

Flag of Vietnam over an image of a person with their mouth covered. Image created via canva.com using images by Chickenonline/pixabay, 2016 (Flag of Vietnam) and Pavel Danilyuk/pexels, 2021 (A Woman Looking at the Camera).



Monthly Report on Government's Repression of Freedom of Speech and Minority Voices in Vietnam

June-September 2022



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AIM OF THE REPORT

The aim of this report is to provide an overview of the Vietnamese government's repression of civil society and human rights defenders in the country. This report will begin with an overview of the country itself, particularly regarding its historical background and socio-political landscape. The report will also provide an overview of the country's religious and ethnic minority groups. It will be followed by an analysis of Vietnam's national and international human rights legal framework, particularly in protecting the rights to freedom of speech, assembly, and expression as well as minority rights and the right to a free and fair trial. Subsequently, it will then cover an array of cases from June to September 2022 relating to the repression of human rights defenders, civil society, as well as ethnic and religious minority groups.

OVERVIEW OF THE COUNTRY

Vietnam, officially the Socialist Republic of Vietnam, is a one-party communist state located in South-east Asia.¹ It boasted a population of roughly 98 million people,² making it the third most populated country in the region and the 15th most populated in the world.³ At the end of World War II, the Allies divided the country into two regions in an effort to disarm Japanese troops who had taken over the colony from French rule: the Republic of Vietnam in the South and the Democratic Republic of Vietnam to the North.⁴ Shortly after under the rule of the Communist Party of Vietnam, the Democratic Republic of Vietnam launched an invasion towards the Southern region, igniting the Vietnam war.⁵ The war ceased in 1975 with the Democratic Republic of Vietnam gaining control of the region and the dissolution of the Republic of Vietnam's government.⁶

The country is presently run by the Communist Party of Vietnam (CPV).⁷ The government is made up of three different branches: the Legislative (National Assembly), the Executive (Administration), and the Judiciary (People's Courts), however, these branches are subject to the dominance of the CPV in practice.⁸ For instance, while the National Assembly and People's Councils are elected by popular vote, the CPV must approve of all candidates.⁹ As such, the Party, currently led by General Secretary Nguyen Phu Trong, President Nguyen Xuan Phuc, Prime Minister Pham Minh Chinh, and Chairman of the National Assembly Vuong Dinh Hue, holds all political power.¹⁰ This was secured by the amendment to the Constitution in 2013, where Article 4.1 states that the CPV "[...] is the leading force of the State and society."¹¹ Additionally, every political organisation unaffiliated with the CPV is prohibited.¹² As for its economy, Vietnam is largely reliant on its agricultural industry.¹³ Even with a growing urban population, the majority are still living in rural areas.¹⁴ However, this rural population, especially the ethnic minorities, are amongst the poorest in the country, facing issues related to low skills and education level as well as lack of supporting infrastructure.¹⁵ Besides rural poverty, the country is also facing problems regarding the decreasing population growth rate due to regional differences in fertility rates, sex imbalance at birth, and a rapidly ageing population.¹⁶

1. Vietnam Human Rights Network, 'Report on Human Rights in Vietnam 2021-2022' (Vietnam Human Rights Network, 2022) <http://vietnamhumanrights.net/english/documents/Report_2021_2022_net.pdf> accessed 28 October 2022.
2. The World Bank, 'Population, Total - Vietnam | Data' (The World Bank, 2021) <<https://data.worldbank.org/indicator/SP.POP.TOTL?locations=VN>> accessed 28 October 2022. United Nations Population Fund, 'UNFPA Vietnam | RESULTS OF THE POPULATION AND HOUSING CENSUS 2019' (UNFPA, 19 December 2019) <<https://vietnam.unfpa.org/en/news/results-population-and-housing-census-2019>> accessed 28 October 2022.
4. U.S. Marine Corps Intelligence Activity, 'Vietnam Country Handbook' (March 2005) <<https://info.publicintelligence.net/MCIA-VietnamHandbook.pdf>> accessed 28 October 2022.
5. 'Report on Human Rights in Vietnam 2021-2022' (n 1).
6. *ibid.*
7. *ibid.*
8. *ibid.*
9. *ibid.*
10. United States Department of State, 'Vietnam 2021 Human Rights Report' <https://www.state.gov/wp-content/uploads/2022/03/313615_VIETNAM-2021-HUMAN-RIGHTS-REPORT.pdf>.
11. Vietnam Constitution | Chapter I | Article 4.1
12. United States Department of State, 'Vietnam | Section 3. Freedom to Participate in the Political Process' (United States Department of State) <<https://www.state.gov/report/custom/afe61e633c/>> accessed 28 October 2022. | Vietnam Constitution | Chapter I | Article 4.3
13. Dao Te Ahn and Nguyen Van Bo, 'Overview of Vietnam's Recent Agricultural and Rural Development Policy' (FFTC Agricultural Policy Platform (FFTC-AP), 26 August 2019) <<https://ap.ffc.org.tw/article/1422>> accessed 28 October 2022.
14. The World Bank, 'Rural Population (% of Total Population) - Vietnam | Data' <<https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=VN>> accessed 28 October 2022.
15. Ngo Ha Quyen, 'Reducing Rural Poverty in Vietnam: Issues, Policies, Challenges' (Mekong Development Research Institute) <<https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2019/03/Reducing-rural-poverty-in-Vietnam-Issues-Policies-Challenges.pdf>> accessed 28 October 2022.
16. Le Nga, 'Vietnam Has More than Family Planning Issues to Worry about - VnExpress International' <<https://e.vnexpress.net/news/news/vietnam-has-more-than-family-planning-issues-to-worry-about-4212032.html>> accessed 28 October 2022.

The country has recently been elected as a member of the United Nations Human Rights Council for 2023-2025.¹⁷ Throughout their candidacy, Vietnam launched an intense propaganda and lobbying drive,¹⁸ including pledging to uphold human rights and fundamental freedoms at the 49th regular session of the United Nations Human Rights Council.¹⁹ Following this win, the country has re-stated their commitment to continue the promotion of human rights in Vietnam.²⁰

17. Sebastian Strangio, 'Vietnam Wins Seat on UN Human Rights Council' (12 October 2022) <<https://thediplomat.com/2022/10/vietnam-wins-seat-on-un-human-rights-council/>> accessed 28 October 2022.
18. 'Vietnam Wins Seat on UN Human Rights Council despite Record of Rights Abuses' (Radio Free Asia) <<https://www.rfa.org/english/news/vietnam/unhrc-vote-10112022142609.html>> accessed 28 October 2022.
19. 'Việt Nam Pledges to Promote Human Rights and Fundamental Freedom' (vietnamnews.vn) <<https://vietnamnews.vn/politics-laws/1160982/viet-nam-pledges-to-promote-human-rights-and-fundame-freedom.html>> accessed 28 October 2022.
20. VietnamPlus, 'Vietnam Pledges to Continue Ensuring Human Rights | Politics | Vietnam+ (VietnamPlus)' (VietnamPlus, 20 October 2022) <<https://en.vietnamplus.vn/vietnam-pledges-to-continue-ensuring-human-rights/240397.vnp>> accessed 28 October 2022.

OVERVIEW OF THE COUNTRY'S MINORITY GROUPS

Ethnic Minorities

Vietnam is made up of 54 different ethnic groups, with the Kinh (Viet) ethnic group as the majority, making up 85 percent of the population.²¹ On the other hand, the six biggest ethnic groups after the Kinh only have a population of over one million each (Tay, Thai, Muong, Mong, Khmer, and Nung ethnic groups), and eleven ethnic minority groups have a population of fewer than 5,000 people.²² The ethnic minority group Ô Đu (O'du) has the smallest population of only 428 people.²³

As previously mentioned, ethnic minorities are often among the poorest population in the country. The Northern midlands and Red River Delta area where most ethnic minorities reside²⁴ are one of the poorest regions in the country.²⁵ Additionally, about 6.6 million of the nine million poor are part of the ethnic minorities, even though they only account for roughly 15 percent of the total population.²⁶ Some ethnic minority groups, such as Hmong, Kho Mu, Xo Dang, even reached poverty rates as high as 70-80 percent.²⁷ There is also a considerable educational gap between the ethnic minority groups and the Kinh ethnic majority. In 2016, it was reported that 43.8 percent of ethnic minorities do not have qualifications, double the percentage of the Kinh ethnic group.²⁸ Meanwhile, only 7.8 percent of ethnic minorities have a high school education, which is only half the percentage of Kinh people.²⁹

Religious Minorities

Only about 13.7 percent of the population considers themselves to be religious.³⁰ The most practised out of 16 recognised religions, Catholicism, while making up 44.6 percent of the total number of religious followers with 5.9 million persons, is only 6.1 percent of the total population of the country.³¹ This is followed by Buddhism, which makes up 35 percent of religious followers.³² The remaining religions, which include Protestant, Cao Dai, Buddhist Hoa Hao, Muslim, Baha'i, Pure Land, Tu An Hieu Nghia, Buu Son Ky Huong, Nam Tong Minh Su, Minh Ly sect, Cham Ba la mon, the Church of Jesus Christ of Latter-day Saints, Buddhist Hieu Nghia Ta Lon, and Phuc lam Vietnam Christianity, all have relatively small followers.³³

21. Vietnam's Central Population and Housing Census Steering Committee, 'Results - The Vietnam Population and Housing Census of 00:00 Hours on 1 April 2019' <https://vietnam.unfpa.org/sites/default/files/pub-pdf/Results%20-%202019%20Population%20and%20Housing%20Census_full.pdf> accessed 28 October 2022.
22. *ibid.*
23. *ibid.*
24. *ibid.*
25. Anh Thu Quang Pham, Pundarik Mukhopadhyaya and Ha Vu, 'Targeting Administrative Regions for Multidimensional Poverty Alleviation: A Study on Vietnam' (2020) 150 *Social Indicators Research* 143.
26. 'Reducing Rural Poverty in Vietnam: Issues, Policies, Challenges' (n 15).
27. *ibid.*
28. Vietnam Academy of Social Sciences, Vietnam's Ministry of Labour, Invalids and Social Affairs and United Nations Development Program, 'Multidimensional Poverty in Viet Nam: Reducing Poverty in All Its Dimensions to Ensure a Good Quality Life for All' (2018) <<https://www.undp.org/sites/g/files/zskgke326/files/migration/vn/MDP-full-E.pdf>> accessed 28 October 2022.
29. *ibid.*
30. 'Results - The Vietnam Population and Housing Census of 00:00 Hours on 1 April 2019' (n 18).
31. *ibid.*
32. *ibid.*
33. *ibid.*

NATIONAL AND INTERNATIONAL LAW

National Law

Freedom of speech, assembly, and expression

The freedom of speech, assembly and expression is protected in Chapter II of the Constitution, which enumerates the citizen's fundamental rights, Article 25 states that "The citizen shall enjoy the right to freedom of opinion and speech, freedom of the press, freedom of access to information, and freedom to assemble, form associations and hold demonstrations. The exercise of these rights is guaranteed under the law".³⁴

According to Article 14 these fundamental rights are "recognised, respected, protected and guaranteed in concordance with the Constitution and the law", and can be restricted only in imperative circumstances for reasons related to national defence, national security, social order and security, social morality, and the health of the community.³⁵

It is important to note two major modifications made to the Vietnamese Constitution, talking about this protection. Firstly, it was put under Chapter V, titled "Basic Rights and Obligations of Citizens" in the 2001 amendment, while, in the 2013 amendment, the entire section was moved to Chapter II, which was renamed "Human Rights and Citizens' Fundamental Rights and Duties". This change suggests the government's recognition of the inherent nature of these rights, as applicable to everyone present in the country, not just to Vietnamese people with valid citizenship status. It also suggests the stronger emphasis placed on establishing legal protection.³⁶

As a member of the UN, Vietnam has signed international treaties on ensuring fundamental human rights and citizen rights including the right to freedom of speech and freedom of the press.

The Vietnamese National Assembly adopted 2016 the Law on Access to Information and the Press to ensure people's rights to freedom of speech and press.³⁷ Article 3 stipulates that all citizens are equal and may not be discriminated against in exercising their right of access to information, that information must be accurate and complete, and that provision of information must be timely, transparent and convenient for citizens.³⁸ Article 13 states that: "The State shall create favourable conditions for citizens to exercise their right to freedom of the press and freedom of speech in the press, and for the press to properly perform its role. The press and journalists shall operate within the framework of the law and shall be protected by the State. No one may abuse the right to freedom of the press and freedom

34. Vietnam Constitution | Chapter II | Article 25

35. Vietnam Constitution | Chapter II | Article 14

36. H Grant Doan, 'Speak Up, or Not: Lack of Freedom of Speech Protection in Vietnam, Its Global Impact, and Proposed Solutions for Adequate Remedies' 48 30.

37. 'Freedom of Speech, Freedom of Press Ensured in Vietnam' (THE VOICE OF VIETNAM, 18 June 2020) <<https://vovworld.vn/en-US/content/NzY2MDY5.vov>> accessed 28 October 2022.

38. Law No. 103/2016/QH13 | 2016 | Art. 3

of speech in the press to infringe upon the interests of the State and the lawful rights and interests of organisations and citizens. The press shall not be censored before being printed, transmitted, and broadcast”.³⁹

Protection of minority rights

Ethnic Minorities

The Constitution of Vietnam attaches special importance to the rights of ethnic minorities, to assure that they enjoy equal rights as other ethnic groups, as a matter of fact, according to Article 5: “The Socialist Republic of Vietnam is the united nation of all nationalities living on the territory of Vietnam. All nationalities are equal, solidary, mutually respectful and assist in their development; all acts of national discrimination and division are strictly forbidden. The national language is Vietnamese. Every nationality has the right to use its own language and system of writing, to preserve its national identity, and to promote its new customs, habits, traditions, and culture. The State implements a policy of comprehensive development and provides conditions for the national minorities to promote their internal abilities and to develop together with the nation”.⁴⁰ The Vietnamese Constitution also affirms the fundamental and overriding principle of non-discrimination, as expressed in Article 16, which states, “all citizens are equal before the law. No one shall be discriminated in his political, civic, economic, cultural, and social life”. This principle has been institutionalised and embodied by numerous laws, in the last ten years the Vietnamese Assembly has adopted 151 laws, of which 38 are related to the rights and obligations of ethnical groups.⁴¹

Religious Minorities

The Vietnamese Constitution states that all individuals have the right to freedom of belief and religion, as declared by Article 24: “Everyone shall enjoy the freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law. The State respects and protects freedom of belief and of religion. No one has the right to infringe on the freedom of belief and religion or to take advantage of belief and religion to violate the laws”.⁴² The Constitution recognises the right to freedom of religion or belief for those whose rights are restricted, such as prisoners, aliens, and stateless persons.⁴³

Compared to the previous constitutions, the 2013 one has done an important step forward, showing that the rights of religious freedom should be protected and respected, and should be created conditions for performance rights, all of that using the term “people”, instead of “citizen” (as the previous constitution did), therefore with a broader meaning. Throughout the years, the Vietnamese

39. Law No. 103/2016/QH13 | 2016 | Art. 13

40. Vietnam Constitution | Chapter I | Article 5

41. ‘Information on the Protection and Promotion of Human Rights of Ethnic Minorities in Viet Nam’ (The Office of the United Nations High Commissioner for Human Rights) <<https://www.ohchr.org/sites/default/files/Documents/Issues/Minorities/SR/FollowCV/ResponseVIETNAM.pdf>> accessed 28 October 2022.

42. Vietnam Constitution | Chapter II | Article 24

43. Thao, ‘Right to Religious Freedom in Vietnamese Constitution’ <<https://classic.iclrs.org/content/events/123/3449.pdf>> accessed 28 October 2022.

government has also improved programs, mechanism law and policies on religion, to create the best conditions to exercise religious freedom. In 2016, the National Assembly passed a new Law on Belief and Religion, which provides significant government control over religious practices and permits restrictions on religious freedom in the interest of national security and social unity.⁴⁴ “Strictly prohibited” acts include “undermining national defence, national security, national sovereignty, public order, public safety, and the environment,” “doing harm to social ethics or others’ health, life, dignity, honour, or property,” “sowing division among the people,” and “abusing belief and religious activities to gain personal benefit.”

On the other hand, it reduces the waiting period for a religious group to obtain national-level or provincial recognition from 23 years to five years, lessens the number of religion-related procedures requiring advance approval from authorities, aims to clarify the process by which religious organisations can obtain registration for their activities and recognition, and for the first time specifies the right of legal status for recognised religious groups. The law also specifies that religious groups be allowed to conduct educational, health, social protection, charitable, and humanitarian activities in accordance with the relevant laws.⁴⁵

The Right to a Free and Fair Trial

The right to a fair trial is a fundamental and universal human right that exists in both criminal and non-criminal cases. Article 20 of the Constitution of Vietnam states that no one shall be arrested without a decision of the People’s Court, a decision or sanction of the People’s Procuracy, except in the case of a crime in the act. Article 31 of the Vietnamese Constitution stipulates that: “A defendant shall be regarded as innocent until the crime is proved in accordance with legal procedure and the sentence of the Court has acquired full legal effect. A defendant must be tried timely, equally, and publicly by courts within the time provided by law. If the case is heard behind closed doors in accordance with the law, the verdict must be pronounced in public. No one shall be tried two times for one offence. Any person who has been arrested, held in custody, prosecuted, or brought to trial in violation of the law has the right to self-defend or to seek the assistance of defence from lawyers or other people. Any person who has been arrested, held in custody, prosecuted, brought to trial, and sent to jail in violation of the law shall be entitled to damages for any material harm suffered and his reputation shall be rehabilitated. Anybody who contravenes the law in arresting, holding in custody, prosecuting, bringing to trial, and sending in jail another person thereby causing him damage shall be dealt with in accordance with the law”.⁴⁶ Concretising these provisions, the Vietnam Criminal Procedure Code (2015), in Article 60, provides the rights of the suspects, which are: to know the reason for being prosecuted; To be informed and

44. vnmission, ‘International Religious Freedom Report for 2016 - Vietnam’ (U.S. Embassy & Consulate in Vietnam, 18 August 2017) <<https://vn.usembassy.gov/international-religious-freedom-report-2016-vietnam/>> accessed 28 October 2022.

45. *ibid.*

46. Vietnamese Constitution | Chapter II | Article 31

explained about the rights and obligations specified in this Article; Receive the decision to prosecute the accused; decide to change or supplement the decision to prosecute the accused, the decision to approve the decision to prosecute the accused, the decision to approve the decision to change or supplement the decision to prosecute the accused; decide to apply, change or cancel preventive and coercive measures; investigation conclusion; decide to suspend or temporarily suspend the investigation; decide to suspend or temporarily suspend the case; indictments, prosecution decisions and other procedural decisions as prescribed by this Code; Present statements, express opinions, not be forced to testify against yourself or be forced to admit guilt; Present evidences, documents, objects or requests; Presenting opinions on relevant evidences, documents and objects and requesting competent procedure-conducting persons to examine and evaluate them; Request for assessment and valuation of assets; to propose the change of persons competent to conduct proceedings, experts, property appraisers, interpreters, translators; Defend yourself, ask an advocate; Read and record a copy of a document or digitised document relating to the charge, exoneration or other copy of a document related to the defense since the end of the investigation upon request; Complaints about procedural decisions and acts of agencies or persons competent to conduct procedures.

The Criminal procedure Code, for the first time, also stipulates the principle of presumption of innocence (Article 13), according to which the person is not considered guilty until proven according to the law. The Vietnamese Constitution also states that everyone is equal before the law, according to Article 16, and no one shall be discriminated against in political, civil, economic, cultural, or social life. Equal rights are also recognised by Article 26 of the Constitution, which ascribes equal rights to men and women and prohibits gender discrimination.

International Law

Freedom of Speech, Assembly and Expression

In international law, freedom of opinion and expression is seen as the foundation of individual liberty and self-fulfilment,⁴⁷ as essential, a foundation stone⁴⁸ in a democratic society, and, as such, deserves society's greatest protection. Freedom of opinion and expression are fundamental rights that contain both a personal and social dimension and are essential for the enjoyment of other rights.

The Universal Declaration of Human Rights protects this right under Article 19, which states that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".⁴⁹

Since its inclusion in Article 19 of the Universal Declaration of Human Rights, the right to freedom of opinion and expression has been protected in all the relevant international human rights treaties,

47. Brittan Heller and Joris van Hoboken, 'Freedom of Expression: A Comparative Summary of United States and European Law' [2019] Transatlantic High Level Working Group on Content Moderation Online and Freedom of Expression 17.

48. UN Human Rights Committee, 2011, para. 2

49. Article 19 of the Universal Declaration of Human Rights

regional and international instruments, for example, The International Covenant on Civil and Political Rights (Art. 19), The International Covenant on Economic, Social and Cultural Rights, The International Convention on the Elimination of All Forms of Racial Discrimination (Article 5), The Convention on the Elimination of All Forms of Discrimination against Women (Article 7), General Comment 10 (19) (Article 19) of the Human Rights Committee (CCPR/C/21/Rev.1 of 19 May 1989), General Comment 11 (19) (Article 20) of the Human Rights Committee (CCPR/C/21/Rev.1 of 19 May 1989), Declaration on Principle of Freedom of expression (OAS), African Charter on Human and Peoples' Rights (Article 9).

All forms of communications are protected, including “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”.⁵⁰

Under the ICCPR, freedom of expression includes the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of a person’s choice”.⁵¹ This means that every form of expression is protected, including spoken, written and sign language, and non-verbal expression through artwork.⁵²

Nonetheless, freedom of speech is not an absolute right and can be limited, when necessary, in a proportionate manner, for example, under the ICCPR, it can only be restricted by law and where necessary to respect the rights or reputations of others; or for the protection of national security or of public order, or of public health or morals.⁵³

Protection of Minority Rights

The recognition and protection of minority rights under international law began with the League of Nations through the adoption of several ‘minority treaties’, and when the United Nations was set up, it started developing norms, procedures and mechanisms to protect minorities in particular with the 1966 International Covenant on Civil and Political Rights, which, at Article 27, protects the minorities’ rights to their national, ethnic, religious, or linguistic identity and to preserve the characteristics which they wish to maintain and develop, and with the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,⁵⁴ now known as the United Nations Minorities Declaration (1992), which is considered as the main document concerning minority rights. However, there is no internationally agreed definition of what groups constitute minorities, and the difficulty stands on the variety of situations in which minorities live.

According to Article 1 of the United Nations Minorities Declaration, the term ‘minorities’, refers to

50. UN Human Rights Committee, 2011, para. 11

51. United Nations, 1966, Article 19(2)

52. UN Human Rights Committee, 2011, para. 12

53. United Nations, 1966, Article 19(3)

54. United Nations Office of the High Commissioner of Human Rights, ‘Minority Rights: International Standards and Guidance for Implementation’ (2010) <https://www.ohchr.org/sites/default/files/Documents/Publications/MinorityRights_en.pdf> accessed 28 October 2022.

national, ethnic, cultural, religious, and linguistic identity, and proclaims that States should protect their existence and identity. Article 2 states a very important principle in an inclusive society, that is that minorities shall have the right to practice their religion, enjoy their culture and use their own language in both public and private settings without any kind of defamation, Article 3 guarantees that persons belonging to minorities have the right to exercise their rights individually and without discrimination. According to Article 4 of this document, States shall take adequate measures to ensure that minorities exercise fully and completely all their rights without any discrimination. Article 5 explains the various programs of assistance and cooperation, national policies, and programs that States should plan and implement.

The scope of minority rights protection is identified in the survival and existence, promotion, and protection of the identity of minorities, equality, and non-discrimination, and effective and meaningful participation.

GOVERNMENT REPRESSION AGAINST FREEDOM OF SPEECH, ASSEMBLY AND EXPRESSION

While on paper, there are many guarantees to the right of freedom of speech, assembly, and expression both within Vietnam's national law and international treaty commitments, the government has been notorious for cracking down on opinions or statements they deem go against party lines. From June to September 2022 alone, there were several cases where the government carried out arrests towards civil society, human rights defenders, as well as ethnic and religious minority activists to suppress their voices. The arrests and subsequent sentencing of these human rights defenders and members of civil society have also been plagued with allegations that violate the right to a free and fair trial as enshrined under Article 31 of Vietnam's Constitution and Article 60 of the 2015 Penal Code, such as prolonged pretrial detentions, lack of access to legal counsel and coercion.

Repression against the Freedom of Association of Environmental Activists

The government of VietNam has made several arrests against environmental activists that go against their right to freedom of association enshrined in Article 25 of the Constitution. On 18th June 2022, a high-profile environmental activist and anti-coal advocate, Nguy Thi Khanh, was sentenced to two years of imprisonment under tax evasion charges.⁵⁵ Nguy is the fourth environmental activist to be imprisoned under tax evasion charges in the country.⁵⁶ In January 2022, Dang Dinh Bach, director of the nonprofit organisation Law and Policy of Sustainable Development (LPSD), and Mai Phan Loi, a former journalist and founder of another nonprofit organisation, were sentenced to five years and four years of imprisonment respectively.⁵⁷ These convictions were largely seen as an effort on behalf of the government to prevent the establishment of a network of NGOs that will monitor the implementation of the European Union - Vietnam Free Trade Agreement (EVFTA), which could be essential in advocating for workers' rights, land rights, as well as the environmental rights in the country.⁵⁸

Nguy, who was the founder of the non-profit Green Innovation and Development Centre and the 2018 winner of the prestigious Goldman Prize, was also known for her national campaign for greener energy strategies.⁵⁹ Through her campaigns, Nguy has mobilised communities throughout the country to advocate for the environment and produced reports that documented the risks for

55. Chris Humphrey, 'Vietnam Urged to Free Green Activist Nguy Thi Khanh as It Bids to Join UN Rights Body' The Guardian (14 September 2022) <<https://www.theguardian.com/global-development/2022/sep/14/vietnam-urged-to-free-green-activist-nguy-thi-khanh-as-it-bids-to-join-un-human-rights-council>> accessed 28 October 2022.

56. 'Dang Dinh Bach: Director Of A Nonprofit Environmental Organization Receives 5 Years In Jail' The Vietnamese Magazine (24 January 2022) <<https://www.thevietnamese.org/2022/01/dang-dinh-bach-director-of-a-nonprofit-environmental-organization-receives-5-years-in-jail/>> accessed 28 October 2022.

57. *ibid.*

58. *ibid.*

59. 'Civil Society Urges the UN to Reject Vietnam's Bid for the Human Rights Council as It Continues to Arrest and Jail Activists' MONITOR - CIVICUS - Tracking conditions for citizen action (21 September 2022) <<https://monitor.civicus.org/updates/2022/09/21/civil-society-urges-un-reject-vietnams-bid-human-rights-council-it-continues-arrest-and-jail-activists/>> accessed 28 October 2022.

Viet Nam to continue relying on coal.⁶⁰ The activist had called for the government to cut coal-fired power by 30,000 megawatts, which was in direct opposition to Vietnam's initial plans to boost its coal production.⁶¹ While Vietnam is the country with the largest installed capacity of solar and wind power in the region, pundits have pointed out that several draft plans have indicated a reluctance on part of the government to move away from coal energy.⁶² Le Hong Hiep, a senior fellow at the Vietnam Studies Program at Singapore's ISEAS — Yusof Ishak Institute, saw this as the government's key reason to arrest Nguy, stating that officials “may be concerned that Vietnam's transition away from coal may harm their interests, so they want to silence her”.⁶³ The Observatory for the Protection of Human Rights Defenders, a partnership of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), also stated in its statement that they were concerned “about the Vietnamese authorities' use of legal harassment, especially the use of tax-related charges against environmental activists, as a strategy to criminalise them”.⁶⁴

Repression of Freedom of Speech and Expression of Civil Society and Activists

The government has also been deliberately repressing journalists, activists and members of society who are critical of the State which directly violates the right to freedom of speech and expression enshrined in Article 25 of Vietnam's Constitution and Article 13 of the 2016 Press Law. On 5th July 2022, the authorities arrested Nguyen Lan Thang, a prominent civil rights activist in the country, on the charge of “making, storing, and distributing anti-State propaganda and materials” under Article 117 of Vietnam's 2015 Penal Code.⁶⁵ Nguyen, who is popularly known for his activism in civil society development and civil rights in Vietnam, is also a blogger and photographer who frequently participated in anti-China protests in Hanoi and Ho Chi Minh City following Beijing's aggressive activities in the South China Sea.⁶⁶ Phil Robertson, the deputy Asia director of Human Rights Watch, has expressed that this arrest is yet another one of “Vietnam's outrageous and unacceptable crackdown on freedom of expression”⁶⁷

Journalist Huynh Ngoc Chanh shared this sentiment, stating that arrests of civil society activists have been a noticeable trend in recent years.⁶⁸ Indeed, authorities have used Article 117 to arrest and sentenced to imprisonment a number of activists in the past two years, including journalist Le Trong Hung for five years in January 2022,⁶⁹ activist Do Nam Trung for ten years in December 2021⁷⁰, journalist Le Van Dung for 5 years in March 2022,⁷¹ land rights activists Can Thi Theu and Trinh Ba Tu for eight years in May 2021,⁷² Trinh Ba Phuong for ten years and Nguyen Thi Tam for six years both in December 2021,⁷³ activist Doan Trang for nine years in December 2021,⁷⁴ as well as activist Nguyen Thuy Hanh who has been in pre-trial detention since April 2021.⁷⁵

60. Sui-Lee Wee, 'She Spoke Out Against Vietnam's Plans for Coal. Then She Was Arrested.' The New York Times (17 June 2022) <<https://www.nytimes.com/2022/06/17/world/asia/nguy-thi-khanh-environmental-activist-arrested.html>> accessed 28 October 2022.

61. *ibid*; Humphrey (n 52).

62. Wee (n 60).

63. *ibid*.

64. 'Vietnam: Sentencing and Arbitrary Detention of Environmental Rights Defender Nguy Thi Khanh' <<https://www.fidh.org/en/issues/human-rights-defenders/vietnam-sentencing-and-arbitrary-detention-of-environmental-rights>> accessed 28 October 2022.

65. 'Vietnam Briefing: Prominent Vietnamese Activist Arrested On "Anti-State" Charge' The Vietnamese Magazine (11 July 2022) <<https://www.thevietnamese.org/2022/07/vietnam-briefing-prominent-vietnamese-activist-arrested-on-anti-state-charge/>> accessed 28 October 2022.

66. *ibid*.

67. 'Vietnam Arrests Prominent Rights Activist over "Propaganda"' France 24 (5 July 2022) <<https://www.france24.com/en/live-news/20220705-vietnam-arrests-prominent-rights-activist-over-propaganda>> accessed 28 October 2022.

68. Erin, 'Activist Nguyen Lan Thang Was Arrested by Hanoi Police under Article 117 of the Penal Code' Vietnam Posts English (5 July 2022) <<https://vietnam.postsen.com/news/39941/Activist-Nguyen-Lan-Thang-was-arrested-by-Hanoi-police-under-Article-117-of-the-Penal-Code.html>> accessed 28 October 2022.

69. Erik Crouch, 'Vietnam Sentences Journalist Le Trong Hung to 5 Years in Prison' (Committee to Protect Journalists, 5 January 2022) <<https://cpj.org/2022/01/vietnam-sentences-journalist-le-trong-hung-to-5-years-in-prison/>> accessed 28 October 2022.

70. 'Vietnamese Activist Jailed for 10 Years for Writings against Corruption' Radio Free Asia <<https://www.rfa.org/english/news/vietnam/activist-12162021145603.html>> accessed 28 October 2022.

71. Erik Crouch, 'Vietnamese Journalist Le Van Dung Sentenced to 5 Years in Prison' Committee to Protect Journalists (23 March 2022) <<https://cpj.org/2022/03/vietnamese-journalist-le-van-dung-sentenced-to-5-years-in-prison/>> accessed 28 October 2022.

72. 'Land Rights Defenders Can Thi Theu and Trinh Ba Tu Sentenced' (Front Line Defenders, 7 May 2021) <<https://www.frontlinedefenders.org/en/case/land-rights-defenders-can-thi-theu-and-trinh-ba-tu-sentenced>> accessed 28 October 2022.

73. 'Convictions of Trinh Ba Phuong And Nguyen Thi Tam Upheld In August 17 Appeal Hearing' <<https://www.thevietnamese.org/2022/08/convictions-of-trinh-ba-phuong-and-nguyen-thi-tam-upheld-on-august-17-2022-appeal-hearing/>> accessed 28 October 2022.

74. Amnesty International, 'Viet Nam: Immediately Release Journalist and Human Rights Defender Pham Doan Trang - Amnesty International' (Amnesty International, 24 August 2022) <<https://www.amnesty.org/en/latest/news/2022/08/vietnam-pham-doan-trang-appeal/>> accessed 28 October 2022.

75. Roseanne Gerin, 'Jailed Vietnamese Rights Activist Marks One Year in Pre-Trial Detention' Radio Free Asia (7 April 2022) <<https://www.rfa.org/english/news/vietnam/nguyen-thuy-hanh-04072022171627.html>> accessed 28 October 2022.

The government has also been using other Articles within their Penal Code to suppress dissent or any content they deem to be against the State. For instance, on 30th August 2022, independent journalist and blogger Le Anh Hung was sentenced to five years in prison for charges of “abusing democratic freedoms to infringe upon the interests of the state, organisations and individuals” under Article 331 of the Criminal Code.⁷⁶ Le, who wrote about politics and was a regular contributor to the Voice of America website, is also a member of two civic organisations that are not recognised by the Vietnamese government: The Independent Journalists Association of Vietnam and the Brotherhood for Democracy of which dozens of members have been sent to prison with lengthy sentences in the past few years.⁷⁷ This decision came after Le had spent more than four years in a psychiatric hospital and on remand, without access to a defence lawyer.⁷⁸

These arrests are not only targeting human rights defenders, but they also target anyone posting any content on the internet that the State may deem as going against the government. This is shown by the arrest of beef noodle vendor, Bui Tuan Lam, who was also charged under Article 117 of the 2015 Penal Code.⁷⁹ Bui was known for his videos showing his imitation of a famous Turkish chef who served an expensive cut of meat to a Vietnamese government official.⁸⁰ The police have been noted as saying that the contents he shared are “distorting the guidelines and policies of the party and State and promoting activities against the party and State of Vietnam”.⁸¹

Repression of Freedom of Peaceful Assembly

The government has also been repressing the right to freedom of peaceful assembly of its citizens, which again is protected under Article 25 of the country’s Constitution. Indeed, on 22nd July 2022, the authorities charged Ha Thi Hien, Tran Thi Nien, and Bui Van Canh with “resisting against officers on official duty,” while Tran Thi Hoa, Bach Thi Hoa, Ha Thi Thoa, and Ha Van Hanh were charged with “disturbance of public order” after they participated in a protest over the demolition of a local road earlier that month.⁸² The protest had turned violent after hundreds of riot police, using smoke grenades and explosives, attempted to disperse protesters on Binh Thuan parish in Nghe An’s Nghi Thuan commune where protesters were attempting to remove a fence blocking a road that connects the parish to an area highway.⁸³

76. ‘Vietnamese Blogger Sentenced to 5 Years after Trial without Defense Lawyer — Radio Free Asia’ (8 September 2022) <<https://www.rfa.org/english/news/vietnam/vietnamese-blogger-jailed-09082022001539.html>> accessed 28 October 2022.

77. *ibid.*

78. *ibid.*

79. ‘Vietnamese Noodle Vendor Arrested by Police over Video and Social Media Posts’ Radio Free Asia (7 September 2022) <<https://www.rfa.org/english/news/vietnam/bui-tuan-lam-09072022173329.html>> accessed 28 October 2022.

80. *ibid.*

81. *ibid.*

82. ‘Vietnam Court Charges 7 People for Their Roles in Road Demolition Protest’ Radio Free Asia (27 July 2022) <https://www.rfa.org/english/news/vietnam/road_protest-07272022154531.html> accessed 28 October 2022.

83. *ibid.*

REPRESSION OF MINORITIES IN VIETNAM

The protection of minorities is one of the oldest concerns of international law, and nowadays there are many different organisations and institutions which protect minority rights, however, minority groups continue to be targeted in various places around the world, and frequently are subject to violent attacks on their basic rights. Between June and September 2022, the Vietnamese government has been responsible for several repressions of minorities rights.

Repression of religious minority groups

On 7th June 2022, Church leaders in Vietnam complained that freedom to practise their religion in Vietnam was being undermined by the 2016 Law on Belief-Religion, since it allows the government to tighten control over religious activities, supporting the U.S. State Department's annual report on International Religious Freedom 2021, which included Vietnam on a list of countries where religious practices were being cut down by the state. The report found that: "Some religious leaders, particularly those representing groups that either did not request or receive official recognition or certificates of registration, reported various forms of government harassment, including physical assaults, detentions, prosecutions, monitoring, and denials of, or no response to, requests for registration and other permissions".⁸⁴

Local Vietnamese religious leaders declared that the 2016 Law on Belief-Religion significantly controls religion, "specifically, when registering or changing the place of religious activities we have trouble with the concept of 'religious organisation.' In the regulations it requires 'written approval of the religious organisation,' which is required by law. The definition of religious organisation varies from place to place".⁸⁵

Unregistered religious groups have an ever-harder time with this law and are often persecuted in all their religious activities. According to one of the priests, the U.S. State Department report omits to mention the issue of freedom and movement that many religious leaders encounter, as a matter of fact, they are often arbitrarily banned by the police from leaving the country for an indefinite period.⁸⁶

Hua Phi, a high-ranking member of the independent religious group Cao Dai Chan Truyen, said his passport was confiscated in 2014 and is yet to be reissued, making it impossible for him to go abroad to attend a religious freedom conference in Southeast Asia.⁸⁷ He said that all independent religious

84. , United States Department of State Office of International Religious Freedom, '2021 Report on International Religious Freedom' (United States Department of State, 3 June 2022) <<https://www.state.gov/reports/2021-report-on-international-religious-freedom/>> accessed 28 October 2022.

85. 'Vietnam's Religious Groups Face State Persecution, Church Leaders Say — Radio Free Asia' (7 June 2022) <<https://www.rfa.org/english/news/vietnam/vietnams-religious-groups-06072022021704.html>> accessed 28 October 2022.

86. *ibid.*

87. *ibid.*

groups are restricted by the Vietnamese government in terms of their right to practise religion freely, with the government requiring groups to register in order to do so. He said even though many groups have a long history the government still makes it difficult for them to practise their religion.⁸⁸

Repression and alleged torture towards religious minority groups

On 22nd July 2022, the People's Court of Duc Hoa District in southern Vietnam's Long An province sentenced six members of an independent religious group (the unofficial Peng Lai Temple) to long prison terms, after a trial in which the defendants stated that they had been forced to confess, with the use of threats and torture (according to what three of the six defendants said in court), the charges made against them, with the charge of "abusing the rights to freedom and democracy", under Article 331 of Vietnam's 2015 Penal Code.⁸⁹ After the trial, a human rights lawyer called the case 'politically motivated, since the media had published information with the aim of slandering the member of the group, "accusing them of incestuous relationships and of committing fraud".⁹⁰ He also added that the Vietnamese government has shown that it doesn't understand what freedom of religion means and "that they are willing to crack down on any religious groups that they can't control through their licensing system".⁹¹

However, on 28th July 2022, The Vietnam Interfaith Council lashed out at the harsh sentences given to the six members.⁹² Police suspended investigations into further allegations of incest and fraud but indicated that other charges may follow. The group denounced the Vietnamese government for "defying the Universal Declaration of Human Rights of the United Nations, depriving the Vietnamese people of basic freedoms, including freedom of religion and speech, freedom of association and the right to a fair trial".⁹³ Thich Khong Tanh, co-chair of the Interfaith Council explained that this sentence constituted a serious violation of freedom of religion and belief and an insult to the dignity of human beings.⁹⁴ He also referred to one of the issues raised during the trial, about the fact that the Peng Lei sect refused to register to join the Vietnamese Buddhist Church, saying that the group has the right to practise Buddhism the way they want, not necessarily by joining the Vietnamese Buddhist Church.⁹⁵

Another member of the Vietnam Interfaith Council, Cao Dai clerk Hua Phi, affirmed that the government initially falsely accused Le Tung Van of committing incest, but later used Article 331 to try to show the real nature of this case, that is to abolish unregistered groups.⁹⁶

88. 'Vietnam's Religious Groups Face State Persecution, Church Leaders Say — Radio Free Asia' (n 85).

89. 'Coercion Claims as Vietnam Jails 6 in Crackdown on Religious Group' Radio Free Asia (22 July 2022) <<https://www.rfa.org/english/news/vietnam/group-07222022124312.html>> accessed 28 October 2022.

90. *ibid.*

91. *ibid.*

92. 'Vietnam Religious Freedoms Group Hits out at Sentences against Peng Lei Members' (Radio Free Asia, 28 July 2022) <<https://www.rfa.org/english/news/vietnam/vietnam-religious-freedoms-group-hits-out-at-sentences-against-peng-lei-members-07282022024848.html>> accessed 28 October 2022.

93. *ibid.*

94. *ibid.*

95. *ibid.*

96. *ibid.*

On 26th July 2022, the leader of Long An Provincial Police said there was not enough evidence to charge Le Tung Van with incest and said he would stop accepting allegations of this crime.⁹⁷ The Interfaith Council also “requested the United Nations Human Rights Agency, international human rights organisations, and liberal and democratic countries around the world to pressure the communist government of Vietnam to respect human rights and comply with international judicial procedures and principles for the Vietnamese people”.⁹⁸

International Day Commemorating Victims of Violence based on Religion or Belief

On 24th August 2022, seven embassies in Hanoi issued a joint statement on the occasion of the “International Day Commemorating Victims of Violence based on Religion or Belief” (22 of August every year), saying that they “strongly condemn the continuing acts of violence against individuals based on religion or belief, including those belonging to religious minorities”.⁹⁹ This statement noted that freedom of religion and belief is proclaimed in the Universal Declaration of Human Rights, and invited nations and individuals to combat violence and discrimination and ensure that everyone is able to enjoy human rights in dignity and freedom.¹⁰⁰

In April 2022, a report published by the U.S. Commission on International Religious Freedom accused the Vietnamese government of religious persecution, especially of independent religious groups and ethnic minorities, saying that “authorities continued to persecute independent religious communities, including Protestant Hmong and Montagnard Christians, Hoa Hao Buddhists, Unified Buddhists, Cao Dai followers and adherents of other religious movements such as Falun Gong, Duong Van Minh, the World Mission Society Church of God and Ha Mon,” and that “The government designated many of these groups as ‘strange,’ ‘evil,’ or ‘heretical’ religions and often cited security grounds to suppress them, causing some, such as Ha Mon, to reportedly face extinction”.¹⁰¹

Repression of ethnic minorities

On 16th August 2022, the People’s Court of Vietnam’s Dak Lak province held an appeal hearing on the case of Y Wo Nie, a local religious freedom activist from the Ede ethnic minority.

He was sentenced to four years in prison in May, by the People’s Court of Cu Kuin district, with the charge of ‘abusing freedoms and democracy to infringe upon the interests of the state, the lawful rights and interests of organisations and individuals’¹⁰² for taking pictures of three

97. *ibid.*

98. *ibid.*

99. ‘Foreign Embassies in Hanoi Issue Joint Statement on Religious Freedom’ Radio Free Asia (24 August 2022) <<https://www.rfa.org/english/news/vietnam/foreign-embassies-in-hanoi-08242022002714.html>> accessed 28 October 2022.

100. *ibid.*

101. *ibid.*

102. Clause 2, Article 331 of the Criminal Code

handwritten human rights reports and sent them to international organisations, the first one was on the religious and human rights situation of the Ede ethnic people in the Central Highlands and the second one was sent to the U.N. Human Rights Committee and the U.S. Commission on International Religious Freedom and concerned violations of the right to religious freedom. The third report was titled “On the situation of religious freedom in general and in particular for ethnic people in the Central Highlands”.

He was also indicted for meeting with U.S. diplomats, with representatives of Ho Chi Minh City’s U.S. Embassy and Consulate in Gia Lai province in June 2020. His actions were alleged to have “collected distorted and false information”, “affected the political security situation, social order and safety, and the normal operation of state administrative agencies, and reduced the public’s confidence in the regime, and affected the image of the State of the Socialist Republic of Vietnam as well as the prestige of the Communist Party of Vietnam in international diplomatic relations”. Nie was also previously sentenced to nine years in prison for “undermining the unity policy,” a ruling often used to imprison religious freedom activists among the many ethnic minorities in Vietnam’s Central Highlands and northern mountainous areas.¹⁰³ The Dak Lak Provincial People’s Court upheld Nie’s earlier conviction and, according to his defence lawyer, Nguyen Van Mieng, there were no witnesses or judicial supervision during the trial.¹⁰⁴

103. ‘Vietnamese Minority Activist to Appeal Four-Year Sentence on Aug. 16 — Radio Free Asia’ (9 August 2022) <<https://www.rfa.org/english/news/vietnam/vietnamese-minority-activist-appeal-08092022010931.html>> accessed 28 October 2022.

104. ‘Vietnamese Appellate Courts Uphold Convictions Of Two Vietnamese Activists, Le Van Dung And Y Wo Nie’ (The Vietnamese Magazine, 17 August 2022) <<https://www.thevietnamese.org/2022/08/vietnamese-appellate-courts-uphold-convictions-of-two-vietnamese-activists-le-van-dung-and-y-wo-nie/>> accessed 28 October 2022.

CONCLUSION

Even though theoretically freedom of speech, expression and minority rights are protected in Vietnam, on a practical level there are still many violations and far too many people are constantly charged for sharing their views and criticising the government, or because of their religious belief and their identity as an ethnic minority. Laws are too vague, and, for this reason, constantly abused to silence and repress people, who are often sentenced because their actions are often equated to criminal conduct. On a specific note, Vietnam needs to change the current laws on religious minorities, which are too tight and make it difficult for religious organisations to register, exposing them to persecution in all their religious activities.

The government of Vietnam should commit to their international pledge to promote human rights and fundamental freedom, including freedom of speech, association, assembly, and expression, especially considering its newly elected role as part of the United Nations Human Rights Council.

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