Home Office

Country Policy and Information Note
Vietnam: Political opponents

Version 2.0

November 2016

Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as 'clearly unfounded' under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country information

The COI within this note has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the European Asylum Support Office's research guidelines, Country of Origin Information report methodology, dated July 2012.

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 make recommendations to him about the content of the Home Office's COI material. 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. IAGCI may be contacted at:

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5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

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Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

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Policy guidance

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1. Introduction

1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by the state because of the person's actual or perceived political opposition to the government or Communist Party of Vietnam (CPV).

1.1.2 For information on the treatment of religious and ethnic minority activists see the country information and policy notes on Vietnam: Ethnic minority groups and Vietnam: Religious minority groups.

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2. Consideration of issues

2.1 Credibility

2.1.1 For information 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 Assessment of risk

2.2.1 Vietnam actively suppresses political dissent. Vietnam bans all political parties, labour unions, and human rights organisations independent of the government or Communist Party of Vietnam (CPV). There are severe government restrictions on citizens' political rights, particularly their right to change their government. The authorities require official approval for public gatherings and refuse to grant permission for meetings, marches, or protests they deem politically or otherwise unacceptable (see Political rights).

2.2.2 There are reports that authorities detain perceived political activists without charge indefinitely under vague "national security" provisions, for example for criticising the government at public protests or via online media such as blogs. Detainees are reported to be subject to lengthy detention and ill-treatment by the authorities (see Political activists and Political prisoners).

2.2.3 Many human rights defenders, including bloggers, are similarly accused of "propaganda against the State" and/or of acting against the interest of the state. They are similarly at risk of arbitrary detention, arrest and harassment. Some are subject to house arrest or face severe restrictions on their freedom of movement, including the denial or confiscation of their passports (see Human rights defenders).

2.2.4 The government controls internet access and suppresses online political expression. Political activists and human rights defenders who use the internet to publish ideas on government policies, political pluralism and human rights, are reportedly at risk of being detained and imprisoned by the authorities. Others are subject to surveillance, intimidation, and confiscations of computers and mobile telephones including those of family members (see Internet based activists, including bloggers).

2.2.5 See also the country information and policy notes on Vietnam: Ethnic minority groups and Vietnam: Religious minority groups.

2.2.6 Where a person is perceived to have taken part in opposition political activities or will otherwise be perceived as being involved in opposition politics – including human rights defenders, journalists and internet based activists – and as a result of that would come to the adverse attention of the authorities, they would face a real risk of persecution. This risk may also extend to members of their families.

2.2.7 Each case must be considered on its facts. The onus is on the person to demonstrate that, because of their activities and past experiences, that they are likely to be of adverse interest to, and persecuted by, the Vietnamese authorities because of their actual or perceived political opinion.

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

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2.3 Protection

2.3.1 As the person's fear is of persecution or serious harm by the state authorities, they would be unable to apply to those authorities for protection.

2.3.2 For further guidance on assessing the availability or not of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.4 Internal relocation

2.4.1 As the person's fear of persecution or serious harm by the state authorities, they would not be able to internally relocate in Vietnam to escape that risk.

2.4.2 For further guidance on internal relocation, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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2.5 Certification

2.5.1 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.

2.5.2 For further guidance on certification, see the Appeals Instruction on 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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3. Policy summary

3.1.1 Vietnam actively suppresses political dissent. Those who criticise the government or who use the internet to publish ideas on government policies, political pluralism and human rights or who otherwise express views which are seen as posing a threat to the government or Communist Party of Vietnam (CPV) are at risk of arbitrary arrest and detention on account of their political opinion.

3.1.2 In some cases, family members may also be at risk of ill-treatment.

3.1.3 Victims of such treatment would not be able to access effective state protection or internally relocate to mitigate any risk.

3.1.4 Each case should be considered on its individual merits. The onus is on the person to show that they have come to the adverse attention of the authorities, or are reasonably likely to do so, as a result of their political activity.

3.1.5 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded'.

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4. Political rights

4.1.1 With a population of just over 95 million and covering an area of 331,210 sq km, Vietnam is located in south-eastern Asia, bordering the Gulf of Thailand, Gulf of Tonkin, and South China Sea, as well as China, Laos, and Cambodia[1].

4.1.2 The CIA World Factbook, Profile on Vietnam, updated 3 November 2016, observed that unemployment stood at 3.5 per cent in 2015 and further observed:

'Vietnam is a densely populated developing country that has been transitioning from the rigidities of a centrally-planned economy since 1986… Vietnamese authorities have reaffirmed their commitment to economic modernization and a more open economy. Vietnam joined the WTO [World Trade Organisation] in January 2007, which has promoted more competitive, export-driven industries. Vietnam was one of 12-nations that concluded the Trans-Pacific Partnership free trade agreement negotiations in 2015.

'Hanoi has oscillated between promoting growth and emphasizing macroeconomic stability in recent years. During 2015, Vietnam's managed currency, the dong, depreciated about 5%. Poverty has declined significantly, and Vietnam is working to create jobs to meet the challenge of a labor force that is growing by more than one million people every year.'[2]

4.1.3 The Freedom House report: Freedom in the World 2016 - Vietnam, 27 January 2016, stated:

'The CPV (Communist Party of Vietnam) enjoys a monopoly on political power, and no other parties are allowed to operate legally. 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. Splits between factions within the party exist and have become more noticeable than in the past, but public discussion of internal dissent is actively suppressed.'[3]

4.1.4 Civil Rights Defenders, noted in their 2016 report on Vietnam: 'Despite Vietnam's human rights obligations under domestic and international law, persons in Vietnam who exercise their basic rights to defend human rights

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[1] Central Intelligence Agency, 'CIA World Factbook, China', updated 3 November 2016, (Geography, People and Society), https://www.cia.gov/library/publications/the-world-factbook/geos/vm.html, date accessed 9 November 2016

[2] Central Intelligence Agency, 'CIA World Factbook', China, updated 3 November 2016, (Economy - Overview), https://www.cia.gov/library/publications/the-world-factbook/geos/vm.html, date accessed 9 November 2016

[3] Freedom House: Freedom in the World 2016 - Vietnam, 27 January 2016, (B. Political Pluralism and Participation), https://freedomhouse.org/report/freedom-world/2016/vietnam, date accessed 21 November 2016

and to voice criticism of power brokers often face harassment, intimidation, prosecution, and imprisonment.' [4]

4.1.5 Human rights issues remained a problem. As noted in the US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016:

'The most significant human rights problems in the country were severe government restrictions of citizens' political rights, particularly their right to change their government through free and fair elections; limits on citizens' civil liberties, including freedom of assembly, association, and expression; and inadequate protection of citizens' due process rights, including protection against arbitrary detention.

'Other human rights abuses included arbitrary and unlawful deprivation of life; police attacks and corporal punishment; arbitrary arrest and detention for political activities; continued police mistreatment of suspects during arrest and detention, including the use of lethal force and austere prison conditions; and denial of the right to a fair and expeditious trial.' [5]

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5. Legal context

5.1.1 Article 14, Chapter 2 (Human Rights and Citizen's Fundamental Rights and Duties) of the Constitution, states:

'1. In the Socialist Republic of Vietnam, political, civic, economic, cultural and social human rights and citizen's rights are recognized, respected, protected, and guaranteed in concordance with the Constitution and the law.

'2. Human rights and citizen's rights shall only be restricted in imperative circumstances for the reasons of national defence, national security, social order and security, social morality, and the health of the community.'[6]

5.1.2 Article 16, states:

'1. All citizens are equal before the law.

'2. No one shall be discriminated in his or her political, civic, economic, cultural, and social life.' [7]

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[4] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, 9Introduction), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, date accessed 22 November 2016

[5] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Executive Summary), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[6] International Labour Organisation, Final Constitution of the Republic of Vietnam Adopted by the National Assembly, 28 November 2013, https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94490/114946/F114201808/VNM94490%20Eng.pdf, date accessed 21 November 2016

[7] International Labour Organisation, Final Constitution of the Republic of Vietnam Adopted by the National Assembly, 28 November 2013, https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94490/114946/F114201808/VNM94490%20Eng.p

5.1.3 Article 25 states:

'The citizen shall enjoy the right to freedom of opinion and speech, freedom of the press, to access to information, to assemble, form associations and hold demonstrations. The practice of these rights shall be provided by the law.'[8]

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6. Freedom of political expression

6.1 Political activists

6.1.1 The Vietnamese government escalated a nationwide crackdown on human rights activists and people critical of the government for the handling of the chemical spill along the country's central coast after 'Formosa Plastics Group acknowledged that it was responsible for the release of toxic chemicals from a steel plant it owned. In April 2016 the spillage killed an estimated 115 tons of fish and left fishermen and tourism industry workers jobless in Ha Tinh and three other central provinces'. [9] The incident affected the livelihoods of more than 200,000 people, including 41,000 fishermen. On 10 November 2016, Radio Free Asia reported:

'The Vietnamese government is escalating a nationwide crackdown on human rights activists and people critical of the government's handling of the chemical spill that devastated the country's central coast, according to Amnesty International and other reports. On Nov. 6, four people were arrested who are connected to a new civil society organization "The Alliance of Self-Determined People." All three have been charged with "carrying out activities aimed at overthrowing the people's administration" under Article 79 of the penal code, according to a report in Vietnam Right Now. The draconian law is often used against dissenters and usually comes with a lengthy prison sentence of between 12 years and life, but people sentenced under the law can face the death penalty.' [10]

6.1.2 The US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, stated: 'The constitution affords individuals the right of association, but the government continued to restrict freedom of association severely and neither permitted nor tolerated opposition political parties. The government prohibited the establishment of private,

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df, date accessed 21 November 2016

[8] International Labour Organisation, Final Constitution of the Republic of Vietnam Adopted by the National Assembly, 28 November 2013, https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94490/114946/F114201808/VNM94490%20Eng.pdf, date accessed 21 November 2016

[9] Radio Free Asia, Vietnam Cracks Down on Dissenters, 10 November 2016, http://www.rfa.org/english/news/vietnam/vietnam-cracks-down-on-dissenters-11102016154306.html, date accessed 25 November 2016

[10] Radio Free Asia, Vietnam Cracks Down on Dissenters, 10 November 2016, http://www.rfa.org/english/news/vietnam/vietnam-cracks-down-on-dissenters-11102016154306.html, date accessed 25 November 2016

independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF.' [11]

6.1.3 The Freedom House report added that, 'Leaders and members of illegal opposition parties are subject to arrest and imprisonment.' [12]

6.1.4 The Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, stated: 'The authorities continued to use vaguely worded offences to charge and convict peaceful activists, mainly through Article 258 (abusing democratic freedoms to infringe upon the interests of the state, the legitimate rights and interests of organizations and/or citizens) of the 1999 Penal Code.' [13]

6.1.5 The Freedom House report noted: 'Lê Thanh Tùng, a member of the banned reformist political coalition Bloc 8406, was granted amnesty in June 2015, shortly before the CPV general secretary's U.S. visit. However, he had been due to complete his four-year prison sentence for "propaganda against the state" about six months later, and other political dissidents were arrested during the year.' [14]

6.1.6 The USSD Report 2016[15] and the Human Rights Watch: World Report 2016 - Vietnam[16], both recorded a number of incidents involving government critics and activists during 2015.

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6.2 Political prisoners

6.2.1 The US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, stated:

'The government held fewer political prisoners than in previous years due to completion of prison sentences and a continued drop in arrests and convictions of such persons. There were approximately 95 political prisoners

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[11] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 2 b. Freedom of Peaceful Assembly and Association, Freedom of Association), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[12] Freedom House: Freedom in the World 2016 - Vietnam, 27 January 2016, (B. Political Pluralism and Participation), https://freedomhouse.org/report/freedom-world/2016/vietnam, date accessed 21 November 2016

[13] Amnesty International: Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, (Repression of dissent), https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/, date accessed 21 November 2016

[14] Freedom House: Freedom in the World 2016 - Vietnam, 27 January 2016, (B. Political Pluralism and Participation), https://freedomhouse.org/report/freedom-world/2016/vietnam, date accessed 21 November 2016

[15] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 1. c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[16] Human Rights Watch, World Report 2016 - Vietnam, 27 January 2016, (Government Critics and Activists), https://www.hrw.org/world-report/2016/country-chapters/vietnam, date accessed 21 November 2016

at year's end, compared with approximately 125 political prisoners at the end of 2014. The government asserted there were no political prisoners in the country and did not permit regular access to such persons by international human rights or humanitarian organizations.' [17]

6.2.2 The USSD report further noted:

'In March [2015] prisoners of conscience Dinh Nguyen Kha, Dang Xuan Dieu, Nguyen Hoang Quoc Hung, and Tran Vu Anh Binh conducted a10-day hunger strike to protest Binh's placement into solitary confinement at Xuyen Moc prison in Vung Tau Province…

'Authorities typically sent political prisoners to specially designated prisons that also held regular criminals and, in many cases, kept political prisoners separate from nonpolitical prisoners. Authorities completely isolated some high-profile political prisoners. Activists reported MPS officials assaulted prisoners of conscience 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 prisoners of conscience 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.' [18]

6.2.3 The Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, stated:

'Conditions of detention and treatment of prisoners of conscience continued to be harsh. This included lack of physical exercise; verbal and physical attacks; prolonged detention in hot cells with little natural light; denial of sanitary equipment; frequent prison transfers; and detention far from homes and families, making family visits difficult.' [19]

6.2.4 Further adding:

'Several undertook hunger strikes in protest at the use of solitary confinement and abusive treatment of prisoners, including Tạ Phong Tần (see above); Nguyễn Đặng Minh Mẫn, serving an eight-year sentence; and Đinh Nguyên Kha, serving a four-year sentence.4 Nguyễn Văn Duyệt, a Catholic social activist serving a three-and-a-half-year sentence protested at being denied a Bible; and social justice activist Hồ Thị Bích Khương, serving

[17] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 1. Political Prisoners and Detainees), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[18] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 1. Prison and Detention Center Conditions), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[19] Amnesty International: Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, (Prisoners of conscience), https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/, date accessed 21 November 2016

a five-year sentence, who protested when she was not allowed to take personal belongings when transferred to another prison.' [20]

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6.3 Human rights defenders

6.3.1 Civil Rights Defenders, noted in its 2016 report on Vietnam, that:

'Scores of human rights defenders, including bloggers, have been prosecuted or imprisoned in the last four years under broadly worded provisions of the Penal Code, including article 88 (which regulates "propaganda against the State") and article 258 (which prohibits abuses of "democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens").' [21]

6.3.2 Further adding:

'Arbitrary detention, arrests and harassment, especially of human rights defenders, are commonplace. Human rights defenders are also subject to house arrest or face severe restrictions on their freedom of movement, including the denial or confiscation of their passports. Human rights defenders have been placed on the government's list of persons prohibited from overseas travel. In recent years, physical assaults against dissidents and activists by police, plainclothes agents and unidentified thugs take place with virtual impunity.' [22]

6.3.3 Amnesty International reported:

'While the number of arrests and prosecutions against human rights defenders and government critics decreased from previous years, physical attacks and restrictions on movement increased. Several activists were confined to their homes. Some of those wishing to travel overseas to attend human rights-related events had their passports confiscated; several others who managed to leave were arrested and interrogated by the police on their return.' [23]

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[20] Amnesty International: Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, (Prisoners of conscience), https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/, date accessed 21 November 2016

[21] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, 9Introduction), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, date accessed 22 November 2016

[22] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, 9Introduction), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, date accessed 22 November 2016

[23] Amnesty International: Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, (Repression of dissent), https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/, date accessed 21 November 2016

7. Freedom of association and assembly

7.1 Legal rights and restrictions

7.1.1 Civil Rights Defenders, noted in their 2016 report on Vietnam, that: Laws on public assembly and on association are pending.

7.1.2 Adding that:

'The right to freedom of assembly and association is guaranteed under Article 25 of the 2013 Constitution. In practice, public protests are rare due to tight social controls and severe government reprisals against organisers and participants, but they have become more frequent in recent years. Increasing number of protests have been staged by farmers or rural residents to protest land confiscations and by those opposing China's maritime claims in disputed waters. State security forces, including the army, regularly crack down on people opposing 'development projects' and land seizures.' [24]

7.1.3 Civil Rights Defenders reported that in May 2016, 'peaceful demonstrations broke out in cities and towns across the country in response to the government's poor handling of an ecological disaster that has decimated fish stocks off the central coastal provinces. While the initial protests were tolerated, subsequent ones were met with excessive use of force and the arrest and detention of hundreds of protesters.' [25]

7.1.4 The Amnesty International Report 2015/16 stated:

'Members of independent activist groups attempting to exercise their rights to freedom of expression, association and peaceful assembly faced regular harassment, including surveillance, restrictions on movement, arbitrary short-term detention and physical attacks by police and unidentified men suspected of working in collusion with security forces. Dozens of activists were attacked, many of them before or after visiting released prisoners and victims of human rights violations, or when attending events or meetings.' [26]

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[24] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, (The right to freedom of assembly and association), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, Date accessed 25 November 2016

[25] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, (The right to freedom of assembly and association), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, Date accessed 25 November 2016

[26] Amnesty International: Amnesty International Report 2015/16 - The State of the World's Human Rights - Viet Nam, 24 February 2016, (Repression of dissent), https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/, date accessed 21 November 2016

8. Freedom of speech and media

8.1 Legal rights

8.1.1 The constitution and law allowed for freedom of speech, but as recorded in the USSD 2015 Report, 'The government continued to restrict speech that criticized individual government leaders; promoted political pluralism or multiparty democracy; or questioned policies on sensitive matters, such as human rights, religious freedom, or sovereignty disputes with China. The government also sought to impede criticism by monitoring meetings and communications of activists, including in academic institutions.' [27]

8.1.2 Freedom House, Freedom on the Net 2016 - Vietnam, 14 November 2016, reported that:

'The Law on Information Security passed in November 2015 and came into effect on July 1, 2016, introducing some cybersecurity protections. In more troubling provisions, the law allows the sharing of users' personal information without consent at the request of competent state agencies (Article 17.1.c), mandates that authorities be given decryption keys on request, and introduces licensing requirements for tools that offer encryption as a primary function, threatening anonymity.' [28]

8.1.3 The Freedom House report, Freedom of the Press 2015 - Vietnam, 20 October 2015, observed that, 'Under the 1999 Law on Media, the press is prohibited from reporting information that is "untruthful, distorted, or slanderous and harmful" to an individual or organization. Although prison terms are not prescribed for defamation, various other speech-related offenses carry the potential for jail time under the penal code, including those referencing government figures.' [29]

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8.2 Journalists

8.2.1 Vietnam rated 175 out of 180 on the 2016 World Press Freedom Index, with the higher the figure, the worse the situation. [30]

8.2.2 Civil Rights Defenders, noted in their 2016 report on Vietnam, that: 'Media freedom is severely limited as most media outlets and publications are state-owned or under the Communist Party of Vietnam (CPV) effective control. Restrictions on the rights to freedom of assembly and association continue

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[27] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 2. Freedom of Speech and Expression), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[28] Freedom House, Freedom on the Net 2016 - Vietnam, 14 November 2016, (Surveillance, Privacy, Anonymity), https://freedomhouse.org/report/freedom-net/2016/vietnam, date accessed 22 November 2016

[29] Freedom House, Freedom of the Press 2015 - Vietnam, 20 October 2015, (Legal Environment), https://freedomhouse.org/report/freedom-press/2015/vietnam, date accessed 23 November 2016

[30] 2016 World Press Freedom Index, Vietnam, https://rsf.org/en/ranking, date accessed date accessed 23 November 2016

both in law and in practice. The 2015 amendments to the Penal Code retained all the draconian provisions.' [31]

8.2.3 The US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, recorded that, 'There were an increased number of reports of security officials attacking, threatening, or arresting journalists because of their coverage of sensitive stories.' [32]

8.2.4 The Freedom House report, Freedom of the Press 2015 - Vietnam, 20 October 2015, also reported that: 'Police often use violence, intimidation, and raids of homes and offices to silence journalists who report on sensitive topics. Several prominent journalists have fled into exile in the past five years.'[33]

8.2.5 The USSD Report 2015 recorded a number of incidents involving journalists[34].

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8.3 Internet based activists, including bloggers

8.3.1 Individuals who used the internet to publish ideas on human rights, government policies, and political pluralism continued to be detained and imprisoned by the authorities[35].

8.3.2 Reporter Without Borders reported on its website profiling Vietnam:

'As the media all take their orders from the Communist Party, the only sources of independently-reported information are bloggers and citizen-journalists, who are the permanent targets of extremely harsh forms of persecution including police violence. "Decree No. 72" restricts Internet use to "personal information" while "abusing democratic freedoms" is punishable by imprisonment under the criminal code. This vaguely defined offence allows the authorities to gag every kind of dissident.'[36]

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[31] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, (Introduction), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, date accessed 22 November 2016

[32] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 2. Respect for Civil Liberties – Internet freedom), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[33] Freedom House, Freedom of the Press 2015 - Vietnam, 20 October 2015, https://freedomhouse.org/report/freedom-press/2015/vietnam, date accessed 23 November 2016

[34] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 2. Respect for Civil Liberties – Internet freedom), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[35] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section Political Prisoners and Detainees), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[36] Reporters Without Borders, Vietnam, undated, https://rsf.org/en/vietnam, date accessed 23 November 2016

8.3.3 In November 2016 the Committee to Protect Journalists (CPJ) reported that there had been an 'intensifying government clampdown on dissent that has targeted independent bloggers in particular. This year, three bloggers--Nguyen Huu Vinh, Nguyen Thi Minh Thuy, and Nguyen Ngoc Gia--have been sentenced for their writing.'[37]

8.3.4 Reporters Without Borders further reported in October 2016 that:

'Vietnam has a policy of 'isolating Vietnamese journalists and bloggers and its systematic reprisals against those who dare to connect with the outside world.' Adding that: In a recent case, security officers at Noi Bai international airport stopped Vu Quoc Ngu, the editor of the Defend The Defenders human rights website, from boarding a flight to Bangkok on 26 September. They cited Decree No. 136 and "national security" as their grounds from preventing him from leaving the country… The latest victims include Nguyen Nhu Phong, the editor of the state-owned PetroTimes news website, who was fired and stripped of his press card for publishing extracts from an interview with Bui Than Hieu, a exiled dissident blogger also known as Wind Trader.'[38]

8.3.5 The US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, stated:

'The government continued to exercise various forms of control over internet access. It allowed access to the internet but only through a limited number of internet service providers (ISPs), all of which were fully or substantially state-controlled companies. Despite these controls, internet access and usage continued to grow…

'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 article 258 of the penal code against activists who peacefully expressed their political views online. Political dissidents and bloggers reported the MPS routinely ordered disconnection of their home internet service.'[39]

8.3.6 Freedom House, Freedom on the Net 2016 - Vietnam, 14 November 2016, reported that:

'Political content on a range of sensitive topics is restricted online, especially in Vietnamese. Blogging and social media platforms are widely available,

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[37] Committee to protect journalists, Blogger detained amid escalating crackdown in Vietnam, 4 November 2016, https://cpj.org/2016/11/blogger-detained-amid-escalating-crackdown-in-viet.php, date accessed 23 November 2016

[38] Reporters Without Borders, Vietnam's bloggers denied all contact with outside world, 7 October 2016, https://rsf.org/en/news/vietnams-bloggers-denied-all-contact-outside-world, date accessed 23 November 2016

[39] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 2. Respect for Civil Liberties – Internet freedom), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

though Facebook was apparently briefly blocked in May 2016 in response to protests. Decree 174 has been widely used to levy harsh fines for government criticism online since it was introduced in 2015. Additionally, Circular 09, issued in October 2014, requires website owners to immediately take down content at the request of authorities, resulting in increased self-censorship. In 2013, the government officially acknowledged using paid commentators, who have since grown in number and continue to manipulate online content.' [40]

8.3.7 The Freedom House report added:

'Internet content producers face a range of pressures that affect the quality of online information. All content needs to pass through in-house censorship before publication. In weekly meetings, guidelines handed out by a Party Committee to editors dictate areas and themes to report on or suppress, as well as the allowed depth of coverage. Editors and journalists also risk post-publication sanctions including imprisonment, fines, disciplinary warnings, and job loss.' [41]

8.3.8 Freedom House recorded that:

'At least 15 bloggers and activists were still jailed at the end of 2015. Some were tried and sentenced during the coverage period, though long after the legal time limit for detention without trial had expired. Nguyen Huu Vinh, who ran the well-known independent blog Anh Ba Sam, was arrested along with his assistant Nguyen Thi Minh Thuy in May 2014 under Article 258 of the penal code. Suspects charged under Article 258 (2) can initially be held in pre-trial detention for up to six months, and for a further 90 days following indictment. Yet both were held for more than 22 months before a court in Hanoi sentenced them to five and three years in prison, respectively, in March 2016.' [42]

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9. The Judiciary/Rule of law

9.1.1 Civil Rights Defenders, noted in its 2016 report on Vietnam, that:

'The judiciary is not independent and is under the control and influence of the government and the CPV. Pre-trial detention is sometimes long – often exceeding months – and trials are often hasty and routinely fail to uphold the principle of presumption of innocence, especially in politically motivated cases. Defendants and their defence lawyers are sometimes denied the right to a defence and are given insufficient time for preparations or lack relevant information about the charges. Families of defendants, foreign diplomats,

[40] Freedom House, Freedom on the Net 2016 - Vietnam, 14 November 2016, (Limits on content), https://freedomhouse.org/report/freedom-net/2016/vietnam, date accessed 22 November 2016
[41] Freedom House, Freedom on the Net 2016 - Vietnam, 14 November 2016, (Media, Diversity, and Content Manipulation), https://freedomhouse.org/report/freedom-net/2016/vietnam, 22 November 2016
[42] Freedom House, Freedom on the Net 2016 - Vietnam, 14 November 2016, (Prosecutions and Detentions for Online Activities), https://freedomhouse.org/report/freedom-net/2016/vietnam, 22 November 2016

and journalists are often blocked from attending trials. The World Justice Project's Rule of Law Index in 2015 gave Vietnam low scores on judicial constraints on government powers, due process of law, and government influence in civil and criminal justice.'[43]

9.1.2 The US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, stated:

'The law provides for the independence of judges and lay assessors, but the judiciary was not strong and was vulnerable to influence by outside elements such as senior government officials and CPV leadership. As in past years, credible reports of political influence, endemic corruption, and inefficiency strongly distorted the judicial system. Most, if not all, judges were members of the CPV and underwent screening by the CPV and local officials during their selection process to determine their suitability for the bench. The party's influence was particularly notable in high-profile cases and other instances in which authorities charged a person with challenging or harming the party or state.

'The law on the organization of the courts, enacted in November 2014 and which took effect in June [2015], includes provisions designed to provide for fair trials. It specifies that judges and assessors shall adjudicate independently; prohibits agencies, organizations, and individuals from interfering in trials; and provides that hearings shall be timely and public, that courts shall emphasize the principles of equality before the law and the adversarial process, and that authorities consider the accused innocent until proven guilty.'[44]

9.1.3 The Freedom House report: Freedom in the World 2016 - Vietnam, 27 January 2016, recorded that: 'New police regulations that took effect in August 2014 codified rules for police investigations and prohibited police coercion during interrogations. Some human rights groups praised the measure as a step forward, but critics raised concerns about enforcement and argued that the reforms failed to protect due process rights.' [45]

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[43] Civil Rights Defenders, Human Rights in Vietnam, 25 September 2016, 9Introduction), https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam/, date accessed 22 November 2016

[44] US Department of State, Country Reports on Human Rights Practices for 2015: Vietnam, 13 April 2016, (Section 1. e. Denial of Fair Public Trial), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dlid=252813#wrapper. Date accessed 21 November 2016

[45] Freedom House: Freedom in the World 2016 - Vietnam, 27 January 2016, (F. Rule of Law), https://freedomhouse.org/report/freedom-world/2016/vietnam, date accessed 21 November 2016

Version control and contacts

Contacts

If you have any questions about this note and your line manager, senior caseworker or technical specialist cannot help you, or you think that this note has factual errors then email the Country Policy and Information Team.

If you notice any formatting errors in this note (broken links, spelling mistakes and so on) or have any comments about the layout or navigability, you can email the Guidance, Rules and Forms Team.

Clearance

Below is information on when this note was cleared:

- version **2.0**
- valid from **30 November 2016**

Changes from last version of this note

- Refresh of country information in line with review conducted by the Independent Advisory Group on Country Information (IAGCI) in November 2016.
- Consequential update of guidance section.

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