

VERSION 1.0
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ANH BA SAM

BREAKS THE CHAINS OF
OPPRESSION





"Opinions, events, public offices and organizations, all of such, with their virtues and vices, are able to gather here [social media networks] and be subject to the instant and constant monitoring and comparison by bloggers. Bad people will be unmasked, good people will be encouraged and connected."

"Our people are actually very interested in politics, only that the ruling party and its government don't want such thing, and they do whatever they can to discourage the people from paying attention to politics. In other words, they only want the people to discuss politics under their instruction and guidance, and the best they can do to achieve this is to use the state-owned media."

"No matter in the wartime or in peace, there is an underground stream that keeps flowing, that is public enlightenment."

(Ba Sam – Nguyen Huu Vinh)

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INTRODUCTION AND SUMMARY

This publication is a collection of reports on one of the most famous and influential bloggers in Vietnam since 2007, Nguyen Huu Vinh (aka. Anh Ba Sam), who was arrested with his assistant on May 5, 2014 and charged under the infamous Article 258 of the Vietnamese Penal Code.

The case demonstrates a large range of human rights violations, including violation of privacy, arbitrary detention, degrading treatment, neglect of due process, and, in general, failures by the Vietnamese state to meet international human rights standards.

The reports provide in-depth analyses on these violations. They also tell a story of how Anh Ba Sam was using blogs and social media networks to enlighten the people and fight for democracy in Vietnam.

A LETTER FROM THE WIFE

TO WHOM IT MAY CONCERN,

Dear all,

I am Le Thi Minh Ha, and am the wife of Mr. Nguyen Huu Vinh, who is known as blogger Anh Ba Sam.

International media has considered my husband as one of the most prominent civil rights activists in Vietnam. To the people inside of Vietnam, especially among the netizen community, he is among the most well-known bloggers, the founder of blog Anh Ba Sam - a.k.a. Thong Tan Xa Via He [Sidewalk News Agency] – a blog that has served Vietnamese readers from 2007 until now.

My husband and his assistant, Ms. Nguyen Thi Minh Thuy, were arrested by the Vietnam Ministry of Public Security on May 5, 2014, and prosecuted for violating Article 258 of the Penal Code, particularly, for “abusing democratic freedoms to infringe upon the interests of the state and legitimate rights of civil organizations.” Since then, they have been held in detention and have yet been allowed to see their family. My husband was denied bail and was also denied visitation by family members.

My husband, Anh Ba Sam: what exactly has he done?

The weather in the North Vietnam was adverse to my health conditions, and therefore I regrettably had to spend time away from my husband for the majority of the time in the past few years. Yet, my opinion about him remains consistently unchanged, that he is a patriot who loves his country wholeheartedly. Moreover, he is an intellect, a blogger who always acknowledges the importance of the Internet as to the democratization and development processes of the country. He had always used the Internet as a tool to pursue his fervent wish to “empower, enlighten, and secure the people.”

Anh Ba Sam site (with the following addresses: basam.info, anhasam.wordpress.com, anhasamnews.info) was found in 2007 with the purpose of “breaking the chains of intellectual slavery for the readers,” which he shortens it to “breaking the chain of oppression” and uses it as the slogan of his blog. He believes that the people of Vietnam can only form their own independent political opinions if and only if they are fully informed.

In that spirit, Anh Ba Sam, on a daily basis, has gathered daily news related to political issues from a variety of sources, from state-owned media, foreign news agencies, activists, journalists, personal blogs, to even websites that are deemed as “traitors” and “subversion to the state” by Vietnam government.

Moreover, Anh Ba Sam also provides readers with links to 50 top pages of famous bloggers and civil society organizations in Vietnam, 50 independent and state-owned news sites, and 56 foreign media sites, along with 19 websites with guides to overcome Internet

copyright. The features provided by blogging technologies have allowed readers to write newsworthy commentaries on current events.

According to various statistics, since 2009, my husband and his colleagues have posted on the Internet hundreds of thousands of articles, some of which included extremely valuable information, such as Vietnam history from 1945 to 1995, white papers on the Vietnam-China relation, and writings from famous Vietnamese writers. Every day, the site generates an average viewership within the range of 100,000 views.

It is very likely that Decree No. 72/2013/ND-CP on the "management, provision, and the use of Internet services" was issued by the government to censor Anh Ba Sam blog. Paragraph 4 of Article 20 and Paragraph 4 of Article 26 of that Decree (effective from September 1, 2013) specifically prohibits bloggers and website owners in Vietnam from gathering information from any state-owned media's or government departments' websites. At that time, Anh Ba Sam was the only webpage that the people inside Vietnam could access with a great volume of news data and such noticeable number of readers.



My family in 1992.

Then, is my husband guilty of a crime?

The Vietnam government has continuously mobilized hackers to attack Anh Ba Sam webpage. The blog is deemed illegal because the government refused granting its registration. In 2007, the blog was attacked continuously with waves of DDoS (Denial of Services attack). From 2010 to 2013, hackers had taken over the blog three times and there were incidents in which ownership was permanently lost. At the same time, 6 websites and blog sites with backed-up contents were also hacked with all information wiped clean.

In the past seven years, as editor of Anh Ba Sam blog, my husband was often met with security officials where they would warn, then threaten and intimidate him to cease his activities with his blog, but he was able to turn down their demands skillfully. He always considered a flexible and peaceful approach in these situations as he has never viewed himself as an enemy of the regime nor was he someone who advocates for opposing the government by forces, not even in his expressions both orally and in his writings. Even though he has always been determined to provide his readers with access to a broad range of information from different sources, Anh Ba Sam chose not to directly oppose any government entities. I always believe that my husband's works have contributed to his goal of "enlightening the people", and at the same time, they also "enlightened the officials". Thus, they would reduce the conflicts between the government and its people and neutralize social pressure. Anh Ba Sam would have been a person who could contribute significantly in a peaceful transition toward democracy in Vietnam.

My husband believes that his blog has promoted freedom of the press. In a discussion forum, he used the example of one same article and commented that it received only 1 comment when posted on a government's webpage, and yet that same article, when posted on his blog, received 600 comments. Therefore, in Vietnam, in the context that the state controls all forms of media, these online forums with critiques on social issues were formed and have exerted extensive influence among the people.

My husband's wish is that one day, Vietnam will have professional and independent press and it would be freely operated. And, he has tried his best to make that day comes sooner.

For the above-stated reasons, with a wife's affection for her husband and from what I have personal knowledge of, I reaffirm that my husband, Anh Ba Sam Nguyen Huu Vinh, is guilty of the crime of being a patriotic, is guilty of being one that loves his country and loves freedom, and is guilty because he longs for a democratic Vietnam and for the people of Vietnam to have their rights.

Nguyen Huu Vinh is a defender of human rights, who has advocated peacefully for the people's human rights in Vietnam, especially, the freedom of information and freedom the press. His arrest was arbitrary, unconstitutional, and unlawful. It violates Vietnam laws, other international legal standards, and every human rights treaties Vietnam has signed.

I respectfully request that the readers of Anh Ba Sam blog, the U.S. Government and its agencies as well as the U.S. Congress, and other international human rights organizations to speak on my husband's behalf and call on the Vietnam government to:

- 1) Immediately and unconditionally release my husband, human rights defender Nguyen Huu Vinh, a.k.a. blogger Anh Ba Sam, and his assistant Ms. Nguyen Thi Minh Thu;
- 2) Abolish Article 258 of the Vietnam Penal Code on "the abuse of democratic freedoms";
- 3) Respect its people's freedom of information of freedom of the press in Vietnam by immediately removing Decree No. 72/2013/ND-CP on "the management, provision,

and usage of Internet services” and other legislations similar to Decree No. 72/2013/ND-CP, which aim to restrict the freedom of information and freedom of the press in Vietnam.

October 18, 2014

Le Thi Minh Ha

NGUYEN HUU VINH'S PERSONAL PROFILE



Name: Nguyen Huu Vinh

Date of birth: September 15, 1956

Address: 5/2/4D, Dang Van Ngu street, Trung Tu ward, Dong Da district, Hanoi, Viet Nam

Marital status: married with two sons

Family situation: Wife (Mrs. Le Thi Minh Ha, b. 1958) is unemployed due to disability. He also has a 94-year-old mother who is on life support.

Graduated from the Academy of Public Security, 1979

Worked at the General Department of National Security (1979-1984), the Committee of Vietnam and Foreigners under the Ministry of Foreign Affairs (1985-1995), the Ministry of Public Security (1995-2000)

Resigned from public offices and set up a detective company, VPI, 2000

Created the blog Anh Ba Sam, also known as "The Sidewalk News Agency", September 9, 2007.

Co-founded the Group 72, consisting of the 72 intellectuals and human rights activists who signed on "the Petition for the 1992 Constitution Amendment", suggesting the separation of power, the adoption of constitutional court, and the new Constitution be in accordance with the 1948 Universal Declaration of Human Rights, January 19, 2013.

Promoting democracy and human rights campaigns among the circle of Vietnamese intellectuals.

Arrested on May 5, 2014

Charged on May 13, 2014 under Article 258 of the Vietnamese Penal Code, "abusing democratic freedoms to infringe upon the State's interests"

Totally denied right to access family members since arrest.

Defending lawyers: Ha Huy Son

NGUYEN THI MINH THUY'S PERSONAL PROFILE



Date of birth: November 10, 1980

Address: 411-E1, Thanh Cong living quarter, Thanh Cong ward, Ba Dinh district, Hanoi, Viet Nam

Marital status: Divorced. She has seven-year-old twin children now living with their grandmother.

Graduated in electronics and telecommunication from the Hanoi Open University, 2003

Accountant at VPI Ltd., Co. since 2003

Arrested on May 5, 2014

Charged on May 13, 2014 under Article 258 of the Vietnamese Penal Code, "abusing democratic freedoms to infringe upon the State's interests"

Totally denied right to access family members since arrest.



Minh Thuy and her two sons

THE BLOG OF ANH BA SAM



Website address (available on October 29, 2014):
<http://anhbasam.wordpress.com>; <http://basam.info>;
<http://basamnews.info>

Providing RSS Feeds from the sites of 32 most famous journalists and bloggers covering political issues of contemporary Vietnam, including: Que Choa, Huynh Ngoc Chenh, Nguyen Xuan Dien, Nguoi Buon Gio, Jonathan London,

Thuy Linh...

Providing links to 50 major Vietnamese newspapers and 50 foreign media agencies.

Having published 3060 articles and features (as of October 26, 2014, excluding data deleted by hackers), and many materials on: the constitutions and constitution making in Vietnam and other countries, Vietnamese history, Vietnam wars, Ho Chi Minh, contemporary Vietnam's politics, autobiographies by historic figures in Vietnam, etc.

Having published 2555 daily news summaries (as of October 26, 2014)

Reporting on all major political events in Vietnam, especially those not covered by the state-owned media, including: protests and protest suppressions, land evictions, police brutality against civilians, trials against political dissidents, democracy and human rights campaigns by bloggers, etc.

Subject to continuous attacks, the three most serious attacks were on November 2, 2010; June 9, 2011; and March 8, 2013.

RECENT DEVELOPMENTS SINCE THE ARREST

May 2014 – present: State-owned media launched attacks against Nguyen Huu Vinh

May 10: Some other bloggers and activists, including lawyer Trinh Huu Long and blogger Dinh Ngoc Thu, issued a statement declaring the continuance of the Ba Sam News in defiance of police suppression of Nguyen Huu Vinh. They have kept updating the site since.

June 5: Nguyen Huu Vinh's wife, Le Thi Minh Ha, sent the first complaint to the Party and State officials, calling for his release. She accused public security officers to have violated Vietnamese laws (the Vietnamese Criminal Procedure Code) by arbitrarily arresting Nguyen Huu Vinh. State offices and officials, including Truong Tan Sang, Tran Dai Quang, Nguyen Ba Thanh, Nguyen Hoa Binh, and Nguyen Van Hien, did not respond to her complaint.

June 16: Blogger Dinh Ngoc Thu, who is a US citizen based in California, filed a lawsuit against Phap luat Viet Nam [The Vietnam Law], one of the state-owned newspapers, for defaming her and Nguyen Huu Vinh. In an article on May 10, 2014, "Exposing the liar and rebel Nguyen Huu Vinh", this newspaper falsely alleged that "Nguyen Huu Vinh had contacted Viet Tan – a US-based organization targeting Vietnam – via "intermediary" Dinh Ngoc Thu, a member of Viet Tan, under whose instruction he wrote articles against Vietnam on his site."

Mrs. Thu's lawsuit failed to be processed by any court in Vietnam. She did not receive any reply from anyone, either.

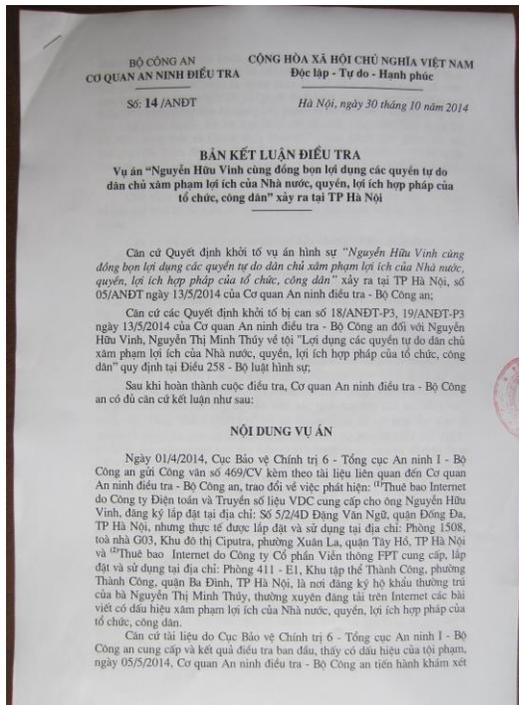
July 27: People gathered at Thai Ha church, Hanoi, to offer prayers to Nguyen Huu Vinh and Nguyen Thi Minh Thuy.

August 28: Mrs. Le Thi Minh Ha filed the second complaint to the Party and State officials. State offices did not respond to her complaint.

September 14: 51 intellectuals and human rights activists in Vietnam made a petition to Tran Dai Quang, Minister of Public Security, for Nguyen Huu Vinh's release.

October 30: The Investigative Body of the Vietnam Ministry of Public Security released its investigative report "on the case of Ba Sam and his accomplices who abuse democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens".

POLICE'S INVESTIGATIVE REPORT



The Investigative Body of the Vietnam Ministry of Public Security on October 30, 2014 concluded that:

"This is a serious organized crime, with sophisticated plots, committed in the context of hostile forces inside and outside of the country escalating in using the Internet and employing hundreds of websites, blogs, social media networks to falsely report and slander, thus sabotage our ideology and lower the people's trust in the leading role of the Communist Party and the State.

Nguyen Huu Vinh and Nguyen Thi Minh Thuy have abused information technology and their freedom of expression to post to "Dan Quyen" and "Chep Su Viet" 24 articles with wrong and unfounded contents, distorting the instructions and policies of

the Party and laws of the State, defaming individuals, lowering the prestige of offices and organizations, reflecting a pessimistic and one-sided viewpoint that causes the people to be worried and doubtful of the leading role of the Party, Government, National Assembly, and the State of the Socialist Republic of Vietnam.

The two blogs, "Dan Quyen" and "Chep Su Viet", had millions of views and many negative comments that expressed the commentators' consent to the articles posted. The acts that Nguyen Huu Vinh and Nguyen Thi Minh Thuy committed have violated Article 258 of the Penal Code, "abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens."

The investigative report also wrote that Nguyen Huu Vinh and Nguyen Thi Minh Thuy did not "admit guilt", and this would be treated as an aggravating circumstance in the case.

ANH BA SAM ARRESTED ARBITRARILY

- **Trinh Huu Long**

The detention of blogger Nguyen Huu Vinh (a.k.a. Anh Ba Sam) and his assistant Nguyen Thi Minh Thuy constitutes an arbitrary deprivation of liberty under national and international laws.

A failure of due process in the first place

The case "The SRV vs. Anh Ba Sam" was initiated on May 5, 2014 with the detention of Mr. Nguyen Huu Vinh and his assistant, Ms. Nguyen Thi Minh Thuy.

In accordance with the Vietnamese Penal Code, an urgent arrest or detention is different from an ordinary arrest to the extent that in the former, an approval by the People's Procuracy is not required prior to the act of arrest or detention. That approval may be granted subsequent to the act of arrest or detention, within 12 hours since the People's Procuracy receives the request for deprivation of liberty from the investigating body.

This provision authorizes the investigating body to act immediately at their discretion without any restriction. It also helps the investigating body to minimize the risk of information leakage.

In the case of Anh Ba Sam, however, the detention by the Investigating Body under the Ministry of Public Security fails to fit into any category of urgent arrest or detention as stipulated in Article 81, the Vietnamese Procedural Criminal Code of 2003.

Under this law, urgent arrests can only be made in the following cases:

- (i) when there exist grounds to believe that such persons are preparing to commit very serious or exceptionally serious offenses;
- (ii) when victims or persons present at the scenes where the offenses occurred saw with their own eyes and confirmed that such persons are the very ones who committed the offenses and it is deemed necessary to immediately prevent such persons from escaping; or
- (iii) when traces of offenses are found on the bodies or at the residences of the persons suspected of having committed the offenses and it is deemed necessary to immediately prevent such persons from escaping or destroying evidences.

Obviously the arrest of Nguyen Huu Vinh and Nguyen Thi Minh Thuy does not fall in any of these cases, because the Article 258 of the Penal Code under which they were charged does not belong to the category of "very serious" or "exceptionally serious" crimes. There was not any victim or person present at the homes and offices of Vinh and Thuy to see with their own eyes or to confirm that Vinh and Thuy had committed any offence. The investigating body also failed to find any trace of offence at the homes and offices of Vinh

and Thuy: as confirmed in the Investigative Report of October 30, all of the objects confiscated at their homes and offices were found “unrelated to the case.”

The failure of due process in the first place led to due process violations in the subsequent phases.

Violation of privacy rights

Notably, the Investigative Report obviously revealed unlawful means by the police to obtain the evidence based on which the urgently arrest warrant on Nguyen Huu Vinh and Nguyen Thi Minh Thuy was signed.

The unlawful means were clearly referred to on the first page of the Investigative Report, which wrote that “the case began on April 1, when the Department of Political Guardian No.6 [Cục Bảo vệ Chính trị 6] under the General Department of Public Security No. 1, Vietnam’s Ministry of Public Security [Tổng cục An ninh I – Bộ Công an] dispatched a note to the Investigating Body of Public Security, providing surveillance data collected from two Internet subscribers who were VDC’s and FPT’s clients and whom they alleged “often posted to the Internet articles with signs of infringing upon the interests of the State, the legitimate rights and interests of organizations and citizens.”

This inevitably raises questions as to whether the police are authorized to monitor and access personal data of Internet users, whether Internet service providers are to provide personal data of their clients upon police’s request, and whether Internet service providers are allowed to do so.

Some people automatically linked the issue to similar circumstances in Western countries, where the police can only monitor phone calls when they are authorized by the court(s).

Under Vietnamese law, Article 38 of the Civil Code can provide a hint to answer the above questions. It stipulates that “individuals’ letters, telegrams, telephones, and other electronic correspondence shall be protected to ensure confidentiality.”

In addition, Article 72 of the Law on Information Technology strictly prohibits the access to, adjustment to or removal of the data of organizations and citizens in the cyber area.

Some people may invoke Article 38 of the Civil Code to argue that the monitoring of correspondence and electronic information can still be conducted “in circumstances which are stipulated by law” AND “with the order from the competent State authority.” However, which specific law this provision refers to, or which State authority is competent in the case of Nguyen Huu Vinh and Nguyen Thi Minh Thuy, was not mentioned in the Investigative Report.

More importantly, if the Ministry of Public Security is authorized to monitor personal Internet data, and if there was indeed an official decision granting them the authority to monitor Nguyen Huu Vinh and Nguyen Thi Minh Thuy’s data on the Internet, then a big question should be raised about the constitutionality, legality and legitimacy of such decisions.

It should be noted that the two regulatory notes that define duties, obligations, and authority of the Ministry of Public Security, ie. Decree No. 77/2009/NĐ-CP and Decree No. 21/2014/NĐ-CP, cannot be found in any national gazette or legal database on the Internet. Some sources said these two notes were classified as "confidential", thus closed to the public.

An arbitrary arrest

Under international human rights laws, the arrest of Mr. Nguyen Huu Vinh and Ms. Nguyen Thi Minh Thuy is a violation of their right to liberty and constitutes an arbitrary arrest.

Articles 9 of both the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights stipulate that "no one shall be subjected to arbitrary arrest, detention or exile."

Vietnam, as a full member of the United Nations, has signed these two treaties, which are generally agreed to be the foundation of international human rights laws.

The general standards of these above treaties, in the context of a rule of law with an independent judiciary system, are always interpreted and enforced in a manner that helps to achieve social justice and balances human rights with security.

In 2000 the UN Working Group on Arbitrary Detention, a body consisting of independent human rights experts working on arbitrary detentions in its member states, introduced a set of criteria to assess whether an act of deprivation of liberty is arbitrary. Among the criteria, Category II provides that the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by UN human rights treaties is regarded as arbitrary.

The police, by alleging Nguyen Huu Vinh and Nguyen Thi Minh Thuy to have posted to web 24 articles mentioned in the Investigative Report and arresting them despite their denial of allegation, have evidently violated freedom of expression, and this act of arrest fits into the above-mentioned Category II.

Available at:

http://www.bbc.co.uk/vietnamese/forum/2014/11/141103_anhbasam_analysis

THE DANGER THAT IS ARTICLE 258

- **Trinh Huu Long - Pham Doan Trang**

The recent arrest of the Basam web site founder highlights how one penal code provision, Article 258, can be stretched by the ruling Communist Party of Vietnam to take away anyone's freedom at any time for doing anything that's not state-sanctioned.

Article 258 is entitled "Abusing democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens." On its face, Article 258 is already an anomaly, as any attempt to criminalize the vague and ambiguous "abuse" of freedom will, almost by definition, wipe out such freedoms.

Article 258 has been used to prosecute a wide variety of people for allegedly "abusing" their freedom of speech or religion.

In 2011, two Hoa Hao Buddhism believers were convicted under Article 258 and sentenced to 4 and a half years in prison for distributing leaflets and CD exposing government oppression of their church.

In 2010, reporter Le Nguyen Huong Tra was arrested and held under Article 258 for writing about the singer girlfriend of a police general's son. She was not prosecuted, and was released after the son got married to someone else.

In 2008, reporters Nguyen Van Hai and Nguyen Viet Chien were prosecuted under Article 258 for writing about corruption at PMU-18, where several million dollars were siphoned off a government infrastructure project. Their case was later changed to be based on an alleged "abuse of position."

Just earlier this year, two bloggers were separately convicted, sentenced, and imprisoned under Article 258 for their writings – bloggers Truong Duy Nhat and Pham Viet Dao.

No specific acts

So what does this infamous Article 258 say? The provision states, in full:

1. Those who abuse the rights to freedom of speech, freedom of press, freedom of belief, religion, assembly, association and other democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens, shall be subject to warning, non-custodial reform for up to three years or a prison term of between six months and three years.
2. Committing the offense in serious circumstances, the offenders shall be sentenced to between two and seven years of imprisonment.

The most frequently used argument by Communist Party supporters is that it protects people's rights from all infringements by others. However, it is precisely that vague idea that makes the law itself an abuse.

Normally, a crime is defined by specific acts – killing, rape, theft, drug dealing, taking bribes, kidnapping, etc. These provisions are aimed to protect specific interests of organizations and/or citizens in the society. More broadly speaking, law in its essence is made to protect the interests of every member in a society against certain specific acts.

So if specific bad acts are already banned, why is a law created just to repeat this purpose? This suggests that Article 258 is broadly worded so that it can be used to suppress freedom in a way the government doesn't want to admit.

Criminal justice theory of Vietnam states that a crime has to be specific to an act or a failure to act. For example, Article 8 of the Penal Code defines a crime as "an act dangerous to the society." So, a crime must constitute specific acts instead of just ideas or concepts.

Very vague on violations

Vagueness is a flaw that lawmakers must always avoid. Suppose a decree requires government officials to create a good Internet environment in Vietnam, or else they will lose their jobs. The adjective "good" makes the decree vague and broad, and it becomes a problem because nobody can say whether an official has or has not committed a violation and whether he or she should be sacked.

A vague or ambiguous statute is the one that has indefinite application to particular cases. Article 258 contains a number of such vague words, including "abusing" and "interests of the state." It raises questions:

- What is "abusing"? Is it an abuse to protest against American war in Iraq? Or against Russian war in Crimea? There are no criteria in any law books in Vietnam that can help answer this question.

- To which extent can a citizen enjoy his/her freedom before being accused of "abusing" it? In fact, how can freedoms be exercised without being "abused"?

- What does it mean by "the interests of the state"? By whom are these interests defined? Is there anything like a list of such interests so that people can avoid infringing upon?

The text of Article 258, for sure, does not answer any of these questions. Worse, the authority to interpret laws in Vietnam lies in the hands of security forces and the courts, all under the Communist Party's absolute control. This leaves unlimited space for the police to act as they please, which leads to yet another question:

- What is to stop the government from claiming "the interests of the state" whenever anyone does anything the government don't like?

The answer is, nothing. There's nothing to stop that abuse.

Disagree? You've infringed state interests

Abuse of power is precisely what's been happening. In 2009, three people, including Pham Doan Trang, one of the authors, were arrested under Article 258 for planning to produce

T-shirts in objection of the bauxite mining project in the Central Highlands and China's maritime claim to the South China Sea.

What did these people do that was "infringing upon the interests of the state"? What particular interest of the state was violated? How much are the damages?

Obviously, unlike earlier times, today it is legal to produce a T-shirt. Any supposed "abuse of democratic freedoms" must be in the content of what's printed. But how are these anti-China sentiments infringing upon the interests of the Vietnamese state?

What the police told those arrested, was that the government had decided on the appropriate relationship with China. The T-shirts, police said, made it hard for the government to carry out that policy.

In other words, anyone who says anything that disagrees with government policy, will make it hard for that policy, and therefore will be subject to prosecution under Article 258.

So it was that merely voicing disagreement with a court verdict, for example, became the basis for prosecution under Article 258. In 2013, Dinh Nhat Uy became the first Facebook user convicted pursuant to Article 258 after launching an Internet campaign calling for his brother's release.

Or an attempt to change burial practices and preach the Bible. That too was called an infringement of state interests and landed Hmongs Ly Van Dinh, Duong Van Tu, and Hoang Van Sang in prison under Article 258.

Article 258 thus became a very convenient tool to prosecute anyone simply for disagreeing with the ruling Communist Party. The Network of Vietnamese Bloggers have circulated a statement calling for abolishing Article 258. Even international NGO's have spoken out. Human Rights Watch in October 2013 issued a statement saying "Vietnam should revoke Penal Code Article 258... and stop prosecuting people for peacefully exercising their civil and political rights."

Meanwhile, those bloggers who circulated the statement calling for abolishing Article 258 and told foreign diplomats about their effort? Police have been calling on them and bringing them in for questioning.

ANH BA SAM'S NEWS BLOG MARCHES ON DESPITE HIS ARREST

- **Pham Doan Trang**

One day last May in Hanoi, Vietnamese police launched a sudden raid into the house and business of a long-famous blogger, Nguyen Huu Vinh, better known as Anh Ba Sam (meaning Brother Gossiper). Vinh and his assistant Nguyen Thi Minh Thuy, a mother of seven-year-old twin children, were detained immediately.

The sudden raid and arrests apparently caught Vinh by surprise. Two web sites believed to be run by him, Chep Su Viet (Writing Vietnamese History) and Dan Quyen (Civil Rights), were shut down, suggesting the police were able to gain control to the sites' passwords.

The other blogs, notably the very high-traffic Ba Sam News at basam.info, however, stayed out of police control and kept on running. In fact, just five days after Vinh and Thuy's arrest, his colleagues published a defiant statement, "Nguyen Huu Vinh was arrested, yes, but Anh Ba Sam will never be." The statement carried implications of an even more powerful blogging and writing movement for change in Vietnam.

The arrest prompted a huge outcry among dissidents. The Vietnam Path Movement, a civil society organization that works to promote human rights inside of Vietnam, released a statement on May 7, stating, "By depriving Mr. Nguyen Huu Vinh, Mrs. Nguyen Thi Minh Thuy, and other activists' rights to freedom of expression, the Vietnam government adamantly refuses all contributions from the people toward building a stronger nation."

The government hit back. Using media owned by the police and the army, the government accused Vinh and Thuy of "publishing online articles with bad contents and misleading information to lower the prestige and create public distrust of government offices, social organizations and citizens" under Article 258 of the Vietnamese Penal Code.

In one particular colorful posting, the police-owned newspaper accused Vinh of "reporting and commenting on current social and political issues of Vietnam with a deliberately critical tone", "trying to make Vietnam look as bad and ugly as he is."

The man who wanted to light the candle

Nguyen Huu Vinh was not always the darling of the democracy movement. A former public security officer himself, Vinh was mistrusted at first. Born in 1956 to a high-ranking communist official, he had all the good reasons to himself become a high-ranking official, too, in the hierarchy of the communist state.

Right when Vinh was arrested, bloggers looked up his family background to be reminded that his father, Nguyen Huu Khieu, was twice the Vietnamese ambassador to the Soviet Union. As the Soviets were Vietnam's "Big Brother" in the Cold War, being ambassador there was an enormous privilege, and as Vinh himself admitted in a short memoir in 2012, he and his family led a life that all the other parts of the society then could just dream of.

The house where he grew up is now the residence of the prime minister. "While butter, milk and the like were still unknown to people in Northern Vietnam, I just needed to take half a mile walk to number 2 Hoang Dieu street [a store dedicated to the upper echelon of the VCP] to get hot fresh milk, butter, pâté and bread."

Vinh even met Ho Chi Minh once as a child of five, considered a special favor for Vietnamese in the North.

Most importantly, thanks to his family origin, he benefited from books that were totally inaccessible to ordinary people. One of such things, referred to as "special documents for reference," were selected articles from foreign media translated by the Vietnam News Agency into Vietnamese. Vinh wrote,

"In the 1960s, these documents were labeled as 'Confidential. No circulation,' and only officials from ministerial level upward could access them. They would later on be provided also for lower administrative levels, and be sold at the end of the 1990s. No matter what, these documents helped to change me substantially during my years of 'following the Party.'"

It was from those documents that he learned about the brutality of Mao's China, which, ironically, was the ideal that the Vietnamese government at that time was trying to reach.

The Vietnam War escalated, and Vinh was evacuated to the countryside, where he saw the poverty for people in the lower rungs of the social. But his belief in the communist ideology only truly turned upside-down after the war ended in 1975, and he was able to view the deep rift between the "capitalist South" and the "communist North" of Vietnam. It did not take him much time to conclude that life in a capitalist system, with all its faults, was much more prosperous than and different from the one described in communist propaganda materials.

"My eyes were opened," wrote Vinh, "and more than that, I ventured to spend a lot of time and money learning English and computer skills right from the days those things were strange to most people."

To build a fire

"He was always determined, enthusiastic, and brave," said Pham Xuan Can, a former classmate of Vinh's at the Academy of Public Security who joined the public outcry online following Vinh's arrest. Can recalled how Vinh became a student at the Academy, then became a public security officer before working at the Department of the Overseas Vietnamese. His experience of working with Vietnamese intellectuals in foreign countries, some almost in exile since 1975, added up with his past knowledge of "the capital South" to keep him obsessed by an idea, "how much social capital were wasted as a result of bad policies."

In 1999, almost immediately after Vietnam's adoption of the Enterprise Law, Vinh quit his government position and set up his own business, VPI, the very first private detective

agency in Vietnam. Vinh's business went well and its profits were enough for him to pursue other interests.

In 2005, when Yahoo!'s now extinct 360 blogging platform arrived, Vinh found blogging like any Vietnamese teenager. He created his Anh Ba Sam Yahoo blog in 2007 and initially filled it with articles he wrote for the state-owned media, until he realized the demand of Vietnamese people who want to know "what the world is thinking of us."

So Vinh began translating foreign news stories about Vietnam, and his readership grew. Anh Ba Sam's blog also provided source materials about China-Vietnam relations, which even until this day remains a politically sensitive issue.

Though Ba Sam won a relatively large readership for a political website, Vinh did not stop there. He went further in the cause of "enlightening the people" with the initiative of publishing a daily digest of the most important news items. Vinh also added his own comments, a mix of profound intellectual thoughts with cute, witty humor, and the comments became the characteristic of Ba Sam, winning the attention of hundreds of thousands Vietnamese speakers around the world. This was a quite high number, especially when the widely circulated Tuoi Tre Daily could only reach 200,000 copies or so.

"It's up with the news 24/7. As might be expected, the blog has given particular emphasis to the stories that Vietnam's state-supervised media has been unable to report. Its daily digest is the hook that has caught the attention of 100,000-plus regular readers," David Brown, a former U.S. diplomat and an author whose articles were often translated and posted by Ba Sam, wrote on Asia Sentinel about the site in March 2013 when it was under a serious attack by "pro-government" hackers.

"Being on time, adhering to ethical codes of accuracy, neutrality and confidentiality of sources, and respecting copyrights, those are the principles that we kept to during the recent years," said Dinh Ngoc Thu, now the main editor of Basam.info. Thu joined with Vinh in "news reviewing" in 2009, and the only reason why she was not arrested with Vinh and Thuy was because she lives in California.

Vinh's connections with some people in the state apparatus, resulting from his previous positions in public offices, were also helpful news sources. However, at the same time, they raised suspicions about him being an "undercover police". A haunting question for many was why Nguyen Huu Vinh was not arrested after such a long time? How could he "survive" many police suppressions of bloggers?

Now the answer is clear: It was just a matter of time.

Police came in

The Vietnamese government, with mostly old faces, may not have noticed the power of the Internet, but its police machinery did so quickly. Anyone blogging about political issues will sooner or later find him/herself in trouble with the extensive network of police in Vietnam. So it was understandable that Ba Sam was identified very soon by the police as a rallying point of "anti-state" forces.

And it was a well-founded belief, anyway. Every dissident site in Vietnam, or in Vietnamese to be exact, has its own loyal readers. Ba Sam's readers, as he described, incorporated many intellectuals and members of the Communist Party. A large proportion of them may still be loyal to the obsolete ideology of communism, and what they need is "fact as it is", neutral and accurate without any state censorship.

Readers made up a close-knit community indeed, and readers themselves had readers – there were people who accessed Ba Sam mostly to read the comments by Vinh and other bloggers below each post. Many of such online commentators became famous to the "great family" of Ba Sam's readers.

With only a small team in charge of both content providing and security ensuring, the site was subject to continuous attacks. Brown, the diplomat, wrote in sympathy:

"... on March 8, when the Ba Sam blog was thoroughly hacked. Several years' reportage and commentary were deleted. The e-mail accounts of the blog's editorial team were also compromised. The Ba Sam team has so far been unable to regain control of anhasam.wordpress.com. That's a manageable tragedy, however. All but a few days' content was backed up on offshore servers."

"... A naive reader might conclude that the Anh Ba Sam team are in fact renegades and grudge-bearing reactionaries based in the United States and dedicated to the overthrow of the Hanoi regime."

The truth was that Vinh and his colleagues did not receive any financial assistance from anybody. In fact, as the economy went south, Vinh's private detective agency also floundered and was almost on the brink of bankruptcy when Vinh and Thuy were detained.

One reader who met Vinh several times related her conversation with Vinh. Suspicious, the reader asked Vinh, "Why do you keep doing all these things?"

He replied, "Because I'm in a better position to do this than anyone else. So if I don't do, I'll feel guilty".

And he explained, "Because I meet three conditions. First, my financial conditions are good enough. With VPI, I am not indigent. Second, I have Internet knowledge; and third, most importantly, I know them – the police – well. I was among them and I understand them."

Yet, it seems he lost the battle in the end. The former public security officer did not expect his former colleagues to arrest him and was caught off-guard.

The sentence against him is expected to be harsh, as the police-dominated courts are always tough on those considered to have "betrayed" of their Communist Party origins. Cu Huy Ha Vu, another son of a cabinet-level Communist leader, was sentenced up to seven years of imprisonment in 2011. Vu, however, was released early and arrived in the U.S. in April, a month before Vinh's arrest.

Optimistically, is it not a time for him to rest? He has worked too hard, struggled for too long in the past seven years, and exhausted himself as well as his colleagues. Despite the many readers he had, in the end, it was basically a fight in solitude.

But he kept blogging.

INTERNATIONAL MEDIA COVERAGE

Mysterious Attack on a Vietnamese Blog, Asia Sentinel, 18 March 2013:

http://www.asiasentinel.com/index.php?option=com_content&task=view&id=5257&Itemid=188

Vietnam's 'cyber troops' take fight to US, France, AFP, 20 January 2014:

<http://bigstory.ap.org/article/vietnams-cyber-troops-take-fight-us-france>

Vietnamese bloggers arrested for 'abusing democratic freedoms', The Guardian, 5 May 2014:

<http://www.theguardian.com/media/greenslade/2014/may/07/press-freedom-vietnam>

Vietnam arrests 2 dissident bloggers for criticizing government, AP, 6 May 2014:

<http://www.cbc.ca/news/world/vietnam-arrests-2-dissident-bloggers-for-criticizing-government-1.2633132> (mistaken photograph)

Prominent blogger arrested in Vietnam: police, AFP, 7 May 2014:

<http://www.chinapost.com.tw/asia/vietnam/2014/05/07/407062/Prominent-blogger.htm>

Blogging for a Future Democracy: The Story of Anh Ba Sam, The Source, 14 July 2014:

<http://cima.ned.org/blog/blogging-for-a-future-democracy-anh-ba-sam/>

Vietnamese Bloggers Pay High Price for Internet Freedoms, iJMA USA (ICT for Development), 8 May 2014:

<http://www.ijma3.org/news/newsDetail.aspx?controlNum=1&newsId=2521>

The blog of Anh Ba Sam is also mentioned in the 2014 report by Reporters without Borders on 12 March 2014:

<http://www.refworld.org/docid/533925aa23.html>