



World Press Freedom Day 2019

VIETNAM: The Net as the New 'Battlefield'


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“ There is no doubt that media freedom in Vietnam faces many obstacles today ... And while independent media organizations and journalists remain in the minority ... they do exist and persist. ”

IT WOULD be almost impossible to discuss media freedom in Vietnam (<https://www.seapa.org/vietnam-the-net-as-the-new-battlefield/>) without first reviewing the country's political situation over the past year. 



The unique Communist one-party system, combined with a socialist-style free market economy, has created a narrow window of opportunity for non-state and independent media to grow over the years, despite state censorship. For the most part, the Internet in Vietnam is still accessible to the majority of the population. With the use of a VPN and other methods to jump over the firewall, people have been able to access almost all of the contents of websites the government had blocked. Vietnam has yet to build a Great Firewall like that of China.

But Vietnam in 2018 remains an authoritarian state under the rule of the Vietnamese Communist Party (VCP). The VCP had ruled over the north of Vietnam for more than seven decades, and after 1975, it had a political monopoly over the entire country. Since 1980, the Constitution of Vietnam has formally granted the VCP an absolute monopoly over the state and its people under Article 4, which designates the VCP as the only leading force within society and government. This specific legal clause survived two rounds of constitutional amendments in 1992 and 2013, effectively consolidating the power of the ruling party to date.

The Party's total control of government functions was on full display on 23 October 2018, when it stunned international observers. The National Assembly – the legislative body of Vietnam – confirmed Nguyen Phu Trong, the general secretary of the VCP, as the next president with 99.7 percent of the votes. Viewed by some observers as a “party-builder” rather than a reformist, Trong was feared as a leader who would implement a hard-line approach to protect his party, leading some people to compare him to China’s strongman Xi Jinping. The thinking was that if the government decided that it was going to punish even more severely those who were critical of the VCP and its policies, the people’s rights and freedoms, including media freedom, would then be further curtailed in Vietnam.

Growing protests – and number of political prisoners

Indeed, such fears were substantiated in 2018 when Vietnam arrested a total of 113 dissidents — the highest number in the past five years. This figure exceeded the combined number of arrests made between 2013 and 2017, putting the total number of political prisoners incarcerated in Vietnam at 228 as of April 2019.


The year 2018 was also the year that the courts in Vietnam handed down the harshest sentences against political prisoners to date. Many of these defendants were either citizen journalists or bloggers. Cases of particular concern this year include Hoang Duc Binh, who was sentenced in February 2018 to 14 years, and Le Dinh Luong, who was sentenced in August 2018 to 20 years in prison. Both were well-known bloggers who wrote extensively about the aftermath of the 2016 Formosa environmental disaster, describing how it still affected local communities. (The disaster had been caused by a steel plant’s discharge of toxic waste into the sea, causing massive fish kills in central Vietnam.)



Police brutality during protests increased sharply this past year as well, demonstrating another sign of intolerance towards dissidents. In June 2018, the largest nationwide protest in Vietnam since April 1975 broke out in several major cities with thousands of people marching on the streets. They were demanding the National Assembly immediately stop deliberating on the two draft bills regarding the cybersecurity law and the development of three special economic zones. Protestors, however, were met with police brutality, and a de-facto martial law was imposed in Ho Chi Minh City during several weekends that followed. Project 88, an independent civil-society organization, estimated that there were more than 60 people arrested and charged with “inciting public disorder” due to their participation in the protests.

Despite the protests, the National Assembly voted to approve the new cybersecurity law on 12 June 2018, with a strong majority of close to 97 percent. These votes demonstrated the VCP’s willingness to clamp down on online civic space, something it had long promised to do in state media.

But the VCP, while hardening its approach during these past 15 months, has been targeting not only political dissidents. In late 2018, the Party moved to discipline one of its own. Professor Chu Hao was part of a minority group within the Party, which consisted of Party members who had been showing overt support for liberal political theories and democracy. Chu Hao and those who shared his views were later ousted by the VCP, marking what was dubbed the Party’s “war against intellectuals” on social media. Their civil-society organization, the Phan Chau Trinh Cultural Foundation — named after Vietnam’s most popular thinker in the 20th century — was shut down in February 2019, after more than a decade of promoting higher education in the country. The decision to close the foundation is believed to have been politically motivated because of Chu Hao, who was expected to be the next in line for the presidency of the foundation.

Engaging with outsiders, but...

At the same time, however, in what could be considered as positive prospects for Vietnam’s politics, the country remained eagerly open to trade with Western countries. Vietnamese leaders continued to welcome the global market as evidenced by the ratification of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership 

(CPTPP) in November 2018. International trade agreements such as the CPTPP and the upcoming European Union-Vietnam Free Trade Agreement (EV-FTA) do carry with them some obligations and conditions based upon human rights benchmarks.  <https://pci.org/homepage> Philippine Center for Investigative Journalism 

With the CPTPP, Vietnam had agreed to allow independent unions to be organized by the workers outside of the VCP's control. While the Labour Code is yet to be modified, the government did confirm in late 2018 that the formation of independent unions will be addressed once the code is finalized. During the negotiations of the EV-FTA, Vietnam's willingness to quickly ratify the three remaining ILO conventions — which include Convention No. 87, the Freedom of Association and Protection of the Right to Organize — was also among the priority issues for the EU before its parliament was to vote on the trade deal.

Vietnam's Press Law of 2016 faced harsh criticism by the UN Human Rights Committee in March 2019 after Vietnam underwent its review under the International Covenant on Civil and Political Rights. The Committee was concerned because it had found that Vietnam's Press Law includes "restrictions aimed at ensuring strict adherence to and promotion of government policy" and that it "prohibits any criticism of the government".

The Committee's concerns mirrored what happened in reality, as demonstrated by the fining and three-month-suspension of Tuoi Tre's websites in July 2018 for publishing articles that the government disapproved of. Tuoi Tre, possibly the largest newspaper in Vietnam, is the official publication of the Ho Chi Minh Communist Youth Union in Ho Chi Minh City.

A worrisome new law

Meanwhile, the newly enacted cybersecurity law of 2018 not only prompted people to protest on the streets; it also was of concern among both domestic and international civil-society and human-rights organizations that found it deeply troubling.

The much-maligned code, seeking to impose even stricter regulations on Internet users in Vietnam, has at least seven strikingly similar provisions to laws in China. It seems as if both governments are using their cybersecurity laws to directly target information deemed to be dangerous to both regimes. Yet, at the same time, the definition of such information is broad and vague in both countries. According to the Vietnamese version, it would cover just about everything, including energy, finance, transportation, media, and publications, as well as electronic governance, military-security, national secrets, banking, natural resources, the environment, chemicals, medicine, and other national security structures.


The law's most negative effect could be the extent to which it seeks to control Internet service providers, including foreign corporations, within Vietnam's sovereignty. Service providers under the new law are required to collect and verify the true identity of their users. They also must localize their data storage and open a representative office in Vietnam. Upon law enforcement's request, service providers would be required to supply stored data to the police and cooperate with any ongoing investigation. There is no judicial oversight over the extent of requests from the police, and there is also no legal process for opposing them.

There has yet to be a case where a Vietnamese national was arrested or convicted under the new cybersecurity law since it took effect on 1 January 2019. Still, there have been worrying signs of possible compliance from tech giants, such as Facebook and Google, to restrict content and turn over users' data.

Big Brother's assistants?

In March 2019, Vietnam's state newspaper – The People's Armed Force online – reported that by the end of June 2018, Google had removed thousands of video clips from YouTube – a Google product – including "300 clips carrying subversive content, inciting subversion against the VCP and the government; 6 YouTube channels were blocked completely". It also stated that Facebook removed links and accounts that "defamed, misrepresented, and propagandized against the VCP and the government".

A quick review of the Google Transparency Report and Facebook's Government Requests Report for 2018 did not exactly corroborate all the claims stated in the Vietnamese article. But they indeed showed an increase in content restrictions in compliance with government requests. Google disclosed that between January-June 2018, Vietnam's Authority of Broadcasting and Electronic Information, under the Ministry of Information and Communications, asked it to remove "over 3,000 YouTube videos that mainly criticized the Communist Party and government officials". Google also said that that it "restricted the majority of the videos from view in Vietnam, based on Decree 72".

Facebook's reports indicated that the company complied with a total of 265 content restriction requests from the Vietnamese government during the first six months of 2018, compared to 22 requests from July-December 2017 — a whopping 1163.64-percent increase. 

Facebook also admitted that it had released some Vietnamese user data to the government under either “legal process” or “emergency requests”. From January to June 2017, Facebook released information in response to 25 percent of the requests, 38 percent between July and December 2017, and 17 percent during the first six months of 2018. Up until 2017, Facebook said, it had never released Vietnamese user data to the government under any circumstances.

What Facebook and Google have done is the primary reason why so many Vietnamese people have protested this Orwellian law. They believe that it would turn both Internet users and their service providers into government’s informants, effectively assisting “Big Brother” to keep a close watch on everyone’s online activities.

Facebook turns opaque while netizens get battered

In fact, the government had declared in December 2018 that the Internet would be its new “battlefield”. Specifically, the battles on Facebook had been the most brutal for citizen journalists, bloggers, and independent media organizations. Access Now, a non-profit organization focusing on assisting human-rights defenders with digital security issues, also noted the increase in the number of Facebook account suspensions and removals in Vietnam after the cybersecurity law was passed in 2018. Further, Access Now identified a few tactics that it believed to be the work of Force 47, which it described as “a 10,000-person military unit tasked with combating ‘wrong views’ online that criticize the government or promote ideas counter to the governing party’s ideology”.

Activists and freelance journalists like Hoang Dung, Le Nguyen Huong Tra, and Truong Chau Huu Danh are among those who have had their accounts either suspended or removed by Facebook. Most of their appeals have gone unanswered. Tra is even a “blue badger”, which means that Facebook has already verified her as a journalist, which should mean per its own policy that her account would receive more protection. But her account was suspended twice in September 2018. The most recent suspension of Tra’s account happened around February 2019. Danh, another freelancer who writes extensively about corruption at BOT (Build-Operate-Transfer) toll booths, is currently using what would be his third Facebook account because Facebook took disciplinary actions on his other two.

What frustrates Vietnamese Facebook users the most about this phenomenon is that Facebook has refused to explain its decisions, which it considers to be final. Affected users have been unable to find out the specific “community standard” they were accused of violating, even after they had appealed their cases.

The standards that Facebook has been using, however, appeared even more arbitrary when coupled with the operation of its unknown, undisclosed third party’s fact-checkers. For example, in March 2019, Facebook deleted four articles from the fan page of Luat Khoa online magazine for violating its “community standards”. It has yet to give further explanation for its action. The titles of these four pieces are: “US-China’s trade negotiations: America wants China to scale down its cybersecurity law”; “Vietnam owes Cambodia an apology”; “A look at different ‘isms’”; “Donald Trump’s life story: Crisis and a father’s safety net”.

Over 17,000 people signed an online petition initiated by Luat Khoa in July 2018, asking Facebook to provide its position on the new cybersecurity law. A summary of the signatures was gathered and sent to Mark Zuckerberg by FedEx delivery in October 2018. Yet, the company to this day remains unresponsive. Mai Khoi, a Vietnamese dissident singer, wrote on her Facebook page in January 2019 that although she had met with several people at Facebook to discuss these issues, it did not lead to any substantial progress.

Intimidation offline continues

Still, it is one thing for Facebook to suddenly take down a page, and another for a person to disappear altogether. At the end of January 2019, news that a journalist and former political prisoner, Truong Duy Nhat, had disappeared in Bangkok, Thailand, exploded on Vietnamese social media. Nhat was last seen the day before he went missing at the office of the UNHCR or the UN Refugee Agency, and his family had confirmed that he was seeking political asylum. By late March 2019, Nhat’s wife received notice from a prison centre in Hanoi that she could send money and necessities to Nhat there, which indirectly confirmed that the government had him in their detention.

Journalist Pham Doan Trang can barely claim even cold comfort, however, for facing “only” increased intimidation and threats from the government during this past year. The actions of the government against her seem to be connected to her publication of her books. To date, Trang has written and published three books on the topics of politics, policymaking, and criminal procedures.

— *Southeast Asian Press Alliance (SEAPA), PCIJ, May 2019*

