

This statement is delivered on behalf of Legal Initiative for Vietnam (LIV). In the past ten years, we have worked on Vietnam's human rights situation and operated two online magazines targeting the audience in Vietnam.

We are here not only representing our organization, but also on behalf of many human rights defenders and victims of human rights abuses that could not come to Geneva today.

One of them is our co-founder, journalist Pham Doan Trang who is in prison for being a journalist and a human rights defender. She was sentenced to nine years in 2022 and has been in prison for more than three years.

### **Vietnam's Penal Code on Freedom of Expression:**

First and foremost, the Vietnamese government has a long history of criminalization of free speech. Since the Vietnamese Communist Party (VCP) took power in 1945, and then after nine years long fighting and winning the First IndoChina War against the French, since 1954, they have aggressively and increasingly persecuted dissidents using criminal laws.

This started notably with the 1967 Ordinance on punishing counterrevolution crimes, initiated by Ho Chi Minh. Subsequent Penal Codes in 1985 and 1999, and the current code, continue to target dissent through various provisions.

Key among these are Article 109, which penalizes actions against the government with sentences up to death; Article 117, targeting anti-state propaganda with up to 20 years in prison; and Article 331, which addresses the abuse of democratic freedoms, potentially leading to seven years of imprisonment.

These laws have been applied not only against political activists and dissidents but also ordinary citizens, highlighting the government's tight control over freedom of expression.

## **Vietnam's Internet Freedom:**

Vietnam has taken significant steps to regulate the internet, especially focusing on cross-border services, with Decree 72/2013/ND-CP issued in July 2013 marking the beginning of this legislative shift. This decree, aimed at foreign online platforms like Facebook and Google, was a response to the increasing use of the internet for activism and dissent, which posed a challenge to the authoritarian regime. The 2011 protests, inspired by global movements like the Arab Spring and facilitated through social media, underscored the internet's power in mobilizing civil society against the government. This led to a realization within the Vietnamese government of the need to control not just domestic, but also foreign online services to maintain its authority.

Decree 72 required foreign companies to comply with Vietnamese laws, a stance further cemented by the 2018 Cybersecurity Law. This law was criticized both domestically and internationally for its restrictions on speech and mandates for data localization and the establishment of local offices by foreign platforms. It also specified that foreign services must adhere to government requests for content moderation and user data handling, reflecting an aggressive approach to control the internet.

Following decrees, such as Decree 53 and Decree 13, continued this trend by targeting cross-border platforms to safeguard the regime from free information flow and protect the domestic market from foreign dominance. These policies were partly justified by the need to level the playing field for domestic companies, which argued that foreign competitors had unfair advantages, such as not needing local registrations or paying local taxes, resulting in a significant market share dominance by companies like Facebook and Google.

In July 2023, the Ministry of Information and Technology drafted a decree to replace Decree 72, proposing even stricter controls. This includes mandatory identity verification for social media users, tools for the government to scan platform content, and stricter measures against illegal content, including temporary and permanent blocks on accounts, groups, or channels violating laws multiple times. Foreign app stores are also required to restrict access to apps violating Vietnamese laws, and technical blocks will be imposed on non-compliant online content, services, and applications.

Furthermore, the decree mandates that only licensed social media networks can offer live video streaming services or engage in revenue-generating activities, excluding e-commerce. This draft decree represents a significant push towards eliminating social media anonymity and tightening control over the digital environment in Vietnam.

The cumulative effect of these regulations is a comprehensive framework for Internet governance that prioritizes state security and control over the free flow of information. By targeting cross-border services, Vietnam aims to mitigate the challenges posed by the global nature of the internet to its governance model, ensuring that foreign platforms operate within the confines of its legal and regulatory expectations. The evolution from Decree 72 through the proposed draft decree of 2023 illustrates a trajectory towards increasingly restrictive internet governance, reflecting the Vietnamese government's determination to maintain control over the digital sphere within its borders.

### **Recommendations:**

States should recommend that the Socialist Republic of Vietnam:

1. Amend current legislation to ensure that it is consistent with freedom of expression and right to privacy. Specifically, we recommend the revision of the following laws:

- Vietnam Penal Code (2015) - the removal of Articles 109, 117 and 331
  - Cybersecurity Law (2018) - the removal of Articles 5 and 8 and Decree 53
  - Draft Decree 72 - the removal of Articles 26 and 30
2. Actively enforce its current treaties, particularly trade agreements, to guarantee a free and open internet within Vietnam, along with the availability of cross-border services to ensure that internet access and services in Vietnam align with international standards and agreements.
  3. Cease persecution of writers, journalists, and artists for exercising their free expression, release them from prison, and unconditionally drop all charges.