



# STIFLING THE PUBLIC SPHERE

Media and Civil Society in Vietnam



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# STIFLING THE PUBLIC SPHERE: MEDIA AND CIVIL SOCIETY IN VIETNAM

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## I. Overview

### A. CIVIL SOCIETY'S STUNTED GROWTH

Civil society in Vietnam is surprisingly weak. After several decades of economic reform that have brought significant socioeconomic transformation, especially to the cities, the government has worked assiduously to control or prevent the rise of independent civil society. It has been very effective in co-opting civil society and making it accountable to the Vietnamese Fatherland Front, an arm of the Vietnamese Communist Party (VCP) and an umbrella organization for 40 different groups, labor unions, and the six officially recognized religions. The Bar Association and Chamber of Commerce, two of the most prominent organizations, do push for changes and reforms, but they work within the confines of party edicts and interests. Environmental organizations have somewhat more space to operate, but groups focused on legal issues, the media, and human rights—such as the Vietnam Path Movement—are all highly constrained.

In general, economic reform and modernization have not led to a concurrent development of civil society, mainly due to concerted government efforts to curtail it. In 2008, the government issued the vaguely worded Decree 97, which prohibited the publication of any research that was critical of the government; the implications of the decree stifled civil society.<sup>2</sup> Speaking at a ceremony at the Ministry of Public Security on 16 August 2014, Prime Minister Nguyen Tan Dung ordered the security forces to be resolute in preventing individuals from “forming organizations of civil society and nonstate organizations.”<sup>3</sup>

Since the founding of the Socialist Republic of Vietnam in 1976, and before that the Democratic Republic of Vietnam, the media have been completely in the control of the party and state, and followed the doctrine that the sole purpose of journalism, like the arts, was to serve the revolution. The media are still viewed as propaganda organs, not independent watchdogs. There have been periods of media liberalization, but they have always been short-lived, and too often there were grave repercussions for those who pushed the limits too far.

In 2010, a major crackdown on dissidents and the media preceded the 11th Party Congress, the latest iteration of an event held every five years to usher in the new leadership of the VCP and the government.<sup>4</sup> There was an expectation that censorship would be eased, but those hopes were dashed. In 2012 Prime Minister Dung, who was mired in corruption scandals (including the \$4 billion Vinashin scandal and nepotism allegations surrounding his daughter) and criticized widely within the party for managerial incompetence, called for bloggers who were delighting in the scandals to be “seriously punished.”<sup>5</sup> And so they were. As a government report put it, “They have slandered the country’s leadership, fabricated and distorted information, agitated against the party and the state, and caused suspicion and mistrust in society.” Since then, control over the media has only increased.

## B. HOW DOES VIETNAM CONTROL THE MEDIA?

The Vietnamese government uses a large number of vaguely worded, catchall laws and decrees to control content on the Internet, most recently Decree 72. The decree “bans the use of Internet services and online information to oppose the Socialist Republic of Vietnam; threaten the national security, social order, and safety; sabotage the ‘national fraternity’; arouse animosity among races and religions; or contradict national traditions, among other acts.”<sup>6</sup>

Although the September 2013 Constitution provides for the freedom of the media and freedom of association (Article 25),<sup>7</sup> there are many loopholes and caveats—in particular Articles 14.2 and 15.4—that trump such rights if they violate undefined national security interests.

Decree 174 explicitly states the punishments for anyone posting “anti-state propaganda” on online social networks, including fines of VND 70 million to VND 100 million (\$3,330 to \$4,750). The decree came into effect in January 2014.<sup>8</sup>

The government uses vague and arbitrary national security language to criminalize speech, such as “threatening the unity of the socialist fatherland,” “abusing democratic freedoms” (Article 258 of the Penal Code), disseminating “antistate propaganda” (Article 88), “threatening national security,” or engaging in “activities aimed at overthrowing the government” (Article 79).<sup>9</sup> One of the country’s most prominent bloggers was recently arrested and accused by police of “undercutting the people’s faith in the leadership of the party.”

In addition, much of the media sector is still governed by the 2006 Decree on Cultural and Information Activities, which criminalizes the dissemination of “reactionary ideology,” revealing secrets (party, state, military, and economic), and denial of the “revolutionary achievements” of the party-state, none of which are defined. It further puts in legal jeopardy anyone who publishes something without prepublication review. Possible punishments include both imprisonment and fines of up to VND 30 million.

Behind the laws is a powerful state apparatus and a political will to enforce legal restrictions. In January 2015, the minister for public security and Politburo member General Tran Dai Quang said that his ministry would be proactively taking on dissent as one of its primary missions.<sup>10</sup>

Trials for media offenses and dissent in general are swift, usually concluding within a day, or in the case of one blogger, Le Thanh Tung, an hour.<sup>11</sup> Trials are typically held behind closed doors, with no media present.

The arrest, imprisonment, and harassment of defense lawyers who take on the cases of political dissidents and journalists have meant that few such defendants receive adequate legal representation. It is telling that the authorities were willing to arrest Le Cong Dinh, one of the few Western-trained lawyers in the country, who won a major case for Vietnam at the World Trade Organization (WTO) and could arguably be considered a national hero. He was arrested and imprisoned from 2009 to 2013 for nothing more than defending dissidents and bloggers. The charge was “colluding with domestic and foreign reactionaries to sabotage the Vietnamese State.”<sup>12</sup> Though now free, he has been disbarred—a stark warning to fellow lawyers.

Another lawyer and rights advocate, Dr. Cu Huy Ha Vu, was sentenced to seven years in prison in April 2011 for his lawsuits against the prime minister and his defense of politically sensitive clients, including a Roman Catholic parish. Lawyer Nguyen Van Dai was placed under house arrest in 2011, and continued to face harassment by security forces after his release in March 2015.<sup>13</sup> In January 2014, the government revoked the law license of Vo An Don, though the Vietnamese Bar Association has resisted this disbarment.<sup>14</sup>

Even if every political detainee received full legal representation, it is not clear that it would help, as the courts continue to be a tool of the government and party, used to maintain their monopoly on power. There is no judicial independence in Vietnam. Not one blogger or dissident has ever been acquitted in a court of law, nor has any won on appeal,<sup>15</sup> though appellate courts have reduced sentences on occasion.

Sentences are harsh, averaging over eight years in prison. In September 2012, Nguyen Van Hai (*Dieu Cay*), who blogged about corruption, was sentenced to 12 years in prison, while a former policewoman who blogged about legal abuses and human rights, Ta Phong Tan (*Cong Ly va Su That*), was sentenced to 10 years in prison (of which she served three before her September 2015 release and exile to the United States) and stripped of her party membership, and Phan Thanh Hai (*Anh Ba Saigon*) was sentenced to four years.<sup>16</sup> In their one-day show trial, prosecutors stated that the three bloggers had “distorted the truth about State and Party, created anxiety among citizens and supported schemes to overthrow the government.” The court found that they were “seriously affecting national security and the image of the country in the global arena.”<sup>17</sup>

The government often tries to portray bloggers and other critics as agents of the West in order to delegitimize them. And efforts to defend them by both governments and nongovernmental organizations (NGOs) in democratic countries tend to reinforce the xenophobic security forces’ belief that these individuals are plotting to overthrow the regime. Two blogs that were highly critical of Prime Minister Dung were branded “villainous ploys of hostile forces.”<sup>18</sup>

More recently authorities have gone after bloggers and dissidents for supposed tax evasion, as in the case of lawyer Le Quoc Quan in December 2012,<sup>19</sup> and Nguyen Van Hai in 2008, before he was resentenced to prison for violating Article 88 of the Penal Code, “conducting propaganda against the Socialist Republic.”<sup>20</sup>

Taking a page out of the Singaporean playbook, the Vietnamese government has also started to rely on libel laws to silence the media. For example, in July 2012, a court sentenced three activists for defaming the Communist Party.<sup>21</sup>

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Short of imprisonment, bloggers and citizen journalists report frequent harassment, threats, and other forms of intimidation by security forces. In November 2014, a freelance journalist was nearly beaten to death outside Ho Chi Minh City.<sup>22</sup> Even employees of state-owned media are subject to such treatment: In September of that year, four state media journalists were assaulted in the course of an investigation in Quang Ngai Province.<sup>23</sup> And in December 2014, a female democracy activist and blogger, Nguyen Hoang Vi, was beaten by female security forces.<sup>24</sup> Human Rights Watch reported that at least 14 journalists were beaten during 2014.<sup>25</sup> Most recently, Nguyễn Ngọc Quỳnh, who writes under the name “Mother Mushroom,” was severely beaten while temporarily detained — though not charged — in June 2015.<sup>26</sup>

There are other forms of Intimidation. Independent journalist Doan Trang, behind the web portal Vietnam Right Now, was detained immediately upon her arrival from study in the United States, as was Dr. Nguyen Quang A.<sup>27</sup> Given such incidents, journalists and bloggers are currently more afraid of attacks by government thugs and police than of actual jail time. The authorities may be turning to these tactics because formal trials and incarcerations attract unwanted diplomatic attention.<sup>28</sup>

Most media outlets in Vietnam are owned by the state. Line ministries, party organs, and the military each have their own media organs and online presence. All broadcast media are controlled by the state. The Ministry of Information and Communications has jurisdiction over all newspapers, magazines, book publishers, television stations, radio stations, and websites. By law, all content of print or broadcast outlets' Internet editions must adhere to the offline versions. At the VCP's 10th Plenum, in January 2015, the party laid out a plan through 2025 to increase state control over the media. General Secretary Nguyen Phu Trong said the party-state would make investments in state-owned media, especially in their online and multimedia platforms, while explicitly banning private media.<sup>29</sup>

And yet, the party leadership is working assiduously to centralize authority over the burgeoning media industry. A draft press law released in June 2015 strives to consolidate the state owned media sector, which has become "commercialized," by streamlining the number of media organs, reducing the number of government or party entities that are allowed to publish, and reducing the number of journalists and staff by 4,000 and 6,000 respectively.<sup>30</sup>

The VCP Propaganda Department does not directly censor the media, certainly not in the way it used to. But news editors meet with department officials once a week to review published and upcoming stories. Individual journalists have to decide how far they can go; these decisions can destroy their careers, and are hard to gauge because the boundaries of permissible content are undefined and shift with the political winds. The greatest threat to modern Vietnamese media is not direct state censorship, but self-censorship.

State retaliation for inadequate self-censorship can be heavy-handed. On 9 February 2015, the Ministry of Information and Communications took the newspaper *Nguoi Cao Tuoi (The Elderly)* offline and fired its editor in chief. The paper, which had run a series of highly critical articles on corruption, was accused of showing "signs of revealing state secrets."<sup>31</sup>

In short, state control of the media is thorough. According to Human Rights Watch, Vietnam imprisoned 63 bloggers or democracy activists in 2013 and 29 in 2014, in what the organization describes as a "revolving door" strategy of releases and new detentions.<sup>32</sup> According to the Committee to Protect Journalists, Vietnam in 2014 imprisoned 16 journalists, including 14 freelancers for their online work, making the country one of the world's top five jailers of journalists, second only to China in Asia.<sup>33</sup> In 2014, Freedom House's *Freedom of the Press* rated Vietnam's media as "Not Free"; only eleven countries out of 197 scored more poorly than Vietnam.<sup>34</sup> In an indication that the "revolving door" was indeed continuing to spin, reports emerged on 29 November 2014 that yet another blogger, Hong Le Tho, had been arrested. Less than a week later, novelist and blogger Nguyen Quang Lap was arrested; his detention was especially notable for the fact that he was a very well-known author whose novels, scripts, and stories had previously been published by state media.<sup>35</sup> Yet, in the first half of 2015, only dissidents and bloggers have been imprisoned.

There have been cases in the past of senior party leaders calling for media freedoms. The most famous of these was General Tran Do, who issued a manifesto in 1998 that criticized the party's lack of democracy and applied for a license to open an independent newspaper. But he died under house arrest in 2002; his memoirs were

confiscated by the authorities, and illegal copies were officially banned. The party's "verdict" in his official eulogy was less charitable than his wartime leadership and heroism merited.<sup>36</sup>

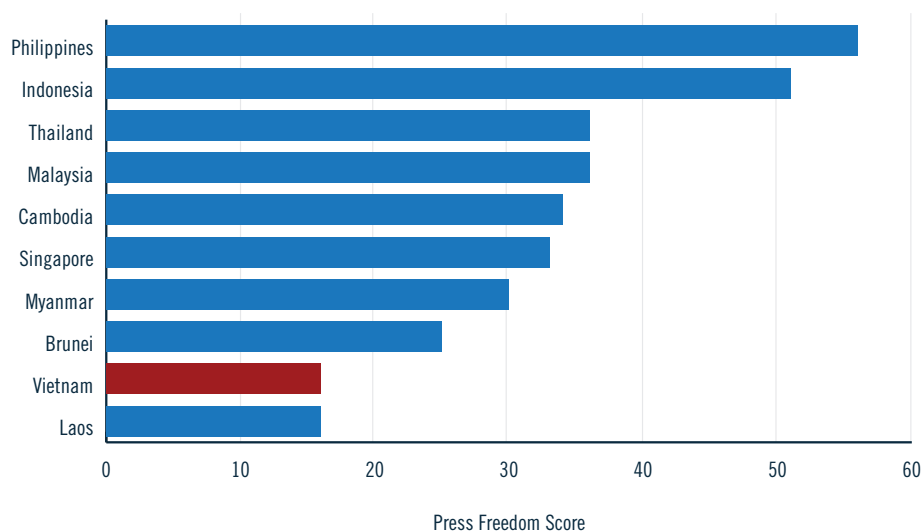
Some senior party members still advocate for fundamental freedoms. For example, on 28 July 2014, 61 former top VCP members sent a letter to the party leadership calling for comprehensive reforms, particularly economic and legal reforms, in order to "escape" reliance on China.<sup>37</sup> They urged the VCP to transform Vietnam's political structure "from that of a totalitarian regime to one of democracy in a way that is both firm and peaceful" so that it would no longer "lag behind other nations."

And yet, party leadership is working assiduously to centralize authority over the burgeoning media industry. A draft press law released in June 2015 strived to consolidate the state owned media sector, which has become "commercialized," by streamlining the number of media organs, reducing the number of journalists and staff by 4,000 and 6,000 respectively.<sup>38</sup>

## II. The Growth of the Internet and the Government's Response<sup>39</sup>

The Internet and the proliferation of related technology has altered Vietnam's information landscape. Forty-four percent of the population, over 39 million people, are now online, making Vietnam the 14th-largest Internet market in the world.<sup>40</sup> Vietnam has the third-highest rate of Internet penetration in Southeast Asia, behind only Singapore (73 percent) and Malaysia (67 percent).<sup>41</sup> Vietnam's penetration rate is much higher than that of Thailand (29 percent), a much wealthier and more developed country; Indonesia (16 percent), which has a level of development similar to Vietnam's; and even the Philippines (37 percent), which has the greatest degree of Internet freedom in the region. Although annual growth of new users in Vietnam is now in the single digits, penetration continues to deepen. It is estimated that over 60 percent of urbanites and suburbanites are connected.

### Freedom of the Press in Southeast Asia 2014



Data from Freedom House, *Freedom of the Press 2014* (New York: Freedom House 2014). Scores have been inverted so that a score of one hundred is "most free" and a score of zero is "least free."

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***“In Vietnam, the growth of the internet far outpaced the government’s ability to contain it technologically—the government has relied instead on laws and decrees that put the onus of regulation and control on ISPs and content producers.”***

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While the expansion of the Internet in Vietnam has benefited from economies of scale, the proliferation of 3G mobile technology (Vietnam still has no 4G network), and an estimated 22 million smartphones in use, it has also been driven by the production of and demand for desirable content.<sup>42</sup> Freedom House estimates that 60 percent of news and information now comes from the Internet. Vietnam’s population, now 90.5 million, is young (65 percent under the age of 35), well educated, and increasingly tech-savvy.

The Ministry of Public Security has an army of Internet censors, and Vietnam is the most repressive country for Internet freedom in Southeast Asia, according to Freedom House,<sup>43</sup> especially with respect to its limits on content and violations of user rights. However, the Internet is surprisingly freewheeling in Vietnam. There is no equivalent of China’s elaborate, large-scale filtration and censorship system, known as the “Great Firewall.” When China built its Internet infrastructure, it did so with control in mind. In Vietnam, the growth of the Internet far outpaced the government’s ability to contain it technologically.

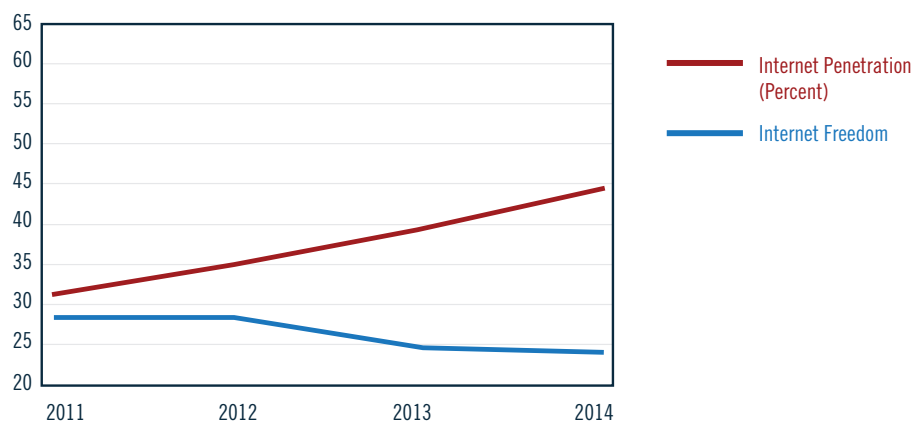
The government has relied instead on laws and decrees that put the onus of regulation and control on Internet service providers (ISPs) and content producers. In 2001, after the number of Internet users increased fourfold to over a million in just a year, the government issued the first of many decrees regulating Internet content, Decree 55. It prohibited all Internet use aimed at disrupting security, violating “social ethics and customs,” or opposing the government, and authorized individual ministries to issue regulations on Internet management and activity. The ministries continued the pattern of vague and general language. For example, in 2002, the Ministry of Culture and Information issued Decision 27, which criminalized any content that “instigates the people against the government and sabotages the great national unity.”

By 2005, the number of Internet users was nearly 11 million, most of whom accessed the medium from cafes, which prompted a new round of decrees and regulations. In July 2005, the Ministries of Public Security, Culture and Information, and Post and Telecommunications issued Inter-agency Circular 02, which required Internet cafes to collect and store data on customers (including their national ID card data) as well as their web histories and e-mail for 30 days. In November 2005, the National Assembly passed the Electronic Exchange Law, whose Article 49 gives the government “full access to computer networks, databases and electronic message traffic, as well as the authority to block computer networks.” Yet these decrees could not keep pace with the explosive growth in Internet usage; within three years, the number of users doubled to over 20 million, and by 2010 there were 28 million users.

Rather than restricting overall Internet access, which is seen as essential for Vietnam’s economic development, the government focuses on policing content on individual sites. The head of propaganda for Hanoi’s VCP branch acknowledged in 2013 that the city employed some 900 people to shape online discussions and curb criticism, in part by operating 400 different online accounts.<sup>44</sup>

Specific parts of the Internet are firewalled, and four of the six exchanges with the international Internet are government controlled. However, many users employ circumvention tools like virtual private networks (VPNs)

## Internet Freedom and Penetration in Vietnam 2011-2014



All data taken from Freedom House, *Freedom on the Net* (New York: Freedom House), editions 2011 through 2014. Scores have been inverted so that a score of one hundred is “most free” and a score of zero is “least free.” Internet penetration data also obtained from *Freedom on the Net*, which cites International Telecommunications data from the year preceding *Freedom on the Net*'s release.

to access blocked content on overseas Vietnamese websites and foreign Vietnamese-language news services, such as Radio Free Asia or the British Broadcasting Corporation (BBC).<sup>45</sup>

Although two of the three ISPs, representing 78 percent of the market, are government owned, monitoring is inconsistent.<sup>46</sup> Some of the responsibility falls to the Ministry of Public Security, while other duties fall to the Ministry of Information and Communications or ISPs themselves. One of the largest providers, Viettel, is owned by the military; this was the one company the military fought tooth and nail to retain when the government tried to force it to give up its business interests. The Vietnamese People's Army (VPA) argued that it should hold on to Viettel for national security reasons, but it was clearly interested in the income generated in this growing industry. Content restrictions among the three ISPs vary, and potential harm to profits is always a consideration.

Just as there is no equivalent in Vietnam to China's “Great Firewall,” there is also no parallel to China's ban on foreign social-media platforms. China has both the coercive power and the market share to force the creation of indigenous platforms such as Sina Weibo, its leading microblogging site. Vietnam pushed for the development of an indigenous microblogging site, Mimo.vn, but it fared poorly.<sup>47</sup> Vietnam has one of the world's fastest growing populations of Facebook users; while this prompted a ban on the site, it was easily circumvented and has been de facto lifted.<sup>48</sup> Facebook now has 71 percent of Vietnam's social-networking market share, twice the number of the Vietnamese counterpart, Zing Me.<sup>49</sup> The government made a very large investment in Go.vn, another alternative social-media platform, and this too has been a bust, especially because users have to provide their government-issued ID number to register an account.

By 2013, there were over 36 million Internet users, with 40 percent Internet penetration overall and an even higher figure in the cities. Vietnam had the 12th-highest degree of Internet penetration in the world, despite its low level of economic development. With the proliferation of smartphones and the 3G network, over 50 percent of Vietnamese were using the Internet for news and information, and there were an estimated 300,000 blogs. Facebook had an estimated 22 million users by 2014.<sup>50</sup> The government could not keep pace.



On 15 July 2013, the government issued the Decree on Management, Provision, and Use of Internet Services and Information Content Online (Decree 72/2013-ND-CP), effective on 1 September 2013. The decree is vaguely worded and bans “the use of Internet services and online information to oppose the Socialist Republic of Vietnam; threaten the national security, social order, and safety; sabotage the ‘national fraternity’; arouse animosity among races and religions; or contradict national traditions, among other acts.” The law prohibited blogs, websites, and social media from sharing news content online, and it required social media to provide account information if a law had been violated. Essentially the government did not want citizens discussing negative news, poor policy decisions, government failings, or high-level corruption scandals. At best, the decree’s wording was highly confusing and subject to broad interpretation by authorities. It also required foreign Internet companies to maintain servers in Vietnam, subjecting them to penalties if they did not censor content on their pages. And it held cybercafe owners responsible if customers visited inappropriate sites.

In terms of enforcement, it is relatively simple for security forces to use algorithms—similar to those used by search engines—to determine who are the most popular or influential bloggers, and whose writings get the most cross-posts or shares, allowing the government to be more surgical with its countermeasures.

In addition to legal controls and the blocking of individual sites, the government employs cyberattacks on sites it deems threatening. In 2010, very sophisticated attacks using advanced malware and other cyberespionage tools began to be detected in the accounts, computers, and phones of dissidents, but also of an Associated Press journalist and Viet Kieu (overseas Vietnamese) bloggers.<sup>51</sup> The government denied any role, but security researchers at Google and McAfee both concluded that the attacks originated in Vietnam. Cybersecurity experts describe sophisticated phishing attacks on bloggers as well as increased use of application attacks. In 2013, the University of Toronto’s Citizen Lab published research exposing Vietnam’s use of FinFisher, a surveillance software package developed by the German firm Gamma International GmbH and known for its use in “targeted attacks against human rights campaigners and opposition activists in countries with questionable human rights records.”<sup>52</sup> All of this, of course, violates Article 21 of the 2013 Constitution, which guarantees the right to “privacy of correspondence.” Nevertheless, Vietnam has not deployed more powerful cyberattack weapons on the scale of China’s “Great Cannon.”

In response to the apparent government attacks, there has been a surge in efforts by overseas organizations to provide training and tools for encryption and cybersecurity. The overseas-based Viet Tan, which the Vietnamese government has declared a “terrorist organization,” set up an instructional website in 2010 and conducts online and Skype trainings.<sup>53</sup>

### III. Media Adaptation and Innovation

#### A. THE EMERGENCE OF INDEPENDENT AND CITIZEN JOURNALISM

Since 2005, blogging has made substantial inroads. More people are willing to take great personal risks to stand up to the state and expose corruption, abuses, environmental degradation, and bad public policies that they feel are not adequately covered in state-controlled media. In 2004–05, both Google and Yahoo established Vietnamese-language news pages and took feeds from two of the most progressive newspapers in the country, *Tuoi Tre* and *Thanh Nien*. This came at a time when Internet usage was surging, and more and more Vietnamese were getting their news online. But it also exposed Vietnamese to each Internet company’s blogging platform, and importantly, neither company maintained servers in Vietnam.

The number of bloggers is unknown, but it is clear that the figure is growing and that they are becoming bolder as dissatisfaction with government policies, media coverage, and exposure to external or foreign media have increased. In 2005, two leading dissidents, Tran Khue and Hoang Minh Chinh, launched the first truly provocative and openly political website, “Democracy Movement,” which was hosted on a server based in the United States. It was immediately attacked and taken down by government hackers. In 2006, Bloc 8406, a dissident group, released its Manifesto on Freedom and Democracy in Vietnam, which was one of the first collective Internet campaigns calling for wholesale political reform.

The surge in blogging led the government to enact Decree 97 on the Management, Supply, and Use of Internet Services and Electronic Information on the Internet,<sup>54</sup> in August 2008, and the Ministry of Information and Communications’ Circular No. 7, issued that December. These were blunt instruments that made it a crime to use the Internet 1) to oppose the government; 2) to undermine the state and state unity, or threaten national security, public order, or social security; or 3) to incite violence or crime.<sup>55</sup>

The year 2008 had featured a perfect storm of soaring inflation, a serious economic slowdown, and rampant corruption, leading to a surge in online blogging and complaints on social media. These blogs featured some of the country’s best-known dissidents who emerged in the 1980s and 1990s, but had a limited ability to reach a wider audience. These included Ha Si Phu (Hasiphu.com), Tran Khai Thanh Thuy (Trankhaithanhthuy.blogspot.com), Nguyen Thanh Giang (Nguyenthanhgiang.com), and Le Quoc Quan (Lequocquan.blogspot.com).

Many were emboldened by national hero General Vo Nguyen Giap, who became a pointed critic of the government, particularly over its agreement to sell a Chinese firm the right to mine bauxite in a pristine and environmentally sensitive region of the Central Highlands.<sup>56</sup> The nonagenarian general’s letters were circulated on the blogs, empowering and inspiring many, though he himself never took to the Internet.

In 2012, several bloggers came together and founded the Free Journalists Club after one posted an open letter to the prime minister calling for media freedoms. The group was quickly shut down, and the three founders were arrested and imprisoned, but the number of bloggers continued to grow as more became frustrated with important issues that went uncovered in the state media.

The blogosphere was essential to dissent against the draft of the 2013 Constitution, which the government released for public comment. In January 2013, a group of 72 intellectuals petitioned the Constitutional Drafting Committee to make several amendments, including the abolition of Article 4, which enshrines the VCP as the leading force in the state and society; the establishment of a multiparty political system; and a provision requiring the military to defend the nation, not the party. Not surprisingly, these were all rejected. Yet Petition 72, as the appeal became known, garnered more than 6,000 signatures, which would not have been possible without the Internet.<sup>57</sup>

Also in 2013, the Network of Vietnamese Bloggers (NVB) was established, and 130 bloggers signed its online petition calling for the repeal of Article 258 of the Penal Code. Many of the signatories revealed their identities for the first time, and by mid-2014, more than 300 had signed the petition.<sup>58</sup> NVB launched two campaigns in the fall of 2014. The first was “We Want to Know,” which demanded that the government disclose diplomatic agreements with China. It followed a summer of heightened tensions due to China’s placement of an oil exploration rig in waters claimed by Vietnam.<sup>59</sup> The second campaign condemned the government’s decision to hold extravagant celebrations on the 60th anniversary of the liberation of Hanoi from the French, despite a slowing economy and other pressing socioeconomic needs.<sup>60</sup>

In many ways it is the organizing, not necessarily the reporting and blogging, that has gotten these activists in trouble with authorities. One of the country's most famous bloggers and a cofounder of the NVB, Nguyen Ngoc Nhu Quynh ("Mother Mushroom,") has expressed concern that her NVB activities are more threatening to the state than her writing.<sup>61</sup> The three founders of the Free Journalists Club—Nguyen Van Hai, Ta Phong Tan, and Phan Thanh Hai<sup>62</sup>—collectively received 26 years of jail time. In this difficult context the decision in May 2015 by twenty established writers to quit the official Việt Nam Writers' Association and establish their own independent organization, the League of Independent Vietnamese Writers, is immensely brave.<sup>63</sup> The development of a robust and independent civil society is the regime's greatest threat.

The sentences of the three Free Journalists Club founders are broadly in line with those received by the other bloggers and journalists who have been imprisoned in recent years, though several have been released before completing their terms, while others have yet to be sentenced. As of December 2014 there were at least 16 bloggers and journalists behind bars.<sup>64</sup> The mere act of antigovernment blogging is likely to earn a sentence of four to six years, but trying to organize independent civil society can draw terms more than twice as long.

In October 2014, the satirical website Haivl.com was fined some \$100,000 and shut down by the government for "seriously violating good norms, publishing lusty, sexy, objectionable pictures, offending famous figures," according to the vice minister of information and culture. However, it may have drawn the authorities' attention simply by being too independent and popular.<sup>65</sup>

Bloggers are routinely harassed and arrested, and their websites are blocked or shut down, including those of Nguyen Huu Vinh (pen name Anh Ba Sam)—*Chep Su Viet* (Writing Vietnamese History) and *Dan Quyen* (Civil Rights)—in 2014.<sup>66</sup> In November, after detaining them for six months, the government charged him and his assistant with publishing essays "that had the potential to tarnish the state apparatus' prestige."

Toidihoilo.com (literally "I paid a bribe"), a site where people could share their stories of official corruption, has also been taken down.<sup>67</sup> The operators say they are "awaiting a permit," so they moved to Facebook, which is much harder for the government to block.

Land rights remain one of the most sensitive and potentially explosive issues for the party. The mainstream media are consequently very restrained in their coverage of the subject. Most land contracts established at the advent of the *Doi Moi* reform program in the early 1990s began to expire in 2013, and there was palpable fear that local party officials would try to seize valuable property; technically the state could reclaim land without paying any compensation. In a well-known case in 2012, a fish farmer in Hai Phong fought off government officials and security forces who came to seize his land. Though he was later arrested for attempted murder, at the time even the prime minister had to back his claim due to the outpouring of public support that spread through social media. Also in 2012, bloggers set up cameras to film the forced eviction of villagers to make way for a luxury housing estate outside of Hanoi.<sup>68</sup> The film went viral. In April 2014, a forcible land expropriation backed by police was recorded by two people with mobile-phone cameras, clearly showing extreme brutality by security forces.<sup>69</sup> These images also went viral within days, though not without consequences for those who filmed and disseminated them.

## Imprisonment and Sentencing of Bloggers and Activists in Vietnam since 2010, as-of June 2015

ACTIVIST NAME	REASON FOR ARREST	SENTENCE RECEIVED
Tran Huynh Duy Thuc	Organized politics	16 years
Dang Xuan Dieu	Organized religion	13 years
Ho Duc Hoa	Organized religion	13 years
Paulus Le Van Son	Organized religion	13 years
Nguyen Van Hai	Organized journalism	2.5 years tax evasion, 12 years
Ta Phong Tan	Organized journalism	10 years
Dinh Dang Ding	Organized petition	6 years
Nguyen Van Duyet	Organized religion	6 years
Nguyen Xuan Nghia	Organized politics	6 years
Le Thanh Tung	Organized politics	5 years
Nong Hung Anh	Blogging and online media	5 years
Lu Van Bay	Blogging	4 years
Nguyen Van Khuong	Mainstream media	4 years
Pham Nguyen Thanh Binh	Blogging	3 years
Le Quoc Quan	Blogging	2.5 years for tax evasion
Truong Duy Nhat	Blogging	2 years
Dinh Nhat Uy	Social media	15-month suspended sentence
Nguyen Huu Vinh	Blogging	Detained, no trial yet
Nguyen Thi Minh Thuy	Blogging	Detained, no trial yet
Hong Le Tho	Blogging	Detained, no court appearance
Nguyen Quang Lap	Blogging	Detained, no court appearance
Pham Viet Dao	Blogging	Not sentenced
Vo Thanh Tung	Mainstream media	Not sentenced

**Note:** Some activists and bloggers who received sentences have since been released, while others remain in prison.

Due to public mistrust of the state media, unofficial news portals and blogs—such as Basam.info and Phamdoantrang.com, by Pham Doan Trang, and Nguyen Cong Luan’s Danluan.org—are very influential. In 2012, two independent websites were doing some of the most trusted reporting: *Dan Lam Bao* (Citizen Journalists) and *Quan Lam Bao* (Senior Officials Working as Journalists). The latter site was getting 32,000 hits an hour after Prime Minister Dung condemned it on television for its trenchant criticism of his ties to a banker, Nguyen Duc Kien, who was sentenced to 30 years in prison for a \$1.1 billion fraud.

Inexplicably, the dissident group Bloc 8406’s website, Khoi8406vn.blogspot.com, is still up and running. Chandungquyenluc.blogspot.com (Portraits of Power), is one of the fastest-growing blogs, focusing exclusively on the inner workings, corruption, family connections, and business interests of the most senior leadership. Meanwhile, *Dan Lam Bao* seems to get more outspoken by the day, publishing critical histories of the party and leadership as well as the most thorough compendium of recent arrests of dissidents and journalists.<sup>70</sup> One recent initiative by Reporters Without Borders has been to create a mirror site for *Dan Lam Bao* on the servers of major Internet companies that the government cannot afford to block.<sup>71</sup>

The government has focused its coercive measures on websites that are trying to make the critical jump from an individual blog to a multiauthored and edited news portal. A case in point is the arrest of 65-year-old blogger Hong Le Tho. His blog, *Nguoi Lot Gach* (The Bricklayer), at Nguoiilotgach.blogspot.com, was not even public and required an invitation.<sup>72</sup> But it was apparently too critical of the government, especially regarding its China policy. The last posted article, not written by Hong Le Tho, suggested that the prime minister had prostituted Vietnam to China—clearly an attack that the leadership would not countenance.

In September 2015, Hanoi police raided the production studio of an underground TV station, Conscience TV, that had been broadcasting on YouTube since August 2015; they detained seven people, including the editor and presenter.<sup>73</sup> The government has threatened to impose harsh fines. But with low financial costs and technical barriers to entry, the government is fighting an uphill battle.

Discussions on Facebook are surprisingly spirited. Within days of the arrest of Nguyen Quang Lap, the Facebook site Free Bo Lap was created, with 3,240 likes in its first four days and very active postings. Unable to shut down Facebook or individual pages on their own, in mid-2014 government cyberoperatives began to send “abuse” reports to Facebook to have pages of critics removed. Between June and August, over 100 pages were shuttered, prompting the international community to appeal to Facebook to review its policy.<sup>74</sup>

The government clearly pays attention to social media to gauge public sentiment. This was evident in March 2015, when the Hanoi municipal government reversed its plan to cull 6,700 trees throughout the city. Citizens had quickly taken to the web and Facebook to express their anger at the plan. Two Facebook pages created to save the trees, Facebook.com/manfortree and “6,700 people for 6,700 trees,” garnered over 80,000 “likes” within days, prompting the government to not only stop the cull, but punish the responsible officials.<sup>75</sup>

It must be acknowledged that blogs and social media can sometimes be very irresponsible and provide false information. For example, there were wild rumors that Nguyen Ba Thanh, arguably the country’s most popular politician, had been poisoned by political rivals; he had died from a rare form of cancer. The state media eventually had to release information to counter the rumors, though in a transparent society the information would not have been withheld in the first place, and would have been conveyed by trustworthy independent media.<sup>76</sup>

Some in the leadership have resigned themselves to the fact that social media are here to stay. In January 2015, the prime minister told officials that social media are “a necessity and cannot be banned.” And he acknowledged that “you are all on social media, checking Facebook for information.”<sup>77</sup> He made clear that the government would not stop the dissemination of media if it is “correct” and “accurate,” and encouraged authorities to use the Internet and social media to provide information, for both efficiency and transparency. But other government officials warned that the Internet was being exploited by “hostile forces” who used social media to spread “malicious rumors” and “harmful information.” Truong Minh Tuan, the deputy minister of information and communications, said that websites hosted by foreign servers were defaming the party and state to create distrust in society.

## B. THE IMPACT OF CITIZEN JOURNALISM ON STATE MEDIA

Citizen journalists empowered with technology and the Internet have had an important impact on mainstream media. For the most part, the quality of state media is quite poor, especially in the VCP’s flagship daily *Nhan Dan* and the army’s *Bao Quan Doi Nhan Dan*. However, Vietnamese state media are not monolithic. There is some very good journalism being done, even if it is clearly in the minority. Investigative journalism is such a new field that when the first Asian Investigative Journalists Conference was held in Manila in November 2014, only two Vietnamese were accepted.

The quality of journalism has a lot to do with the boldness of the editorial leadership and the willingness of individual journalists to push for more independence in investigating and reporting. Recently, the former editor of *Thanh Nien*, Nguyen Cong Khe, spoke out in the *New York Times* about the critical need for a free press in Vietnam.<sup>78</sup> It was important that the call came from a Vietnamese journalist and not a foreign NGO or an overseas dissident. The original article was circulated in Vietnam, in Vietnamese. Likewise, in September 2013, a petition circulated urging the government to allow space for honest discussion and debate over policy. Three former editors of mainstream newspapers were among the 130 people who signed it.<sup>79</sup>

Some journalists truly push the envelope in their reporting. They understand that lack of transparency will only facilitate political and legal abuses, increase the country’s endemic corruption, and limit economic development and social justice. *Thanh Nien* and *Tuoi Tre* have been at the forefront of this effort, producing a number of excellent exposés and investigative reports, especially considering the constraints and risks that the journalists face.

The state media are also under economic pressure, competing in an increasingly crowded marketplace. The circulation and advertising revenue of even the two most widely read and trusted media organs, *Thanh Nien* and *Tuoi Tre*, have fallen by two-thirds since 2008, by some estimates.<sup>80</sup> Both are run for profit. State outlets have added more entertainment coverage and improved their websites, increasingly including video and other multimedia content. Two news portals, VNExpress and VietnamNet, are operated by state-owned Internet companies, though neither is profitable. State television is also reeling, as some 26 percent of the urban population and 15 percent of rural residents aged 15 to 54 watch television content—including from overseas sources on YouTube—on their digital devices. Major players such as Vietnam Television, the digital broadcaster

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***“Lack of transparency will only facilitate political and legal abuses [and] increase the country’s endemic corruption.”***

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VTC, and Ho Chi Minh City Television (HTV) have modernized programming and launched online streaming sites to win back viewers and attract advertising, but provincial stations are caught in a downward spiral.<sup>81</sup> Likewise, a handful of media organs under firm central control are becoming multi-media organs under the current draft press law, at the same time the number of media organs and journalists are being streamlined.

In short, Vietnam's state media, like the Vietnamese economy, are currently suspended between two opposing models: the plan and the market.

## IV. Prospects and Challenges for the Future

### A. PUSHING THE ENVELOPE

There are some first-rate journalists in Vietnam, and with fewer restrictions many more would emerge. The press has shown how vigorous it can be when it is given the political space. This was very apparent in mid-2014, at the height of the maritime dispute with China. Indeed, that topic is perhaps the only area in which the media have very few constraints, as any official attempt to suppress the public's strong views on the issue would seriously threaten the regime's legitimacy. But other areas of reportage that emerged over the past year highlight the great potential of Vietnamese journalism. For the most part, they involve social issues.

*Tuoi Tre* published an exposé about the illegal organ trade in which the reporter actually infiltrated a trafficking ring by offering to sell a kidney.<sup>82</sup> The story featured crime syndicates, corruption in state-owned hospitals, people driven to desperation by poverty, and social injustice. Another *Tuoi Tre* journalist went undercover to investigate the world of illegal drug detoxification centers.<sup>83</sup>

The state media were notably allowed to cover Hong Kong's prodemocracy protest movement, known as Occupy Central. Clearly the state censors realized that the public would learn about the demonstrations from unofficial sources, and wanted to control the reporting. But the fact that there was any coverage at all of a student-led, grassroots campaign to challenge the Chinese Communist Party on the issue of free elections was fascinating. It inspired citizen journalists to increase their own coverage, and generated an online campaign supported by 22 nascent civil society groups, whose statement included the phrase "Hong Kong today, Vietnam tomorrow" and featured an umbrella, the symbol of Hong Kong's prodemocracy movement.<sup>84</sup>

Journalists are more frequently addressing the growing problem of inequality, a sensitive issue in an ostensibly socialist system. There are some issues, like property rights and land seizures, which need much more attention but are too politically fraught for serious coverage.<sup>85</sup> There has been more reporting on the ultrawealthy—those with assets worth \$30 million or more—often without much analysis on how government policy may or may not have contributed to such imbalances. *Thanh Nien* simply reported on a Swiss bank's finding that the number of ultrawealthy had increased to 210 in 2014 from 195 in 2013.<sup>86</sup> Per capita income in Vietnam is roughly \$2,000 a year.

Since a mid-2014 speech in which President Truong Tan Sang warned that false confessions and police torture were seriously undermining the regime, *Thanh Nien* has not missed an opportunity to report on trials of former policemen convicted of torture and abuse.<sup>87</sup> The outlet covered the National Assembly's first hearings and debate on the extent of the problem, and published excerpts of unbelievably revealing testimony by the minister of public security, the vice director of the Supreme People's Procuracy, the vice chief of the Supreme

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***“Vietnam’s state media, like the Vietnamese economy, are currently suspended between two opposing models: the plan and the market.”***

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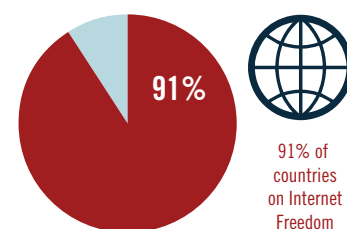
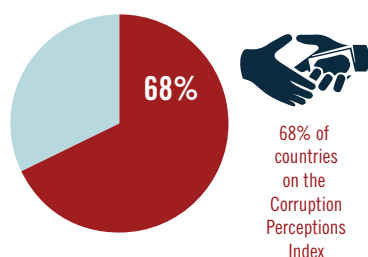
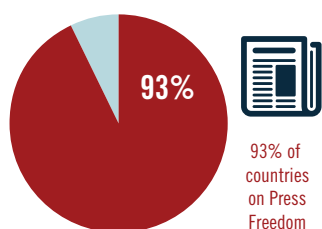
Court, and the vice chairman of the Vietnam Bar Association.<sup>88</sup> All not only acknowledged the problem, but also said that the instances of police abuse and torture were rising, and that the number of cases was woefully underreported. In December 2014, *Thanh Nien* covered the rare case of a stay of execution, in which the court cited its concerns over flimsy and inconsistent evidence and “investigative procedural shortcomings,” linking the case to other grave “miscarriages of justice.”<sup>89</sup> Because of forced confessions and prosecutorial misconduct, *Thanh Nien* has pushed a very strong editorial line against the death penalty.<sup>90</sup> The paper has also focused on the issue of detainee deaths, reporting that between October 2011 and September 2014, 226 people died of unnatural causes while in custody.<sup>91</sup>

The Vietnamese media are being increasingly explicit in demanding protection against abuses and intimidation. In September 2014, four journalists from state-owned media were assaulted while investigating illegal mining in Quang Ngai. Although none of its own journalists were involved, *Thanh Nien* picked up the issue and called on the government to investigate the attack.<sup>92</sup> Likewise, the Ho Chi Minh City Journalists Association has routinely lobbied the courts in cases involving journalists.

Reporting on corruption is a mixed bag. Corruption is endemic in Vietnam, and the party and state have identified it as the single greatest threat to their legitimacy and monopoly on power. Transparency International’s 2014 Corruption Perceptions Index ranked Vietnam 119 out of 175 countries and territories, or sixth among the 10 states of Southeast Asia, with a score of 31 out of 100.<sup>93</sup> Government leaders believe that periodic anticorruption campaigns and a handful of high-profile arrests are sufficient. While they know that some media coverage is needed, they fear what would happen if journalists were given free rein. Anticorruption reportage has increased, largely within boundaries set by the VCP’s Propaganda Department and the Ministry of Information and Communications. However, in the opaque world of Vietnamese politics, journalists are never sure whether such cases are really about corruption or political rivalries.

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**In 2014, Vietnam Performed Worse than...**



Press Freedom data obtained from Freedom House, *Freedom of the Press 2014* (New York: Freedom House, 2014). Corruption rankings obtained from Transparency International, *Corruption Perceptions Index 2014* (Berlin: Transparency International, 2014). Internet Freedom data obtained from Freedom House, *Freedom on the Net 2014* (New York: Freedom House, 2014).



Almost every figure in a major corruption case in the past two years had some ties—usually close ties—to a senior political figure engaged in factional infighting. This makes corruption reporting especially dangerous for journalists, as one never knows who will win such political battles. The recently fallen chairman of Ocean Bank was said to be a close ally of Politburo member and National Assembly chairman Nguyen Sinh Hung.<sup>94</sup> Reporting on a corruption investigation into the former top anticorruption official, Tran Van Truyen, who had allegedly accrued \$10 million in assets, has been relatively aggressive, leading to calls for much greater transparency if the government is to have any hope of maintaining public credibility.<sup>95</sup>

Reportage on corruption can be biting and sardonic. In one exposé about officials' failure to enforce or comply with financial disclosure requirements implemented in 2013, the author cited cases in which hidden wealth was revealed only when it was stolen from the officials in question. In one case, burglars made off with VND 2.8 billion (\$143,000), and the victimized official reported the theft to authorities.<sup>96</sup> In another, an official claimed that thieves took \$77,000 from his desk drawer.

Intrepid editors pick their battles carefully. They need sensitive political antennae to determine what is permissible, and some issues are firmly out of bounds, such as religion or intraparty debates. For example, there was no coverage in 2013 of Petition 72, the document created by intellectuals who hoped to amend the draft constitution. In September 2014, a group of former military officers wrote a letter to the president and prime minister asking that the constitution be amended so that the military would be legally bound to defend the state and people, not the Communist Party.<sup>97</sup> A response was published in the state-controlled media only because the document had already circulated widely in the blogosphere. There is unlikely to be discussion of the controversial Article 4 of the constitution, which puts the VCP above the law, in the mainstream media.

But as seen with the issue of police abuses, reporting on human rights is starting to take place in major outlets. The media are carrying more stories about human trafficking and other social injustices, which amount to implicit attacks on failed government policies. *Tuoi Tre* and *Thanh Nien* both report on the arrest of dissidents and bloggers, going as far as they can, and often letting the government's vague and obtuse justifications speak for themselves. Environmental concerns are likely to be an important topic in the coming years; Vietnam is highly vulnerable to climate change and rising sea levels, which will have a devastating impact on the economy and individual livelihoods.

Despite the signs of progress and journalists' efforts to expand the scope of permissible coverage, critical and investigative reporting remain very dangerous, and even employees of mainstream state media outlets continue to face imprisonment for their work.

## B. CRACKS IN THE DAM

Some have optimistically predicted that independent media will supplant the state media.<sup>98</sup> At least in the short term, however, the state media will endure. They are relatively well resourced, and they have crucial government backing in a one-party authoritarian state. The VCP simply will not allow its official outlets to fail. It cannot currently envision a free press; state control of the media is enshrined in Article 60 of the 2013 Constitution.

Competition from the nascent private press poses little immediate threat, as it has so many limitations. It comprises a handful of individuals, it is largely illegal, it has minimal resources, and it is up against a state security apparatus that is trying to crush it. Indeed, the authorities are likely to escalate their assault in the

run-up to the 12th Party Congress, expected in the first quarter of 2016. Of the 18,298 convicts pardoned on Vietnam's 2015 national day celebration, not one was a political prisoner.<sup>99</sup>

While discussions on Facebook and other private websites are surprisingly freewheeling, users do engage in self-censorship given the risk and costs of punishment. The proliferation of technology and the Internet may have changed the game and given the private media the potential for rapid expansion, but until the state decides that such outlets are not a threat, they will be systematically targeted, with a focus on multiauthored and edited sites as opposed to individual blogs.

In the longer term, the VCP will have to deal with a fundamental contradiction in its core interests: The one-party system cannot survive if corruption remains unchecked, but graft cannot be rooted out without the exposure provided by a free press, which—once unleashed—could itself present a threat to one-party rule. Some party leaders appear to view press freedom as something that can be turned on and off as needed. But journalists do not see it that way. Once they have space to investigate and report, they will fight tooth and nail to keep it. They are in many cases patriots who hope to contribute to their country's development by serving in effect as public ombudsmen.

Similarly, economic growth is a mainstay of the government's legitimacy, but further progress will be hampered in the absence of transparency and the free flow of information. Vietnamese leaders have often spoken of their fear of being caught in the "middle-income trap," yet their own insistence on information control could make that fear a reality. The government's myriad restrictions are already having a negative impact on the country's Internet entrepreneurs and investors.<sup>100</sup> Software development is arguably the brightest star in the private sector, and exactly the type of business the country needs to create a more advanced economy. It is also very mobile, and can easily leave Vietnam for a more conducive working environment.

Most Vietnamese, particularly the burgeoning middle class, are quite sophisticated in their outlook and highly determined to build their country into a major economic and diplomatic player in the region. They are also fully aware that a prerequisite for this is freedom of information, including the political space to have honest, civil, and transparent debates over policy. Such societal pressure, coupled with the expansion of the Internet and mobile platforms, is cracking the dam of state censorship and repression.

There are some signs of hope. In September 2015, Nguyen Sinh Hung, the Chairman of Vietnam's legislature and a Politburo member, publicly called for amending the vague national security laws, the primary tools of repression: "We should not let the [overly vague national security] laws exist, paving the way for virtually anyone to be detained."<sup>101</sup> Well said, but this will not be taken up until after the 12th Party Congress, and even then only if reformers come out in a strong position.

The status quo is simply not sustainable. What is needed is for a few courageous political leaders to embrace a notion they know to be true: a nation is strengthened, not weakened, by the free flow of information.

***The views expressed in this paper represent the opinions and analysis of the author, and not the National War College or Department of Defense, nor do they necessarily reflect those of the National Endowment for Democracy or its staff.***

## Endnotes

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