



Stakeholder submission to the 18th session of the UN Human Rights Council UPR for Vietnam

17 June 2013

SUBMITTING STAKEHOLDERS

VOICE (Bangkok, Thailand and Manila, Philippines) and Freedom House (Washington DC, USA) have compiled information received from partner organisations within Vietnam.

VOICE (Vietnamese Overseas Initiative for Conscience Empowerment) www.vietnamvoice.org

VOICE is a non-profit organisation established in California, USA. Since 2007, VOICE has provided internship opportunities to young Vietnamese from Vietnam and abroad to learn about the rule of law, government policy and civil society development. Its mission is two-fold: to advocate for the protection of those who are persecuted and to give a voice to those who dare to speak up.

Freedom House

www.freedomhouse.org

Founded in 1941, Freedom House is an independent watchdog organization dedicated to the expansion of freedom around the world.

Vietnam Path Movement – Con Duong Viet Nam (VPM, CDVN)

<http://conduongvietnam.org/>

Founded by Tran Huynh Duy Thuc, Le Cong Dinh, and Le Thang Long, the Vietnam Path Movement (VPM) was launched in June 2012 right after Long was released from prison after serving a 3-year sentence for advocating for political reform. Tran Huynh Duy Thuc is still serving a 16-year sentence. The VPM is currently carrying out a number of projects aimed at raising awareness and protection of human rights in Vietnam.

Dong Chua Cuu The – Vietnamese Redemptorists' News

<http://www.chuacuuthe.com/>

VRN is the official voice of the Redemptorist Church in Vietnam. Its mission is to promote peace and justice through independent news and social media as well as to protect and assist the vulnerable.

Dan Lam Bao (Citizen Journalism)

danlambaovn.blogspot.com

Dan Lam Bao is an independent news website dedicated to truth, justice and an enduring faith that each citizen can play a part in protecting and enhancing freedom of expression in Vietnam. Arguably one of the best-known independent news websites to date, Dan Lam Bao has been singled out by the current Prime Minister of Vietnam, Nguyen Tan Dung, as a threat that must be punished and crushed at all costs.

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Introduction

1. Freedom House and VOICE, in conjunction with the Vietnam Path Movement, Vietnam Redemptorists' News, and Dan Lam Bao, submit this report to the Office of the High Commissioner for Human Rights (OHCHR) to be considered for inclusion in the summary of stakeholder submissions for the Universal Periodic Review of **Vietnam**, scheduled to take place in January/February 2014 during the 18th Session.
2. Despite acknowledged progress in economic development in recent years, human rights and fundamental freedoms remain under serious threat in Vietnam. Freedom of association, assembly, expression, and religion are severely curtailed by the State. Activists or citizens who dare to speak out against rights violations, government corruption, and a myriad other topics deemed politically sensitive face harsh treatment at the hands of the government, including surveillance, harassment, physical violence, and lengthy prison sentences. Despite having accepted 93 recommendations, many of which directly addressed lack of fundamental freedoms in the country, during its 2009 UPR process, Vietnam has been slow or completely resistant to implementing many of these recommendations, with notable declines in some areas, including Internet freedom and due process protections. This submission will highlight ongoing human rights concerns and exemplary cases of rights violations, with the aim of informing discussions and recommendations about Vietnam's current human rights practices. During the 2014 UPR process, UNHRC members should continue to press Vietnam to bring both its laws and practices into line with international human rights norms.

Freedom of Religion

3. The *Constitution* of Vietnam stipulates that "Citizens have the right to freedom of belief and religion, and may practice or not practice any religion" (Article 70). Given this protection, as well as the signature and ratification of the ICCPR, Vietnam appears to have a complete legal framework to guarantee freedom of religion for its citizens. In addition, in its 2009 UPR Vietnam accepted a number of recommendations aimed at improving religious freedom in the country (recommendations 44, 50, and 53 from Argentina, Lebanon, and Cambodia, respectively); however, numerous State-imposed barriers remain on the free practice of religion, including, inter alia, restriction

on registration, intervention in religious organizations' internal affairs, State approval of appointments for church leadership, and restrictions on proselytizing.

4. Although the *Constitution* provides that "all religions are equal before the law", numerous regulations and laws contain provisions that contradict that ideal. For example, *Decree 92*, issued in 2012, providing further guidance on the *Ordinance on Religion and Belief (Ordinance 2004)*, contains stipulations related to organization naming and requires religious organizations to have been in operation for at least twenty consecutive years to receive State recognition. These regulations have been used by authority agencies to deny registration of some religious organizations, including the United Buddhist Church of Vietnam (UBCV), the Evangelical Church Mennonite, and the Hoa Hao Central Buddhist Church.
5. *Intervention in the activities of religious organizations*
Current laws authorize government interference in the internal affairs of religious organizations. *Ordinance 2004* stipulates that the conferences or congresses of religious organizations must be approved by local and central authorities. This requirement creates difficulties when religious organizations want or need to meet for discussions or commemorations. For example, in March 2012 authorities prevented unauthorized Hoa Hao Buddhist organizations from marking the anniversary of the death of Hoa Hao founder Huynh Phu So.
6. *Ordinance 2004* allows for State restrictions on ordinations and appointments. It stipulates that those who are ordained must meet ambiguous and highly subjective criteria, such as "having good moral virtues" and "having the spirit of solidarity and ethnic harmony." In addition, when a "foreign element" is involved, religious organizations must reach an agreement with the State regarding appointments. For example, the Pope must discuss and receive State approval for appointments of Catholic bishops. The Government of Vietnam has the discretionary power to reject appointment, as demonstrated by the case of Father Nicolas Huynh Van Nghi, who was appointed bishop of Saigon by the Vatican but was later rejected by the government.
7. *Ordinance 2004* restricts proselytizing, requiring religious dignitaries to obtain permission from local authorities before evangelizing or performing religious rituals outside of their home place of worship.
8. *Restrictions on free movement of religious dignitaries*
The Government of Vietnam has blocked travel by religious dignitaries, including Reverend Fr. Vincent Pham Trung Thanh, the Provincial Superior of the Redemptorist Province of Vietnam, who was banned on July 10, 2011 from attending a religious forum in Singapore and Father Joshep Dinh Huu Thoai, Provincial Secretary of the Redemptorist Church who was blocked from exiting to Cambodia in July 2011. On September 16, 2012, Father Anthony Le Ngoc Thanh was held in police custody in Bac Lieu province to prevent his attendance at a commemoration for Ms. Dang Thi Kim Lien, who self-immolated on July 30, 2012 to protest the arrest of her daughter, blogger Ta Phong Tan.

Right to Fair Trial and Public Hearing

9. In its 2009 UPR, Vietnam agreed to comply with the *ICCPR*, particularly Article 14, by taking necessary steps to ensure fair trials (recommendation 42, Argentina). However, defendants on trial for offenses related to their political or human rights work continue to experience significant violations of their right to due process.
10. Vietnam's *Criminal Procedure Code* stipulates that the burden of proof rests with prosecuting bodies. The accused or defendant has the right to remain silent and is guaranteed a means of defence and fair trial under the law. In reality however, these rights are afforded little respect by the authorities. This has been especially true for defendants charged with offences related to challenging or 'harming' the Communist Party or the State.
11. Political activists facing trial experience difficulty gaining access to legal representation as the authorities harass and threaten lawyers who accept such cases, implement bureaucratic delays, and/or reject requests for defence counsel. The cases highlighted below are prime examples of this phenomenon.
12. On January 20, 2010, Le Cong Dinh (Lawyer), Tran Huynh Duy Thuc (Activist), Le Thang Long (Activist) and Nguyen Tien Trung (Engineer) were tried for "activities aimed at overthrowing the state" before the Ho Chi Minh

City People's Court. The defendants' motion for the refusal of a Communist Party of Vietnam (CPV)-controlled bench of judges was dismissed. It took the judges merely 15 minutes to deliberate, with the verdict announced within 45 minutes. The defendants were denied the opportunity to cross-examine witnesses or analyze the evidence against them.

13. On April 4, 2011 the Hanoi People's Court convicted Cu Huy Ha Vu (Legal Scholar) of "spreading anti-state propaganda" in less than six hours. The defense team was denied access to documents on which the prosecution's case was based, while a defense lawyer was dismissed. The remaining lawyers persisted in trying to obtain the documents, only to walk out in protest when their efforts failed.
14. Phan Ngoc Tuan (Labour Rights Activist) was sentenced to five years in prison for "spreading anti-state propaganda" by Ninh Thuan Province People's Court. He was tried on June 6, 2012 and August 29, 2012, and had no legal representation nor was he allowed to speak in defense at either trial date. His request for a defense counsel was rejected during the interrogation phase.
15. On December 27, 2013, Le Quoc Quan (Lawyer) was arrested on charges of 'tax evasion'. During the investigation, he was not granted a lawyer of his choice and his legal team was not able to gain access to case documents. Le Quoc Quan was required to wear a prisoner's uniform when meeting with his lawyers, even though he had not yet been convicted. To date, his family has been denied visitation rights.

16. *Closed trials*

Although public trials are required under Article 18 of Vietnam's *Criminal Procedure Code*, most hearings for political cases are closed to the general public. To provide a façade of "legitimacy" in these trials, select individuals and agents who belong to state-owned media are placed inside the courtrooms by local authorities. In the case of Cu Huy Ha Vu, a few foreign diplomats and journalists were allowed to watch the proceedings via closed-circuit television. In the case of Le Cong Dinh, Tran Huynh Duy Thuc, Le Thang Long, and Nguyen Tien Trung, the defendants' relatives were banned from the trial and dozens of policemen monitored the courthouse. There was similar staging during the hearings for:

- Nguyen Van Hai (Blogger Dieu Cay), Ta Phong Tan (Blogger), Phan Thanh Hai (Blogger Anh Ba Saigon) on September 24 and December 28, 2012;
- Vo Minh Tri (Musician Viet Khang) and Tran Vu Anh Binh (Musician) on October 30, 2012;
- 14 Catholic Activists on January 8-9, 2013.

Arbitrary detention¹

17. Vietnam's judiciary is not independent from its legislative and executive branches, as judges and the Chief Justice are members of the CPV. Given the lack of a genuine separation of powers, the state has detained and/or imprisoned dissidents and activists without trial or legal reason, contrary to the rights to liberty and security of the person (*ICCPR* Articles 9 and 10), as demonstrated in the following cases:
18. In August and September 2009, Pham Thi Doan Trang (reporter for VietNamNet), Bui Thanh Hieu (Blogger Nguoi Buon Gio), and Nguyen Ngoc Nhu Quynh (Blogger Me Nam) were arrested and detained arbitrarily because of blog posts deemed to be critical of the Government of Vietnam. At the time of the arrest, Nguyen Ngoc Nhu Quynh was caring for her 36 month-old child, which should have exempted her from being arrested under Vietnamese law.
19. On April 4, 2011, Le Quoc Quan (Lawyer/Blogger), and Pham Hong Son (Doctor/Democracy Activist) were arrested outside of Hanoi People's Court for simply being present to observe the trial of Cu Huy Ha Vu.
20. On November 27, 2011, Bui Thi Minh Hang (Activist) was arrested in front of Ho Chi Minh City's police station for protesting peacefully against unlawful suppression by the government. Her arrest was not announced to her family, and she was then moved to Ha Noi and imprisoned for 5 months in a re-education camp.

¹ The Working Group on Arbitrary Detention has found consistent breaches of this principle from 1992 to 2012.

21. Under Article 120 of Vietnam's *Criminal Procedure Code*, pre-trial detention is limited to four months for very serious offenses, and may be extended no more than three times (four months per time), for a total of 16 months of detention. However, extensions are routinely applied to "national security" cases on vague grounds, which are often not based on any credible evidence. Bloggers Nguyen Van Hai and Phan Thanh Hai, who were arrested for writing about government corruption and human rights violations, were imprisoned for 23 months prior to their conviction on September 24, 2012, which exceeds the longest extension period permitted under Article 120. Vietnam has failed to ensure that all persons deprived of liberty are brought before a judge without delay (recommendation 43, Austria, during the fifth session of the 2009 UPR).

Police Brutality, Torture and other Other Cruel, Inhumane, or Degrading Treatment or Punishment

22. It is commonplace for political detainees to be held incommunicado with no access to legal representation in the first four months of detention. Additionally, in order to extract confessions, investigators sometimes resort to torture in the form of physical abuse, isolation, excessively lengthy interrogation sessions, sleep deprivation, and punitive placement of defendants in dark, airless, unsanitary, and solitary cells.
23. During the investigation phase, activist Tran Huynh Duy Thuc was held in a cramped cell with minimal exposure to sunlight, with no sanitation facility or water source. In August 2009, before their trial took place, Le Cong Dinh, Tran Huynh Duy Thuc, and Le Thang Long were forced to sign a confession and admit guilt on state-owned television channels.
24. In October 2012, 21 year-old Nguyen Phuong Uyen was arrested for "spreading anti-state propaganda." In April 2013, her mother discovered during a prison visit that she had been beaten into a state of concussion, with bruises on her neck, chest, and arms.

Civil Society and Freedom of Association

25. Although civil society organizations (CSOs) in Vietnam exist theoretically in the form of MOs (mass organizations), NGOs (non-governmental organizations), and CBOs (community-based organizations), most are actually GONGOs (government-organized NGOs).
26. Furthermore, and in a severe curtailment of the rights listed in Article 20 of the UDHR and Article 22 of the ICCPR, the government has issued regulatory documents governing civil society, including the *2007 Grassroots Democracy Decree* on the involvement of people and community-based organizations in policy making, *Decree 30 (2012)* on the activities of charity and social funds, and *Decree 45 (2010)* on the organization and activities of associations. The *Law on Association*, after several legislative terms over the course of 21 years with nearly 20 drafts, has not been adopted and is arguably one of the most "politically sensitive" laws under discussion. The absence of this law means that the ruling Communist Party relies mostly on the existing above regulations to govern civil society organizations.
27. The existing regulations, however, are flawed and, moreover, are not enforced in practice. The *Grassroots Democracy Decree*, whose intent is frequently described by the official slogan, "The people know, the people discuss, the people do and the people review," in practice, gives the people the right to know about some regulations and policies within their village, but not the opportunity to discuss them.
28. *Decree 45* intervenes in the organization and activities of associations by determining their charter and structure. It stipulates the minimum number of members a group needs to be recognized; for example, 10 for an association at the commune level, and 100 for a national association. Every group must also register a location for its headquarters, which is extremely challenging for small groups in poor financial conditions. Likewise, *Decree 30* sets very high "minimum assets" for charity and social funds to be registered.
29. Under the law, citizens wanting to form an organization must also undertake complicated and time-consuming administrative procedures. It is unlikely that an NGO dealing with human rights, state accountability, anti-corruption, or other politically sensitive issues would be granted an establishment license. Non-political NGOs,

for example, the *Vietnam Writers' Association*, may face less complex registration procedures, but must still operate in accordance with CPV-adopted charters, rules and regulations.

30. Recently, “*Com có thịt*” (“Meals with Protein”), an initiative by a retired journalist to provide food to indigent children in mountainous areas, remained unlicensed after nearly two years of operation. Its founder had no means to seek recourse except by publicly decrying ‘foot-dragging’ procedures and the delay of relevant authorities in replying to his application.
31. In contrast to NGOs and CBOs, there is no law regulating the six major socio-political organizations established by the Party (MOs). Presently there are six major MOs in Vietnam, including the *Ho Chi Minh Communist Youth Union*, the *Vietnam Farmers' Association*, the *Vietnam General Confederation of Labor* (equivalent to a national trade union), the *Vietnamese Fatherland Front*, the *Vietnam Women's Union*, and the *Vietnam Veterans Association*. These MOs are led by communist officials who are appointed by the Party; their permanent staff are civil servants and they are subsidized by the state budget. Their main function, as determined by the *Law on the Issuance of Legal Documents (2008)*, is to coordinate with authorities in law-making and to instruct the policies of the Party and the government. The *Farmers' Association*, for example, has remained outside rampant land conflicts between farmers and land grabbers, except when they are requested by authorities to “disseminate” state policies of development to the would-be land-lost peasants. Recently, the *Communist Youth Union* of the Ho Chi Minh Law University launched a campaign of libel and harassment against three of their students, who had previously made an online declaration in support of a land-lost farmer.
32. In brief, MOs' act to defend the CPV and State's interests rather than those of their members. Any other organization working for the rights of youth, peasants, workers, women, religious believers and veterans is deemed to overlap with the six MOs and thus denied a license.

Freedom of Assembly

33. Since 2005, in order to effectively restrict freedom of assembly and association, the government (as requested by the Ministry of Public Security) enacted *Decree 38*, under which any person taking part in public rallies or protests can be accused of “disrupting public order.”
34. Using *Decree 38*, the government has clamped down on numerous demonstrations. In December 2007, protests against China's provocative acts in the South China Sea dispute broke out in both Hanoi and Ho Chi Minh City and were quickly suppressed. Dozens of people were beaten and well-known blogger Dieu Cay was arrested and imprisoned four months later. In a Hanoi police station, 24-year-old blogger Binh Nhi was choked and beaten so severely that he vomited blood.
35. In the summer of 2011 and 2012, anti-China protests broke out again in the two cities and were brutally suppressed. Photos and videos circulated on the internet show plainclothes policemen knocking down Facebooker Phan Nguyen on the streets of Saigon (June 12, 2011), treading on the face of blogger Nguyen Chi Duc in Hanoi (July 17, 2011) and many other instances of police assaulting protestors. In Hanoi, 47 people were arrested on August 21, 2011, some of whom were accused of “disrupting public order” and imprisoned for at least 36 hours. On the other hand, none of the police were held responsible for cases of assault and battery against civilians.
36. Social networking, especially via Facebook, has facilitated organization of public protests, which have increased since 2011. In turn, police harassment has also escalated. Because demonstrations tend to take place on Sunday mornings, many people have been confined to their homes on Sundays, as if under house arrest. Protestors have also faced dismissal or boycott in their work places or disciplinary action at school. At the same time, state-owned media continue to launch campaigns to tarnish protestors' reputation, labelling protestors as reactionaries, fomenters, or bad people.

Restriction of Movement

37. The Government of Vietnam, in contradiction of Article 12 of the *ICCPR* and Article 13(2) of the *UDHR*, continues to curtail freedom of movement for known rights advocates. Bloggers Bui Thanh Hieu (Nguoi Buon Gio), Huynh Ngoc Chanh, Huynh Trong Hieu, JB Nguyen Huu Vinh, Nguyen Hoang Vi, despite being Vietnamese nationals holding valid passports, have over the past 4 years been denied exit clearance without notice or stated legal reasons.
38. On February 16, 2007, Phạm Văn Điệp, who is a resident of Drevlanka city, Russia, returned to Vietnam to attend a meeting with the Vietnam Democratic Party. He was arrested by Vietnamese police on February 24, 2007 and was not allowed to leave Vietnam as planned. He was put under police surveillance until June 22, 2007. On April 24, 2013, he once again tried to return to Vietnam from Russia but was denied entry by the immigration officials at Noi Bai International Airport (Hanoi). He was detained by police and put on a return flight to Moscow.
39. To date, all overseas Vietnamese (Viet Kieu) are still required to obtain a visa before entering Vietnam, despite the fact that under Vietnamese law, specifically the Nationality Code, all are considered Vietnamese citizens and entitled to apply for and carry Vietnamese passports. Well known cases concerning Nguyen Hung Quoc (Lecturer/Blogger), Trinh Hoi (Lawyer/Blogger) and others have been denied entry, despite the fact that they held valid visas and are considered Vietnamese citizens under the law.

Forced Evictions and the Right to Housing, Home, and to Own Property

40. Land grabbing in Vietnam has resulted in consistent violations of Articles 12 and 17 of the *UDHR*; the need to provide “an effective remedy” as stipulated in Article 2(1) of the *ICESCR*, which includes “adequate compensation for any property”²; protection from forced evictions as enumerated in Article 11(1) of the *ICESCR* and detailed in General Comment 7 of the *CESCR*³; and Articles 2(3) and 17 of the *ICCPR*. According to Vietnamese constitutions from 1980 to the present, citizens have the right to use land, but not to own land. According to the 2003 *Land Law*, the government can revoke the citizens’ land use rights and allocate it to investors for reasons of economic development (or economic purpose). Compensation rates for land acquired by the government are determined by the government itself, often resulting in the rates much lower than market value. Land evictions have been conducted by armed policemen, and even military troops, causing injuries and severe trauma among evictees.

Control of the Media and Freedom of Expression

41. In the 2009 UPR, Vietnam responded favourably to the recommendation that it should “introduce and seek prompt passage of access-to-information legislation” (recommendation 46, Canada), “take steps to ensure that full respect for the freedom of expression, including on the Internet, is implemented in current preparations for media law reform” (recommendation 47, Sweden), and to ensure that “the review of the press law follows the international standards on this subject, particularly with respect to the protection of journalists” (recommendation 48, Switzerland). However, in the past four years Vietnam has done little to implement any of these recommendations, despite state-owned media claims to the contrary. Moreover, things have been worsening, especially for bloggers, with site attacks, firewalls, police harassment and arbitrary arrests on the increase.
42. *The press being a political tool of the CPV*
In the current political system where the CPV supersedes the State, controlling and involving itself in every aspect of governance, state-owned media essentially means CPV-owned media. In fact, laws and regulations as well as official remarks by the current Prime Minister himself, clearly confirm that privately-owned media is not allowed in Vietnam. The vast majority of media agencies in Vietnam are owned, dominated and controlled by the Party in

² CESCR, General Comment 7, May 20 1997 at paragraph 13.

³ May 20, 1997, at paragraph 1.

various forms, and so are their journalists. However, the government has been using the number of media agencies and reporters as evidence of media freedom in Vietnam.⁴

43. Article 1 of the Vietnam's *Law on Media (1999)* clearly stipulates the role and function of the media, "*The media operating within the Socialist Republic of Vietnam is the essential means of providing public information in relation to social life; is the mouth piece of Party organizations, State bodies and social organizations, and a forum for the people.*"

44. *Enemies of the Internet*

Despite acceptance of Sweden's 2009 UPR recommendation (47) to take steps to ensure full respect for the freedom of expression, including on the Internet, online surveillance and rights violations continue apace.⁵

45. The government cites the growing number of Internet users in response to criticism about the lack of Internet freedom in Vietnam.⁶ However, while Vietnamese citizens can access the Internet, access is subject to a high level of surveillance. Internet freedom in Vietnam has been described by a dissident editor for an online news site thus: "You can use [the] Internet as much as you want as long as you write along the Party's lines." Any article that antagonises efforts to maintain "comradeship" with the Chinese regarding the sovereignty dispute between Vietnam and China can be accused of being against "people's administration". As a result, dozens of bloggers and street protestors have been arrested in recent years.

46. One such example is the case of blogger Nguyen Van Hai (aka Dieu Cay), who was sentenced to 12 years in prison and 5 subsequent years under house arrest because of his blog about Vietnam and China's sovereignty dispute. While in prison he has faced ill treatment and has been secretly transferred to an unknown prison.⁷

47. Writing about the economic crisis that Vietnam has faced since early 2008 or writing critical of the Party-dominated government can be accused of "spreading anti-state propaganda." While mainstream media remains compliant, the government has realized that social networking sites and blogs constitute the main challenges to its authority. Efforts have been made to fight these challenges, ranging from blocking "anti-state" websites to proactively engaging in online attacks. In cases in which bloggers and social media users, who frequently use pen names or aliases for security reason, are found out by the authorities, the police carry out campaigns of harassment, assault and detention to snuff out these dissenting voices.

48. *Abuse of the law*

In 2012, at least 52 people were detained and prosecuted, some sentenced, under charges related to "anti-state" activities in both mainstream press and the Internet. Of these, one person was charged with "*abusing democratic freedoms to infringe upon the interests of the State*" under Article 258 of the *Penal Code*, another with "*illegally using information in computer networks*" (Article 226), another with "*undermining the unity policy*" (Article 87), and three with "*carrying out activities aimed at overthrowing the people's administration*" (Article 79). The rest were accused of "*conducting propaganda against the state*" under the notorious Article 88 of the *Penal Code*. The charges were similar in that they all related to so-called "anti-state" activities.

⁴ As of March 2012, in print media alone, there are 786 media agencies nationwide with 1,016 publications and 17,000 licensed journalists in Vietnam. In broadcast, there are 67 broadcast agencies. Three of these are central (national) agencies, including Voice of Vietnam, Vietnam Television and Vietnam Digital Television. They provide 200 domestic channels and 67 overseas ones. In the area of electronic media, Vietnam has 46 electronic newspapers/magazines and 287 news sites. <http://www.qdnd.vn/qdndsite/vi-vn/61/43/5/5/185964/Default.aspx>

⁵ In this year's "*Enemies of the Internet*" report, Reporters without Borders has identified five state enemies of the Internet that conduct systematic online surveillance that results in serious human rights violations. They are Syria, China, Iran, Bahrain and Vietnam. <http://en.rsf.org/special-report-on-internet-11-03-2013,44197.html>

⁶ According to the stated controlled media, Vietnam ranked 18 out of the top 20 countries in Internet usage. As of March 31, 2012, there were 30,858,742 Internet users in Vietnam or 34.1% of the Vietnamese population. <http://dantri.com.vn/su-kien/vietnam-vao-top-20-quoc-gia-co-nhieu-nguoi-dung-internet-nhat-627969.htm>

⁷ As reported by Dan Lam Bao on April 26, 2013: <http://danlambaovn.blogspot.com/2013/04/ca-bi-mat-chuyen-trai-giam-ieu-cay-bi.html>

49. Among the provisions that the Party employs to stifle dissent, Article 88 proves to be most useful. A vaguely worded and exceptionally harsh provision, it stipulates that those “*propagating against, distorting and/or defaming the people’s administration*” shall be sentenced to between 3 and 12 years in prison. It is used to punish with punitive sentences anyone whose writing the Party dislikes.
50. On September 20, 2012, local police arrested Nguyen Phuong Uyen, a 20-year-old female student from the southern province of Long An. The Ministry of Public Security's indictment dated March 06, 2013 accused her of violating Article 88, even though all her activities listed in the indictment were not ‘against’ the “people's government”. Uyen was repeatedly beaten up in her cell, as evidenced by bruises on her face and body seen by her mother during a prison visit. In May 2013, Uyen was sentenced to 6 years imprisonment while her colleague and friend, 25-year-old Dinh Nguyen Kha was sentenced to 8 years. Both face two or three additional years of house arrest following their release.
51. In October 2012, songwriter Viet Khang was sentenced to four years in prison for composing two songs that contained some allegedly “anti-state” lyrics.
52. On December 28, 2012, during the Christmas holiday season when foreign diplomats and those working for international organizations would be away from Vietnam, the Ho Chi Minh City Court confirmed sentences of 12 years of imprisonment for blogger Dieu Cay and 10 years for blogger Ta Phong Tan, for violating Article 88.
53. Another regulation which effectively controls freedom of the press is the *Ordinance to Protect State Secrets*, issued in December 2000. It gives the Ministry of Public Security full power to interpret what are “state secrets”, while no one can determine exactly when a document is sealed “confidential” by the Ministry.
54. In addition to existing laws, the government continues to seek new legal tools to constrain “uncontrolled” freedom of speech. In April 2012, it issued a draft decree on the “management, supply and use of Internet services and online information”, under which Internet service providers would have to submit their clients’ personal information to the police upon request.
55. Apart from legislation, the government also enacts regulatory documents to control the Internet. On September 12, 2012, the Central Government Office issued a document entitled “Dealing with Anti-state Information”, quoting reports by the Ministry of Public Security regarding some websites such as “Dan Lam Bao” (“Citizen Journalists” or “People Make News”) and requesting the police and propagandists to “*find out and strictly punish*” any individuals and organizations who disseminate “*calumnious information against the Party and the Government.*” The order also prohibited civil servants and party members from accessing such “reactionary websites”.
56. In short, while Vietnam may have 786 media agencies, 1,016 publications, 17,000 journalists, 67 television stations, 46 electronic newspapers and 287 news websites, one must work for the Party and must stay within the Party lines to be safe.

RECOMMENDATIONS

57. Civil Society

- The legislature should enact the *Law on Association*, to facilitate the establishment and unfettered operation of every CSO. MOs should be subject to this Law.
- The government should annul or amend laws and regulations that violate international human rights treaties including *Decree 38* on securing public order.
- Police should end harassment of citizens exercising their right to associate and assemble freely.

- The government should abandon all forms of intervention into CSOs' activities.

58. **Fair trial**

To improve the rights to fair trial in Vietnam, the government needs to make the following amendments to the *Criminal Procedure Code*:

- Allow defence counsels to participate in trials from start to finish, including for crimes related to Penal Code Article 79 (carrying out activities aimed at overthrowing the people's administration) and Article 88 (conducting propaganda against the Socialist Republic of Vietnam).
- Clearly stipulate that defendants have the right to remain silent, and put it into practice.
- Guarantee open trials for all cases, allowing the participation of every citizen.
- Close all re-education camps and ensure that no citizen will be imprisoned without trial.

59. **Freedom of Religion**

- The government should recognize that all religious groups have the right to practice without burdensome and unnecessary restrictions
- *Article 22 of Ordinance 2004*, which authorizes the government to intervene in the appointment of religious organizations, should be abolished.
- *Article 06 of Decree 92*, which requires religious organizations to operate for at least twenty continuous years if they wish to be recognized by the government, should be abolished.

60. **Forced Evictions**

Authorities should put in place appropriate procedural protection and due process in the event of forced evictions, including:

- an opportunity for genuine consultation with those affected;
- adequate compensation, as determined by an independent assessor, and reasonable notice given to all affected persons prior to the scheduled date of eviction;
- information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- all persons carrying out the eviction to be properly identified;
- evictions not taking place in particularly bad weather or at night, unless the affected persons consent otherwise;
- provision of legal remedies; and
- provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

61. **Freedom of Expression and of the Press**

- Judicial reviews should be conducted of unconstitutional laws or provisions such as Article 88 or 258 of the Penal Code, the Ordinance to Protect State Secrets, and the Law on Media and the laws should be abolished or amended in accordance with international laws.
- The government shall not criminalize technical mistakes made by the press.

62. **General**

The government should implement all accepted recommendations from the 2009 UPR, with special priority given to those regarding freedom of expression, freedom of religion, freedom of the press, and land rights.