order to determine whether or not content should be removed due to violation of local law or our content policies.”¹¹⁰

Google’s Transparency Report states that the vast majority of requests it receives to remove content in Viet Nam are based on content that Google classifies as “Government Criticism” – despite the fact that this type of speech is a crucial component of the right to freedom of expression, protected by international human rights law.¹¹¹ Google also reveals that the majority of requests to remove content come from the Information and Communications Authority, as shown below.¹¹²

¹⁰⁷ Facebook, Transparency, Content Restrictions, Vietnam, transparency.facebook.com/content-restrictions/country/VN

¹⁰⁸ Facebook, Transparency, Internet Disruptions, transparency.facebook.com/internet-disruptions

¹⁰⁹ Facebook, Transparency, Internet Disruptions, transparency.facebook.com/internet-disruptions

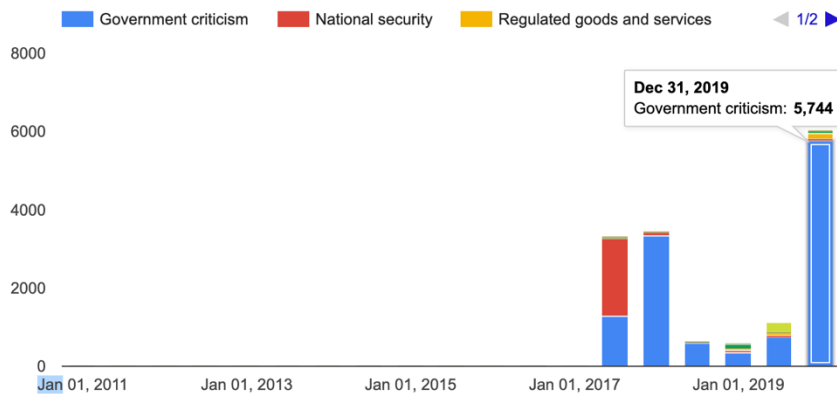
¹¹⁰ Google Transparency Report, “Government requests to remove content”, transparencyreport.google.com/government-removals/overview?removal_requests=group_by:requestors;period:&lu=removal_requests

¹¹¹ Google Transparency Report, “Government requests to remove content – Vietnam”, [transparencyreport.google.com/government-removals/by-](https://transparencyreport.google.com/government-removals/by-country/VN?country_request_amount=group_by:reasons;period::authority:VN&lu=country_item_amount&country_item_amount=group_by:reasons;period::authority:VN)

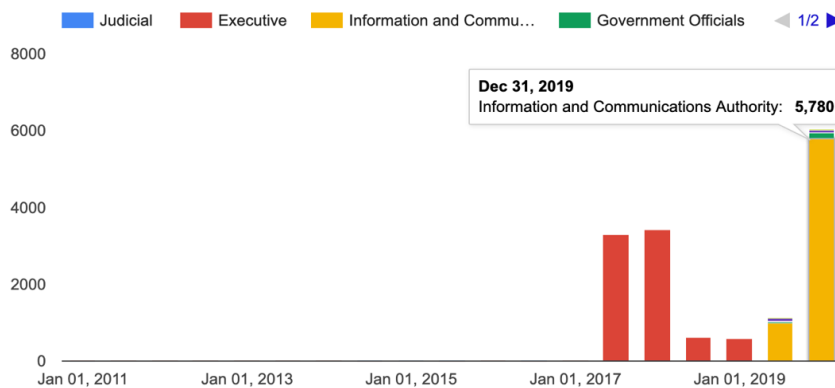
[country/VN?country_request_amount=group_by:reasons;period::authority:VN&lu=country_item_amount&country_item_amount=group_by:reasons;period::authority:VN](https://transparencyreport.google.com/government-removals/by-country/VN?country_request_amount=group_by:reasons;period::authority:VN&lu=country_item_amount&country_item_amount=group_by:reasons;period::authority:VN) (hereinafter: “Google Transparency Report – Vietnam Government Requests”)

¹¹² Google Transparency Report – Vietnam Government Requests.

GOOGLE TRANSPARENCY REPORT: GOVERNMENT REQUESTS TO REMOVE CONTENT (VIET NAM)



Total items requested for removal from each Google product or service ("Reasons")



Total items requested for removal from each Google product or service ("Requesters")

Google reports that in the second half of 2019, it received 74 requests to remove "government criticism", up from 44 in the first half of the year.¹¹³ Google also lists a number of examples of content moderation decisions it made in Viet Nam, for example:

Request: We received requests from the Authority of Broadcasting and Electronic Information, Ministry of Information and Communications in Vietnam to remove over 3,000 YouTube videos that mainly criticized the Communist Party and government officials.

Outcome: We restricted the majority of the videos from view in Vietnam, based on Decree 72.¹¹⁴

The figures quoted in Google's transparency report underplay the true scale of content restrictions implemented by Google in Viet Nam. Google acknowledges that these figures "do not include content removals that we regularly process every day in response to non-governmental user complaints across our products" that "may cite violation of our content policies or community guidelines".¹¹⁵ As such, these figures do not capture all of the content restrictions resulting from state-sponsored, systematic abuse of the "report abuse" function on social media by Vietnamese public opinion shapers and cyber-troops that is documented in Chapter 4 of this report.

¹¹³ Google Transparency Report – Vietnam Government Requests.

¹¹⁴ Google Transparency Report – Vietnam Government Requests.

¹¹⁵ Google Transparency Report, "Government requests to remove content", transparencyreport.google.com/government-removals/overview?removal_requests=group_by:requestors;period=&lu=removal_requests

RESPONSES FROM COMPANIES

Addressing its compliance with Vietnamese authorities' legal requests in a written response to Amnesty International dated 20 November 2020, Facebook stated:

Facebook is committed to implementing the UN Guiding Principles on Business and Human Rights and GNI Principles. As noted in UNGP 23, businesses should both “comply with all applicable laws and respect internationally recognized human rights, wherever they operate” and “seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements.” In line with these commitments, in Vietnam and around the world, we strenuously seek to minimise adverse human rights impacts of local laws that may conflict with international human rights standards, while also ensuring that our services remain available and usable for the millions of people who rely on them every day.¹¹⁶

While Facebook highlights the difficulties posed by conflicting legal obligations under local and international standards by citing UNGP 23, companies should also be aware of UNGP 11, the commentary to which states: “The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights.”¹¹⁷

Facebook’s response to Amnesty International further stated:

Our latest Transparency Report ... clearly demonstrates our dedication to protecting the voice of Vietnamese people in the face of a very challenging human rights environment... [W]e restricted access to a total of 834 items in Vietnam on the basis of local legal requirements—a tiny fraction of the hundreds of millions of pieces of content created over the same period. This is despite the fact that, at the same time, the availability of our services was under unprecedented pressure from Vietnamese authorities: as previously reported and as reflected in our latest Internet Disruptions Report, access to Facebook in Vietnam was disrupted to varying degrees for a period of seven weeks between mid-February and early April.¹¹⁸

In response to an earlier letter sent by Amnesty International, in which the organization queried Facebook’s content moderation practices in Viet Nam, Facebook wrote:

When we receive a request from any government to remove a piece of content, we follow a consistent global process ... our internal teams conduct a careful legal and human rights review, and may restrict access to the content only in the country where it has been alleged to be illegal. As part of this review, we consider the impact that our actions will have on the accessibility of our services and the other speech on our platform.¹¹⁹

Although Facebook purports to follow consistent global content moderation practices, their acknowledgement that they “consider the impact that our actions will have on the accessibility of our services and the other speech on our platform” suggests that content moderation decisions ultimately vary by country according to the pressures they face from national governments.

Also responding to queries from Amnesty International, Google wrote:

Google evaluates government requests for removal of content against human rights standards, and we take several measures to narrow requests, consistent with the GNI Principles. We have designed a methodological approach to decision-making that includes consideration of whether the content: violates existing community guidelines; clearly violates local law; and involves a matter of public interest. When we remove content, we take the least restrictive approach to removal by blocking it in the relevant jurisdiction, while still making it available in other jurisdictions globally. We source local speaking agents to review each URL, review these videos against YouTube’s Community Guidelines and established legal criteria, take measures to identify and minimize the restrictions on political speech, and deploy government affairs and policy experts to maintain a line of communication with the government.¹²⁰

Google further explained that it requires that:

116 Response letter from Facebook to Amnesty International, 20 November 2020, on file with Amnesty International.

117 Commentary to Principle 11 of the UN Guiding Principles on Business and Human Rights (UNGPs).

118 Response letter from Facebook to Amnesty International, 20 November 2020, on file with Amnesty International.

119 Response letter from Facebook to Amnesty International, 8 September 2020, on file with Amnesty International.

120 Response letter from Google to Amnesty International, 7 September 2020, on file with Amnesty International.

[S]pecific URLs be submitted by the government with associated rationale under local law and specific timestamps highlighting the aspect of the video that they believe violates local law. For removal requests that are not specific enough or lack supporting evidence, we request for more details to be sent before taking any sort of decision ... Google established a team of Vietnamese speaking content review agents as a direct response to the large volume of requests coming from the government in Vietnam and to ensure that each URL submitted by the government was reviewed individually and carefully. These reviewers are trained on our policies including when and how to escalate to ensure that freedom of expression and GNI Principles are considered in each review ... Our teams analyze each URL under the local laws, taking into special consideration clear cases of political speech with public interest and highlighting these cases for internal escalation and potential pushback for more clarification.¹²¹

While it is welcome that Google requires government agencies to provide specific URLs along with detailed information regarding alleged violations of local law, the company's obligation to respect human rights is not fulfilled simply by ensuring that freedom of expression is "considered" during each review. Rather, according to the UNGPs, companies have a responsibility to fully respect the right to freedom of expression, as defined by international human rights law, in their decisions and actions.¹²²

3.3 SILENCED: CONTENT RESTRICTIONS WITHOUT NOTIFICATION

Amnesty International documented a pattern of alleged content restrictions without notification by interviewing eight human rights defenders and activists who reported that their Facebook posts related to human rights or politics disappeared from their pages without receiving any notification. Some illustrative cases are included in this section, though Amnesty International was unable to verify individual claims of posts having been removed without notification, as in such cases there is no trace of the posts in question having existed.

As to whether it notifies users of content restrictions that are based on local law, Facebook says:

We provide notice to people when we restrict something they posted based on a report of an alleged violation of local law, and we also tell people when they try view [sic] something that is restricted in their country. We provide this notice except where legally prohibited or when technical constraints prevent us from doing so.¹²³

Facebook does not detail what kind of legal prohibitions or technical constraints prevent the company from providing notice of content restrictions. And while Facebook also restricts content that is deemed to violate its Community Standards, such restrictions are meant to be accompanied by a notification and an opportunity to appeal, according to Facebook policies.

Truong Chau Huu Danh is a well-known freelance journalist in Viet Nam. He focuses on issues such as allegations of corruption, social justice, and allegations of abuse of power by government officials. He uses his personal Facebook account, which currently has almost 150,000 followers, to publish his work. Thousands of people interact with his posts daily. Truong Chau Huu Danh's profile was verified by Facebook – a status granted to prominent public figures.¹²⁴

Between 26 March and 8 May 2020, Truong Chau Huu Danh posted hundreds of pieces of content on his Facebook account focusing on two issues: the ban on rice exports and the death penalty case of Ho Duy Hai. Truong Chau Huu Danh told Amnesty International that he noticed that these posts had been removed without notification in June. "They just disappeared, all of them, hundreds of posts in total, and I did not receive any notification", he explained.¹²⁵ Because he received no notification, Truong Chau Huu Danh could not appeal against any decision to remove this content.

La Viet Dung uses his Facebook account to expose human rights violations and discuss matters of public interest, such as allegations of corruption and the South China Sea territorial dispute.¹²⁶ He told Amnesty

121 Response letter from Google to Amnesty International, 7 September 2020, on file with Amnesty International.

122 Commentary to Principle 11 of the UNGPs.

123 Facebook Transparency Report July-December 2018, "Content Restrictions Based on Local Law", transparency.facebook.com/content-restrictions/jul-dec-2018.

124 Facebook profile of Truong Chau Huu Danh, www.facebook.com/huudanh.truong.5.

125 Amnesty International telephone interview with Truong Chau Huu Danh, 2 July 2020.

126 Facebook account of La Viet Dung, www.facebook.com/lavietdung.

International that he tried to post a video about the Dong Tam incident (see further information below) on 2 May 2020, but that the video was immediately removed, allegedly without notification. La Viet Dung told Amnesty International that the video was immediately removed each subsequent time he tried to upload it before the ninth attempt, when it remained on his Facebook. He told Amnesty International that he did not understand why he could only post on the ninth attempt, but that he believed the treatment of his posts was arbitrary.¹²⁷

La Viet Dung also told Amnesty International that some of his Facebook friends who shared the video from his profile received notifications from Facebook saying that they had shared “violent content” and that Facebook would therefore restrict their accounts. He told Amnesty International: “The decision to remove the video from my Facebook account was arbitrary ... I suspect that Facebook is coordinating with the Vietnamese government to silence dissent.”¹²⁸

LA VIET DUNG’S NINTH ATTEMPT TO REPOST INFORMATION ABOUT THE DONG TAM INCIDENT ON FACEBOOK



The text of La Viet Dung’s ninth attempt at a Facebook post that included a video related to the Dong Tam incident (supplied)

Translation: “9th attempt after Facebook deleted the previous posts: I have found out that Facebook arbitrarily removed this video without giving me any notification. I have always tried to learn and follow Facebook’s community standards, however, removing content without notification is too egregious, there is no standard allowing them to do that.

“However, there is one good thing about this, the fact that Facebook removed this video shows that “this account doesn’t belong to me”, so when police ask whether this is my Facebook account, I will not admit anything, because if Facebook can just remove anti-state contents as they wish, then they can also post anti-state content in order to put me in danger.

“Some points to provide content of the video: The killing of Mr. Kinh is revenge for the resistance of people of Dong Tam, it also sent a threat to whoever dares to oppose the Communist Party. The communist regime always accuses those opposing them as terrorists, however, the only terrorist group in this country is the Communist Party itself.”

In April, after Facebook announced its new policy on content moderation in Viet Nam, Trinh Ba Phuong and Trinh Ba Tu scrolled through their Facebook timelines in order to check whether information they had shared about the Dong Tam incident was still there. However, they told Amnesty International that all content related to this incident had been removed without their knowledge and without notification. The two then posted on their Facebook accounts to announce what they found and encouraged other activists to check if they also had had their content removed without notification.

Before his arrest, Trinh Ba Phuong told Amnesty International: “Facebook has contributed to the making of a new era in Viet Nam. Our society has changed dramatically in the past six years because people can now access information to which they never had access in the past. I understand that Facebook has to care about profit, but I wish that Facebook could also maintain its operation in Viet Nam and continue to provide our people a platform where we can express ourselves freely. As for me, I will not back down even if I have to go to prison because I know there are people who count on me to speak for them.”¹²⁹

Nguyen Van Trang also told Amnesty International that he noticed content removals without any notification around June 2020. He explained: “When I tried to find my old posts, I can’t find them anymore. They are being removed without my knowledge.”¹³⁰

While the precise circumstances of each reported instance of content ‘disappearance’ is impossible to analyze, Amnesty International understands that only the original poster of content which is restricted subject to local legal restrictions receives a notification from Facebook. In other words, users who use

¹²⁷ Amnesty International telephone interview with La Viet Dung, 19 June 2020.

¹²⁸ Amnesty International telephone interview with La Viet Dung, 19 June 2020.

¹²⁹ Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

¹³⁰ Amnesty International interview with Nguyen Van Trang, 9 July 2020.

the 'share' button to publish content from other accounts or pages do not currently receive notifications if the original content was restricted pursuant to local law.

CASE STUDY: THE DONG TAM INCIDENT

The Dong Tam incident refers to an infamous confrontation between villagers and security forces on 9 January 2020, when approximately 3,000 security officers from Ha Noi raided Dong Tam village in a land dispute that began in 2017. The authorities had proposed reallocating villagers' land to military-run telecommunications company Viettel, whose CEO at the time was the current Minister of Information and Communications, Nguyen Manh Hung. Security forces killed the 84-year-old village leader in a confrontation in which three police officers were also killed. Twenty-nine villagers were arrested and later found guilty of a range of offences on 14 September in a trial marred by allegations of torture and violations of fair trial rights. Brothers Le Dinh Chuc and Le Dinh Cong received death sentences after being convicted for murder.

The Dong Tam incident sparked a national outcry in Viet Nam at the time, and Facebook was the main platform where public debate took place. The government reacted with a nationwide crackdown on online expression. Amnesty International received reports from human rights defenders and activists across the country who were subjected to content restrictions on Facebook following the incident.¹³¹ In addition to the widespread restrictions on content shared on social media, many activists were arrested for seeking to share information online.

Amnesty International has documented the cases of six prisoners of conscience currently imprisoned for online expression related to the Dong Tam incident. Details of these cases – along with all 69 prisoners of conscience in Viet Nam detained for the peaceful exercise of their right to freedom of expression online – can be found in Annex A.

Amnesty International received reports from more than a dozen human rights defenders and activists who experienced content restrictions on Facebook during the height of social media coverage of the Dong Tam incident. Some reported that their Facebook livestream function was disabled, while many others reported being subjected to geographic content or profile restrictions.

Media outlets also suffered content restrictions. The YouTube channel of the Vietnamese service of Radio Free Asia (RFA), which has half a million subscribers, incurred a restriction from YouTube on the grounds of violating community guidelines. These restrictions were allegedly caused by the cyber-troop battalion (as discussed in Chapter 4), which reportedly flooded Facebook and YouTube with complaints about certain posts by individual users and independent media outlets. The state-run news outlet Ha Noi Moi reported that a representative of the Ministry of Information and Communications praised YouTube for its quick responses to requests from the Vietnamese authorities after the clashes at Dong Tam. The same representative lambasted Facebook for "reacting very slowly and bureaucratically".¹³²

The Special Rapporteur on freedom expression has reported that activists globally have complained of suffering content restrictions without notification.¹³³ According to the Special Rapporteur: "Transparency and notifications go hand in hand: robust operational-level transparency that improves user awareness of the platform's approaches to content removals alleviates the pressure on notifications in individual cases, while weaker overall transparency increases the likelihood that users will be unable to understand individual removals in the absence of notifications tailored to specific cases."¹³⁴

131 Amnesty International, "Viet Nam: Arrests and social media crackdown following deadly clashes over land", 16 January 2020, www.amnesty.org/en/latest/news/2020/01/viet-nam-arrests-social-media-crackdown-deadly-clashes-land/

132 Hanoimoi, Bộ Thông tin và Truyền thông: Không thể kiên nhẫn nếu Facebook không tuân thủ pháp luật Việt Nam, 11 January 2020, www.hanoimoi.com.vn/tin-tuc/Xa-hoi/955313/bo-thong-tin-va-truyen-thong-khong-the-kien-nhan-neu-facebook-khong-tuan-thu-phap-luat-viet-nam

133 Special Rapporteur's Report to the HRC, UN Doc. A/HRC/38/35, para. 37.

134 Special Rapporteur's Report to the HRC, UN Doc. A/HRC/38/35, para. 37.

3.4 VANISHED: PROFILE BLOCKING

“I want Facebook and other companies to respect their users. I want them to respect the right to freedom of expression and their users’ human rights. I want them to refuse to comply with the Vietnamese authorities’ crackdown on independent voices.”

Duong Van Thai, Vietnamese online activist¹³⁵

Bui Van Thuan is a former high school chemistry teacher who began using Facebook in 2015 to express his opinions about political and social issues including allegations of corruption.¹³⁶ He told Amnesty International that he believes social media is essential for the promotion of human rights in Viet Nam: “It not only allows me to express my opinion, which is very important, but also helps connect people, sharing knowledge and information and ultimately improve people’s awareness of their rights.”¹³⁷

As Bui Van Thuan became more engaged in online activism, he turned his attention to topics that were more politically sensitive such as the internal affairs of the CPV and political disputes at local governments in different provinces.

According to Bui Van Thuan, thousands of people liked and shared each of his posts.¹³⁸ However, towards the end of 2019, he started receiving notifications from Facebook informing him that his posts had been removed from Facebook due to “legal requirements”.

In January 2020, having followed the land dispute in Dong Tam since 2017, Bui Van Thuan used his Facebook profile to inform the public of the impending police operation on the village after he had received photos of police surrounding the area a few days prior to the incident. He also updated his Facebook profile about the situation on the ground during the conflict. Apparently as a result, on 8 January he received a notification (pictured, above right) that said: “Due to legal requirements in your country, we have restricted access to **your profile** on Facebook. This means that other people in your country cannot see your profile, and may not be able to interact with you over Messenger.”

Bui Van Thuan’s Facebook account was made invisible to Facebook users in Viet Nam. No one in the country, including his Facebook friends and followers, could see his page. And though he could still use his Facebook and see other people, he could not interact with anyone if they were in Viet Nam.



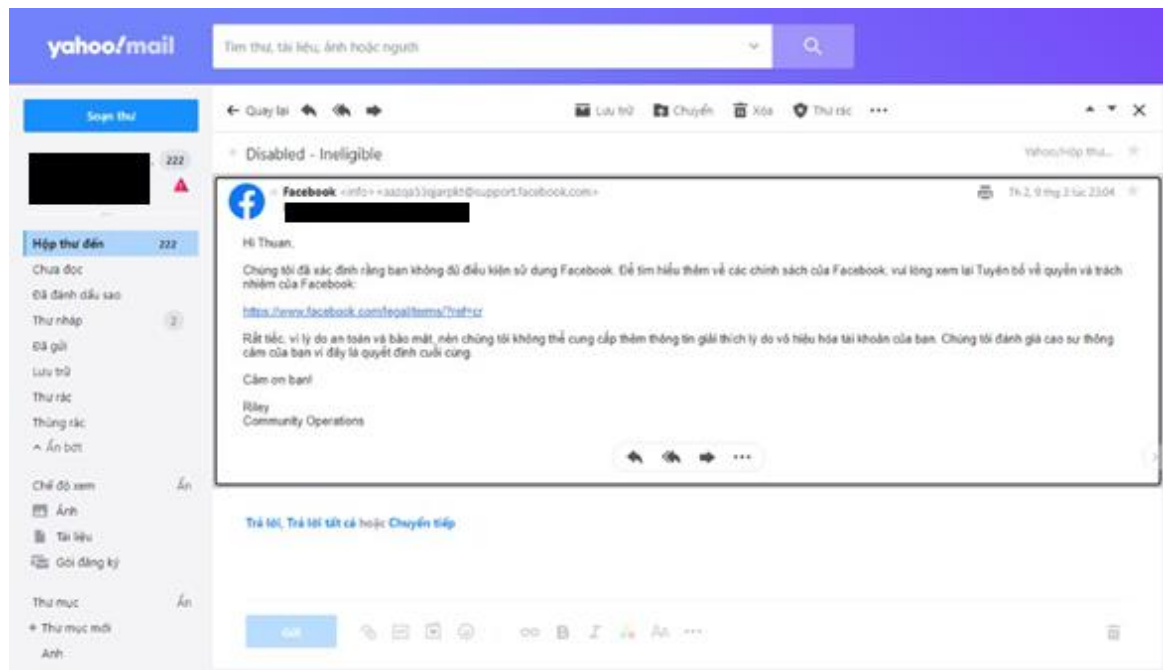
Notification sent by Facebook to Bui Van Thuan stating that his Facebook profile had been restricted in Viet Nam due to local legal requirements. Screenshot supplied.

¹³⁵ Amnesty International interview with Duong Van Thai, 7 July 2020.

¹³⁶ Facebook profile of Thuan Van Bui, www.facebook.com/tienlen.01.02.1990

¹³⁷ Amnesty International telephone interview with Bui Van Thuan, 24 June 2020.

¹³⁸ Amnesty International telephone interview with Bui Van Thuan, 24 June 2020.



Facebook's reply to Bui Van Thuan after he submitted an appeal against his account blockage. Screenshot supplied.

Bui Van Thuan appealed the decision to Facebook. In response to his appeal, Facebook responded as follows:

We have clarified that you don't meet the requirements to use Facebook. If you wish to learn more about Facebook's policies, please re-read Facebook's Rights and Responsibility statement: <https://www.facebook.com/legal/terms/?ref=cr>

Unfortunately, due to security and confidentiality reasons, we cannot provide further information to explain as to why we deactivated your account. We appreciate your understanding since this is our final decision.

There is no clear policy basis for such geographic profile blocking grounded in Facebook's community standards. As part of its transparency reporting, Facebook states: "We may disable Instagram or Facebook accounts for repeat or severe violations. This means that the account is no longer visible and its owner can't log in."¹³⁹ However, there is no mention of profiles being blocked within a specific country. Cases such as Bui Van Thuan highlight the lack of transparency that remains rife in Facebook's treatment of human rights defenders and activists who use its platform in Viet Nam. Bui Van Thuan expressed his frustration at Facebook's decision: "It is so frustrating, more frustrating than having my Facebook account permanently terminated because it is like you are living, but invisible to everyone."¹⁴⁰

In its latest Transparency Report covering January - June 2020 Facebook revealed, without providing further explanation, that upon a "routine review" of their actions they had determined that they had "restricted access to 14 profiles in error" and have since "corrected these mistakes and restored access to the profiles within Vietnam".¹⁴¹

The decision to block Bui Van Thuan's profile had serious personal, political and economic consequences for him. He told Amnesty International that he lost his teaching job in 2017 due to coercion on his employer from the police in retaliation for his activism – a common tactic used to apply maximum pressure on human rights defenders and their families in order to force them to give up their activism.¹⁴² Bui Van Thuan then returned to his home town and became a farmer, and he relied on Facebook to sell agricultural goods that his family produced. When Facebook blocked his account, Bui Van Thuan's customers could no longer see

139 Facebook, "Understanding the Community Standards Enforcement Report", transparency.facebook.com/community-standards-enforcement/guide

140 Amnesty International telephone interview with Bui Van Thuan, 24 June 2020.

141 Facebook, Transparency, Content Restrictions, Vietnam, transparency.facebook.com/content-restrictions/country/VN

142 Amnesty International telephone interview with Bui Van Thuan, 24 June 2020.

his products and place orders. “My business has been fatally damaged. No one can see what I post and therefore I cannot sell anything,” Bui Van Thuan explained.¹⁴³

On 17 July 2020, Amnesty International wrote to Facebook and asked for an explanation for the geographic restrictions on Bui Van Thuan’s Facebook account. Bui Van Thuan’s account was restored without notification on 17 September 2020.¹⁴⁴

On 24 June 2020, land rights activists **Trinh Ba Phuong and Trinh Ba Tu** were arrested by police and charged with “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the Criminal Code after they reported extensively on the Dong Tam incident.¹⁴⁵ Their Facebook accounts have disappeared since their arrests. On 17 July, Amnesty International wrote to Facebook and asked for an explanation for the disappearance of the pair’s Facebook accounts. In a written response to Amnesty International sent on 20 November 2020, Facebook stated that they could not discuss individual cases due to privacy obligations.

Duong Van Thai is a freelance journalist and a member of the Vietnam Independent Journalists Association. He is currently seeking political asylum in Thailand due to fear of arrest in Viet Nam. He has long relied upon Facebook and YouTube to disseminate his opinions and research on political issues, corruption and human rights in Viet Nam.¹⁴⁶

After being allowed to visit his family for the Tet national holiday following his arrest and detention by the Ministry of Public Security in Ha Noi in early 2019, Duong Van Thai fled to Thailand and soon after noticed that both his Facebook and email accounts were the subject of hacking attempts.¹⁴⁷ Then, in March 2019, his Facebook account with over 83,000 followers was suspended by Facebook. Thai reached out to Reporters Without Borders (RSF), who advocated with Facebook on his behalf, after which his account was restored. The restoration was short-lived, however: in September 2019, Duong Van Thai’s account was fully deactivated without explanation and he has been unable to recover it since.¹⁴⁸

Duong Van Thai estimates that he has attempted to create more than 300 Facebook accounts since then, none of which has survived for more than two weeks. He told Amnesty International that the most recent account suspension occurred in June 2020.¹⁴⁹ He told Amnesty International that Facebook provides him with an option to appeal or verify the accounts after they are suspended, but even after he “follow[s] many steps to provide further information, including giving my ID”, he still “never received any answer” from Facebook.¹⁵⁰

3.5 RESTRICTIONS ON INDEPENDENT MEDIA

Facebook has not only implemented censorship on individual Vietnamese users, it has also applied restrictions on the Facebook pages of independent and critical media outlets. Viet Nam maintains strict media censorship both on- and offline, with independent and critical media websites generally blocked. Several of these blocked outlets nonetheless maintain popular social media pages in Viet Nam. However, these pages have also increasingly been the target of censorship.

Radio Free Asia (RFA) is an US-based news outlet known for covering Vietnamese domestic political news. After its website was blocked, RFA moved most of its Vietnamese content to Facebook in order to continue reaching Vietnamese audiences, and its Facebook page had more than 1.6 million followers as of October 2020, making it one of the most followed Vietnamese-language news outlets on Facebook.¹⁵¹

143 Amnesty International telephone interview with Bui Van Thuan, 24 June 2020.

144 Amnesty International telephone interview with Bui Van Thuan, 24 June 2020.

145 Radio Free Asia, “Vietnam Arrests Four For Sharing Info on Dong Tam Police Raid”, 24 June 2020, www.rfa.org/english/news/vietnam/dong-tam-06242020181006.html

146 Amnesty International interview with Duong Van Thai, 7 July 2020.

147 Amnesty International interview with Duong Van Thai, 7 July 2020.

148 Amnesty International interview with Duong Van Thai, 7 July 2020.

149 Amnesty International interview with Duong Van Thai, 7 July 2020.

150 Amnesty International interview with Duong Van Thai, 7 July 2020.

151 Facebook, Đài Á Châu Tự Do, www.facebook.com/RFAVietnam/



Caption needed. Photo credit: RFA.

On 13 July 2020, RFA reported that between April and July 2020 – the period following the announcement of Facebook’s new content moderation policy in Viet Nam – Facebook had placed geographic restrictions on five of its posts, thereby blocking them from being seen in Viet Nam. The restrictions began in April when Facebook blocked one article on COVID-19 policy in Viet Nam. In May, Facebook restricted two further articles covering the CPV’s internal political developments, as well as another on the death penalty case of Ho Duy Hai. In July, another two articles were restricted, each concerning political developments in Viet Nam. According to RFA, these restrictions were justified by Facebook on the basis of “local legal restrictions”. Facebook did not provide RFA with any detailed explanation as to why exactly these particular posts were restricted.¹⁵²

¹⁵² Radio Free Asia, Facebook giới hạn truy cập 5 bài viết của RFA chỉ trong 4 tháng!, 13 July 2020, www.rfa.org/vietnamese/in_depth/facebook-restricts-access-to-5-rfa-posts-in-just-4-months-07132020152632.html?fbclid=IwAR3N15DhaUzLetqIRu99eeZPVj93RoCuWvOrRYWY0n4zamthMh6Oz6bmdcc



Hãy gửi chi tiết về các tài khoản bị chặn hay các bình luận bị xóa vô cớ qua email vietnamese@bbc.co.uk. Chúng tôi sẽ liên hệ với Facebook để tìm hiểu lý do.

Photo caption: “Send us details if your accounts are blocked and/or comments are unjustifiably deleted via vietnamese@bbc.co.uk. We will contact Facebook to find out the reason and find a solution.”

The BBC Vietnamese language service has also reported that it has suffered restrictions since Facebook’s new policy was adopted in April 2020.¹⁵³ A post on 4 June 2020 stated: “A few days ago, the Facebook page of BBC News Vietnamese received messages from users saying they were blocked out of our account or could not post comments on [our] page. The editors confirmed that we do not delete or block comments ...”¹⁵⁴

Vietnamese independent media have also been severely affected by content restrictions. Long Trinh is the co-founder of Legal Initiatives for Viet Nam (LIV), an online magazine devoted to discussing political and social issues in Viet Nam.¹⁵⁵ Its Vietnamese-language Facebook page has about 150,000 followers. Long told Amnesty International: “We rely on social media to do our work – without Facebook, we would have very limited space to spread our message and limited chance to mobilize and inform the people.”¹⁵⁶ Long explained that because the Legal Initiatives for Viet Nam website is blocked in Viet Nam, they rely on Facebook to disseminate articles.

However, Long explained that LIV began facing restrictions on Facebook in 2018. LIV had initially relied heavily on Facebook’s “instant article” feature, but in 2018 LIV started being restricted from using this feature based on alleged violations of community standards and monetization policies. In such cases, Long recalled that LIV always received notifications. However, Long reported that since mid-2020 content has begun to disappear from the LIV Facebook page without notification.¹⁵⁷ According to Long, at least 20 posts sharing news and analysis of political and social issues have disappeared between July and early September. In no cases did LIV receive a notification, according to Long. He told Amnesty International: “It seems very arbitrary. We don’t know how to follow the rules because there are no rules!”¹⁵⁸

Restrictions on independent media have a particularly serious effect on the exercise of freedom of expression and impinge upon the public’s right to information. According to the UN Human Rights Committee: “A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society ... 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 without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output.”¹⁵⁹

3.6 HUMAN RIGHTS AND CONTENT MODERATION: THE WAY FORWARD

Facebook and Google’s complicity with the Vietnamese authorities’ censorship regime is not a given, and it is inexcusable from a human rights perspective. Mark Zuckerberg, the founder of Facebook, has publicly spoken of his desire for a process in which the company “could more accurately reflect the values of the community in different places”.¹⁶⁰ In fact, this framework already exists in the form of international human rights law and standards, and Facebook, Google and other technology companies are bound by them.

The UN Special Rapporteur on freedom of expression has said: “National laws are inappropriate for companies that seek common norms for their geographically and culturally diverse user base. But human rights standards, if implemented transparently and consistently with meaningful user and civil society input,

¹⁵³ Facebook page of BBC News Tiếng Việt, bit.ly/31FKct9

¹⁵⁴ Facebook page of BBC News Tiếng Việt, bit.ly/31FKct9

¹⁵⁵ Amnesty International interview with Long Trinh, 8 September 2020.

¹⁵⁶ Amnesty International interview with Long Trinh, 8 September 2020.

¹⁵⁷ Amnesty International interview with Long Trinh, 8 September 2020.

¹⁵⁸ Amnesty International interview with Long Trinh, 8 September 2020.

¹⁵⁹ General Comment 34, UNDOC: CCPR/C/GC/34, para. 13.

¹⁶⁰ Kara Swisher and Kurt Wagner, “Here’s the transcript of Recode’s interview with Facebook CEO Mark Zuckerberg about the Cambridge Analytica controversy and more”, Recode, 22 March 2018, www.vox.com/2018/3/22/17150814/transcript-interview-facebook-mark-zuckerberg-cambridge-analytica-controversy

provide a framework for holding both States and companies accountable to users across national borders.”¹⁶¹

Community standards are not a substitute for international human rights laws and standards. Facebook, Google and other technology companies have a clear legal obligation to fully incorporate international human rights standards governing freedom of expression into their terms of service, user agreements, policies and content moderation standards. This would not only better protect the freedom of expression of users and communities, as well as entire populations’ right to receive independent information; states such as Viet Nam would also find it more difficult to pressurise technology firms to censor content if it were human rights law, rather than corporate policy, that was relied upon to resist such requests.¹⁶²

The adoption of such a framework would also go a long way towards remedying the opaque and unpredictable nature of content moderation which prevails at present by offering a predictable, transparent, rights-respecting alternative.

The human rights-compliant course of action for Facebook and other technology companies in these circumstances is clear. According to the Special Rapporteur on freedom of expression: “When faced with problematic requests, companies should seek clarification or modification; solicit the assistance of civil society, peer companies, relevant government authorities, international and regional bodies and other stakeholders; and explore all legal options for challenge. When companies receive requests from States under their terms of service or through other extra-legal means, they should route these requests through legal compliance processes and assess the validity of such requests under relevant local laws and human rights standards.”¹⁶³

According to the Special Rapporteur: “Companies should also, at the highest levels of leadership, adopt and then publicly disclose specific policies that ‘direct all business units, including local subsidiaries, to resolve any legal ambiguity in favour of respect for freedom of expression, privacy, and other human rights’. Policies and procedures that interpret and implement government demands to ‘ensure the least restriction on content’ should flow from these commitments. Companies should ensure that requests are in writing, cite specific and valid legal bases for restrictions, and are issued by a valid government authority in an appropriate format.”¹⁶⁴

161 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 41.

162 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 42.

163 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 51.

164 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 50.

4. REPRESSION OF ONLINE ACTIVISM IN VIET NAM

“I will not stop even if I have to face a prison sentence – because there are people whose voices need to be heard, and I have to be their messenger.”

Trinh Ba Phuong, land rights activist and human rights defender (arbitrarily imprisoned since being interviewed)¹⁶⁵

4.1 CRIMINALIZATION OF ONLINE EXPRESSION

The problematic nature of Facebook and Google’s acquiescence to content moderation requests based on local law becomes apparent upon an analysis of the arbitrary, over-broad and vaguely worded criminal offences that form part of Vietnamese criminal law – in particular those offences that arbitrarily criminalize legitimate expression of matters of public interest in violation of international human rights law. The UN Special Rapporteur on freedom of expression has warned that “broadly worded restrictive laws on ‘extremism’, blasphemy, defamation, ‘offensive’ speech, ‘false news’ and ‘propaganda’ often serve as pretexts for demanding that [technology] companies suppress legitimate discourse.”¹⁶⁶

The enforcement of the 2015 Criminal Code, in force since 2018, has coincided with the explosion of internet access in Viet Nam. And since its entry into force, the law has been systematically applied to repress peaceful expression online. Amnesty International has documented the cases of 30 individuals charged and detained for online expression in 2018, all of whom have since been convicted and imprisoned. Twenty-four more were charged and detained in 2019, 21 of whom have been convicted and three of whom remain in pre-trial detention. A further 21 have been arrested in 2020 (as of November 2020), among whom two have been convicted and the rest remain in pre-trial detention. (See Annex A for full details of all 69 prisoners of conscience currently imprisoned for online expression in Viet Nam.)

The sub-sections below provide an overview of the application and enforcement of Articles 117 and 331 of the Vietnamese Criminal Code – the provisions most commonly used to prosecute human rights defenders and activists engaged in the peaceful exercise of their right to freedom of expression online. These cases underline the severity of Viet Nam’s censorship regime and the systematic nature of the violations of the right to freedom of expression by the Vietnamese authorities. They further demonstrate the urgent need for

¹⁶⁵ Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

¹⁶⁶ Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, para. 30.

Facebook, Google and other technology companies to resist pressure by the Vietnamese authorities to participate in its human rights violations.

4.1.1 ARTICLE 117: MAKING, STORING, OR SPREADING INFORMATION, MATERIALS OR ITEMS FOR THE PURPOSE OF OPPOSING THE STATE OF THE SOCIALIST REPUBLIC OF VIET NAM

On the morning of 30 August 2018, shortly after **Nguyen Ngoc Anh**, an aquatic engineer and farmer, left his home in Ben Tre province, dozens of police officers and local militia members broke into his house and began shouting at his wife, Nguyen Thi Chau, terrifying their three-year-old son.¹⁶⁷ Security forces told Nguyen Thi Chau that her husband had been arrested and the police were there to search the house for “anti-government documents”.¹⁶⁸

Nguyen Ngoc Anh was charged under Article 117 of the 2015 Criminal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. Nguyen Thi Chau told Amnesty International that she believes her husband was arrested solely because of his Facebook activity.¹⁶⁹ She recalled an earlier incident that took place in February 2018, when Nguyen Ngoc Anh had been summoned to the local police station for questioning about his Facebook posts. They told him to stop sharing “reactionary” material, a term authorities often use to describe any content critical of the government or CPV and warned him not to “say anything against the government”.¹⁷⁰



ARTICLE 117: MAKING, STORING, OR SPREADING INFORMATION, MATERIALS OR ITEMS FOR THE PURPOSE OF OPPOSING THE STATE OF THE SOCIALIST REPUBLIC OF VIET NAM

1. Any person who, for the purpose of opposing the State of the Socialist Republic of Viet Nam, commits any of the following acts shall face a penalty of 5–12 years' imprisonment:
 - a) Making, storing or spreading information, materials or items that contain distorted information about the people's government;
 - b) Making, storing or spreading information, materials or items that contain fabricated information to cause dismay among the people;
 - c) Making, storing or spreading information, materials or items to cause psychological warfare.
2. An extremely serious case of this offence shall carry a penalty of 10 - 20 years' imprisonment.
3. Any person who makes preparation for the commitment of this criminal offence shall face a penalty of 1–5 years' imprisonment.

In May 2018, the National Assembly announced a plan to pass a law giving foreign investors significant tax incentives. An opposition movement, worried about the potential damage to the local and national economy, was established on social media. This became the main platform for people to debate the draft law, where people expressed disagreement and eventually mobilized for demonstrations. Nguyen Thi Chau told Amnesty International that Nguyen Ngoc Anh “livestreamed on Facebook every day, talking about the threats to our country socially, economically, and militarily if the law passed”.¹⁷¹

The online movement spread to the streets and in June 2018 thousands of people joined demonstrations in cities across the country, including Ha Noi, Ho Chi Minh City, Da Nang and Dong Nai, with observers

¹⁶⁷ Amnesty International telephone interview with Nguyen Thi Chau, 7 September 2019.

¹⁶⁸ Amnesty International telephone interview with Nguyen Thi Chau, 7 September 2019.

¹⁶⁹ Amnesty International telephone interview with Nguyen Thi Chau, 7 September 2019.

¹⁷⁰ Amnesty International telephone interview with Nguyen Thi Chau, 7 September 2019.

¹⁷¹ Amnesty International telephone interview with Nguyen Thi Chau, 7 September 2019.

claiming it was “the biggest protest movement in Viet Nam since the end of the war between north and south in 1975”.¹⁷²

In the months following the protests, there was a systematic crackdown on political dissenters and online activists. According to The 88 Project, an independent non-governmental organization that documents cases against prisoners of conscience and others detained on politically motivated grounds in Viet Nam, at least 145 activists were arrested between June and December 2018, including Nguyen Ngoc Anh, while a dozen more were harassed, intimidated or physically assaulted.¹⁷³

In June 2019, Nguyen Ngoc Anh was tried on the basis of “using three personal Facebook accounts to post and share articles, [post] videos and conduct livestreams to discuss anti-state content”.¹⁷⁴ He was found guilty and sentenced to six years in prison. Nguyen Thi Chau told Amnesty International: “My husband is innocent; he did nothing wrong but just said what he thought was right.”¹⁷⁵

Another one of those convicted was **Nguyen Nang Tinh**, a music teacher from Nghe An province, who received an 11-year sentence. During the 2016 Formosa environmental disaster, in which industrial discharge from the Formosa Ha Tinh steel plant owned and operated by Taiwan’s Formosa Plastics Group caused mass fish deaths and environmental damage along Viet Nam’s central coast, Nguyen Nang Tinh and other activists helped distribute aid and demanded that those responsible for the disaster be held accountable, according to a fellow activist, Bach Hong Quyen, who was interviewed by Amnesty International.¹⁷⁶

After the Formosa disaster, Nguyen Nang Tinh continued to use Facebook to express his opinions about social and political issues in Viet Nam, such as corruption, human rights and the environment, before being arrested in May 2019. The local authorities later announced that Nguyen Nang Tinh had been charged under Article 117 for conducting “anti-state activity”. In his indictment, police described Nguyen Nang Tinh as “holding discontent and anti-state thought”. They described his use of Facebook as a “threat to national security” and accused him of using Facebook to “spread propaganda against the government”.¹⁷⁷

Nguyen Nang Tinh was tried in November 2019. At trial, he denied his affiliation to the Facebook account that formed the basis of the charges against him. Nonetheless, he was found guilty and sentenced to 11 years’ imprisonment. Speaking to Voice of America, Nguyen Thi Tinh, wife of Nguyen Nang Tinh, said: “The verdict is unjust. My husband is innocent. It was a sham trial – everything they tried to do was forcing my husband to admit his guilt but, in the end, he still denounced all accusations against him.”¹⁷⁸

In order to be considered permissible under the ICCPR, any restriction on freedom of expression must be provided by law (which must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly). However, the phrase that provides the basis for the law – “opposing the State of the Socialist Republic of Viet Nam” – is too vaguely worded to meet the criterion of being “prescribed by law” and the overly vague nature of the enumerated offences leaves them open to broad interpretation by law enforcement. Virtually any criticism can be considered to “oppose the State” under this law.

Furthermore, the offence does not have a legitimate aim under the ICCPR, as its sole objective appears to be muzzling criticism of the state and government, including peaceful dissent or criticism protected under the ICCPR. The Johannesburg Principles on National Security state at Principle 7:

[T]he peaceful exercise of the right to freedom of expression shall not be considered a threat to national security or subjected to any restrictions or penalties. Expression which shall not constitute a threat to national security includes, but is not limited to, expression that:

- (i) advocates non-violent change of government policy or the government itself;
- (ii) constitutes criticism of, or insult to, the nation, the state or its symbols, the government, its agencies, or public officials, or a foreign nation, state or its symbols, government, agencies or public officials;

172 Baotienngdan, Biểu tình hay không biểu tình? Có còn biểu tình hay không?

baotienngdan.com/2019/07/28/bieu-tinh-hay-khong-bieu-tinh-co-con-bieu-tinh-hay-khong/.

173 The 88 Project, “Timeline”, the88project.org/timeline/

174 Amnesty International interview with Nguyen Thi Chau, 7 September 2019.

175 Amnesty International interview with Nguyen Thi Chau, 7 September 2019.

176 Amnesty International interview with Bach Hong Quyen, 24 February 2020.

177 Congannghean, Khởi tố, bắt tạm giam Nguyễn Năng Tinh, congannghean.vn/phap-luat/201905/khoi-to-bat-tam-giam-nguyen-nang-tinh-856398/.

178 VOA Tiếng Việt, Thầy giáo Nguyễn Năng Tinh bị kết án 11 năm tù vì ‘tuyên truyền chống nhà nước’, 15 November 2019, www.voatiengviet.com/a/thay-giao-nguyen-nang-tinh-11-nam-tu/5167384.html.

- (iii) constitutes objection, or advocacy of objection, on grounds of religion, conscience or belief, to military conscription or service, a particular conflict, or the threat or use of force to settle international disputes;
- (iv) is directed at communicating information about alleged violations of international human rights standards or international humanitarian law.¹⁷⁹

According to monitoring conducted by Amnesty International, at least 35 people have been detained under Article 117 Since the 2015 Criminal Code came into force in January 2018 – eight in 2018, 13 in 2019 and 14 as of November 2020. Those convicted have received sentences ranging from five to 11 years’ imprisonment.

Article 173 of the 2015 Criminal Procedure Code (also in force since 2018) introduced significant limitations on the right to liberty in respect of cases defined as “national security-related”, as is often the case in respect of Article 117. Under the provision, the head of the Supreme People’s Procuracy has the discretion to prolong the investigation phase and pre-trial detention for up to 16 months. This lengthy period of pre-trial detention violates the fair trial rights of those charged under this provision.

Under Vietnamese law, persons accused of criminal offences have a right to legal representation.¹⁸⁰ In practice, however, Amnesty International has documented numerous cases in which lawyers have been barred from seeing their clients during the investigation period. With no lawyer present, there is an increased risk that detainees will be subject to torture and other ill-treatment in an effort to force confessions. Amnesty International has previously investigated the widespread use of torture and other ill-treatment against prisoners of conscience in Viet Nam.¹⁸¹

The UN Human Rights Committee has expressed concern that torture is not explicitly criminalized under Vietnamese criminal law and cited particular concerns regarding reports of the widespread use of torture and other ill-treatment during pretrial detention, sometimes resulting in death in custody.¹⁸²

In most cases, lawyers can only meet defendants briefly before trial, which is a violation of the right to adequate time and facilities to prepare a defence, a key component of the right to a fair trial as guaranteed by Article 14 of the ICCPR.¹⁸³ In the case of Nguyen Ngoc Anh, his lawyer told Amnesty International that he was only allowed one meeting with Nguyen Ngoc Anh during the whole 10-month pre-trial period and that the approximately one-hour-long meeting took place a week before the trial.¹⁸⁴ Without access to their clients and relevant information about the case, it is practically impossible for lawyers to prepare adequate defence cases, thereby undermining the right to a fair trial.

4.1.2 ARTICLE 331: “ABUSING DEMOCRATIC FREEDOMS”

Article 331 of the 2015 Criminal Code (taken verbatim from Article 258 of the 1999 Criminal Code) criminalizes “abusing democratic freedoms to infringe the interests of the State” and provides for harsh penalties of up to seven years’ imprisonment. This provision contradicts the basic principles of international human rights law by criminalizing the exercise of human rights where they do not align with the interests of the government.

Protection of the “interests of the State” – as opposed to “national security” and “public order”, for example – is not one of the legitimate aims that can form the basis of permissible restrictions of freedom of expression under Article 19 of the ICCPR. Article 331 plainly violates Viet Nam’s international human rights obligations. In addition to lacking a legitimate aim, the offence also fails to meet the test of legality due to its exceptionally vague and broad formulation, as the “interests of the state” are not adequately defined anywhere. It is also unclear how a “negative impact on social security, order or safety” should be measured and applied in practice.

179 See Johannesburg Principles on National Security, Freedom of Expression and Access to Information (Johannesburg Principles), Principle 7, www.article19.org/data/files/pdfs/standards/joburgprinciples.pdf

180 Code of Criminal Procedure of Viet Nam, 2015, Article 82.

181 Amnesty International, *Prisons Within Prisons: Torture and Ill-Treatment of Prisoners of Conscience in Viet Nam* (Index: ASA 41/4187/2016).

182 Concluding observations of UN Human Rights Committee: Viet Nam, UN Doc. CCPR/C/VNM/CO/3 (2019), para. 25.

183 UN Human Rights Committee, General Comment No. 32, The Right to equality before courts and tribunals and to fair trial (Article 14 of the International Covenant on Civil and Political Rights), UN Doc. CCPR/C/GC/32, para. 32.

184 Amnesty International interview with Dang Dinh Manh, Nguyen Ngoc Anh’s lawyer, 9 December 2019.



ARTICLE 331: ABUSING DEMOCRATIC FREEDOMS TO INFRINGE UPON THE INTERESTS OF THE STATE, LAWFUL RIGHTS AND INTERESTS OF ORGANIZATIONS AND/OR CITIZENS

1. Any person who abuses the freedom of speech, freedom of the press, freedom of religion, freedom of association, and other democratic freedoms to infringe upon the interests of the State, lawful rights and interests of organizations and/or citizens shall receive a warning or face a penalty of up to three years' community sentence 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.

Since the new Criminal Code took effect in January 2018, the authorities in Viet Nam have used Article 331 to prosecute people for exercising their freedom of expression online. Among the 21 people who have been charged under Article 331 since the 2015 Criminal Code took effect, 11 people have so far been convicted and sentenced to prison terms of between six months and five years. At least nine people were charged under Article 331 in 2018 alone, another five were detained on the same charge in 2019, and seven have been charged under Article 331 so far in 2020. All of them used Facebook to express their opinions about various issues, from government policies to personal political beliefs. (These cases are detailed in Annex A.)

Do Cong Duong is a journalist and human rights defender known for his social media activism against alleged corruption, mainly on Facebook and YouTube, where he created his own channel and named it Tiếng Dân or “People’s Voice”. He devoted his channel to broadcasting talk-shows featuring alleged corruption cases, and gave victims of land-grabbing a platform to raise their voices.¹⁸⁵ His online activity had drawn the attention of local authorities even before his arrest in January 2018; in September 2017, for instance, police sent him a notice that read: “Since January 2017, Do Cong Duong has created several Facebook accounts on which he posted and shared articles, live videos with content that distorts the truth and impacts upon the credibility and reputation of other citizens and organizations; some videos that Mr. Do Cong Duong shared and propagated have content that contradicts the directions and policies of the Party and the law of the state.”¹⁸⁶

In September 2018, Do Cong Duong was convicted and sentenced to four years in prison for “disturbing public order”.¹⁸⁷ The following month, Do Cong Duong stood trial again, this time charged under Article 331 of the 2015 Criminal Code for “abusing democratic freedoms”. He was again convicted and received a five-year prison sentence.¹⁸⁸ Do Cong Duong appealed the verdict and in January 2019 the Higher Court reduced his sentence from five to four years, leaving him with a total sentence of eight years from the two charges. After the second conviction of Do Cong Duong, the Committee to Protect Journalists said the Vietnamese government was using “arbitrary and vague anti-state laws to jail journalists” and demanded the immediate and unconditional release of Do Cong Duong.¹⁸⁹

In June 2018, the government announced two proposed laws, one aimed at establishing special economic zones and the other being the Law on Cybersecurity. The Law on Special Economic Zones was unpopular partly due to “public fears that Chinese companies would be the main beneficiary of the new set of investor incentives” that the law sought to establish.¹⁹⁰ Across the country, thousands of people demonstrated, demanding that the government discard the planned legislation.¹⁹¹ In Ho Chi Minh City, a group of activists formed Nhóm Hiến Pháp, a non-registered working group whose aims, according to founding member

185 Committee to Protect Journalists, “Do Cong Duong”. cpj.org/data/people/do-cong-duong/index.php

186 Baocalitoday, Bắc Ninh: Nhà hoạt động Đỗ Công Dương bị tạm giữ, 26 January 2018, www.baocalitoday.com/tieng-noi-tu-trong-nuoc/bac-ninh-nha-hoat-dong-cong-duong-bi-tam-giu.html.

187 Radio Free Asia, “Vietnam Land Rights Activists Do Cong Duong Handed 48-Months Jail Term”, 17 September 2018, www.rfa.org/english/news/vietnam/activist-sentence-09172018165155.html

188 Radio Free Asia, “Jailed Vietnamese Activist Sentenced to Five More Years On Separate Charge”, 12 October 2018, www.rfa.org/english/news/vietnam/duonggets5moreyears-10122018164030.html?searchterm=utf8:ustring= Do Cong Duong

189 Committee to Protect Journalists, “Vietnam sentences citizen journalist on second anti-state charge”, 15 October 2018, cpj.org/2018/10/vietnam-sentences-citizen-journalist-on-second-ant.php

190 Tom Fawthrop, “Public criticism pressures Vietnam to back down on new economic zones”, *China Dialogue*, 26 March 2019, chinadialogue.net/en/business/11154-public-criticism-pressure-vietnam-to-back-down-on-new-economic-zones

191 Martin Petty, “In Vietnam, distrust of government’s China policy fuels protests”, Reuters, 19 June 2018, uk.reuters.com/article/uk-vietnam-protests-analysis/in-vietnam-distrust-of-governments-china-policy-fuels-protests-idUKKBN1JF0VW

Hoang Trong Man, were to “promote the human rights guaranteed in the country’s constitution, advocate for a peaceful political transition, and call upon the public to peacefully protest against the drafted laws”.¹⁹²

Members of the group used Facebook to publicize their ideas and plans. **Le Minh The**, a member of Nhóm Hien Phap, livestreamed from his personal Facebook account to promote the group’s agenda.¹⁹³ In September 2018, the authorities cracked down on Nhóm Hiến Pháp, arresting nine members of the group, while at least four others fled to Thailand, including Hoang Trong Man.¹⁹⁴

On 9 October 2018, Le Minh The broadcast a livestream on Facebook, in which he and two fellow activists discussed issues of alleged corruption, urged viewers to learn about their rights and called upon the public to organize civil disobedience to demand democracy.¹⁹⁵ Le Minh The was arrested the following day. The authorities accused him of “abusing democratic freedoms” under Article 331 of the 2015 Criminal Code.¹⁹⁶

In state-owned media the authorities were reported as saying: “since 2017, Le Minh The has created many accounts on Facebook to post, share, and comment against the policies of the Communist Party and state”.¹⁹⁷ Le Minh The stood trial on 20 March 2019 and was convicted and sentenced to two years in prison. Another member of Nhóm Hiến Pháp, Huynh Truong Ca, was charged under Article 117 (opposing the state) for his social media activity and sentenced to five and a half years in prison in December 2018.¹⁹⁸

4.2 ONLINE SPEECH RESTRICTIONS AMID COVID-19

In 2020, the Vietnamese authorities have also prosecuted people for expressing themselves online about the COVID-19 pandemic. Two current prisoners of conscience, Ma Phung Ngoc Phu and Dinh Thi Thu Thuy, were imprisoned on the basis of COVID-19-related Facebook posts (see Annex A for more details).

Ma Phung Ngoc Phu was arrested in connection with Facebook posts asking legitimate questions regarding the government’s transparency in dealing with the COVID-19 pandemic. Police accused her of “circulating disinformation about the pandemic and defaming leaders of the Communist Party of Viet Nam”. She was charged under Article 331 of the 2015 Criminal Code for “abusing democratic freedoms”, and on 11 May 2020 the People’s Court of Ninh Kieu district, Can Tho City, convicted and sentenced her to nine months in prison.¹⁹⁹

Dinh Thi Thu Thuy is an expert in aquaculture from Hau Giang province. She started using Facebook to express her views on political issues in 2016 after the Formosa environmental disaster began affecting central Viet Nam (see section 4.1.1 above). She continued to discuss sensitive issues in the following years, including the proposed laws on special economic zones and cybersecurity in 2018. Besides commenting on national issues, Dinh Thi Thu Thuy also used Facebook to talk about issues in her hometown, where the environment was her focus. When the COVID-19 pandemic reached Viet Nam in early 2020, she criticized the Vietnamese government on Facebook over policies that she did not agree with, including the government’s decision not to shut the border with China. Apparently as a result, police arrested her on 18 April 2020. She was charged under Article 117 of the 2015 Criminal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” and remained in pre-trial detention at Hau Giang Provincial Police’s temporary detention centre at the time of publication. She faces up to 12 years’ imprisonment.

After the COVID-19 pandemic first reached Viet Nam in January 2020, the Vietnamese authorities increased their use of Decree 15 (see Section 2.2.3, above) and other regulations to impose administrative penalties targeting individuals alleged to have spread disinformation online.²⁰⁰

Part of the Vietnamese authorities’ approach to tackling COVID-19 has been to raise awareness of the dangers of the virus while simultaneously tackling so-called “disinformation”. On 27 March, state media reported that 700 people had been subjected to “working sessions” with police over circulating “fake news”

¹⁹² Amnesty International telephone interview with Hoang Trong Man, 17 February 2020.

¹⁹³ Facebook account of Le Minh The, Video, www.facebook.com/leminh.the.54

¹⁹⁴ Amnesty International telephone interview with Hoang Trong Man, 17 February 2020.

¹⁹⁵ Facebook account of Le Minh The, Videos, www.facebook.com/leminh.the.54

¹⁹⁶ The 88 Project, “Profile: Le Minh The”, the88project.org/profile/160/le-minh-the/

¹⁹⁷ Thanhnien, Khởi tố, bắt giam nghi can livestream kích động biểu tình trên Facebook, thanhnien.vn/thoi-su/khoi-to-bat-giam-nghi-can-livestream-kich-dong-bieu-tinh-tren-facebook-1012058.html

¹⁹⁸ The 88 Project, “Profile: Huynh Truong Ca”, the88project.org/profile/209/huynh-truong-ca/

¹⁹⁹ Tuổi Trẻ, Xuyên tạc Đảng và Nhà nước, tung tin giả lên Facebook, lĩnh 9 tháng tù, 11 May 2020, tuoitre.vn/xuyen-tac-dang-va-nha-nuoc-tung-tin-gia-len-facebook-linh-9-thang-tu-20200510213019079.htm

²⁰⁰ Mign Vu and Bich T. Tran, “The Secret to Vietnam’s COVID-19 Response Success: A review of Vietnam’s response to COVID-19 and its implications”, *The Diplomat*, 18 April 2020, thediplomat.com/2020/04/the-secret-to-vietnams-covid-19-response-success/

about COVID-19 on social media. State media reported that “hostile and reactionary forces at home and abroad have taken advantage of spreading on cyberspace much false information, distorting the epidemic situation and the direction and administration of the Government and other ministries, branches and localities in epidemic prevention and control efforts”.²⁰¹

In “working sessions”, people are invited to the police station by letter for an interrogation session with a police officer about their social media usage. Prior to April 2020, the legal basis for these “working sessions” was Decree 174/2013/ND-CP. Since the entry into force of Decree 15 in April 2020, people are believed to have been temporarily detained under this legislation.

People who are “invited” to participate in working sessions often have to sign a statement for police promising to refrain from engaging in the impugned action again, under pain of legal action and the possibility of fines or imprisonment being imposed. In many instances, these “contracts” are contrary to international human rights law as they amount to a threat of prosecution should an individual engage in the peaceful exercise of their human rights. Since the entry into force of Decree 15 in April, this law has also been used to apply administrative fines to individuals on the basis of alleged disinformation related to COVID-19 in some cases.²⁰² However, public information on enforcement of the decree has been sparse.

The legitimacy of each restriction on freedom of expression must be assessed individually based on the same three-part test contained in Article 19 of the ICCPR. However, certain general principles apply. For example, the protection of public health – unlike the vague “national interests” cited in other Vietnamese laws – is among the legitimate aims that can be relied upon to justify certain restrictions on freedom of expression in certain narrow circumstances according to Article 19 of the ICCPR.

Any restrictions on freedom of expression must also be provided by law and any restriction must also be demonstrably necessary and proportionate (that is, the least restrictive measure to achieve the aim of protecting public health). This assessment must be made on a case-by-case basis; however, criminal prosecution and the prospect of long term imprisonment – such as in the cases of Ma Phung Ngoc Phu and Dinh Thi Thu Thuy – is certainly not a proportionate or human rights-compliant response to the COVID-19 pandemic.

4.3 EXTRALEGAL METHODS USED TO SUPPRESS ONLINE EXPRESSION

Bloggers, human rights defenders and activists engaged in online expression in Viet Nam are faced not only with the constant threat of arbitrary arrest and prosecution – they also endure the menace of brutal physical assault, insidious surveillance and intimidation, harassment of family members and online abuse and bullying. Remedies and accountability for such ill-treatment are elusive. Human rights defenders and activists who complain to the authorities after being beaten or harassed are rarely, if ever, taken seriously.

4.3.1 PHYSICAL ATTACKS

In recent years, Amnesty International has documented dozens of physical attacks on online activists and other human rights defenders, some of whom have suffered serious injuries, often by gangs of men in civilian clothes, sometimes wearing face masks.²⁰³ In many cases police present at the scene did not act to prevent the attacks, or intervene in any way, suggesting that the attackers are acting with, at minimum, the consent or acquiescence of state officials. Some attacks have happened within police stations.

In 2014, **Trinh Ba Phuong’s** parents were arrested while protesting government plans to seize their land. After his parents were imprisoned, Trinh Ba Phuong and his brother Trinh Ba Tu continued to challenge the expropriation of their land. They organized people in their village whose lands were also subject to expropriation, educated them about land rights, helped them to file complaints with different government offices and organized protests to demand justice.²⁰⁴

201 Kiem Sat Online, Công an làm việc với gần 700 trường hợp tung tin sai về Covid-19, 27 March 2020, kiemsat.vn/cong-an-lam-viec-voi-gan-700-truong-hop-tung-tin-sai-ve-covid-19-56977.html

202 Quang Ngai TV, Xử lý nghiêm hành vi đưa tin sai sự thật về dịch Covid-19 trên mạng xã hội, 29 July 2020, quangngaitv.vn/tin-tuc-n7378/xu-ly-nghiem-hanh-vi-dua-tin-sai-su-that-ve-dich-covid19-tren-mang-xa-hoi.html

203 See Human Rights Watch, *No country for Human Rights Activists: Assaults on Bloggers and Democracy Campaigners in Vietnam*, June 2017, www.hrw.org/report/2017/06/18/no-country-human-rights-activists/assaults-bloggers-and-democracy-campaigners

204 Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

Their work gained national attention when they became active online, using Facebook to share their story and update their followers. News about their activism circulated on social media, and victims of land expropriations from across the country began to ask them for guidance. As the number of such cases increased, the brothers became two of the most prominent land rights activists in Viet Nam.²⁰⁵ As Trinh Ba Phuong and Trinh Ba Tu became nationally known, the authorities tightened surveillance on the two.

In June 2015, the two brothers, accompanied by roughly a dozen other activists, travelled about 300km to Nghe An province to pick up their father on his release from prison. Before the trip, the group announced its plan on social media and asked for support. As they proceeded on their journey, they posted regular updates on Facebook.

Trinh Ba Phuong said that the police told them after they arrived to wait a few hundred metres from the prison's main gate. There, he says, they were ambushed by a group of unidentified men, armed with rocks and wooden batons. Trinh Ba Phuong was hit in the back of his head and knocked unconscious, while Trinh Ba Tu was also badly beaten. The attack took place in full view of dozens of police officers, but according to Trinh Ba Phuong, none of them intervened.²⁰⁶



Trinh Ba Tu after he was beaten in 2015. Photo supplied.

“I have been detained roughly 20 times in the last six years, police confiscated four of my phones, and my brother and I have been beaten up many times.”

Trinh Ba Phuong, human rights defender and lands rights activist (arbitrarily imprisoned since being interviewed)²⁰⁷

Trinh Ba Phuong told Amnesty International that he has also experienced physical abuse from uniformed police officers: “Police have many times beaten me, especially when they tried to arrest me or when I was in custody.” One of the officers threatened to kill him, he said.²⁰⁸

Trinh Ba Phuong and Trinh Ba Tu use social media to advocate for victims of arbitrary land expropriations across Viet Nam. Their Facebook accounts are followed by more than 80,000 people, and they regularly update news and information about human rights abuses in the country. Social media sites like Facebook can play a valuable role as a space to document and share accounts of such abuses, thereby placing pressure on the perpetrators. “I will not stop even if I have to face a prison sentence, because there are people whose voices need to be heard, and I have to be their messenger,” Trinh Ba Phuong told Amnesty International before he was arrested along with his brother, Trinh Ba Tu, under Article 117 of the 2015 Penal Code for “making, storing, disseminating or propagandizing materials and products that aim to oppose the State of the Socialist Republic of Viet Nam” in June 2020.²⁰⁹

On the evening of 24 June 2018, a rain of bricks and rocks came down on the roof and through the windows of **Do Thi Minh Hanh's** house, damaging household items and threatening to injure the people inside. Do Thi Minh Hanh is an outspoken member of *Lao Dong Viet* (the Viet Labour Movement), which advocates for

205 Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

206 Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020; Dân luận, Cơn đồ tấn công những người đi đón TNLT Trịnh Bá Khiêm, 25 June 2015, www.danluan.org/tin-tuc/20150624/con-do-tan-cong-nhung-nguoi-di-don-tnlt-trinh-ba-khiem

207 Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

208 Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

209 Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

labour rights in Viet Nam. In 2010, her organization had been active in supporting striking factory workers before she and two other colleagues were detained, tried and sentenced to seven years' imprisonment.²¹⁰

In June 2014, the Vietnamese government released Do Thi Minh Hanh, who returned to Lam Dong province and continued her activism on social media. She told Amnesty International that her house was kept under surveillance by unidentified men in civilian clothes. In June 2018, after she had resumed her online activism, Do Thi Minh Hanh's house came under attack when a group of men she believed to be plainclothes police officers threw rocks and other projectiles at her house, breaking windows and her roof. She told Amnesty International that the attack was repeated three times over the next week, with the level of violence increasing each time, and though she repeatedly reported the situation to the local police, they never intervened.²¹¹

Dinh Van Hai, a fellow activist, went to Do Thi Minh Hanh's home to show solidarity after he saw her Facebook posts about the attacks. On 27 June 2018, the two conducted a Facebook livestream to report the situation, describing the damage and calling for help. Shortly after he left the house, he was assaulted by four men on two motorbikes who beat him with wooden batons and metal sticks until he lost consciousness. Local people rushed him to hospital where doctors found that the attack had broken Dinh Van Hai's collarbone, two ribs, and his right hand.²¹²



Dinh Van Hai's injuries in 2018. Photos supplied.

The attacks against Do Thi Minh Hanh's house only stopped after public attention to the incident increased and foreign embassies in Ha Noi raised concerns, although Do Thi Minh Hanh decided to leave her home and move to another city for security reasons as a result of the violence.²¹³

There have been dozens of similar attacks against online activists. In 2018, **Ha Van Nam**, an anti-corruption campaigner, helped organize a civil resistance campaign using cars to block irregular private toll gates on public roads.²¹⁴ The movement spread and drivers across the country began challenging companies whose toll gate permits had expired or who were arbitrarily raising toll charges. Ha Van Nam himself participated in at least 30 campaigns in many cities and provinces and used his Facebook account, which had some 35,000 followers, to share daily livestreams, criticizing companies accused of human rights abuses and mobilizing further public demonstrations.²¹⁵

210 The 88 Project, "Profile: Do Thi Minh Hanh", the88project.org/profile/277/do-thi-minh-hanh

211 Amnesty International, "Viet Nam: Authorities must protect activist from mob attack", 2 July 2018, www.amnesty.org/en/latest/news/2018/07/viet-nam-authorities-must-protect-activist-from-mob-attacks/

212 Amnesty International telephone interview with Dinh Van Hai, 28 August 2019.

213 Amnesty International telephone interview with Do Thi Minh Hanh, 8 July 2018.

214 Email from Do Nam Trung to Amnesty International, 12 December 2019.

215 Email from Do Nam Trung to Amnesty International, 12 December 2019.



Ha Van Nam's injuries from the attack he suffered in January 2019. Photo supplied.

In January 2019, a group of people abducted Ha Van Nam from a tea shop near his home, beat him severely and dropped him in front of a hospital.²¹⁶ Ha Van Nam was hospitalized with broken ribs and extensive bruising, and photos of his injuries were circulated on social media. Do Nam Trung, an activist who worked with Ha Van Nam, told Amnesty International that he believed the group that attacked Ha Van Nam was linked with government officers and companies who were targeted during the movement based on the threats that he and other activists, including Ha Van Nam, had received since they became involved in the movement.²¹⁷

In other cases, groups of government supporters have confronted activists and carried out demonstrations aimed at intimidating them. **Nguyen Lan Thang** is a prominent pro-democracy activist, whose Facebook account is a public platform where his 138,000 followers share opinions on issues of public interest. He frequently writes about sensitive topics such as criticisms of the Communist Party of Viet Nam.

Nguyen Lan Thang says he has encountered “too many incidents to count” of harassment and intimidation by police and pro-government groups targeting himself and his family. In 2015, for instance, Nguyen Lan Thang used Facebook to publicize a call for the authorities to properly investigate a case in which a prisoner, Do Dang Du, had been murdered. His action did not succeed in forcing the authorities to reinvestigate the killing, but the story went viral and attracted public attention.

He told Amnesty International that the day following his Facebook post, government supporters gathered in front of his house. Using a loudspeaker, they called him “reactionary”, accused him of being “disrespectful towards the revolutionary leader” and threatened to “teach him a lesson”.²¹⁸ The group later followed Nguyen Lan Thang to his daughter’s kindergarten, where five of them entered the school, harassed family members and shouted at Nguyen Lan Thang, again accusing him of being a “reactionary who deserves punishment”.²¹⁹ After this incident, Nguyen Lan Thang went to the local police station to complain of this treatment. However, the police failed to take any action.²²⁰

The cases described above are just a small sample of a broader pattern of attacks and intimidation against human rights defenders and activists who express themselves online, carried out with the consent or acquiescence of the authorities in Viet Nam. Amnesty International could find no evidence of these cases being properly investigated by the police or of any in which those suspected to be responsible have been brought to justice.

216 Amnesty International, “Viet Nam: Activist faces trial for statement on Facebook”, 29 July 2019, www.amnesty.org/en/latest/news/2019/07/viet-nam-activist-faces-trial-statements-facebook/

217 Email to Amnesty International, 12 November 2019.

218 Amnesty International telephone interview with Nguyen Lan Thang, 9 September 2019.

219 Amnesty International telephone interview with Nguyen Lan Thang, 9 September 2019.

220 Amnesty International telephone interview with Nguyen Lan Thang, 9 September 2019.

4.3.2 ONLINE HARASSMENT AND ABUSE

“They cursed me, sent death threats, threatened to hurt my family, calling me a traitor or reactionary, all sort of things.”

Nguyen Lan Thang, an activist from in Ha Noi who has used social media since 2011²²¹

DU LUAN VIEN “PUBLIC OPINION SHAPERS”

Du Luan Vien or “public opinion shapers” are people recruited and managed by the Communist Party of Viet Nam’s Department of Propaganda. Their role is to protect the government from online criticism through surveillance, monitoring, trolling of critics and spreading pro-CPV propaganda.²²²

In 2013, Ho Quang Loi, the head of the Department of Propaganda of Ha Noi city, announced that the city had 900 “public opinion collaborators” whose role was to follow “what people care and talk about” and report back to the Department of Propaganda. He also mentioned the establishment of a “specialized group” focusing on “fighting against the enemy’s distorted propaganda” on the Internet.²²³ An article in the state-owned news outlet Thanh Nien suggested that public opinion shapers are often recruited from among young CPV members and Ho Chi Minh’s Communist Youth Union.²²⁴ Soon after the announcement, activists in Ha Noi started receiving harassing and insulting texts and comments on social media.



The screenshot shows a Facebook Messenger chat interface. At the top, the contact is 'Thang Nguyen'. The message, dated 'JUL 3, 22:11', is in a light blue bubble and contains a highly abusive and threatening message in Vietnamese. The text of the message is: 'địt mẹ con vật này, mày rồi cũng theo con chó cái cắn thối cô thôi. nhưng thế vẫn là may cho mày, chứ các bố mà vợ đc mày thì cắt tiết mày như cắt tiết 1 con chó.cái dòng họ ts mới pgs, gs nhà mày cũng toàn uống máu lớn nên mới có loại mày, con mẹ mày chắc chó ngựa nó địt đẻ ra mày..'. Below the message is a small profile picture of the sender.

**“PUBLIC OPINION SHAPING” IN ACTION:
DEATH THREATS AND ABUSE**

This image shows a screenshot of a death threat and other verbal abuse received by **Nguyen Lan Thang**, a well-known human rights defender from Ha Noi. The message was sent by a stranger on Facebook Messenger on 3 July 2019 and roughly translates to:

“You..., you will surely follow the other bitches. You are lucky that we don't see you; otherwise, we will cut your throat like a fucking dog. Your entire family must have drank menstruation blood therefore they are so unlucky to give birth to you, and your mother must have been ... by a dog.”

An abusive Facebook message sent to Nguyen Lan Thang in 2019 (screenshot supplied)

The Vietnamese government has revealed little information about *Du Luan Vien* public opinion shapers. However, the number of incidents and reports involving online harassment of human rights defenders and activists by supporters of the CPV over the last two years suggests that they have expanded their capacity. In 2013, for instance, public opinion shapers only operated in Ha Noi, but based on interviews with affected human rights defenders in Viet Nam, they appear to have expanded their operations to the provincial level.

Amnesty International has documented dozens of incidents in which human rights defenders and activists have received harassing messages in recent years, some of which included death threats or other threats of

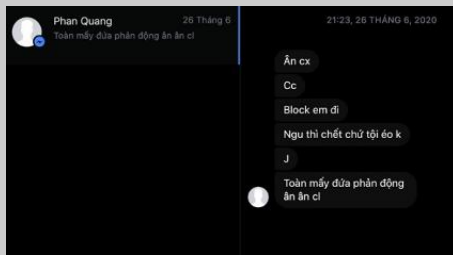
²²¹ Amnesty International telephone interview with Nguyen Lan Thang, 9 September 2019.

²²² Báo Lao Động, Tổ chức nhóm chuyên gia bút chiến trên Internet, 9 January 2013, laodong.vn/archived/to-chuc-nhom-chuyen-gia-but-chien-tren-internet-698587.lido

²²³ Baodatviet.vn, Ông Hồ Quang Lợi: Tổ chức nhóm bút chiến trên Internet, 9 January 2013, baodatviet.vn/kinh-tri-xa-hoi/kinh-tri-viet-nam/ong-ho-quang-loi-to-chuc-nhom-but-chien-tren-internet-2211402

²²⁴ ThanhNien, Đảng viên trẻ phải học, đọc mới nhận diện được âm mưu của thế lực thù địch, 28 August 2019, thanhnien.vn/gioi-tre/dang-vien-tre-phai-hoc-doc-moi-nhan-dien-duoc-am-muu-cua-the-luc-thu-dich-1118858.html

violence. Amnesty International's Facebook page has likewise received harassing messages sent by accounts in Viet Nam.



Trolling message sent to Amnesty International's Southeast Asia and the Pacific Facebook page in June 2020.

“PUBLIC OPINION SHAPING” IN ACTION: TROLLING AND ABUSE

Amnesty International's Facebook page received this message (pictured left) in Vietnamese on 26 June 2020, which stated: “Hide comment, I dare you to block me you stupid reactionary, go eat shit.”

Another, received in March 2019, stated: “Stop being reactionary, you animal! The Vietnamese are having a peaceful life, stop being horny.”

Amnesty International has received reports of concerted online harassment and intimidation of activists from Hai Duong in the north, the central province of Hue and the southernmost province of An Giang. In Hai Duong, the local branch of the CPV's propaganda department revealed in 2018 that it had 300 public opinion shapers.²²⁵



Screenshot from Nguyen Thuy Hanh's Facebook Messenger account. Photo supplied.

“I AM SO SCARED – I FEEL NERVOUS ANYTIME I POST SOMETHING ON FACEBOOK.”

Nguyen Thuy Hanh is a human rights defender from Ha Noi. She is the founder of 50K Foundation, which focuses on providing financial aid to families of prisoners of conscience and others detained on political grounds in Viet Nam. She told Amnesty International that she had often received threatening and abusive messages on Facebook from strangers. She said that she deleted most of the messages because they made her feel anxious and sick every time she read them. She told Amnesty International: “They used all sort of dirty words – the dirtiest one can imagine, to attack me.”²²⁶ This text message (pictured, left) was sent to Nguyen Thuy Hanh on Facebook Messenger in March 2019. It reads: “Be careful when you go outside.”

Vietnamese human rights defenders reported to Amnesty International that they felt it was futile to report such abuse and treatment to the authorities, as it is widely accepted that the authorities themselves are complicit in such behaviour. Nguyen Lan Thang told Amnesty International: “For years, activists in Viet Nam including myself, have faced greater threats including physical assaults, and we are aware that police were behind those attacks; therefore, we don't have faith that police will take our complaints seriously about someone messaging us on Facebook.”²²⁷

4.3.3 “FORCE 47” CYBER-TROOPS

In December 2017, Lieutenant General Nguyen Trong Nghia, deputy head of the Vietnamese Military's political department, introduced “Force 47”, a cyberspace military battalion made up of some 10,000 state security forces – or “cyber-troops” – whose function is to “fight against wrong views and distorted

²²⁵ Ban Tuyên Giáo Hai Duong, *Nắm bắt và định hướng dư luận xã hội theo kịp tình hình mới*, 8 July 2018, bantuyengiao.haiduong.org.vn/Trang/ChiTietTinTuc.aspx?nid=8234

²²⁶ Amnesty International interview with Nguyen Thuy Hanh, 12 December 2019.

²²⁷ Amnesty International telephone interview with Nguyen Lan Thang, 9 September 2019.

information on the internet” and who are expected “in every hour, minute and second ... [to] be ready to fight proactively against the wrong views”.²²⁸

“Cyber-troops” are defined as government or political party actors tasked with manipulating public opinion online.²²⁹ In Viet Nam, Force 47 operates opaquely, with little information about its activities made publicly available. However, there appears to be significant crossover between the work of public opinion shapers and cyber-troops in the areas of trolling, spreading propaganda and mass reporting.

In its 2019 “Inventory of Organised Social Media Manipulation”, the Oxford Internet Institute’s Project on Computational Propaganda listed Viet Nam as having high cyber-troop capacity, along with countries such as China, Iran, Israel, Russia, Saudi Arabia and the United States. High capacity in this context entails a “large number of staff and large budgetary expenditure on psychological operations or information warfare”.²³⁰ Their research also found that Vietnamese cyber-troops operate mainly on Facebook and YouTube, creating fake accounts (or sometimes using their own) “to spread pro-government propaganda, troll political dissidents, or mass-report content”.²³¹ The Oxford Internet Institute goes on to state that in Viet Nam, cyber-troops are made up of “full-time staff dedicated to shaping the information space”.²³²

Vietnamese cyber-troops and public opinion shapers, as the Oxford Internet Institute noted, also operate mass reporting campaigns.²³³ These reports tend to rely upon the community reporting function offered by social media companies, such as via the “report abuse” function, whereby users can report violations of community standards by other users to the social media company. In a mass reporting campaign, large numbers of users – often cyber-troops – simultaneously “report” a particular account or specific content with the aim of having it deleted or suspended by social media companies on the basis of it violating community standards.

The systematic abuse of Facebook’s “report abuse” function by Vietnamese cyber-troops was first reported by journalists in 2014. Because individuals who are reported for violations of Facebook’s community standards can face a range of consequences, including restrictions on their ability to post on Facebook or the disabling of their accounts, observers began to note that Facebook’s abuse-reporting functions “can also be used as a tool for stifling dissent” and that Viet Nam appeared to be “the first place where Facebook’s own policies have been singled out for enabling attacks”.²³⁴



Screenshot of a review of Amnesty International's Facebook Page

An apparent example of mass reporting function at work can be seen in this zero-star review of the Amnesty International Southeast Asia and the Pacific Facebook page from 10 February 2019, in which the reviewer states:

“This is a reactionary page, let’s report them.”

Facebook shut down Nguyen Thuy Hanh’s account for a week in August 2019 because one of her posts was said to have violated Facebook’s community standards. However, she told Amnesty International that she was not told which post had caused the suspension – instead, she said she was notified that if this happened again, she would be banned for a month. “I believe my Facebook account was targeted by *Du Luan Vien*,” she told Amnesty International.²³⁵

Over the past year, Amnesty International has received dozens of reports from activists in Viet Nam whose posts were removed or whose accounts were suspended on the basis of community standards violations, apparently as a result of mass reporting campaigns like the one that resulted in the closure of Nguyen Thuy Hanh’s Facebook account.

228 Hơn 10.000 người trong ‘Lực lượng 47’ đấu tranh trên mạng, 25 December 2017, tuoitre.vn/hon-10-000-nguoi-trong-luc-luong-47-dau-tranh-tren-mang-20171225150602912.htm

229 Samantha Bradshaw and Philip N. Howard, “The Global Organization of Social Media Disinformation Campaigns”, 17 September 2018, jia.sipa.columbia.edu/global-organization-social-media-disinformation-campaigns

230 Samantha Bradshaw and Philip N. Howard, “The Global Disinformation Order: 2019 Global Inventory of Organised Social Media Manipulation”, Oxford Internet Institute Project on Computational Propaganda, 2019, comprop.oii.ox.ac.uk/wp-content/uploads/sites/93/2019/09/CyberTroop-Report19.pdf (hereinafter: “S. Bradshaw & P. Howard, “Global Disinformation Order”), p.8.

231 S. Bradshaw & P. Howard, “Global Disinformation Order”, p. 11.

232 S. Bradshaw & P. Howard, “Global Disinformation Order”, p. 11.

233 S. Bradshaw & P. Howard, “Global Disinformation Order”, pp. 17–18.

234 Russell Brandom, “Facebook’s Report Abuse button has become a tool of global oppression” *The Verge*, 2 September 2014, www.theverge.com/2014/9/2/6083647/facebook-s-report-abuse-button-has-become-a-tool-of-global-oppression

235 Amnesty International telephone interview with Nguyen Thuy Hanh, 11 December 2019.

Truong Chau Huu Danh – a well-known freelance journalist with more than 150,000 Facebook followers and a verified account – told Amnesty International that he believes he has been subjected to reporting campaigns organized by cyber-troops. In March 2019, Truong Chau Huu Danh attended a criminal trial in Vinh Long province and criticized the proceedings afterwards as “unjust”. At the court, police detained Truong Chau Huu Danh and confiscated and checked his phone to see whether he had taken any photos or recordings of the hearing. He posted a report of the incident on Facebook, and he told Amnesty International that, shortly afterwards, Facebook notified him that the post had been reported as a violation of community standards and that his account would therefore be deactivated for 30 days.²³⁶

“I have faced this kind of restriction so many times that I get bored of it,” he later told Amnesty International.²³⁷ His Facebook account was temporarily deactivated six times in 2019, and each suspension, he believes, was the result of a coordinated reporting campaign.

Even when the restrictions are reversed on appeal, they have a negative impact on the work of human rights defenders and activists, as appeals can be slow and time-consuming. **Nguyen Van Trang** explained to Amnesty International that, when he posts videos about Vietnamese politicians, YouTube sends him a notification saying the video violates the privacy rights of the politicians and that he can delete it within 48 hours or risk punitive action. He added that he does have the option of appealing punitive action and that, when he does appeal, he usually succeeds. Despite these successes, he explained, “It’s really exhausting to go through that long [appeals] process. It’s time consuming, I have to write a lot and submit a lot of information.”²³⁸

Do Nam Trung is a human rights defender from Ha Noi. Through his online activism, he has become a public figure in Viet Nam and his Facebook account has 23,000 followers. In 2019, he posted about allegations of corruption involving the local Communist Party secretary of Bac Ninh province. His posts

mentioned the allegedly suspicious wealth of the politician, as well as the fact that many important posts in the provincial government were allegedly occupied by the relatives of this politician. Soon after sharing this information, Do Nam Trung received a notification from Facebook saying that he had violated the platform’s community standards and that Facebook was suspending his account for a period of four months.²³⁹

In June 2020, once his account was again functional, Do Nam Trung started a new anti-corruption campaign and posted 13 pieces of content on his Facebook, detailing how the family of a local Communist Party leader allegedly abused his power and engaged in corruption.

Do Nam Trung believes he became the subject of a targeted mass reporting campaign in response to these posts. He began receiving notifications saying his posts were reported for violating Facebook’s community standards, and on 2 July Facebook suspended his account for one week (notification pictured left), during which Do Nam Trung lost access to his Facebook account.²⁴⁰

The Special Rapporteur on freedom of expression has noted that “account suspensions or content removals during public protest or debate could have significant impact on political rights and yet lack any company remedy.”²⁴¹



236 Amnesty International interview with Truong Chau Huu Danh, 9 July 2020.

237 Amnesty International telephone interview with Truong Chau Huu Danh, 10 September 2019.

238 Amnesty International, Interview with Nguyen Van Trang, 9 July 2020.

239 Amnesty International telephone interview with Do Nam Trung, 10 July 2020.

240 Amnesty International telephone interview with Do Nam Trung, 10 July 2020.

241 Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, paras. 37–38.

Speaking to Amnesty International, Do Nam Trung said the suspension affected his ability to reach his audience and stopped him from continuing his activism. When asked about Facebook's actions in Viet Nam, he said: "I strongly disagree with [the actions] of Facebook, they have turned themselves into a part of the censorship regime of the Vietnamese authorities, and for me Facebook now is no different from an autocratic regime."²⁴²

In addition to mass reporting and trolling, Force 47 is also reported to engage in hacking of critical websites.²⁴³ Several Vietnamese human rights defenders and activists told Amnesty International they had been targeted by hacking attempts, although direct evidence of hacking tied to Force 47 could not be verified by the organization.

Trinh Ba Phuong had been in close contact with the villagers of Dong Tam and used his Facebook account, with nearly 50,000 followers, to publicize information from people in Dong Tam in real time. As the incident attracted more public attention, the authorities reportedly increased their surveillance on Trinh Ba Phuong. Simultaneously, he was subjected to hacking attempts.²⁴⁴

He told Amnesty International: "The next day after the incident, I started receiving notifications alerting me of someone trying to hack into my email which I used to register my Facebook account, and from then on I had to change my email's password constantly to avoid losing control over it. In real life, police were also surrounding my house."²⁴⁵

According to international human rights law, states have an obligation to ensure a safe and enabling environment for the free exchange of views and opinions. Trolling and threatening human rights defenders, activists and political dissidents and mass reporting of legitimate content has a chilling effect on the right to freedom of expression. The UN Human Rights Committee has noted that states must protect against "attacks aimed at silencing those exercising their right to freedom of expression" and that such attacks constitute violations of Article 19 of the ICCPR.²⁴⁶

²⁴² Amnesty International telephone interview with Do Nam Trung, 10 July 2020.

²⁴³ See Adam Bemma, "Vietnam's battalions of 'cyber-armies' silencing online dissent", Al Jazeera, 17 January 2020, www.aljazeera.com/news/2020/1/17/vietnams-battalions-of-cyber-armies-silencing-online-dissent

²⁴⁴ Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

²⁴⁵ Amnesty International telephone interview with Trinh Ba Phuong, 11 February 2020.

²⁴⁶ General Comment No. 34, para. 23.

5. CONCLUSION AND RECOMMENDATIONS

The ascent of the internet age has profoundly altered the lives of millions of people in Viet Nam in ways which were unimaginable just two decades ago. The migration of so many aspects of social, commercial, economic, and political life to online space has brought both unprecedented opportunities for the expansion of freedom of expression for the Vietnamese public, and newfound means of surveillance, control, and harassment of independent and critical voices by the Vietnamese authorities.

Viet Nam's increasing formal recognition of human rights in law, including through human rights guarantees in the 2013 constitution, is a welcome development accompanying the country's rapid economic growth and its improvement in the realization of economic and social rights for many of its inhabitants. However, these recent improvements in certain aspects of human rights protection have been accompanied by an uptick in the prosecution and harassment of human rights defenders and activists, especially those expressing themselves online. Heavy-handed extra-legal attacks, including physical assaults without investigation or redress – in addition to online harassment, surveillance and trolling – are an increasing cause for concern.

Viet Nam remains an extremely dangerous country for human rights defenders to conduct their work freely. In order to continue its development as a rights-respecting country in which its residents are free to exercise their human rights without fear of persecution, significant reforms to legislation, policy and practice are required. Human rights are indivisible and mutually interdependent; increasing respect for economic and social rights can never be used as a justification for the systematic violations of civil and political rights, as occurs in Viet Nam today.

Viet Nam's economic liberalization has made it a lucrative market for international technology firms. US tech giants Facebook and Google now play an outsized role in defining the rules of the game in Viet Nam's new public sphere. As the Vietnamese authorities have developed their capacities in online surveillance, harassment and censorship, Facebook and Google are faced with a stark choice: either respect human rights at the risk of being sanctioned or banned by the Vietnamese authorities or else comply with the authorities' repressive censorship and surveillance regime in order to ensure market access and maximize profits.

Tech firms often publicly espouse a commitment to freedom of expression and frame their desire to maintain market access in rights-abusing countries in these terms. However, as this report has revealed, the extent of the complicity of "big tech" in Viet Nam's censorship regime is quickly making both Facebook and YouTube human rights-free zones in Viet Nam. Facebook's publicly acknowledged decision to increase its compliance with the Vietnamese authorities' censorship demands in April 2020 and Google's longstanding record of compliance with the authorities' arbitrary censorship requests are already having knock-on effects elsewhere in Southeast Asia and beyond. Unless these companies make decisive and systemic reforms to their policies and practices, similar situations are likely to proliferate across the world in other repressive contexts.

For Facebook, Google and other tech companies, the way forward is clear, and it is grounded in international human rights law and standards. As noted by David Kaye, the former Special Rapporteur on freedom of expression:

National laws are inappropriate for companies that seek common norms for their geographically and culturally diverse user base. But human rights standards, if implemented transparently and

consistently with meaningful user and civil society input, provide a framework for holding both States and companies accountable to users across national borders ... A human rights framework enables forceful normative responses against undue State restrictions – provided companies play by similar rules. The [UN Guiding Principles on Business and Human Rights] and their accompanying body of “soft law” provide guidance on how companies should prevent or mitigate government demands for excessive content removals. But they also establish principles of due diligence, transparency, accountability and remediation that limit platform interference with human rights through product and policy development.

Companies committed to implementing human rights standards throughout their operations – and not merely when it aligns with their interests – will stand on firmer ground when they seek to hold States accountable to the same standards. Furthermore, when companies align their terms of service more closely with human rights law, States will find it harder to exploit them to censor content.²⁴⁷

As major international tech companies come under increasing scrutiny for their profit-driven role with regard to elections, democracy, disinformation and the proliferation of “hate speech” and extremism around the world, there are a litany of problems facing big tech which have a common solution – the overhaul of internal policies in order to align them with international human rights law, in addition to state regulation of tech firms to enforce such human rights standards, both at home and abroad.

In light of the findings presented in this report, Amnesty International makes the following recommendations to the Vietnamese authorities, technology companies, and other relevant stakeholders:

RECOMMENDATIONS

TO THE VIETNAMESE GOVERNMENT

- Repeal or revise Articles 117, 118 and 331 of the 2015 Criminal Code, which unduly restrict the rights to freedom of expression, peaceful assembly and association, in order to bring them into conformity with international human rights law.
- Undertake a review and amendment of the Law on Cybersecurity to bring it into conformity with international human rights law, and in particular:
 - Repeal or amend Articles 8, 16, 17 and 26 of the Law on Cybersecurity so that they align with international human rights standards governing freedom of expression;
 - Include specific safeguards against arbitrary and discriminatory application of the law;
 - Remove all provisions that would compel internet or tech companies to disclose personal data without adequate safeguards to prevent abuse.
- Repeal or amend Articles 99, 100 and 101 of Decree 15/2020/ND-CP so they align with international human rights standards governing freedom of expression and the right to privacy.
- Repeal or amend Articles 5, 22 and 25 of Decree 72/2013/ND-CP so they align with international human rights standards governing freedom of expression and the right to privacy, and refrain from introducing the currently proposed amendment to the Decree, in particular the proposed amendments under Article 23.d.
- Cease the harassment, intimidation, arrest and prosecution of human rights defenders, activists and all individuals engaged in the peaceful exercise of their right to freedom of expression and other human rights on- and offline.
- End the arbitrary censorship of independent news and media for both domestic and international news outlets; cease restrictions on online information sources and internet usage; and provide a safe space and enabling environment for journalists, citizen journalists, bloggers and others who express themselves online.
- Immediately and unconditionally release all prisoners of conscience: that is, all those detained solely for peacefully exercising their right to freedom of expression and other human rights.

²⁴⁷ Special Rapporteur’s Report to the HRC, UN Doc. A/HRC/38/35, paras. 41–42.

- Ensure the protection of human rights defenders, activists and others who express themselves online from physical attacks, threats and online abuse, and launch thorough, independent, transparent and effective investigations into all allegations of such abuses, and bring those responsible to justice.
- Ensure that all content moderation requests which are sent to technology companies comply with international human rights standards governing freedom of expression and that they are made in writing pursuant to a valid legal order following due process and the principles of legality, necessity and proportionality.
- Publish periodic transparency reports on all content-related requests issued to technology companies and involve genuine public input in all regulatory considerations.
- Refrain from taking extra-legal measures against technology firms with the aim of pressuring them into compliance with requests for content moderation and sharing user data.

TO TECHNOLOGY COMPANIES INCLUDING FACEBOOK AND GOOGLE

- Ensure that human rights due diligence policies and processes address the systemic and widespread human rights impacts of business models as a whole, in particular the rights to privacy and freedom of expression, be transparent about how impacts are identified and addressed, and provide information about specific human rights risks or abuses.
- Unambiguously and decisively adopt new content moderation and community standards policies that are explicitly and primarily grounded in international human rights standards, particularly the UN Guiding Principles on Business and Human Rights.
- Undertake rigorous human rights impact assessments for product and policy development on an ongoing basis based on meaningful public and civil society consultation.
- Overhaul current approaches to transparency at all stages of operations, from the creation of rules to their implementation.
- Ensure that users (including users who 'share' content originated by others) who have their content restricted based on local law are given clear and detailed reasons for the restriction, including the specific legal grounds, and ensure they are provided with the opportunity to appeal any decisions to restrict their content.
- Ensure that monitoring and oversight bodies such as Facebook's new Oversight Board are empowered to make binding policy changes in respect of content moderation and transparency, not merely in respect of individual cases.
- Expand the mandate of Facebook's Oversight Board to include the evaluation, grounded in international human rights law, of content moderation decisions that have been made pursuant to local law.
- Refuse to hand over user data that could be used to persecute or endanger human rights defenders, activists and others engaged on the peaceful exercise of their human rights on social media platforms.
- Take action to remediate any human rights abuses caused by or contributed to through business operations.

TO THE UNITED STATES GOVERNMENT

- Introduce legislation that regulates technology companies domiciled in the United States to ensure their respect for human rights domestically and internationally in line with the UN Guiding Principles on Business and Human Rights and ensure such legislation:
 - Creates avenues for accountability and effective remedies for individuals who suffer human rights abuses contributed to by US technology companies;
 - Requires that content moderation policies and community standards are solidly grounded in international human rights law and standards;
 - Requires that transparency reporting of technology companies is radically improved.

TO GOVERNMENTS ENGAGED IN BILATERAL COOPERATION WITH VIET NAM

Amnesty International also calls on other governments to take steps to ensure that Viet Nam upholds its obligations under international human rights treaties to which it is a state party as follows:

- Publicly call on the Vietnamese authorities to end arrests, prosecutions and convictions of people for the peaceful exercise of their rights to freedom of expression and association on and offline;
- Urge the Vietnamese authorities to immediately and unconditionally release all prisoners of conscience, including those imprisoned for online expression;
- Call on the Vietnamese authorities to take immediate legislative, administrative, judicial and other measures to bring the country into compliance with its international human rights obligations, including under the International Covenant on Civil and Political Rights.

ANNEX A: PRISONERS OF CONSCIENCE IMPRISONED FOR ONLINE EXPRESSION

Amnesty International has documented the cases of 69 prisoners of conscience (53 men and 16 women) currently imprisoned for expressing opinions on online platforms. All 69 were imprisoned because of Facebook posts. At the time of publication, 25 were being held in pre-trial detention and 44 were serving sentences ranging between nine months and 11 years. Thirty-five people were charged under Article 117 of the 2015 Penal Code, 16 were charged under Article 331 of the 2015 Penal Code; nine were charged under Article 88 of the 1999 Penal Code; and nine were charged under Article 118 of the 2015 Penal Code.

Among the 69:

- 37 were imprisoned for posting content deemed to oppose the Communist Party of Viet Nam;
- 9 were imprisoned for engaging in journalism or citizen journalism;
- 9 were imprisoned for posting about the laws on Special Economic Zones and Cybersecurity;
- 6 were imprisoned for posting content about the Dong Tam incident (see Section 3.3);
- 2 were imprisoned for posting content about the COVID-19 pandemic;
- 6 were imprisoned for miscellaneous content protected by international human rights law.

IMPRISONED FOR POSTING CONTENT DEEMED CRITICAL OF THE COMMUNIST PARTY OF VIET NAM

Bùi Hiếu Võ (m), born in 1962, is a mechanic from Hồ Chí Minh City who used Facebook to express his opinions on political and economic issues. He was arrested in March 2017 under Article 88 of the 1999 Penal Code for “conducting propaganda against the state”. Convicted of that crime on 9 May 2018, he was sentenced to **four and a half years in prison**. It is not known where he is currently being held. *Release due September 2021.*

Bùi Mạnh Đồng (m), born in 1978, is from Cần Thơ city, in southern Viet Nam. He was arrested on 1 September 2018. Police accused him of using Facebook to “post images which contain defamatory

contents intended to distort and smear the Vietnamese Communist Party and its leaders”.²⁴⁸ He was tried on 27 September, just 26 days after his arrest. He was convicted in Thot Not District People’s Court of “abusing democratic freedom” under Article 331 of the 2015 Penal Code and sentenced to **two and a half years in prison**. It is not known where he is currently held. *Release due March 2021*.

Đỗ Thế Hóa (m) is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. He was arrested on 1 September 2018 and accused of “using social media to spread false information about constitutional rights.”²⁴⁹ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Đỗ Thế Hóa to **five years in prison** for “disrupting security” under article 118 of the 2015 Penal Code. *Release due September 2023*.

Đoàn Khánh Vinh Quang (m), age 43, is a blogger from Can Tho City who used social media to express peaceful opinions. He was arrested on 1 September 2018 and tried three weeks later, on 24 September, before the Ninh Kiều District People’s Court. Convicted of “abusing democratic freedom to violate the interests of the state” under Article 331 of the 2015 Penal Code, he was sentenced to **two years and three months in prison**. It is not known where he is currently being held. *Release due December 2020*.

Đoàn Thị Hồng (f), born in 1983, is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. She was arrested on 1 September 2018, accused of “using social media to spread false information about constitutional rights”.²⁵⁰ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Đoàn Thị Hồng to **two years and six months in prison** for “disrupting security” under Article 118 of the 2015 Penal Code. *Release due March 2021*.

Dinh Van Phu (m), born in 1973, is from Dak Nong province. He used Facebook to express his political beliefs. The authorities accused him of posting and circulating “toxic content” on Facebook aimed at “defaming leaders of the Vietnamese Communist Party”.²⁵¹ He was arrested on 9 January 2020 under Article 117 of 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. His current location is unknown. *Pre-trial detention*.

Le Anh Hung (m), born in 1973, is a blogger, independent journalist, pro-democracy activist, and government critic from Hà Nội. In 2013, the authorities interned him in a psychiatric hospital in an attempt to stop his activism.²⁵² After his release, he often faced harassment and intimidation from the authorities. On 5 July 2018, he was arrested under Article 331 of the 2015 Penal Code on charges of “abusing democratic freedom”.²⁵³ On 3 April 2019, the authorities again moved him to a psychiatric hospital. He is currently being held at Central Mental Hospital Number 1 in Hà Nội. *Pre-trial detention*.

Hồ Đình Cường (m), born in 1979, is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. He was arrested on 8 September 2018 and accused of “using social media to spread false information about constitutional rights”.²⁵⁴ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Hồ Đình Cường to **four years and six months in prison** for “disrupting security” under Article 118 of the 2015 Penal Code. *Release due March 2023*.

Hoàng Thị Thu Vang (f), born in 1966, is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. She was arrested on 3 September 2018, accused of “using social media to spread false information about constitutional rights”.²⁵⁵ On 31 July 2020, the People’s Court of Ho Chi Minh City

248 Dân Trí, Lành án tù vì đăng bài xuyên tạc lên mạng xã hội, 27 September 2018, dantri.com.vn/phap-luat/lanh-an-tu-vi-dang-bai-xuyen-tac-len-mang-xa-hoi-2018092714205368.htm

249 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

250 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

251 Hanoi Mới, Đắk Nông: Khởi tố, bắt giam đối tượng tuyên truyền chống nhà nước, 9 January 2020, www.hanoimoi.com.vn/tin-tuc/Phap-luat/955173/dak-nong-khoi-to-bat-tam-giam-doi-tuong-tuyen-truyen-chong-nha-nuoc

252 VOA Tiếng Việt, Blogger Lê Anh Hùng bị giam cầm hơn hai năm chưa được xét xử, 9 July 2020, www.voatiengviet.com/a/blogger-le-anh-hung-bi-giam-cam-hon-hai-nam-chua-duoc-xet-xu/5495888.html

253 BBC News Tiếng Việt, Blogger Lê Anh Hùng bị bắt tạm giam 3 tháng, 5 July 2018, www.bbc.com/vietnamese/vietnam-44720856

254 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

255 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

convicted and sentenced Đoàn Thị Hồng to **seven years in prison** for “disrupting security” under article 118 of the 2015 Penal Code. *Release due September 2025.*

Huỳnh Trương Ca (m), age 52, is a gardener from Đồng Tháp province and a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political grouping that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. He was arrested on 4 September 2018. Police accused him of “doing more than 40 livestreams on Facebook of which 18 contained anti-state contents”.²⁵⁶ He was tried and convicted before the Đồng Tháp Provincial People’s Court on 28 December 2018 and sentenced to **five and a half years in prison** for “making, storing, disseminating or propagandizing materials and products that aim to oppose the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. He is currently serving his sentence at Xuân Lộc prison, in Đồng Nai province. *Release due March 2024.*

Huỳnh Thị Kim Quyên (f), born in 1979, is from An Giang province. She was arrested on 30 April 2017 after police accused her of “creating a private group on social media to make up false information and talking badly about the Communist Party and the State”.²⁵⁷ On 21 December 2017, the People’s Court of An Giang Province convicted and sentenced Huỳnh Thị Kim Quyên to **four years in prison** for “abusing democratic freedom” under article 88 of the 1999 Penal Code. *Release due April 2021.*

Lê Quý Lộc (m), born in 1967, is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. He was arrested on 3 September 2018 and accused of “using social media to spread false information about some of the constitutional rights”.²⁵⁸ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Lê Quý Lộc to **five years in prison** for “disrupting security” under Article 118 of the 2015 Penal Code. *Due release September 2023.*

Le Van Hai (m), born in 1966, is from Binh Dinh province. He used his Facebook page to share information about his family’s land issues and about leaders of the Communist Party of Viet Nam. The authorities accused him of using his Facebook accounts to “post and share many articles whose content are considered by the authorities as offending the prestige and honor of many leaders of the Communist Party, State, Government, Ministry of Natural Resources and Environment, Government Inspector, and Chairman of Binh Dinh Provincial People’s Committee”.²⁵⁹ Le Van Hai was arrested on 18 September 2020 and charged with “abusing democratic freedom”, under Article 331 of the 2015 Criminal Code. It is unknown where Le Van Hai is currently detained. *Pre-trial detention.*

Le Van Sinh (m), born in 1965, is from Ninh Binh province. In 2018, he used Facebook to express his views on political and social issues in Viet Nam, including his disagreement with the proposed draft laws on Special Economic Zones and Cybersecurity; corruption; and certain government policies. Police arrested him on 15 February 2019 on charges of “abusing democratic freedom” under Article 331 of the 2015 Penal Code. He was then convicted and sentenced to **five years in prison** by the People’s Court of Ninh Binh Province on 5 September 2019. *Release due 15 February 2024.*

Ngô Văn Dũng (m) is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. He was arrested on 4 September 2018, accused of “using social media to spread false information about constitutional rights”.²⁶⁰ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Ngô Văn Dũng to **five years in prison** for “disrupting security” under Article 118 of the 2015 Penal Code. *Release due September 2023.*

Nguyen Chi Vung (m), born in 1981, is a telephone repairman from Bac Lieu province. In May 2018, the government proposed the two draft laws on special economic zones and cybersecurity which were scheduled to be passed by the National Assembly in June the same year. Nguyen Chi Vung used Facebook to express his disagreement about these draft laws and participated in demonstrations in June to protest the plan to pass those laws. He then continued to express his opinions on Facebook on issues such as corruption, human rights, democracy and the environment. On 23 April 2019, police arrested Nguyen Chi Vung for allegedly “making, storing, or spreading information, materials or items for the purpose of opposing the State

256 Đồng Tháp, Bị cáo Huỳnh Trương Ca lãnh án 5 năm 6 tháng tù, 28 December 2018, www.baodongthap.vn/phap-luat/bi-ca-huynh-truong-ca-lanh-an-5-nam-6-thang-tu-81750.aspx.

257 Lao Động, An Giang: 19 năm tù cho nhóm tuyên truyền chống phá Nhà nước CHXHCN Việt Nam, 21 December 2017, laodong.vn/phap-luat/an-giang-19-nam-tu-cho-nhom-tuyen-truyen-chong-pha-nha-nuoc-chxhcn-viet-nam-582486.lao

258 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

259 Sai Gon Giai Phong Online, Bắt đối tượng lên Facebook xúc phạm lãnh đạo Đảng, Nhà nước, 18 September 2020, www.sggo.org.vn/bat-doi-tuong-len-facebook-xuc-pham-lanh-dao-dang-nha-nuoc-686153.html

260 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. On 26 November 2019, the People’s Court of Bac Lieu province convicted and sentenced Nguyen Chi Vung to **six years in prison**. *Release due 23 April 2025.*

Nguyễn Duy Sơn (m), born in 1981, worked in management at a university in Thanh Hóa province. A social media user, he frequently expressed his opinions on local political and social issues on Facebook. He was arrested in Thanh Hóa province on 8 May 2018. Police accused him of using Facebook to “post content intended to distort and defame the local government and Communist party leaders.”²⁶¹ He was charged under Article 331 of the 2015 Penal Code for “abusing democratic freedom”. It is not known where he is currently being held. *Pre-trial detention.*

Nguyen Duc Quoc Vuong (m), born in 1991, is a driver’s assistant from Lam Dong province. He is a well-known activist who has 10,000 followers on Facebook, where he expressed his political opinions through writing and livestreaming. On 23 September 2019, police arrested Nguyen Duc Quoc Vuong. He was charged under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. He was tried, convicted and sentenced to **eight years in prison** on 7 July 2020 by the People’s Court of Lam Dong province. His current location is Trai Mat prison in Lam Dong province. *Release due September 2027.*

Nguyen Nang Tinh (m), born in 1976, is a music teacher from Nghe An province. He is also a human rights defender who advocated for religious freedom and environmental rights. In 2016, he volunteered to teach music to students from a community whose lands were expropriated by the government to build a factory. That year, the Formosa environmental disaster took place at this location which resulted in the death of hundreds of tons of fish in the ocean, forcing hundreds of thousands of people into unemployment. Nguyen Nang Tinh stayed in the affected area and supported the local community. He used his Facebook account to talk about environmental rights and demanded justice for the victims of the disaster. Ever since, he actively engaged in online discussion about social and political issues in Viet Nam, including corruption, legislation, the environment and human rights. On 29 May 2019, police arrested Nguyen Nang Tinh on charges of “making, storing, disseminating or propagandizing materials and products aimed at opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. He was brought to trial on 15 November 2019, convicted and sentenced to **11 years in prison** by the People’s Court of Nghe An province. He is currently being held at Nghi Kim Detention Centre in Nghe An province. *Release due May 2030.*

Nguyễn Ngọc Quý (m), born in 1992, is from An Giang province. He was arrested on 30 April 2017 after police accused him of “creating a private group on social media to make up false information and talking badly about the Communist Party and the State”.²⁶² On 21 December 2017, the People’s Court of An Giang province convicted and sentenced Nguyễn Ngọc Quý to **four years in prison** for “abusing democratic freedom” under Article 88 of the 1999 Penal Code. *Release due April 2021.*

Nguyễn Tấn An (m), born in 1992, is from An Giang province. He was arrested on 30 April 2017, police accused him of “creating a private group on social media to make up false information and talk badly about the Communist Party and the State”.²⁶³ On 21 December 2017, the People’s Court of An Giang province convicted and sentenced Nguyễn Tấn An to **five years in prison** for “abusing democratic freedom” under Article 88 of the 1999 Penal Code. *Release due April 2022.*

Nguyễn Thị Ngọc Hạnh (f), born in 1976, is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. She was arrested on 4 September 2018, accused of “using social media to spread false information about constitutional rights”.²⁶⁴ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Nguyễn Thị Ngọc Hạnh to **eight years in prison** for “disrupting security” under Article 118 of the 2015 Penal Code. *Release due September 2026.*

Nguyễn Thị Ngọc Sương (f) born in 1968, is from Dong Nai province. She was arrested on 13 October 2018 after police accused her of “using many different Facebook accounts to interact with other people and watch and listen to videos containing content opposing the government”.²⁶⁵ On 10 May 2019, the People’s Court of

261 Pháp Luật, Bắt tạm giam đối tượng sử dụng mạng xã hội đăng tin xuyên tạc, nói xấu lãnh đạo Đảng, Nhà nước, 5 May 2018, ninhthudo.vn/bat-tam-giam-doi-tuong-su-dung-mang-xa-hoi-dang-tin-xuyen-tac-noi-xau-lanh-dao-dang-nha-nuoc-post353266.antd

262 Lao Động, An Giang: 19 năm tù cho nhóm tuyên truyền chống phá Nhà nước CHXHCN Việt Nam, 21 December 2017, laodong.vn/phap-luat/an-giang-19-nam-tu-cho-nhom-tuyen-truyen-chong-pha-nha-nuoc-chxhcn-viet-nam-582486.lao

263 Lao Động, An Giang: 19 năm tù cho nhóm tuyên truyền chống phá Nhà nước CHXHCN Việt Nam, 21 December 2017, laodong.vn/phap-luat/an-giang-19-nam-tu-cho-nhom-tuyen-truyen-chong-pha-nha-nuoc-chxhcn-viet-nam-582486.lao

264 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

265 Tuổi Trẻ, Hai bị cáo rải truyền đơn chống phá Nhà nước lãnh án tù, 10 May 2019, tuoitre.vn/hai-bi-cai-rai-truyen-don-chong-pha-nha-nuoc-lanh-an-tu-20190510170451375.htm

Dong Nai province convicted and sentenced Nguyễn Thị Ngọc Sương to **five years in prison** for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of 2015 Penal Code. *Release due October 2023.*

Nguyễn Thị Cẩm Thúy (f), born in 1976, is a mathematics teacher from Khanh Hoa province. She was arrested on 24 June 2020 after police accused her of “livestreaming to conduct propaganda against the party and the state”.²⁶⁶ She was charged under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. *Pre-trial detention.*

Nguyen Trung Linh (m), born in 1967, is an engineer from Hà Nội. He is also a pro-democracy activist and used to be a member of the Brotherhood for Democracy Association, an unregistered political group. On 25 May 2018, he published an open letter on his Facebook account urging the Vietnamese people to protest against the government and decrying the “domination of China over Viet Nam.” He was arrested on 27 May 2018 under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. He is currently being held at a mental hospital in Ha Noi. *Pre-trial detention.*

Nguyễn Văn Trường (m), born in 1976, is from Thái Nguyên province. He used Facebook to express his political opinions. He was arrested on 9 February 2018 and was accused of “abusing democratic freedom”, a violation of Article 331 of the 2015 Penal Code. It is not known where he is currently being held. *Pre-trial detention.*

Nguyen Van Nghiem (m) born in 1963, is a hairdresser from Hoa Binh province. He is known as an active commentator on Facebook, where he discussed national issues such as corruption, environmental pollution, human rights abuses and the South China Sea dispute. He also publicly criticized national leaders for perceived failures in leading the country. Besides Facebook, Nguyen Van Nghiem was also active on YouTube, where he regularly posted videos of himself commenting about various issues. On 5 November 2019, police arrested Nguyen Van Nghiem on allegation of “making, storing, disseminating or propagandizing materials and products that aim to oppose the State of the Socialist Republic of Viet Nam”, a violation of Article 117 of the 2015 Penal Code. On 23 June 2020, the People’s Court of Hoa Binh province convicted and sentenced Nguyen Van Nghiem to **six years in prison**. *Release due November 2025.*

Nguyen Van Lam (m) born in 1970, is from Nghe An province. He used his personal Facebook page to express political views and was accused by the authorities of “propagating, distorting, defaming the Party, the government and many state agencies”²⁶⁷ Nguyen Van Lam was arrested on 6 November 2020 and charged under Article 117 of the 2015 Criminal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. It is not known where Nguyen Van Lam is detained. *Pre-trial detention.*

Nguyễn Việt Dũng (m), born in 1986, is from Nghe An province. He was arrested on 27 September 2017 after police accused him of posting “anti-state propaganda” on his Facebook page.²⁶⁸ On 15 August 2018, the People’s Court of Nghe An province convicted and sentenced Nguyễn Việt Dũng to **six years in prison** for “conducting propaganda against the state” under Article 88 of the 1999 Penal Code. He is currently being held at Nam Ha prison, Ha Nam province. *Release due September 2024.*

Tran Thanh Giang (m), born in 1971, is an entrepreneur from An Giang province. He was arrested on 23 April 2019. Police accused him of using Facebook to “post and share over 3,100 articles and images and 99 video clips intending to falsify and defame the policy and the reputation of the Communist Party of Viet Nam and the people’s regime”. He was charged under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. On 27 November 2019, the People’s Court of An Giang province convicted and sentenced Tran Thanh Giang to **eight years in prison**. It is not known where he is currently being held. *Release due April 2027.*

Trần Thanh Phương (m) is a member of the Constitution Group (Nhóm Hiến Pháp), an unregistered political group that advocates for the civil and political rights guaranteed in Viet Nam’s constitution. He was arrested on 1 September 2018, accused of “using social media to spread false information about constitutional

266 Tien Phong, *Bắt tạm giam Nguyễn Thị Cẩm Thúy về tội chống phá Nhà nước*, 24 June 2020, www.tienphong.vn/phap-luat/bat-tam-giam-nguyen-thi-cam-thuy-ve-toi-chong-pha-nha-nuoc-1678177.tpo

267 NTV, *Công an Nghệ An: Bắt giữ đối tượng tuyên truyền chống phá nhà nước*, 6 November 2020, truyenhinhnghean.vn/phap-luat/202011/cong-an-nghe-an-bat-giu-doi-tuong-tuyen-truyen-chong-pha-nha-nuoc-5487b91/

268 Công An Nghệ An, *Xét xử phúc thẩm Nguyễn Việt Dũng về tội tuyên truyền chống nhà nước*, 15 August 2018, congannghean.vn/anhinh-trat-tu/201808/xet-xu-phuc-tham-nguyen-viet-dung-ve-toi-tuyen-truyen-chong-nha-nuoc-809279/

rights”.²⁶⁹ On 31 July 2020, the People’s Court of Ho Chi Minh City convicted and sentenced Trần Thanh Phương to **three years and six months in prison** for “disrupting security” under Article 118 of the 2015 Penal Code. *Release due March 2022.*

Tran Thi Tuyet Dieu (f), born in 1988, is a former journalist from Phu Yen province. She was arrested on 21 August 2020 on the charge of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. Police accused her of using Facebook to share “hundreds of articles, images and video clips ... intended to support those oppose the Vietnamese Communist Party, the Vietnamese state and its people”. She currently held at Phu Yen police detention centre in Phu Yen province. *Pre-trial detention.*

Pham Thanh (m) born in 1952, is a blogger and author from Ha Noi. He created a blog named Ba Dam Xoe and wrote about political topics, mostly his disagreement with the government on various issues, including the South China Sea dispute, human rights violations and corruption. He also wrote and published books in which he criticized the leader of the Communist Party and contemporary Vietnamese society. On 21 May 2020, police arrested Pham Thanh on the charge of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. He is currently held at Hoa Lo prison in Ha Noi. *Pre-trial detention.*

Pham Thi Doan Trang (f) was born in 1978. She is a journalist, author, and human rights defender from Ha Noi. She was arrested on 6 October 2020 in Ho Chi Minh City, where authorities accused her of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. She used her Facebook page to denounce human rights violations and attracted public attention on important issues, such as land rights and the death penalty. She is also known as the co-founder of Law Khoa Tap Chi, an independent Vietnamese-language newspaper that covers human rights and political issues. Pham Thi Doan Trang is also the author of many books on political science and contemporary political issues in Viet Nam. She is currently being held at Detention Center No. 1 (Hoa Lo Moi), in Nam Tu Liem district, Ha Noi. *Pre-trial detention.*

Pham Van Diep (m), born in 1965, is a blogger from Thanh Hoa province. He is a long-time human rights advocate and critic of the Vietnamese government. He used different online platforms, including blogs and Facebook, to expose human rights violations; share news on social and political issues such as land grabs, police brutality and corruption; and protest the Cybersecurity Law. On 29 June 2019, police arrested Pham Van Diep on allegation of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. He was tried on 26 November 2019, convicted and sentenced to **nine years in prison**. It is not known where he is currently held. *Release due June 2028.*

Vu Tien Chi (m), born in 1966, is from Lam Dong province. He was arrested on 24 June 2020. Police accused him of using Facebook to “write, post, share hundreds of articles intending to propagate, distort and defame President Ho Chi Minh and inciting opposing ideology against the state”. He was charged under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. He is currently held at Lam Dong police detention centre in Lam Dong province. *Pre-trial detention.*

Vũ Thị Dung (f), born in 1965, is from Dong Nai province. She was arrested on 13 October 2018 after police accused her of “using many different Facebook accounts to interact with other people and watch and listen to videos containing content opposing the government”.²⁷⁰ On 10 May 2019, the People’s Court of Dong Nai province convicted and sentenced Vũ Thị Dung to **six years in prison** for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of 2015 Penal Code. *Release due October 2024.*

269 Công An Nhân Dân, Phá rối an ninh, 8 đối tượng lãnh hơn 40 năm tù, 1 August 2020, cand.com.vn/Ban-tin-113/Pha-roi-an-ninh-8-doi-tuong-lanh-hon-40-nam-tu-605260/

270 Tuổi Trẻ, Hai bị cáo rải truyền đơn chống phá Nhà nước lãnh án tù, 10 May 2019, <https://tuoitre.vn/hai-bi-cai-rai-truyen-don-chong-pha-nha-nuoc-lanh-an-tu-20190510170451375.htm>

IMPRISONED FOR POSTING CONTENT RELATED TO THE DONG TAM INCIDENT

The Dong Tam incident refers to a confrontation between villagers and security forces on 9 January 2020, when approximately 3,000 security officers from Ha Noi raided Dong Tam village in a land dispute that had begun in 2017. Security forces killed the 84-year-old village leader in the confrontation, during which three police officers were also killed. Twenty-nine villagers were arrested, and many are now facing murder charges. The incident sparked a national outcry in Viet Nam at the time, and Facebook was the main platform where public debate took place.

Can Thi Theu (f), born in 1962, is from Ha Noi, the capital of Viet Nam. She was a victim of a land grab and later became a well-known land rights activist. She has been imprisoned three times for her activism. In 2014, Can Thi Theu was arrested for the first time while attempting to prevent the authorities from seizing her family's farm. She was charged under Articles 104 and 257 of the 1999 Penal Code for "intentionally inflicting injury on or causing harm to the health of other persons" and "resisting persons in the performance of their official duties" and was convicted and sentenced to one year and three months in prison. In June 2016, Can Thi Theu led a peaceful demonstration to demand the government's accountability for taking her family's land and the land of others in her village. Police then arrested her and charged her with Article 245 of the 1999 Penal Code for "causing public disorder", and she was again convicted and sentenced to one year and eight months in prison. Can Thi Theu's latest arrest took place on 24 June 2020 after she used Facebook to criticize the government for the crackdown against Dong Tam commune in Ha Noi over a land dispute. The authorities accused her of "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam" under Article 117 of the 2015 Penal Code. She is currently being held at Hoa Binh Police's temporary detention centre. *Pre-trial detention.*

Chung Hoang Chuong (m), born in 1977, is an entrepreneur from Can Tho City. He used Facebook to express his opinions about social and political issues in Viet Nam including issues related to environment and human rights. During the Dong Tam incident, Chung Hoang Chuong then expressed his disagreement with the authorities on Facebook and as a result, police arrested him on 12 January 2020. He was charged under Article 331 of the 2015 Penal Code for "abusing democratic freedom to violate the interests of the state" and on 27 April 2020, the Can Tho People's court convicted and sentenced him to **one year and six months in prison**. *Release due July 2021.*

Nguyen Quang Vinh (m), born in 1981, is an online entrepreneur from Nghe An province. He ran a website that provided a car rental service and also used it to share news. Nguyen Quang Vinh shared news of the Dong Tam incident on his website and as a result police arrested him on 27 July 2020. He was charged under Article 331 of the 2015 Penal Code for "abusing democratic freedom". He is currently held at Nghe An Police's temporary detention centre in Nghe An province. *Pre-trial detention.*

Trinh Ba Phuong (m), born in 1985, is a land rights activist from Ha Noi. His family is the victim of land grabbing and eventually became a well-known activist family who advocated for victims of land grabs across Viet Nam. Trinh Ba Phuong used Facebook to share news about land expropriations and express his support for victims. He was also critical of the Vietnamese government, especially on issues such as human rights violations, corruption, legislation, and the environment. Trinh Ba Phuong used Facebook to circulate news of the Dong Tam incident and provide information for the press and human rights organizations. As a result, police arrested Trinh Ba Phuong on 24 June 2020. He was charged under Article 117 of the 2015 Penal Code for "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam". He is currently held at Prison Number 1 in Ha Noi. *Pre-trial detention.*

Trinh Ba Tu (m), born in 1989, is a farmer and a land rights activist from Hoa Binh. His family were the victims of land-grabbing and they eventually became a well-known activist family who advocate for victims of land grabs across Viet Nam. Trinh Ba Tu used Facebook to share news about land expropriations and express his support for the victims. He was also critical of the Vietnamese government, especially on issues such as human rights violations, corruption, legislation and the environment. Trinh Ba Phuong used Facebook to circulate news of the Dong Tam incident and provide information for the press and human rights organizations. As a result, police arrested Trinh Ba Tu on 24 June 2020. He was charged under Article 117 of the 2015 Penal Code for "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam". He is currently held at Cham Mat detention centre in Hoa Binh province. *Pre-trial detention.*

Nguyen Thi Tam (f), born in 1972, is a land rights activist from Ha Noi. She was a victim of land grabs and eventually became an advocate for land rights in Viet Nam. Nguyen Thi Tam used Facebook for her activism

and she often posted and conducted livestreams to expose corruption and express her opinions about social and political issues. Nguyen Thi Hue used Facebook to share news of the Dong Tam incident and criticized the government for killing the village's leader. As a result, she was arrested in June 2020 and charged under Article 117 of the 2015 Penal Code for "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam". She is currently being held at Prison Number 1 in Ha Noi. *Pre-trial detention.*

IMPRISONED FOR POSTING CONTENT ABOUT THE COVID-19 PANDEMIC

Dinh Thi Thu Thuy (f), born in 1984, is an expert on aquatic products from Hau Giang province. She started using Facebook to express herself in 2016 when the Formosa environmental disaster took place in central Viet Nam, killing hundreds of tons of fish in the ocean. She continued to express her views on different political events in recent years, including the proposed draft laws on special economic zones and cybersecurity in 2018. Besides commenting on national issues, Dinh Thi Thu Thuy also used Facebook to talk about issues in her home town, where the environment was her focus. When the COVID-19 pandemic reached Viet Nam in early 2020, she criticized the government on Facebook over policies that she did not agree with, and as a result, police arrested her on 18 April 2020. She was charged under Article 117 of the 2015 Penal Code for "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam" and is currently held at Hau Giang Provincial Police's temporary detention centre. *Pre-trial detention.*

Ma Phung Ngoc Phu (f), born in 1992, is a business owner from Can Tho City. She occasionally used Facebook to comment on political developments and social issues in Viet Nam. In February 2020, she used her Facebook account to question the government's transparency in dealing with the COVID-19 pandemic. She was arrested and accused her of "circulating disinformation about the pandemic and defaming leaders of the Communist Party of Viet Nam". She was charged under Article 331 of the 2015 Penal Code for "abusing democratic freedom", and on 11 May 2020 the People's Court of Ninh Kieu district, Can Tho City convicted and sentenced her to **nine months in prison**. It is not known where she is being held. *Release due 11 January 2021.*

IMPRISONED FOR POSTING ABOUT LAWS ON SPECIAL ECONOMIC ZONES AND CYBERSECURITY

Dương Thị Lanh (f), born in 1983, is a businesswoman from Đắk Nông province who used Facebook to express her political opinions. In June 2018, she took to the streets in Hồ Chí Minh city to protest the proposed draft law to create a special economic zone. She was arrested in Dak Nong province on 30 January 2019 under Article 117 of the 2015 Penal Code for "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam". In August 2019, the People's court of Dak Nong province convicted and sentenced Duong Thi Lanh to **eight years in prison**. She is currently being held at the Đắk Nông Police Detention Centre. *Release due January 2027.*

Huỳnh Đắc Túy (m), born in 1976, is an entrepreneur from Quảng Ngãi province who owns a construction company and uses Facebook to express his opinions. He was arrested in Quảng Ngãi province on 22 February 2019 and accused of "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam" under Article 117 of the 2015 Penal Code. He is currently being held at the Quảng Ngãi Police Detention Centre. *Pre-trial detention.*

Huynh Minh Tam (m), born in 1978, is from Dong Nai province. He started used Facebook to share information about political issues in Viet Nam in 2016 and continued until his arrest in January 2019. The authorities accused him of "making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam" under Article 117 of 2015 Penal Code. In November 2019, the Dong Nai People's court convicted and sentenced Huynh Minh Tam to **nine years in prison**. His current location is unknown. *Release due January 2028.*

Huynh Thi To Nga (f) born in 1983, is a medical professional from Ho Chi Minh City. In 2018, she used Facebook to express her opinion about the proposed law on special economic zone and the demonstrations following its proposal. In response to the protests, authorities in Viet Nam launched a crackdown campaign

that resulted in the arrests of dozens of protesters and activists. Because Huynh Thi To Nga was actively engaged in online discussions about those issues, police arrested her in January 2019. She was charged under Article 117 of 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. In November 2019, the People’s Court of Dong Nai province convicted and sentenced Huynh Thi To Nga to **five years in prison**. Her current location is Dong Nai province’s detention centre. *Release due January 2024.*

Nguyen Ngoc Anh (m), born in 1980, is an aquatic engineer from Bến Tre province. He engaged in political debates on social media and used Facebook to express his opinions and share content from other Facebook users. He was arrested on 30 August 2018 on charges of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”, an offence under Article 117 of the 2015 Penal Code. On 6 June 2019, the People’s Court of Ben Tre province convicted and sentenced Nguyen Ngoc Anh to **six years in prison**. He is being held at the Bến Tre Police Temporary Detention Centre. *Release due August 2024.*

Trương Hữu Lộc (m), born in 1961, is from Hồ Chí Minh city. He used Facebook to express his opinions about the draft law to create a Special Economic Zone, urging people to protest against the law. Arrested on 14 June 2018, he was accused of “disrupting security” under article 118 of the 2015 Penal Code. On 28 June 2019, the People’s Court of Ho Chi Minh City convicted and sentenced Trương Huu Loc to **eight years in prison**. It is not known where he is currently held. *Release due June 2026.*

Nguyen Dinh Thanh (m), born in 1991, is a doctor from Nghệ An province. In June 2018, while working at a local clinic in Bình Dương province, he participated in a protest against the draft law on special economic zones and also made and distributed flyers to other demonstrators. He was arrested on 14 July 2018. Police accused him of using Facebook to “post contents intended to distort and defame the Vietnamese Communist Party and the Vietnamese state, and distributing flies intending to incite protests”.²⁷¹ He was tried at the Bình Dương Provincial People’s Court on 17 October 2018. Convicted of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code, he was sentenced to **seven years in prison**. He is serving his sentence at the Bình Dương Detention Centre. *Release due 14 July 2025.*

Nguyen Van Phuoc (m), born in 1979, is from An Giang province. According to the authorities, between 2016 to 2018, Nguyen Van Phuoc used Facebook to make friends with people who sympathize with the former South Vietnamese regime. He also shared, posted and did livestreams to talk about politics, the content of which the government said was “reactionary and defamatory”.²⁷² On 19 April 2019, police arrested Nguyen Van Phuoc on the charge of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. On 29 October 2019, the People’s Court of An Giang province convicted and sentenced Nguyen Van Phuoc to **five years in prison**. *Release due April 2024.*

Nguyen Van Quang (m), born in 1987, is from Thanh Hóa province. In a June 2018 Facebook post, he urged people to protest the draft law on Special Economic Zones. Arrested on 12 June 2018, he was accused of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. In March 2019, the People’s Court of Thanh Hoa province sentenced Nguyen Van Quang to **six years in prison** and three years house arrest on release. It is not known where he is currently being held. *Release due June 2024.*

IMPRISONED FOR ENGAGING IN JOURNALISM OR CITIZEN JOURNALISM

Do Cong Duong (m), born in 1964, is a citizen journalist from Bắc Ninh province. He used social media channels to cover land disputes in the province, especially the land expropriation campaign conducted by state authorities. On 24 January 2018, he was arrested while filming a land seizure in his town. He was accused of violating two provisions of the 2015 Penal Code: Article 318, which prohibits “disturbing public order” and Article 331, which prohibits “abusing democratic freedom to violate the interest of the state”. He was prosecuted in two separate trials before the Từ Sơn Town People’s Court. In his first trial, on 17

271 Lao Động, Xét xử đối tượng có hành vi in tờ rơi nhằm kích động biểu tình, chống nhà nước, 17 October 2018, laodong.vn/phap-luat/xet-xu-doi-tuong-co-hanh-vi-in-to-roi-nham-kich-dong-bieu-tinh-chong-pha-nha-nuoc-636549.lao

272 Thanh Niên, Chống phá Nhà nước, bị tuyên án 5 năm tù, 29 October 2019, thanhnien.vn/thoi-su/chong-pha-nha-nuoc-bi-tuyen-an-5-nam-tu-1142433.html

September 2018, he was convicted of violating Article 318 of the 2015 Penal Code and sentenced to **four years in prison**. In his second trial, on 12 October 2018, he was convicted of violating Article 331 of the 2015 Penal Code and sentenced to **five years in prison**. In all, he faces **nine years' imprisonment** for the two convictions. He is currently serving his sentence at the Bắc Ninh Provincial Police Detention Centre. *Release due January 2027.*

Nguyen Tuong Thuy (m), born in 1952, is a blogger and human rights defender from Ha Noi. He is the vice president of the Independent Journalists Association of Viet Nam, a non-registered organization advocating press freedom and freedom of expression in Viet Nam through independent journalism. He also used Facebook to express his opinions about social and political issues in Viet Nam, including human rights, corruption, the environment and the South China Sea dispute. In November 2019, police launched a crackdown against the Independent Journalists Association of Viet Nam. As its vice president, Nguyen Tuong Thuy was arrested on 23 May 2020. He was charged under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. He is currently held at Number 4 Phan Dang Luu detention centre, Ho Chi Minh City. *Pre-trial detention.*

Nguyen Van Dien (m), born in 1983, was arrested on 2 March 2017 in an apartment in Hà Nội's Đống Đa district that he shared with Vũ Quang Thuận (see below), who was also arrested. They are members of the *Chan hung Nuoc Viet* (Reviving Viet Nam Campaign). In the months before their arrest, they had posted videos critical of government officials and policies, for which they were accused of spreading “harmful” video clips on social media, including Facebook and YouTube. Both were charged under Article 88 of the 1999 Penal Code for “conducting propaganda” against the state. **Điền** was convicted and sentenced to **six years and six months of imprisonment followed by 4 years of house arrest**. He is currently being held at Prison No. 1 in Hà Nội. *Release due September 2023.*

Le Huu Minh Tuan (m), born in 1989, is an independent journalist from Quang Nam province. He is a member of the Independent Journalists Association of Viet Nam, a non-registered organization advocating press freedom and freedom of expression through online platforms. In December 2019, authorities in Viet Nam launched a crackdown against the organization and arrested Le Huu Minh Tuan on 8 June 2020. He was accused of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of 2015 Penal Code. He is currently held at Chi Hoa prison in Ho Chi Minh City. *Pre-trial detention.*

Phan Cong Hai (m), born in 1996, is a blogger from Nghe An province. He used Facebook to express his concerns about political and social issues, including human rights violations, economic management and environmental issues. Arrested on 19 November 2019, he was charged on 28 April 2020 under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. The People's Court of Nghe An province convicted and sentenced Phan Cong Hai to **five years in prison**. It is not known where he is currently held. *Release due November 2024.*

Phan Kim Khanh (m), born in 1993, is a student and freelance journalist. He was arrested on 21 March 2017 and tried and convicted on 25 October 2017 under Article 88 of the 1999 Penal Code for “conducting propaganda against the state”. The allegations against him included two anti-corruption blogs and other social media sites and his contacts with “overseas reactionaries”, including former prisoner of conscience Nguyễn Văn Hải (also known as blogger **Điểu Cày**), who lives in exile in the US. He was sentenced to **six years of imprisonment followed by four years of house arrest**. He is currently being held at Nam Hà prison, in Hà Nam province. *Release due March 2023*

Pham Chi Dung (m), born in 1966, is a journalist from Ho Chi Minh City. He was the president of the Independent Journalists Association of Vietnam, a non-registered organization advocating press freedom and freedom of expression in Viet Nam through independent journalism. He was also active on Facebook where he often posted his views about Vietnamese politics and participated on online discussions about political developments in Viet Nam. In November 2019, police launched a crackdown against the Independent Journalists Association of Vietnam and Pham Chi Dung was the first to be arrested on 21 November 2019. He was charged under Article 117 of the 2015 Penal Code for “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam”. He is currently held at Number 4 Phan Dang Luu detention centre, Ho Chi Minh City. *Pre-trial detention.*

Tran Hoang Phuc (m), born in 1994, is a pro-democracy and environmental activist. He was a member of the Young Southeast Asian Leaders Initiative (YSEALI) set up by former US President Barack Obama. He was arrested on 29 June 2017 at his apartment in Ha Noi on allegations of “conducting propaganda against the state” under Article 88 of the 1999 Penal Code. He is also a member of the *Chan Hung Nuoc Viet*

(Reviving Viet Nam) campaign and is alleged to have made and shared videos critical of the government. He was convicted and sentenced to **six years of imprisonment followed by four years of house arrest**. He is currently being held at An Phước Prison, in Bình Dương province. *Release due June 2023.*

Vu Quang Thuan (m), born in 1966, was arrested on 2 March 2017 in the apartment in Hà Nội's Đống Đa district that he shared with Nguyễn Văn Điển (see above), who was also arrested. They were accused of spreading “harmful” video clips on social media. They are members of the *Chan Hung Nuoc Viet* (Reviving Viet Nam) campaign, and in the months before their arrest, they had posted videos critical of government officials and policies. Both were charged under Article 88 of the 1999 Penal Code for “conducting propaganda” against the state. Vu Quang Thuan was convicted and sentenced to **eight years of imprisonment followed by five years of house arrest**. He is currently being held at Prison No. 1 in Ha Noi. *Release due March 2025.*

IMPRISONED FOR POSTING ABOUT OTHER SENSITIVE TOPICS

Nguyễn Văn Công Em (m), born in 1971, is from Bến Tre province. In February 2019, he posted on Facebook his opinion of the summit between US President Donald Trump and North Korean leader Kim Jong Un, which was taking place in Viet Nam at that moment. He was arrested on 28 February 2019 on the charge of “making, storing, or spreading information, materials or items for the purpose of opposing the State of the Socialist Republic of Viet Nam” under Article 117 of the 2015 Penal Code. On 17 September 2019, the People’s Court of Ben Tre province convicted and sentenced Nguyen Van Cong Em to **five years in prison and five years house arrest** on release. He is currently being held at the police detention centre in Bến Tre province. *Release due February 2024.*

Nguyen Dang Thuong (m), born in 1957, is from Ho Chi Minh City. He was the administrator of a Facebook group that was a platform for its 46,000 members to discuss Vietnamese political and social issues. On 13 June 2020, police arrested Nguyen Dang Thuong on the charge of “abusing democratic freedom” under Article 331 of the 2015 Penal Code. He is currently held at District 8 Police’s temporary detention centre. *Pre-trial detention.*

Nguyen Thi Hue (f), born in 1968, is from Gia Lai province. She used Facebook to petition on behalf of her husband, who was accused of a traffic offence following an accident that led to the death of a man, he was then convicted and sentenced to prison. She believes it was a wrongful conviction. From July 2017 to March 2019, Nguyen Thi Hue often went to different local authority offices to appeal her husband’s case and simultaneously used Facebook to criticize local government officials for ignoring her petitions. On 12 March 2019, police arrested Nguyen Thi Hue on allegations of “abusing democratic freedom” under Article 331 of the 2015 Penal Code. She was tried, convicted and sentenced to **two and a half years in prison** on 17 October 2019 by the People’s Court of Ia Grai District, Gia Lai province. *Release due September 2021.*

Huynh Anh Khoa (m), born in 1982, is from Ho Chi Minh City. He was the founder of a Facebook group comprising almost 50,000 members, that focused on debating economic and political issues in Viet Nam. On 13 June 2020, police arrested Huynh Anh Khoa on charges of “abusing democratic freedom” under Article 331 of the 2015 Penal Code. He is currently held at District 8 Police’s temporary detention centre. *Pre-trial detention.*

Quach Duy (m), born in 1982 is from Ho Chi Minh City. He is a civil servant working at the office of the People’s Committee of Ho Chi Minh City. He was arrested on 18 September 2020 after police accused him of “abusing democratic freedoms” under Article 331 of the 2015 Criminal Code. Quach Duy used his Facebook to share allegations about corruption and petitions. Authorities accused him of creating materials which “do not contain the true nature of the case, are defamatory, and discredit the Party and State leaders”.²⁷³ It is not known where Quach Duy is being detained. *Pre-trial detention.*

Trịnh Viết Bảng (m), born in 1959, is from Bac Ninh Province. He used his personal Facebook account to post petitions against alleged corruption and was arrested on 13 May 2019. He was charged under article 331 of the 2015 Penal Code for “abusing democratic freedom” and his computer was confiscated when police searched his house. He is currently being held at Bac Ninh Police’s detention center. *Pre-trial detention.*

273 Tuoi Tre Online, Báo chuyên viên văn phòng UBND TP.HCM Quách Duy, 18 September 2020, tuoi-tre.vn/bat-chuyen-vien-van-phong-UBND-TP-HCM-quach-duy-20200918174248804.htm

ANNEX B: COMPANY RESPONSES

On 17 August 2020, Amnesty International wrote to Facebook and Google and asked questions regarding the companies' content moderation policies and practices in Viet Nam. Amnesty International again wrote to Facebook and Google on 6 November 2020 to inform the companies of relevant allegations contained in this report. At the time of publication, Facebook had responded to both letters and Google had responded to the first but not the second letter. Each of these company responses are included in this annex.



September 7, 2020

Google Inc.
1600 Amphitheatre Parkway
Mountain View CA 94043
650 253-0000 main
google.com

Amnesty International
International Secretariat % Michael Kleinman
Peter Benenson House
1 Easton Street London WC1X 0DW
United Kingdom

Dear Mr. Kleinman,

Thank you for your recent inquiry on the issue of content removals in Vietnam. Please see our answers to your questions below. In addition to providing written answers, we welcome the opportunity to meet with you and your team to discuss our approach to content removal generally, and our content removals in Vietnam more specifically.

1. In the Google Transparency Report for Viet Nam, under 'government requests to remove content', it states, 'There are many reasons we may not have removed content in response to a request, for instance, some requests may not be specific enough for us to know what the government wanted us to remove (for example, no URL is listed in the request) or the content might have already been removed by the author'.
 - a. For what other reasons does Google refuse to restrict content in response to a request from the Vietnamese government? Please provide a comprehensive list of criteria.
 - b. How does Google decide on whether to comply with requests by the Vietnamese government to restrict or remove content?
 - c. Most content removal requests by the Vietnamese government are categorized as 'government criticism' by Google. Please explain the criteria for content to fall within this category, with particular reference to the role of international human rights law.
 - d. How does Google analyse content in Viet Nam which the authorities allege violates local law, but which is protected under international human rights law?
 - e. How does Google ultimately decide on whether to comply with requests by the Vietnamese government to restrict or remove content that the authorities deem illegal?

Google evaluates government requests for removal of content against human rights standards, and we take several measures to narrow requests, consistent with the [GNI Principles](#). We have designed a methodological approach to decision-making that includes consideration of whether the content: violates existing Community Guidelines; clearly violates local law; and involves a matter of public interest.

When we remove content in response to legal requests, we take the least restrictive approach to removal by blocking it in the relevant jurisdiction, while still making it available in other jurisdictions globally.

We source local speaking agents to review each URL, review these videos against YouTube's Community Guidelines and established legal criteria, take measures to identify and minimize the restrictions on political speech, and deploy government affairs and policy experts to maintain a line of communication with the government.

- 2. In the Google Transparency Report for Viet Nam, examples are provided of content removal requests by the Vietnamese authorities, along with Google's responses. Please provide detailed information regarding the decision-making process which led to contrasting decisions taken by Google in response to government requests to remove criticism of the government, as shown in the two examples from the Google Transparency Report, as below:**
 - a. "We received requests from the Authority of Broadcasting and Electronic Information, Ministry of Information and Communications in Vietnam to remove over 3,000 YouTube videos that mainly criticized the Communist Party and government officials. Outcome: We restricted the majority of the videos from view in Vietnam, based on Decree 72.
 - b. We received a request from ITCERT (Ministry of National Defence) in Vietnam asking us to remove a Wikileaks-like blog from Blogger. The blog allegedly contained information about the military and criticized the government. ITCERT claimed the information on the blog was false and defamatory. Outcome: We did not remove the blog."

As discussed above, our process includes: sourcing local speaking agents to review each URL; reviewing videos against our Community Guidelines and established legal criteria; identifying and minimizing restrictions on political speech; and implementing a strategy that considers the specific circumstances in Vietnam.

- 3. What were the number and nature of the pieces of content restricted (i.e. total restrictions) by Google in Viet Nam from 1 January to 30 June 2020? Please provide a detailed breakdown for the content restriction requests by product and by content type (including content deemed 'government criticism') for Viet Nam for this time period. Please also provide an updated Changelog for Viet Nam for this period.**

Google publishes a transparency report on [government requests to remove content](#) twice per year. Data from the first half of 2020 is generally published in late fall.

- 4. Does Google use any automated processes to proactively flag "illegal" content in Viet Nam - i.e. content similar to that which the Vietnamese Government has asked to be restricted in the past? If so, is any content so flagged automatically removed, or is it subject to further review? If subject to further review, what is the process for determining whether to restrict this content (i.e. content that is proactively flagged by automated content review systems, if any)?**

We do not proactively flag or review content based on local law in Vietnam. We require specific URLs be submitted by the government with associated rationale under local law and specific timestamps highlighting the aspect of the video that they believe violates local law. For removal requests that are not specific enough or lack supporting evidence, we request for more details to be sent before taking any sort of decision.

- 5. Does Google employ third party service providers to assist with content moderation in Viet Nam? If so, where are these content moderators based (i.e. in Viet Nam, or outside of Viet Nam)? If these third-party service providers are based in Viet Nam, do they have any connection to the Vietnamese Government, to the best of your knowledge? What measures, if any, does Google use to ensure the independence and impartiality of these third party fact checkers? Are their decisions subject to oversight?**

Google established a team of Vietnamese speaking content review agents as a direct response to the large volume of requests coming from the government in Vietnam and to ensure that each URL submitted by the government was reviewed individually and carefully. These reviewers are trained on our policies including when and how to escalate to ensure that freedom of expression and GNI Principles are considered in each review.

Vietnamese-speaking reviewers first look for any policy violations of our [Community Guidelines](#), such as calls for violence, threats, or spam; then they evaluate the remaining content against the local statute provided by the government. Our teams analyze each URL under the local laws, taking into special consideration clear cases of political speech with public interest and highlighting these cases for internal escalation and potential pushback for more clarification.

- 6. What avenues are available for human rights defenders to challenge content takedowns by Google that may violate their right to freedom of expression? Please provide details.**

We work hard to maintain a safe and vibrant community and have Community Guidelines that set the rules of the road for what we don't allow on YouTube. However we understand that we sometimes make mistakes. If a creator thinks their content doesn't violate the Community Guidelines and either received a strike or was removed in error, they can appeal the decision.



When a creator submits an appeal, it goes to human review, and the decision is either upheld or reversed.

We also work with human rights organizations all over the world, and have regular interactions for them to share their insights into our policies and how we apply them across our products. As our policies evolve over time, we invite feedback through collaborations with policymakers, civil society, and academics around the world.

7. We have received reports about wide-ranging restrictions on content related to the [Dong Tam incident](#). Was that because the Vietnamese government specifically asked Google to remove content about Dong Tam?

As referenced above, Google publishes a transparency report on [government requests to remove content](#) twice per year. Data and annotations from the first half of 2020 are generally published in late fall.

Thank you for your continued engagement on this issue. If you have further questions or comments, please reach out to me.

Sincerely,

Alexandria Walden
Global Head of Human Rights

FACEBOOK

9 Straits View
Level 29, Marina One
Singapore 018937

8 September 2020

Dear Rasha,

Thank you very much for your 17 July 2020 letter addressed to Monika Bickert regarding Facebook's content moderation practices in Vietnam, and for your detailed questions.

At Facebook, we endeavour to give people the power to build community and bring the world closer together—and a core part of this mission is providing as much space as possible for the 2.7 billion people who use our service each month to exercise their freedom of expression rights. This dedication to voice is enshrined as the guiding principle behind our [Community Standards](#), the policies that govern our work on content moderation.

Our commitment to freedom of expression as a fundamental human right is also demonstrated through our membership in the [Global Network Initiative](#). As a GNI member, we are formally committed to the [GNI Principles](#) and [Implementation Guidelines](#), which guide our approach to freedom of expression and privacy when faced with government demands.

In Vietnam—as in every country—we seek to remain true to these values and commitments, while also ensuring that our services remain available and usable for the millions of people who rely on them every day.

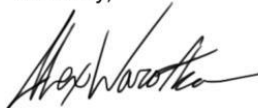
When we receive a request from any government to remove a piece of content, we follow a consistent global process. We first review the report against our Community Standards, and remove the content if it is violating these global policies; if it does not violate, our internal teams conduct a careful legal and human rights review, and may restrict access to the content only in the country where it has been alleged to be illegal. As part of this review, we consider the impact that our actions will have on the accessibility of our services and the other speech on our platform.

Whenever we restrict access to content based on local law, we include details on the volume and types of content restricted in our [Transparency Report](#), and directly notify impacted users. We expect to publish our next Transparency Report in November, and look forward to sharing updated data on content restricted based on local law in Vietnam at that time.

While the Vietnamese government has instructed us to restrict access to certain specific content which it has deemed illegal in Vietnam, we remain committed to respecting the human rights of the people who use Facebook in Vietnam and around the world, to preventing or mitigating human rights harms, and to doing everything in our power to vigorously defend and protect the fundamental rights of all internet users.

As always, we would be happy to arrange a call to discuss these important issues in more detail with you and your team.

Sincerely,



Alex Warofka
Product Policy Manager
Human Rights and Freedom of Expression

FACEBOOK

20 November 2020

Dear Yamini,

Thank you very much for your 6 Nov 2020 letter to Monika Bickert, and for the opportunity to further comment on Amnesty International's upcoming report on freedom of expression online in Vietnam. We applaud your important work in advocating for human rights in Vietnam and around the world.

As you know, Facebook is committed to implementing the [UN Guiding Principles on Business and Human Rights](#) and [GNI Principles](#). As noted in UNGP 23, businesses should both "comply with all applicable laws and respect internationally recognized human rights, wherever they operate" and "seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements."

In line with these commitments, in Vietnam and around the world, we strenuously seek to minimise adverse human rights impacts of local laws that may conflict with international human rights standards, while also ensuring that our services remain available and usable for the millions of people who rely on them every day.

Indeed, this commitment is practical and real. Our latest [Transparency Report](#), published yesterday, clearly demonstrates our dedication to protecting the voice of Vietnamese people in the face of a very challenging human rights environment.

Between January and June 2020, we restricted access to a total of 834 items in Vietnam on the basis of local legal requirements—a tiny fraction of the hundreds of millions of pieces of content created over the same period. This is despite the fact that, at the same time, the availability of our services was under unprecedented pressure from Vietnamese authorities: as [previously reported](#) and as reflected in our latest [Internet Disruptions Report](#), access to Facebook in Vietnam was disrupted to varying degrees for a period of seven weeks between mid-February and early April.

We are proud that Facebook remains one of the most open platforms for people to express themselves in Vietnam. We are proud to provide a home for the voices of human rights defenders, independent journalists, and the tens of millions of Vietnamese who use Facebook to access information, connect with friends and family, run their businesses, and otherwise exercise their political, social, and economic rights online.

I hope that this letter, and the additional information provided in the attached background annex, reassures you of our dedication to respecting the fundamental rights of our users in Vietnam and around the world.

As always, we remain available for a call to discuss these important issues in more detail with you and your team.

Sincerely,



Alex Warofka
Product Policy Manager
Human Rights

Enclosure – Background Annex [1]

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

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'LET US BREATHE!'

CENSORSHIP AND CRIMINALIZATION OF ONLINE EXPRESSION IN VIET NAM

In recent years, the Vietnamese authorities have mounted a major crackdown against those who express critical views online. As documented in this report, social media users in Viet Nam face the constant threat of arbitrary arrest, prosecution, physical assault, and other forms of harassment in retaliation for engaging in their right to freedom of expression online. State-sponsored “cyber-troops” conduct coordinated trolling and reporting campaigns and subject their targets to threats and abuse.

In addition to state repression, social media users in Viet Nam are increasingly faced with arbitrary censorship when they seek to share critical views or sensitive information online – even where that content is protected by international human rights law. As this report details, the world’s largest technology companies – namely Facebook and Google – are playing an increasingly complicit role in the Vietnamese authorities’ censorship regime.

Amnesty International is calling for an immediate end to the Vietnamese authorities’ crackdown on freedom of expression online, the reform of laws which muzzle free speech and the immediate and unconditional release of all prisoners of conscience. The organization further calls for the overhaul of tech companies’ policies to ensure content moderation decisions comply with international human rights standards.