Home Office

Country Policy and Information Note
Vietnam: Opposition to the State

Version 3.0

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Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the basis of claim section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, it provides an assessment on whether, **in general:**

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

Independent Advisory Group on Country Information

Independent Chief Inspector of Borders and Immigration

5th Floor

Globe House

89 Eccleston Square

London, SW1V 1PN

Email: chiefinspector@icinspector.gov.uk

Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

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Analysis

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1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by the state due to the person's actual or perceived opposition to, or criticism of, the state.

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2. Consideration of issues

2.1 Credibility

2.1.1 For further guidance on assessing credibility, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

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2.2 Convention Reason(s)

2.2.1 Actual or imputed political opinion.

2.2.2 Establishing a convention reason alone is not sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their actual or imputed convention reason.

2.2.3 For further guidance on Convention reasons and particular social groups, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.3 Exclusion

2.3.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.

2.3.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instruction on Exclusion: Article 1F of the Refugee Convention and the Asylum Instruction on Restricted Leave.

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2.4 Risk

a. Political parties

2.4.1 The Communist Party of Vietnam (CPV) remains the country's only legal political party, no other parties are allowed to operate legally (see Political system).

2.4.2 Illegal political parties do exist but tend to be based outside of Vietnam to avoid harassment/arrests and detention. The Opposition group Viet Tan are still in operation but are based outside of Vietnam and are viewed as a terrorist organisation by the government. Members of other opposition groups such as the Brotherhood for Democracy have also been accused of carrying out activities aimed at overthrowing the Vietnamese government (see Illegal political parties).

2.4.3 Those who can demonstrate that they have come to the adverse attention of the authorities for their membership of an illegal political opposition group are likely to be at risk of persecution and/or serious harm. Each case, however, must be considered on its facts with the onus on the person to demonstrate that are likely to be at risk.

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b. Opposition and human rights activists/lawyers

2.4.4 Article 25 of the Vietnamese Constitution guarantees citizens the right to freedom of opinion and speech, freedom of the press, of access to information, to assemble, form associations and hold demonstrations. In practice however, the Government does not tolerate political expression which is critical of the CPV, the Government or its policies (see Legal position and Treatment by the state).

2.4.5 The government does not permit independent, local human rights organisations to form or operate. Furthermore, the government does not tolerate attempts by organisations or individuals to criticize its human rights practices publicly (see Treatment by the state and Human rights groups).

2.4.6 Those who openly criticise the state or who protest against the government are likely to attract adverse attention from the authorities. Treatment will vary depending on a person's level of involvement, the nature of the activities, the persons role in those activities and their profile. Where a person is perceived to be a low level protester/ opposition supporter they may be subject to intimidation by police and may be arrested and subsequently released but this is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm. A person who is known to be an active organiser or leader of political opposition is likely to be subject to persecution and/or serious harm. The risk will depend on the profile, activities, nature of criticism and previous adverse interest. Each case however, must be considered on its facts and the onus is the person to demonstrate why they would be at risk.

2.4.7 Lawyers who take on cases involving democracy activists can face pressure from authorities who question their motivations for doing so. This can lead to restrictions on their ability to practice and in some cases disbarring, harassment, arrests and in some cases detention (see Human rights lawyers).

2.4.8 Where a human rights lawyer can demonstrate that they have come to the adverse attention of the authorities for their work on politically sensitive cases they are likely to be at risk of persecution and/or serious harm. Each case must be considered on its facts.

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c. 'Formosa' environmental disaster protests

2.4.9 The 'Formosa disaster', a toxic spill caused by a Taiwanese steel corporation began in April 2016 in four provinces in central Vietnam: Ha Tinh, Quang Binh, Quang Tri, and Thua Thien-Hue. The spill led to large scale water pollution killing large numbers of fish as well as causing deaths and serious health problems for people affected. In September 2016, the government announced that those affected by the spill would be entitled to compensation. However, many have complained that the compensation has been insufficient or they have yet to receive any money at all (see Background and Compensation scheme).

2.4.10 The disaster has led to large numbers of protests against the Taiwanese company and against the government for their handling of the spill. The authorities have sometimes sought to disrupt the protests through violence and arrests, although there is no evidence to suggest that all those arrested remain in detention. Human rights defenders and bloggers who took part in demonstrations or who have reported on the disaster have been subject to harassment and arrest (see Protests and Arrests/detention and treatment by the state).

2.4.11 Whilst people have been arrested and detained for their involvement in 'Formosa' protests the treatment incurred is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm. Some high-profile activists, who have been responsible for raising awareness of the disaster and organising demonstrations have been subjected to ill treatment and if they can demonstrate that they have come to the adverse attention due to the nature of their profile/involvement in demonstrations then they are likely to be at risk of persecution and/or serious harm. Each case however, must be considered on its facts.

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d. Land disputes

2.4.12 The 2013 Constitution of Vietnam and the 2013 Land Law state that land is owned by all the people, represented and uniformly managed by the State. Disputes and protests over land rights are common because the government does not recognise private land ownership. According to a 2014 law, land can only be taken if it is deemed necessary for socio-economic development that is in the public or national interest (see Land disputes).

2.4.13 Approximately 70% of all petitions and complaints to the authorities relate to land disputes with petitioners complaining of inadequate or delayed compensation, official corruption and a lack of transparency (see Land disputes).

2.4.14 There have been several protests regarding forcible seizures of land with reports of hired 'thugs' intimidating and threatening villagers. There have also been reports of arrests of some protesters although many are later released (see Land disputes).

2.4.15 Individuals who protest land disputes may face intimidation and/or arrests but this treatment is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm. A person who has a high profile as an activist or who publishes online articles/blogs in relation to land disputes, which the authorities are likely to view as critical of the CPV, may be subject to persecution and/or serious harm. Each case however, must be considered on its facts (see also Human rights activists/lawyers and Journalist and bloggers analysis sections).

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e. Journalists and bloggers

2.4.16 Whist the constitution states that citizens have the right to freedom of the press, the government owns and controls the content of all print, broadcast and electronic media (see Treatment by the state).

2.4.17 The government censor's online activity by blocking specific URLs such as high-profile blogs, websites with many followers and content considered threatening to the Communist Party rule. In 2017 the government unveiled a new 10,000 military cyber unit intended to monitor and counter content it deemed to be 'incorrect' and in July 2018 passed a new cyber security law to further control citizens use of the internet (see Censorship).

2.4.18 The Ministry of Public Security maintained a system of household registration to monitor unlawful activity and closely monitor those engaged, or suspected of engaging, in unauthorized political activities. A 2013 law bans the public from discussing current affairs online (see Monitoring of online activity).

2.4.19 In mid-2018 there were 25 people detained for journalism and/or online activity which openly criticised the CPV or government policies, which the state viewed as propaganda against the party. Many journalists/bloggers undertook self-censorship to avoid dismissal from their job and possible arrest. Those arrested are commonly charged under Articles 79, 88, and 258 of the penal code for subversion, anti-state propaganda, and abusing democratic freedoms (see Treatment by the state).

2.4.20 Decision makers must establish that persons claiming to be journalists or bloggers are able to demonstrate that their activities have brought, or will bring them to the adverse attention of the Vietnamese authorities, bearing in mind that the state heavily monitors media and internet activity. Decision makers should give consideration to all relevant factors, including in particular:

- the subject matter;
- language and tone of the material;

- the method of communication;
- the reach and frequency of the publication;
- the publicity attracted; and
- any past adverse interest by the authorities.

2.4.21 Journalists and/or bloggers who can show that they have come to the adverse attention of the authorities, or are reasonably likely to do so, are likely to be at risk of persecution and/or serious harm by the authorities on account of their actual or imputed political opinion. Each case must be considered on its facts.

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f. Family members of perceived opponents to the state

2.4.22 Family members of activists, journalists and bloggers have been subject to physical assaults, harassment, intimidation, arrests and denied some services (see Treatment of family members of political/perceived activists).

2.4.23 When considering claims from such persons, decision makers should give consideration to all relevant factors, including in particular:

- the relationship to the person;
- actual or perceived support for, or facilitation of, the activities of the person;
- any previous adverse interest in the family member from the authorities, e.g. arrests, detention, harassment;
- the specific profile, history and activities of the person.

2.4.24 Family members of high profile activists, journalists, bloggers and those openly critical of the state who can show that because of their family relationship with a person who is, or is perceived as opponent to the state, has come to the adverse attention of the authorities which has led to severe harassment and/or arrests are likely to be at risk of persecution and/or serious harm by the authorities on return on account of their imputed political opinion. Each case must be considered on its facts.

2.4.25 For further guidance on assessing risk, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.5 Protection

2.5.1 As the person's fear is of persecution and/or serious harm by the state, they will not be able to avail themselves of the protection of the authorities.

2.5.2 For further guidance on assessing the availability of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.6 Internal relocation

2.6.1 As the person's fear is of persecution and/or serious harm by the state, they will not be able to relocate to escape that risk.

2.6.2 For further guidance on internal relocation and the factors to be considered, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.7 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.2 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

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Country information

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3. Political system

3.1 Political structure

3.1.1 The Australian Government's Department for Foreign Affairs and Trade's (DFAT) 'Country Report for 2017' (the 2017 DFAT Report) noted that:

'Vietnam is one of the world's few remaining one-party communist states…. The Communist Party of Vietnam (CPV) Central Committee currently comprises 180 full and 25 alternate members elected at the National Party Congress every five years. The 12th Party Congress was held in January 2016, with the incumbent General Secretary Dr Nguyen Phu Trong re-elected for a second term.

'The three most senior political appointments are General Secretary of the CPV (currently Dr Nguyen Phu Trong), the President (currently Mr Tran Dai Quang), who is Head of State, and the Prime Minister (currently Mr Nguyen Xuan Phuc), who leads the Government. Administration and policy implementation are the responsibility of government ministries and agencies.

'The Central Committee usually meets twice a year and acts as the CPV's supreme decision-making body. The Committee in turn elects Vietnam's most powerful political body, the Politburo (18 current members). The Politburo is led by the General Secretary of the CPV and comprises Vietnam's most senior party members.

'The National Assembly (NA) is Vietnam's legislature and enacts laws for the Government's implementation, under close guidance of the Party.'[1]

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3.2 Political parties

3.2.1 The 2017 DFAT Report notes that 'Under Article 4 of the Constitution, the Communist Party of Vietnam (CPV) remains the country's only legal political party.'[2]

3.2.2 Freedom House, in its 'Freedom in the World 2018' report, (the 2018 Freedom House report) noted that 'The CPV enjoys a monopoly on political power, and no other parties are allowed to operate legally. Splits between factions within the party exist, but they are not openly aired.'[3]

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[1] DFAT 'country report', 21 June 2017, url.
[2] DFAT 'country report', 21 June 2017, url.
[3] Freedom House, 'Freedom in the world 2018, 16 January 2018, url.

3.3 Elections

3.3.1 The 2017 DFAT Report reported that 'In March 2016, Ms Nguyen Thi Kim Ngan was elected as the National Assembly President, the first woman to hold this role. The National Assembly's 500 deputies (currently 496 members in positions) are elected by the general population every five years.'[4]

3.3.2 The 2018 Freedom House report reported that 'The Vietnam Fatherland Front (VFF), responsible for vetting all candidates for the National Assembly, is ostensibly an alliance of organizations representing the people, but in practice it acts as an arm of the CPV.'[5]

3.3.3 The Bertelsmann Stiftung's Transformation Index (BTI) country report for 2018 (the BTI report) covering the period February 1, 2015 to January 31, 2017, stated that:

'All candidates are vetted by the Fatherland Front, which is under full control of the Communist Party. The Front simply excludes from the process those whose loyalty to the Communist Party may be suspect. In the election of the National Assembly in 2016, there were 154 self-nominated candidates (twice the number of the 2011 election), but only 11 were eventually allowed to have their names on the ballots, and two (0.4%) were allowed to be elected (compared with 15 allowed to have their names on the ballot and four or 0.8 percent elected in 2011).

'The 2016 election witnessed a movement led by prominent intellectuals and lawyers to nominate themselves as candidates. Taking full advantage of social media, these candidates announced that their goal was not to win or even to be allowed on the ballot, something which they knew would never happen, but to expose how the system was rigged. Throughout the process, these candidates regularly reported the struggle they went through to register and to participate in meetings with the Fatherland Front – how they were verbally abused and physically threatened at every step along the way. The movement marked a critical step that these individuals gathered and made a collective challenge to the Communist Party, beating it in its own game (at least on social media).'[6]

3.3.4 The 2018 US State Department's report, covering events in 2017 (the 2017 USSD report)

'The constitution provides the ability directly to elect representatives to the National Assembly, people's councils, and other state agencies. Under the law, National Assembly elections take place once every five years by secret ballot. Although the constitution provides that one may vote at age 18 and run for election to the National Assembly or People's Council at age 21, the ability of citizens to change their government democratically was severely

[4] DFAT 'country report', 21 June 2017, url.
[5] Freedom House, 'Freedom in the world 2018, 16 January 2018, url.
[6] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.

limited. The CPV screened all candidates through a process overseen by the VFF.'[7]

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4. Illegal political parties

4.1 General

4.1.1 The 2018 Freedom House report noted 'Members of illegal opposition parties are subject to arrest and imprisonment.'[8]

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4.2 The Viet Tan

4.2.1 In October 2016, the Mercury news reported that:

'Vietnam's government has officially labelled a San Jose-based anti-Communist group a terrorist organization and warned that anyone involved with it will be considered an accomplice in terrorism and will be dealt with in accordance with Vietnamese law. The Ministry of Public Security said in a statement that Viet Tan, or the Vietnam Reform Party, has been carrying out terrorist activities to end Communist rule in Vietnam. The government has long considered Viet Tan a terrorist group, but this is the first time it has officially given it that designation.

'The group was formed in 1982 by a vice admiral in the former U.S.-backed South Vietnamese government. Viet Tan says it is committed to nonviolent struggle to end Communist rule. The U.S. government has said it has seen no evidence that the group is engaged in terrorism.

'The statement, posted on the ministry's website on Tuesday [4th October 2016], said Viet Tan in its early years recruited and trained members to use weapons and explosives and sent armed groups to Vietnam to carry out terrorist activities, but the plans were thwarted by Vietnamese and Lao authorities. It said the group still sends members to Vietnam to stir up anti-government protests and unrest. Several Viet Tan members from the United States and Australia have been brought to trial or deported. "Viet Tan is a terrorist organization, therefore, anyone who joins, propagandizes, instigates others to join, sponsors, receives sponsorship from Viet Tan, participates in training courses arranged by Viet Tan, operates under instructions of Viet Tan will be an accomplice in terrorism … and will be dealt with in accordance with Vietnamese law," the statement said.'[9]

4.2.2 Reuters went on to state in October 2016 that:

'Viet Tan […] was founded by exiled remnants of the deposed Saigon government in 1982 and states as its mission to "overcome dictatorship and build the foundation for a sustainable democracy". Despite steadily introducing more liberal social and economic reforms in recent years, the

[7] USSD, 'country report' (section 3) 20 April 2018, url.
[8] Freedom House, 'Freedom in the world 2018, 16 January 2018, url.
[9] The Mercury News, 'Vietnam declares Viet Tan a terrorist group', 7 October 2016, url.

Communist Party has a zero-tolerance approach to criticism and has punished detractors harshly.'[10]

4.2.3 Further information on the Viet Tan can be found on their website here

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4.3 Other Groups

4.3.1 Frontline Defenders, in a undated page noted that:

'The Brotherhood for Democracy was founded in 2013 as a loose association of activists and human rights defenders formerly imprisoned for their political beliefs. The Brotherhood aims to support the development of a just society in Vietnam as well as to defend the human rights standards established in Vietnam's constitution and international human rights conventions. Prior to a 2017 crackdown by Vietnamese authorities on the Brotherhood, the group provided frequent trainings on human rights topics to Vietnamese citizens. Members also assist victims of rights infringement by Vietnamese authorities and private businesses in advocacy efforts and filing of legal cases. In April 2018, seven members of the Brotherhood for Democracy were found guilty of "carrying out activities aimed at overthrowing the people's administration" and given length prison sentences.'[11]

4.3.2 In April 2018, the Guardian reported that 6 Vietnamese activists were jailed 'for between seven and 15 years for "attempting to overthrow the state" […]. They are linked to the Brotherhood for Democracy activist group and were accused of carrying out human rights training, pushing for multi-party democracy and receiving funds from overseas'. […] "At the trial today, no evidence showing the defendants' attempt at overthrowing the state was given," lawyer Le Luan said. "The charge was very much groundless."[12]

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5. Legal position

5.1.1 Article 25 of the Constitution states that: 'The citizen shall enjoy the right to freedom of opinion and speech, freedom of the press, of access to information, to assemble, form associations and hold demonstrations. The practice of these rights shall be provided by the law'[13].

5.1.2 The 2017 DFAT Report noted that:

'The Government has used specific laws to curb dissent, such as Article 79 of the Penal Code ('overthrowing the State'), Article 88 ('conducting propaganda against the State') and Article 258 ('abusing rights to democracy and freedom to infringe upon the interests of the State'), all of which in practice take precedence over constitutionally enshrined rights. These

[10] Reuters, 'Vietnam declares California-based group terrorist', 7 October 2016, url.
[11] Front line defenders, 'Brotherhood for democracy', undated, url.
[12] The Guardian, 'Vietnam jails six activists', 6 April 2018, url.
[13] The Constitution of the Socialist Republic of Vietnam (2013), url.

offences carry penalties ranging from prison sentences of between six months and 20 years; to life imprisonment or capital punishment. DFAT is not aware of any recent cases of the death penalty being applied for political activities.[14]

5.1.3 Human Rights Watch's world report 2018, covering events in 2017 ('HRW's 2018 report') 'In June 2017, the National Assembly, which operates under the effective control of the ruling Communist Party, revised sections of the penal code to criminalize actions related to preparing to perform forbidden acts involving national security. Those found guilty face up to five years in prison.[15]

5.1.4 The BTI report noted that:

'Laws and police practices severely restrict and violently violate the freedom of expression. For example, Article 88 of the criminal code specifically targets the freedom of expression by stipulating that "anyone who conducts propaganda to slander the people's government; who conducts psychological warfare and spread rumors; and who creates, stores and disseminates cultural products with anti-socialist government contents, will be punished with imprisonment from three to twelve years, and from ten to twenty years in serious cases."[16]

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6. Opposition and human rights activists

6.1 Treatment by the state

6.1.1 The 2017 DFAT Report noted that:

'In practice, the Government does not tolerate political expression against the CPV, the Government or its policies…

'DFAT is aware of at least 19 reported convictions of political/human rights activists in 2016. The convictions resulted in a total of more than 70 years in prison for the abovementioned offences, as well as the use of Article 245 of the Penal Code ('causing public disorder') and Article 87 ('undermining national unity').

'Increased suppression of political activism generally coincides with high-level events, such as the lead up to the National Party Congress, National Assembly Elections, and with other significant issues affecting the country, such as the South China Sea disputed territories and the mass fish death crisis in April 2016.'[17]

6.1.2 HRW's 2018 report stated that:

'Vietnam frequently used vaguely worded penal code provisions during the year to crack down on dissent, including "carrying out activities that aim to overthrow the people's administration," "undermining national great unity,"

[14] DFAT 'country report' (para 3.21- 4), 21 June 2017, url.
[15] HRW, 'World report 2018', 18 January 2018 url.
[16] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.
[17] DFAT 'country report' (para 3.21- 4), 21 June 2017, url.

"conducting propaganda against the state," and "abusing the rights to democracy and freedom to infringe upon the interests of the state." Other laws, such as disrupting public order and resisting officials carrying out their public duty, are also used to repress exercise of basic civil and political liberties.

'Physical assaults against human rights activists occur frequently. In June 2017, Human Rights Watch published a report highlighting 36 incidents in which men in civilian clothes beat activists between January 2015 and April 2017, often resulting in serious injuries. Attacks by thugs on rights campaigners took place in many regions, sometimes in the presence of uniformed police who did nothing to stop the attacks.

'Local police use force and intimidation to prevent activists from participating in protests and human rights discussions, or attending trials of fellow activists. In May, authorities prevented prominent activists Pham Doan Trang, Nguyen Quang A, and Nguyen Dan Que from leaving their houses during the bilateral human rights dialogue between Vietnam and the United States government.

'In May, police stopped Polish-Vietnamese activist Phan Chau Thanh from entering Vietnam, and in June, stopped former political prisoner Do Thi Minh Hanh from leaving for Austria to visit her ill mother. The same month, authorities stripped former political prisoner Pham Minh Hoang of his Vietnamese citizenship and deported him to France.

'Trials of human rights activists consistently failed to meet international fair standards.'[18]

6.1.3 Amnesty International's annual report for 2017/18 (Amnesty's 2017/18 report) reported that:

'The crackdown on freedom of expression and criticism of government actions and policies intensified, causing scores of peaceful activists to flee the country.

'In May, the authorities revoked the Vietnamese citizenship of former prisoner of conscience Phạm Minh Hoàng, a member of Viet Tan, an overseas-based group peacefully campaigning for democracy in Viet Nam. He was forcibly deported to France in June.

'Reports continued of torture and other ill-treatment, including beatings and other assaults, of peaceful activists by individuals believed to be acting in collusion with security police.'[19]

6.1.4 The BTI report noted that 'The police have been so powerful in part because they control the prison system, which allows them in most cases to deny detainees access to lawyers during the investigation, even though it is required by law.'[20]

[18] HRW, 'World report 2018', 18 January 2018 url.
[19] AI, 'annual report', 22 February 2018, url.
[20] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.

6.1.5 The 2017 USSD report noted that:

'The government did not permit independent, local human rights organizations to form or operate, nor did it tolerate attempts by organizations or individuals to criticize its human rights practices publicly. The government used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, detention, prosecution, and imprisonment, interference with personal communications, and limits on the exercise of the freedoms of speech, press, and assembly. The government occasionally allowed representatives of international human rights organizations to visit the country but usually strictly controlled their itineraries.'[21]

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6.2 Demonstrations/protests

6.2.1 The 2017 DFAT Report noted that:

'Individuals and groups who protest against the Government or openly criticize the CPV are likely to attract adverse attention from authorities. Credible in-country contacts stated that actively protesting against land confiscation, human rights issues or the government's handling of issues will result in protests being shut down, police intimidation and harassment.

'DFAT assesses low-level protesters and supporters often feel intimidated by police presence, and are sometimes detained and released the same day by authorities. There have been a few reported cases of uniformed and plain-clothes officers using violence to break up protests in 2016, such as beating protesters with batons to disperse crowds.'[22]

6.2.2 The 2018 Freedom House report stated that 'Freedom of assembly is tightly restricted. Organizations must apply for official permission to assemble, and security forces routinely use excessive force to disperse unauthorized demonstrations. The use of social media platforms to organize protests has prompted the government to periodically block access to them.'[23]

6.2.3 HRW's 2018 report stated that 'Authorities require approval for public gatherings and refuse permission for meetings, marches, or public assemblies they deem to be politically unacceptable. In September, police used excessive force while dispersing protesters in front of the entrance of a Hong Kong-owned textile factory in Hai Duong province. Many people were injured.[24]

6.2.4 The BTI report stated that 'Despite legal restrictions and threats of crackdown by the police, Vietnamese citizens continued to express their views through numerous protests in 2015 and 2016.'[25]

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[21] USSD, 'country report' (section 1e and 5) 20 April 2018, url.
[22] DFAT 'country report' (para 3.28-3.29), 21 June 2017, url.
[23] Freedom House, 'Freedom in the world 2018, 16 January 2018, url.
[24] HRW, 'World report 2018', 18 January 2018 url.
[25] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.

6.3 Arrests/detention

6.3.1 The 2017 DFAT Report reported that:

'Vietnamese law allows the Government to detain people without charge under 'national security' provisions. There are credible reports of the Government arresting and detaining individuals indefinitely, with activists across the country also being subject to administrative detention or house arrest. Access to legal representation is granted inconsistently, with people held on national security charges reporting irregular access to legal counsel, or denied altogether.

'Political and human rights activists who openly criticize the Government, the CPV and its policies are at high risk of attracting adverse attention from authorities; however, the treatment from authorities generally depends on the individual's level of involvement.

'DFAT assesses that individuals who are known to authorities as active organisers or leaders of political opposition are at high risk of being subject to intrusive surveillance, detention, arrest and prosecution. DFAT is aware of large numbers of credible reports of prominent political and human rights activists, as well as former political prisoners of conscience, being monitored, prevented from leaving their homes and/or attending meetings and events. They have also reportedly been subjected to widespread physical and psychological harassment, which in most cases has not been the subject of credible police investigations.'[26]

6.3.2 Amnesty's 2017/18 report stated that:

'Trials of dissidents routinely failed to meet international standards of fairness; there was a lack of adequate defence as well as denial of the presumption of innocence.

'Denial of medical treatment was used to try to force prisoners of conscience to "confess" to crimes.

'At least 98 prisoners of conscience were detained or imprisoned, an increase on previous years despite some releases on completion of sentences. They included bloggers, human rights defenders working on land and labour issues, political activists, religious followers and members of ethnic minority groups. The authorities continued to grant early release to prisoners of conscience only if they agreed to go into exile.

'Prisoners of conscience were routinely held incommunicado during pre-trial detention, lasting up to two years. Detainees were denied medical treatment and transferred to prisons distant from their family home.

'Denial of medical treatment was used to try to force prisoners of conscience to "confess" to crimes.

'At least 29 activists were arrested during the year, and others went into hiding after arrest warrants were issued. They were charged mostly under vaguely worded provisions in the national security section of the 1999 Penal

[26] DFAT 'country report' (paras 3.25, 3.27 and 4.11), 21 June 2017, url.

Code or detained on other spurious charges. […] At least five members of the independent Brotherhood for Democracy, co-founded by human rights lawyer and prisoner of conscience Nguyễn Văn Đài, were arrested between July and December. They were charged under Article 79 (activities aimed at overthrowing the People's Administration), which carried a punishment of up to life imprisonment or the death penalty. Several were previous prisoners of conscience. In August, the same additional charge was brought against Nguyễn Văn Đài and his associate Lê Thu Hà, who had been held incommunicado since their arrests in December 2015 on charges of "conducting propaganda against the state" under Article 88.'[27]

6.3.3 Amnesty International's 'Urgent Action Notice' from February 2018 noted that 'It is common practice of Vietnamese authorities to secretly transfer prisoners – often to prisons with poorer conditions and hundreds of kilometers away from their families – as a punitive measure. Prisoners are also regularly withheld medical treatment as a way to pressure them into "confessions" or simply as punishment for their peaceful activism and expression of criticism of Viet Nam's government.'[28]

6.3.4 The 2017 USSD report noted that:

'Authorities subjected many religious and political activists to varying degrees of arbitrary detention in their residences, in vehicles, at local police stations, at "social protection centers," or at local government offices. Officials also frequently detained human rights activists upon their return from overseas trips.

'Activists reported police and prosecutors used these lengthy periods of pretrial detention to punish or to pressure human rights defenders to confess to crimes.

'The law prohibits physical abuse of detainees, but suspects commonly reported mistreatment and torture by police, plainclothes security officials, and compulsory drug-detention center personnel during arrest, interrogation, and detention.

'Prison authorities often held political prisoners far from their homes, making visitation from family difficult.

'Activists reported Ministry of Public Security officials assaulted political prisoners to exact confessions or used other means to induce written confessions, including instructing fellow prisoners to assault them or making promises of better treatment.

'Some former and existing political prisoners reported prisoners received insufficient food and that of poor quality. Several former prisoners reported they received only two small bowls of rice and vegetables daily, often mixed with foreign matter, such as insects or stones.

[27] AI, 'Annual Report', 22 February 2018, url.
[28] AI, 'urgent action notice' 28 February 2018, url.

'Authorities regularly subjected activists and suspected criminals to administrative detention or house arrest.'[29]

6.3.5 For a details of some of the human rights violations committed during 2017 and a list of detainees see the Former Vietnamese Prisoners of Conscience report for 2017 and Amnesty International's Prisoners of conscience in Viet Nam. A searchable list of those currently detained can also be found at the 88 projects Vietnamese political prisoner database.

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6.4 Human rights lawyers

6.4.1 The 2018 Freedom House report noted that 'Defendants have a constitutional right to counsel, but lawyers are scarce, and many are reluctant to take on human rights and other sensitive cases for fear of state harassment and retribution. Defense lawyers do not have the right to call witnesses, and often report insufficient time to meet with their clients.[…] Amendments to the penal code approved in June 2017 included a provision under which defense lawyers can be held criminally liable for failing to report certain kinds of crimes committed by their own clients. The new code will take effect in 2018.[30]

6.4.2 HRW's 2018 report stated that 'The revised penal code also holds lawyers criminally responsible if they fail to report their own clients to authorities for a number of crimes, including national security violations.'[31]

6.4.3 The 2017 USSD report noted that 'There continued to be credible reports that authorities pressured defense lawyers not to take religious or democracy activists as clients and questioned their motivations for so doing. Authorities also restricted, harassed, arrested, disbarred, and, in some cases, detained human rights attorneys who represented political activists.'[32]

6.4.4 In May 2018, Radio Free Asia (RFA) reported that Vietnamese human rights lawyer Vo An Don had been stripped of his license to practice law. The report went on to note that:

'The decision upheld a ruling made last year by the local Phu Yen Lawyers' Association striking his name from its lists for posting a comment on his Facebook page saying lawyers in Vietnam regularly use payoffs to win cases for their clients.[…] In addition to his work defending Mother Mushroom, Don has represented defendants in other politically sensitive cases, including four Vietnamese citizens who were jailed in December after sailing to Australia in search of work and the wife of a criminal suspect who was beaten to death by police in 2012. Don has reported regular harassment by authorities in the past, including audits of his law practice and death threats from police and state-linked hired thugs.'[33]

[29] USSD, 'country report' (section 1c,d and e) 20 April 2018, url.
[30] Freedom House, 'Freedom in the world 2018, 16 January 2018, url.
[31] HRW, 'World report 2018', 18 January 2018 url.
[32] USSD, 'country report' (section 1e and 5) 20 April 2018, url.
[33] RFA, Vietnamese Rights Lawyer Stripped of His License to Practice, 24 May 2018, url.

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7. Formosa protests

7.1 Background

7.1.1 The Vietnamese, an independent non-profit online magazine in Vietnam, reported in November 2017 that:

'The Vietnam marine life disaster, also known as the Formosa disaster or the fish death disaster, was a water pollution crisis breaking out in Vietnam at least from April 6, 2016. Its most obvious demonstration was the massive fish deaths in the seas of four provinces in central Vietnam: Ha Tinh, Quang Binh, Quang Tri, and Thua Thien-Hue.

'The main perpetrator was identified as Hung Nghiep Formosa Ha Tinh, Ltd. (FHS), who discharged toxic industrial waste into the sea through their underwater drainage pipes. Formosa itself accepted responsibility for the disaster on June 30, 2016.

'Government statistics estimated that at least 115 tons of free-swimming fish, 140 tons of farmed fish, and 67 tons of clams were killed as a result of water pollution. However, real figures must be times higher than these, with tons of shrimp, cuttle, squid, and other kinds of aquatic animals killed as well.

'The disaster also cost human lives. At least a diver (Le Van Ngay) was killed after diving in the polluted sea water, a woman (Linh) died of poisonous fish, and a couple (Mr. Le Van Lam and Mrs. Nguyen Thi Huong) got cancers after working for FHS as keepers of their chemical stocks. At least 21 other divers, dozens of fishers and seafood-consumers reported they had got health problems due to their direct or indirect link with the disaster.[34]

7.1.2 A detailed timeline of events leading up to and following the Formosa spill can be found on The Vietnamese 'Timeline: The Formosa Environmental Disaster'.

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7.2 Protests

7.2.1 A Reuters report of February 2017 noted that:

'Police in Vietnam stopped hundreds of protesters on Tuesday [14 February] from marching to present compensation claims against a steel plant over a toxic spill last year[…]. The protesters, many of them fishermen, had planned to travel from central Nghe An province to submit their claims in Ha Tinh, where the company is based, about 180 km (112 miles) to the north. But activists said police stopped the protesters' vehicles, and later stopped them, after they had walked 20 km (12 miles) towards their destination. […] Witnesses said police had beaten and arrested some of the protesters.'[35]

[34] The Vietnamese, 'Timeline: The Formosa Environmental Disaster', 8 November 2017, url.
[35] Reuters, 'Vietnam police stop fishermen marching', 14 February 2017, url.

7.2.2 Vietnam Right Now, a website formed with independent Vietnamese civil society organizations activists in Vietnam and throughout the world, noted in March 2017 that 'Protesters have staged rallies across the country to demand the expulsion of the Taiwanese company, Formosa, for causing last year's devastating chemical spill off the central coast. The largest demonstrations was reported in Nghe An province, where residents said several thousand people from Catholic parishes gathered after Sunday mass. Squads of police took up positions close to the rally but did not intervene.[36]

7.2.3 Radio Free Asia reported in July 2017 that:

'About 1,000 Roman Catholics from a village in central Vietnam's Quang Binh province marched to the local People's Committee office on Monday to demand compensation for lost livelihoods caused by a toxic waste spill that occurred along the country's central coast more than a year ago, a priest who led the gathering said. […] Parishioners of Con Nam church are upset because those affected by the disaster in Ha Tinh province have been eligible to receive 17.4 million-35.5 million dong (U.S. $755-$1,541) in compensation, while only four families who live in the five hamlets comprising Quang Minh village have received only 8 million dong (U.S. $347) each. During the protest outside the People's Committee office, officials avoided the crowd because no one wanted to respond to their demands directly […].[37]

7.2.4 HRW's 2018 report noted that in 2017 'Hundreds of people in central provinces including Quang Binh, Ha Tinh, and Nghe An held regular protests against Formosa, a Taiwanese steel corporation that dumped toxic waste in the ocean, causing a massive marine environment disaster in April 2016.'[38]

7.2.5 The BTI report noted that '[…] a large protest of about 10,000 farmers led by Catholic priests took place in October 2016 to demand compensation for the massive fish deaths caused by the Formosa Steel Complex in Ha Tinh province. This protest was preceded and followed by many other protests from other communities along the coast in central Vietnam that suffered from similar damages.'[39]

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7.3 Arrests/detention and treatment by the state

7.3.1 Vietnam Right Now's report of March 2017 stated that:

'[…] A small[er] gathering of protesters in Ho Chi Minh City was quickly broken up by police. About two hundred people in small groups near Notre Dame Cathedral were dispersed, and several people were arrested, after they started shouting anti-Formosa slogans. Police in Hanoi managed to prevent activists assembling after a call for a rally was posted on social

[36] Vietnam Right Now, 'Formosa protesters defy police threats', 5 March 2017, url.
[37] RFA, 'Catholic Villagers in Vietnam Protest', 3 July 2017, url.
[38] HRW, 'World report 2018', 18 January 2018 url.
[39] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.

media. […] The authorities have taken an increasingly hard line with protesters, resorting to violence to break up some demonstrations. Last month, police used baton charges and mass arrests to halt a march by residents from Nghe An who wanted to submit lawsuits against Formosa.'[40]

7.3.2 In a May 2017 report on the Formosa spill, Front Line Defenders stated:

'Several human rights defenders have been harassed by the Vietnamese authorities for covering the April 2016 Formosa toxic waste spill, which resulted in a large number of fish dying, leaving fishermen jobless in four coastal provinces. Human rights defenders are also being persecuted for their involvement in ongoing protests against the Taiwanese steel plant, Formosa. On 2 May 2017, environmental rights defender, Le My Hanh, was violently attacked in Ho Chi Minh City by a group of five individuals, a month after she was brutally beaten while covering an environmental protest. On 10 October 2016, blogger and human rights defender, Nguyen Ngoc Nhu Quynh, was arrested and charged for allegedly possessing "anti-government material" linked to the Formosa spill.[41] (For more information on the treatment of bloggers see Journalists and bloggers)

7.3.3 Radio Free Asia's report of July 2017 noted that 'Thugs hired by local police have beaten Catholics in other parishes in the four provinces affected by the toxic waste spill, and vandals believed to be paid by local authorities have damaged church property in retaliation for their protests over the handling of the pay-outs.'[42]

7.3.4 The 2017 USSD report noted that 'Throughout the year, authorities reportedly disrupted demonstrations, sometimes assaulting protestors, in central Vietnam related to the Formosa spill. In February, Nghe An police prevented hundreds of individuals from traveling to Ha Tinh province to file petitions on behalf of victims of the spill. On March 21, several demonstrators were reportedly beaten in Ky Anh District, Ha Tinh province, following demonstrations related to the spill.'[43]

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7.4 Compensation scheme

7.4.1 The Vietnamese, an independent non-profit online magazine in Vietnam, reported in November 2017 that: on 29 September 2016:

'PM Nguyen Xuan Phuc issued Decision 1880/QD-TTg on the awarding of compensation for those affected by the massive fish deaths in Ha Tinh, Quang Binh, Quang Tri, and Thua Thien-Hue. Under this Decision, the compensation for the affected shall be calculated from April to September 2016 with funding sourced from the $500 million compensation paid by Formosa.

[40] Vietnam Right Now, 'Formosa protesters defy police threats', 5 March 2017, url.
[41] Front Line Defenders, 'Environmental rights defenders targeted', 16 May 2017, url.
[42] RFA, 'Catholic Villagers in Vietnam Protest', 3 July 2017, url.
[43] USSD, 'country report' (section 2b), 20 April 2018, url.

'The Decision listed seven categories of victims: 1. seafood harvesting; 2. aquatic breeding; 3. salt production; 4. coastal seafood business activities; 5. fishing logistics; 6. coastal tourism services; and 7. seafood stockpiling and purchase.

'The provincial People's Committees of the four affected provinces shall instruct owners of vessels or owners of aquatic and salt production facilities to calculate the amount of compensation required for victims. The People's Committees are required to review the compensation for affected victims and send their findings to the Ministry of Agriculture and Rural Development (MARD) before October 5. MARD shall verify the compensation for each locality and report it to the Ministry of Finance before submitting it to the PM for approval before October 10, 2016.'[44]

7.4.2 In her preliminary observations following her mission to Vietnam on 13- 23 November 2017 the Special Rapporteur noted that:

'The total figure paid by the foreign company was 500 million US dollars, but I received no official information on how compensation was nationally distributed. In Quang Bihn, local authorities confirmed that they received 140 million dollars that were distributed amongst victims.

'During the field visit to Quang Bihn, in additional meetings and in analysing an impact assessment conducted by UNDP in collaboration with the local government I received information about the unfair distribution of compensation in the aftermath of the incident. As agreed with the Government, I am excepting [sic] to receive further clarification on this matter from the relevant authorities. The compensation on certain occasions seems to have been insufficient in relation to the more long-term impact on the fisherfolk and their families' livelihoods.

'"I also received complaints from people that saw themselves obliged to eat the contaminated fish, due to the drastic income reduction from being unable to conduct fishing activities. I was further informed that both internal and international migration in affected areas have become more widespread as people search for new opportunities.

'I encourage the Government, despite all their efforts, to be transparent and open with regards to the incident that had a severe impact on many families and their livelihoods and created a lot of fear. Complementary Government support to affected families could also help in mitigating the impact on people's livelihoods.'[45]

7.4.3 The BTI report noted that 'After great public outcries and many protests, and after secret negotiations with the government, the company hastily agreed to pay compensation of $500 million. It is unclear if the amount of compensation takes full account of the damages, and if the company would actually pay anything. The government has thus far refused to prosecute the case as a crime despite clear evidence otherwise.'[46]

[44] The Vietnamese, 'Timeline: The Formosa Environmental Disaster', 8 November 2017, url.
[45] OHCHR, 'Preliminary Observations of the Special Rapporteur', 23 November 2017, url.
[46] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.

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8. Land disputes

8.1.1 The 2017 DFAT Report noted that:

'Protest activity does occur, often linked to land use and compulsory acquisition of land by the Government. All land is formally owned by the Government, which issues land use rights to individuals or organisations, but retains the right to acquire the land for a broad range of purposes at any time. Disputes over land use rights can lead to protests and occasional violence.

'On 20 September 2016 a leading land rights activist, Ms Can Thi Theu, was convicted under Article 245 (causing public disorder) and sentenced to 20 months in prison. Police forcibly removed more than 50 supporters from outside the courthouse during her trial. Ms Theu was arrested in June 2016 for protesting government-ordered land evictions from Duong Noi village near Hanoi. The Government reportedly plans to use the village for a commercial development. On 30 November 2016 an appeals court in Hanoi upheld her conviction of 20 months in prison.'[47]

8.1.2 The BBC News reported on 21 April 2017 that:

'Residents of a village outside Hanoi are holding policemen and officials hostage in a week-long stand-off over a land dispute. […] The land in question is a 50-hectare (124 acres) area the defence ministry allocated to the military-run communications firm Viettel Group in 2015. The local authorities say it is for a defence project and that protests only began this year. But local residents say they vehemently opposed the land requisition as they were given inadequate compensation.

'Reports suggest tensions had been rising for months, as Viettel started clearing the land ahead of construction and residents tried to obstruct its efforts. […] Matters came to a head on 15 April, when police arrested four people. Local villagers retaliated by surrounding and seizing 38 officials, including police officers.

'Disputes over land rights are common in Vietnam because the communist government does not recognise private land ownership. Government agencies reserve the right to seize farmland for construction and investment projects.

'According to a law approved in late 2014, land can only be taken if it is deemed necessary for socio-economic development that is in the public or national interest. However, "socio-economic development" is loosely defined and vulnerable to abuse and corruption.'[48]

8.1.3 In her preliminary observations following her mission to Vietnam on 13- 23 November 2017 the Special Rapporteur noted that:

[47] DFAT 'country report' (para 2.30 and 3.26), 21 June 2017, url.
[48] BBC News, 'Why Vietnamese villagers are holding police hostage', 21 April 2017, url.

'The 2013 Constitution of Viet Nam and the 2013 Land Law state that "Land is owned by all the people, and represented and uniformly managed by State". The State shall hand over "land use rights certificates" to users.

'[…], the conversion rate of agricultural land to urban and industrial uses is considerable-approximately 70,000 hectares per year. I received information that in many land expropriation cases, the compensation received by farmers and their families was not adequate, and below the market price of the land.

'In some locations subjected to expropriation for socioeconomic development projects local residents protested as they felt that the Government forcibly seized their land. I also was informed that authorities have arrested and convicted land rights protesters on charges of "resisting persons on duty" or "causing public disorder." According to the Government's Human Rights Office under the Ministry of Public Security, the number of complaints filed over land disputes has increased dramatically in the last decade, constituting around 70 percent of all petitions and complaints.

'With regard to gender discrimination, despite the egalitarian legal structure women's access to land is lower than that of men due to customary practices. For example, on average 13 percent more men than women have their names on land certificates in Viet Nam in general and in the rural area this difference increases to 16 percent.'[49]

8.1.4 In January 2018 Radio Free Asia reported that 'Land disputes are the main source of protests in one-party Communist Vietnam, where dissent is not tolerated. Such disputes accounted for 70 percent of all complaints lodged against the government in 2012, according to state media, and remain the top reason for complaints by Vietnamese citizens, Prime Minister Nguyen Xuan Phuc said at a meeting last month.[50]

8.1.5 The 2017 USSD report noted that:

'Arbitrary arrest and detention, particularly for political activists and individuals protesting land seizures or other injustices, remained a serious problem.

'Widespread complaints persisted of inadequate or delayed compensation, official corruption, and a general lack of transparency and due process in the government's process of confiscating land and displacing citizens to make way for infrastructure projects. The law gives considerable decision-making authority over land pricing, allocation, and land reclamation for local people's committees and people's councils, which many asserted contributed to unfair business practices and corruption. Furthermore, the law allows for land seizures for socioeconomic development as well as national defense and public welfare.

[49] OHCHR, 'Preliminary Observations of the Special Rapporteur', 23 November 2017, url.
[50] RFA, 'Vietnamese Villagers Ward Off Police', 26 January 2018, url.

'During the year there were numerous reports of clashes between local residents and authorities at land expropriation sites. Disputes over land expropriation for socioeconomic development projects remained a significant problem, causing public grievances. Many villagers whose land the government forcibly seized protested at government offices for failure to address their complaints. Some coercive land seizures resulted in violence and injuries to both state officials and villagers. There were also reports of suspected plainclothes individuals or "thugs" hired by development companies intimidating and threatening villagers or breaking into activists' homes. Authorities arrested and convicted multiple land rights protesters on charges of "resisting persons on duty" or "causing public disorder."

'From April 15 to 22, villagers in the Dong Tam commune, located on the outskirts of Hanoi, detained 38 police officers during a land dispute. The standoff ended after Hanoi mayor Nguyen Duc Chung signed a pledge not to file criminal charges and stated he would investigate the management and the land use in Dong Tam and the allegations that police injured the village leader in the altercation. Discussions between the villagers and police remained ongoing at years' end.

'A public security officer of Thua Thien Hue Province was reportedly among 100 plainclothes individuals who damaged and destroyed monastery property during a land dispute at Thien An Monastery on June 29. On July 12, the Thua Thien Hue Provincial People's Committee, clerics from the monastery, and Hue Diocese officials began negotiations regarding the land dispute, which both sides reported as ongoing at year's end. The meeting, coming nearly 30 years after the monastery filed a lawsuit in 1988 over the confiscation of 121 acres of its forestland, marked the first official meeting between the monastery and the local government.'[51]

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9. Journalists and bloggers

9.1 Censorship

9.1.1 Freedom House, in its 'Freedom in the Press 2016' report, (the 2016 Freedom House report) reported that:

'The CPV, government institutions, or the army own or control almost all of Vietnam's 850 print media outlets. Independent outlets are prohibited, though some companies are permitted to maintain private newspapers; news outlets that have covered sensitive topics may have their operating licenses confiscated. Several newspapers—including *Thanh Niên*, *Người Lao Động*, and *Tuổi Trẻ* (owned by the CPV Youth Union)—have attempted to become financially self-sustaining. Along with the popular online news site VietnamNet, they have a fair degree of editorial independence, but are ultimately subject to the CPV's supervision.'[52]

9.1.2 The 2017 DFAT Report reported that:

[51] USSD, 'country report' (section 1e), 20 April 2018, url.
[52] Freedom House, 'Freedom in the press', 27 April 2016, url.

'Vietnam gained new powers to limit the use of the internet in July 2013, following the introduction of Decree 72 on the "supervision, provision and use of internet services and online data". The decree, which came into effect on 1 September 2014, prohibits a broad range of activities, including "opposing the Socialist Republic of Vietnam" and "disturbing national unity". It also requires operators of social networks to cooperate with authorities in tracking down people who violate the decree. […] Blogs and social media platforms are widely available in Vietnam; Facebook and Instagram are popular amongst citizens as a means of sharing information and organising public events. Facebook was sporadically blocked in 2016, most notably during the protests over the mass fish death crisis relating to the Formosa steel plant toxic spill. Individual accounts of high profile activists have reportedly been disabled at various times.'[53]

9.1.3 Freedom House, in its 'Freedom on the net 2017' report, (the 2017 Freedom on the Net report) reported that:

'Censorship is implemented by internet service providers [ISPs] rather than at the backbone or international gateway level. Specific URLs are generally identified for censorship and placed on blacklists. Censorship targets high-profile blogs or websites with many followers, as well as content considered threatening to Communist Party rule, including political dissent, human rights and democracy, as well as websites criticizing the government's reaction to border and sea disputes with China. […] Websites critical of the government are generally inaccessible, whether they are hosted overseas, such as Talawas, Dan Luan and Dan Chim Viet, or domestically, like Dan Lam Bao, Dien Dan Xa Hoi Dan Su, or Bauxite Vietnam. Access to international sites such as Human Rights Watch, U.S.-funded Radio Free Asia's Vietnamese-language site, or Vietnamese BBC, has been unstable and unpredictable.'[54]

9.1.4 VN Express International reported in January 2018 that:

'Vietnam's Ministry of Public Security has scrapped an article requiring foreign tech giants such as Google and Facebook to install servers in Vietnam from its draft cyber-security law. […] While no longer requiring a server to be located in the country, the bill still requires foreign enterprises to store data on Vietnamese users in Vietnam, as well as important data collected or generated from activities in the country. […] Around 60 percent of the country's population of nearly 92 million is online. Vietnam is in the top 10 countries for Facebook users by numbers and Google's YouTube is also a popular platform. The government has also called for closer watch over social media networks and sought the removal of content that it deemed offensive.'[55]

9.1.5 VOA news stated in February 2018 that: 'One day after Danang authorities issued guidelines requiring the local press to obtain official approval before

[53] DFAT 'country report' (para 3.31), 21 June 2017, url.
[54] Freedom House, 'Freedom on the net 2017', 14 November 2017, url.
[55] VN Express International, 'Vietnam cuts domestic server requirement', 11 January 2018, url.

disseminating content, city officials rescinded the order in the face of public outcry. Vietnamese media reported that along with the withdrawal of the censorship request, the Danang Department of Information and Communications also "sincerely apologized to the press."'[56]

9.1.6 The BTI report stated that:

'According to the Press Law of 2016, only an organization or agency of the government or authorized by the government can engage in a media business. Media must provide information "to serve the interests of the people and the country." Article 9 of this law is an extended version of Article 88 of the criminal code cited above. In particular, it is forbidden to publish information that, among other things, "slanders and questions the legitimacy of the people's government;" that "causes division among the people, between the people and the people's government, the people's armed forces, and other socio-political organizations;" that "distorts history, denies revolutionary achievements, and criticizes the nation and national heroes;" that "sabotages international solidarity policies;" and that "provokes war against the independence, sovereignty, and territorial integrity of the Socialist Republic of Vietnam."'[57]

9.1.7 The 2017 USSD report noted that:

'Authorities opened and censored targeted private mail; confiscated packages and letters; and monitored telephone conversations, email, text messages, blogs, and fax transmissions. The government cut telephone lines and interrupted cell phone and internet services of a number of political activists and their family members.

'The Ministry of Information and Communications and the CPV Propaganda and Education Commission frequently intervened directly to dictate or censor a story.

'Propaganda officials forced editors of major press outlets to meet regularly to discuss what topics were off-limits for reporting. More often, pervasive self-censorship, including among independent journalists and bloggers, due to the threat of dismissal and possible arrest enabled the party and government to control media content. The government continued its practice of penalizing journalists for failing to self-censor, to include revoking journalists' press credentials.

'On August 1, the government-affiliated Vietnam Journalists Association announced the launch of software to monitor local news outlets' posting, editing, and removal of articles. The Ministry of Information and Communications also approved a software project to identify, block, collect, and process "misleading" information on the internet.'[58]

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[56] VOA News, 'Vietnamese City Rescinds Directive Curtailing Press Freedom', 10 February 2018, url.
[57] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.
[58] USSD, 'country report' (section 2a) 20 April 2018, url.

9.2 Monitoring of online activity

9.2.1 In July 2017, The New York Times noted that:

'In authoritarian Vietnam, the internet has become the de facto forum for the country's growing number of dissenting voices. Facebook connections in particular have mobilized opposition to government policies; they played a key role in mass protests against the state's handling of an environmental disaster last year. Now, the government is tightening its grip on the internet, arresting and threatening bloggers, and pressing Facebook and YouTube to censor what appears on their sites. "Facebook is being used as an organizing tool, as a self-publishing platform, as a monitoring device for people when they are being detained and when they get released," said Phil Robertson, deputy Asia director for Human Rights Watch.

'Vietnam's Facebook users — who now number 45 million, almost half the country's population — use the site to organize prison visits and vigils outside police stations for detainees, and to solicit donations for political prisoners. And dissidents are increasingly migrating political and personal blogs, which can be easily blocked by the government, onto Facebook, which is so widely used that blocking it entirely would not be feasible.'[59]

9.2.2 The 2017 Freedom on the Net report noted that

'Young educated Vietnamese are increasingly turning to blogs, social media, and other online news sources over state TV and radio. While some important alternative blogs have stopped operating following the prosecution of their owners, like *Que Choa* in 2014, new Facebook pages and other sites continue to emerge. In 2015, independent broadcaster Conscience TV began producing YouTube videos on human rights issues in Vietnam. Tools for circumventing censorship are well known among younger, technology-savvy internet users in Vietnam, and many can be found with a simple Google search.'[60]

9.2.3 BBC news reported in December 2017 that:

'The Vietnamese military has built up a force of more than 10,000 internet censors, according to local reports. A People's Army leader is quoted as having said that the "cyber-troops" had been tasked with tackling "wrongful views" and anti-state propaganda. […] Lieutenant General Nguyen Trong Nghia - deputy head of the military's political department - is reported to have announced the existence of Force 47 at a speech in Hanoi on Christmas Day. He is said to have declared that 62.7% of the Vietnam's population of more than 90 million citizens now had access to the net. […] Vietnam enforces a ban on independent political parties and human rights organisations. In 2013, it introduced a law banning the public from discussing current affairs online, ordering that the use of social media and blogs was restricted to sharing personal information. Despite this, the

[59] The New York Times, 'Vietnam's Dissidents Grow Bolder Despite Crackdown', 2 July 2017, url.
[60] Freedom House, 'Freedom on the net 2017', 14 November 2017, url.

country ranks among Facebook's top 10 biggest markets, with about 52 million active users, as of August.'[61]

9.2.4 In December 2017 Reuters reported that:

'Vietnam has unveiled a new, 10,000-strong military cyber warfare unit to counter "wrong" views on the Internet, media reported, amid a widening crackdown on critics of the one-party state. […] Communist-ruled Vietnam has stepped up attempts to tame the internet, calling for closer watch over social networks and for the removal of content that it deems offensive, but there has been little sign of it silencing criticism when the companies providing the platforms are global.'[62]

9.2.5 Vietnam Right Now article of April 2018 noted that:

'The centrepiece of its campaign it to put pressure on Facebook and the others to conform to the Communist party's view of what is acceptable content. The army's creation late last year of "Force 47", a 10,000 strong brigade of cyber warriors to monitor and counter "incorrect" content, has added considerable weight to the government's armoury. By reporting alleged abuses to Facebook, the cyber trolls have been able to severely disrupt free discussion by all those interested in a free and more transparent political system. Independent bloggers reported that their accounts were removed and they were prevented from posting during last week's high profile trial of six political activists, who received long jail terms after a cursory trial.'[63]

The 2017 USSD report stated that 'The Ministry of Public Security maintained a system of household registration and block wardens to monitor unlawful activity. While this system was less intrusive than in the past, the ministry closely monitored individuals engaged, or suspected of engaging, in unauthorized political activities.'[64]

9.2.6 Radio Free Asia reported that in June 2018 Vietnam's National Assembly approved the cybersecurity bill which will become law on 1 January 2019 and 'require[s] providers to delete posts considered "threatening" to national security and to store users' personal information inside the country'.[65] Amnesty International described the new last as a 'a devastating blow for freedom of expression'.[66] In July 2018 Radio Free Asia noted that 'Nearly two dozen members of the U.S. Congress have written to the heads of Facebook and Google urging them not to comply with a new cybersecurity law in Vietnam, saying the legislation is in violation of international human rights standards and raises concerns under the country's trade obligations.'[67]

[61] BBC News, 'Vietnam army hires censors to fight 'internet chaos'', 27 December 2017, url.
[62] Reuters, 'Vietnam unveils 10,000-strong cyber unit article', 26 December 2017, url.
[63] Vietnam Right Now, 'Is Facebook letting down Vietnamese activists?', 11 April 2018, url.
[64] USSD, 'country report', (section 1f) 20 April 2018, url.
[65] RFA, 'Cybersecurity' Law approved article', 12 June 2018, url
[66] AI, 'New Cybersecurity law a devastating blow for freedom of expression', 12 June 2018, url
[67] RFA, 'US Lawmakers urge non-compliance with Cybersecurity Law article, 17 July 2018, url

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9.3 Treatment by the state

9.3.1 Reporters without Borders rank Vietnam 175th out of 180 countries in their 2018 World Press Freedom Index (with 1 being the best and 180 being the worst)[68]. They also documented that 25 individuals were detained for journalism and online activity in Vietnam as of July 2018[69].

9.3.2 The 2017 DFAT Report reported that:

'The Constitution states that citizens have the right to freedom of the press "in accordance with the provisions of the law". The Government however continues to prevent the public broadcasting of any dissenting views through its ownership and control of all print, broadcast and electronic media. The Ministry of Information and Communications (MIC) is responsible for exercising control and legal authority of media outlets under the ongoing guidance of the CPV Propaganda and Education Commission.'[70]

9.3.3 The 2017 Freedom on the Net report stated that:

'Editors and journalists also risk post-publication sanctions including imprisonment, fines, disciplinary warnings, and job loss. On June 20, 2016, an announcement on the MIC website said the ministry had revoked press credentials for Mai Phan Loi, head of the Hanoi bureau of the HCMC Law Newspaper, based on the online publication of a single word deemed "not respectful to the military." Loi had discussed the crash of a Vietnamese maritime patrol aircraft in a journalists' group on Facebook the previous week. The post asked why the plane had "exploded into pieces." On June 21, Minister of Information and Communications Truong Minh Tuan warned that journalists should be considerate when using social networks.

'Decree 174, effective since January 2014, introduced administrative fines of up to VND 100 million (US$4,700) for anyone who "criticizes the government, the Party or national heroes" or "spreads propaganda and reactionary ideology against the state" on social media. These fines can be applied for offenses not serious enough to merit criminal prosecution. The decree outlined additional fines for violations related to online commerce. In 2015, the Ministry of Information and Communications reported imposing VND 777 million ($38,000) in 18 cases involving violations of rules governing the provision and use of information on the internet. The local government in southwestern An Giang province was forced to withdraw one sanction that attracted national attention in 2015. A secondary school teacher was fined VND 5 million ($220) for describing the provincial chairman as "arrogant" on Facebook. Two other individuals were fined and received disciplinary warnings from the Party for "liking" and sharing the post. The incident attracted dozens of media representatives to press conferences before the fines were withdrawn.

[68] RSF, '2018 World press freedom index', 24 April 2018 url.
[69] Reporters without Borders, 'Violations of the press freedom barometer', 2018, url.
[70] DFAT 'country report' (para 3.30), 21 June 2017, url.

'Bloggers and online activists have been subjected to physical attacks, job loss, severed internet access, travel restrictions, and other rights violations. In June 2017, Human Rights Watch reported 36 attacks targeting activists between January 2015 and April 2017, sometimes in police stations or in view of police who did not intervene.'

'Vietnam released 14 bloggers and activists under pressure from the US in 2014 and 2015, in the midst of negotiations over the Trans-Pacific Partnership (TPP), though those released were not pardoned. Several new arrests were reported in 2016, and 2017 saw an intensifying crackdown on government critics, exemplified by the harsh 10-year sentenced handed to the blogger known as "Mother Mushroom" in June.

'Articles 79, 88, and 258 of the penal code are commonly used to prosecute and imprison bloggers and online activists for subversion, antistate propaganda, and abusing democratic freedoms.'[71]

9.3.4 Amnesty's 2017/18 report stated that 'In October, after a trial lasting just a few hours, student Phan Kim Khánh was sentenced to six years' imprisonment and four years' house arrest upon release, after conviction under Article 88. He had criticized corruption and lack of freedom of expression in Viet Nam on blogs and social media. He was also accused of being in contact with "reactionaries" overseas.'[72]

9.3.5 The BTI report stated that:

'Hundreds of bloggers and activists were arrested and many were imprisoned in this period of assessment [February 1, 2015 to January 31, 2017]. Well-known activists are constantly surveilled and prevented from going out of their houses for meeting others or for protest. Famous blogger Nguyen Huu Vinh and his assistant, Nguyen Thi Minh Thuy, were arrested in May 2014 on charges of violating Article 258 and 88, but were not brought to trial until March 2016, nearly two years later. Vinh was sentenced to five years in prison, and Thuy to three. In late 2016 and early 2017, two well-known activists, Nguyen Ngoc Nhu Quynh and Tran Thi Nga, were arrested on the same charges. According to the Committee to Protect Journalists, Vietnam imprisoned six journalists in 2015 and eight in 2016 (ranked 10th in 2015 and 6th in 2016 among countries that imprisoned the most journalists).'[73]

9.3.6 The 2017 USSD report stated that:

'Authorities continued to suppress online political expression through politically motivated arrests and convictions of bloggers as well as through short-term detentions, surveillance, intimidation, and illegal confiscations of computers and cell phones of activists and family members. The government continued to use national security and other vague provisions of the penal code against activists who peacefully expressed their political views online.

[71] Freedom House, 'Freedom on the net 2017', 14 November 2017, url.
[72] AI, 'annual report', 22 February 2018, url.
[73] Bertelsmann Stiftung 'BTI 2018 Country Report Vietnam', 22 March 2018, url.

Political dissidents and bloggers reported that the Ministry of Public Security routinely ordered disconnection of their home internet service.'[74]

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10. Treatment of family members of political/perceived activists

10.1.1 HRW in their annual world report noted that 'Police regularly intimidated family members and friends who tried to attend trials of activists.'[75]

10.1.2 The 2017 USSD report noted that:

'Family members of activists widely reported incidents of physical harassment, intimidation, and questioning by ministry officials. Such harassment included denying education, jobs, or business opportunities to family members of former or existing political prisoners or activists…

'Family members of activists alleged numerous and sometimes severe instances of harassment by Ministry of Public Security officials and agents, ranging from making threatening telephone calls and insulting activists in local media and online to attacks on activists' homes with rocks, shrimp paste, and other substances. There were reports of significant abuses, such as physical assault during interrogation, including ones that caused injury and trauma requiring hospitalization…

'Some activists reported authorities prevented them and their family members from leaving their homes during politically sensitive events.'[76]

10.1.3 The same report also noted that family members of a number of political activists said that the government cut their telephone lines and interrupted mobile phone and internet services. It also noted that family members of former or existing political prisoners or activists widely reported that they were denied education, jobs, or business opportunities[77].

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[74] USSD, 'country report', (section 2a) 20 April 2018, url.
[75] HRW, 'World report 2018', 18 January 2018 url.
[76] USSD, 'country report' (section 1f and 2d), 20 April 2018, url.
[77] USSD, 'country report' (section 1f), 20 April 2018, url.

Terms of Reference

A ‘Terms of Reference’ (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office’s Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Political system
    - Political parties
    - Legal position (freedom of speech, association etc)
- Human rights activists/defenders
    - Treatment by the state
    - Arrests and detention
- Journalists
    - Treatment by the state
    - Arrests and detention
- Internet based activists/bloggers
    - Treatment by the state
    - Arrests and detention

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Version control

Clearance

Below is information on when this note was cleared:

- version **3.0**
- valid from **12 September 2018**

Changes from last version of this note

Updated country information

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