



# USALI Perspectives

## Vietnam's Closing Legal Space for Civil Society

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When we think about the use of law and policy to restrict civil society in Asia, China and India are the countries that usually come to mind.

In China under Communist Party General Secretary Xi Jinping, we have seen some advocacy organizations banned, their leaders arrested, foreign funding severely constrained, and day-to-day activities subject to increasing scrutiny.

In India under Hindu nationalist Prime Minister Narendra Modi, Muslim and

grassroots organizations face ever-tighter limits. Foreign funding for domestic non-government organizations (NGOs) is subject to byzantine rules and procedures, and both domestic and international advocacy groups are in trouble.

But the trend of closing civic space goes far beyond these two countries. In Vietnam, a one-party Communist state that sometimes took a more flexible attitude toward civil society in the past, the space for activities has begun

closing in recent years. Today Vietnam is an under-the-radar example of the many ways in which authoritarian or nondemocratic governments can stifle civil society at a time when it is poised to flourish. The COVID era has only accelerated these controls.

Before the new chill, Vietnamese civil society included a range of social service organizations (which were encouraged by the authorities), some policy advocacy groups (merely tolerated), a growing domestic philanthropic sector, and a handful of independent civil society organizations that were always strictly surveilled and sometimes were dismantled or reorganized.

Rising incomes and interest from young people in nonprofit work helped the sector flourish. Some pieces of this landscape still remain, particularly social service NGOs and philanthropic groups. But others face increasing pressure as the Communist Party and government intensify social controls in an echo of China's approach.

Vietnam has begun using the tax laws and criminal code to jail civil society leaders on charges of tax evasion, anti-state propaganda, and "abusing democratic freedoms."

Those convicted on such spurious charges include the leaders of the [EU-Vietnam Free Trade Agreement](#)

[\(EVFTA\) Network](#), which has pressed for greater labor rights; Ms. [Nguy Thi Khanh](#), the founder of the Green Innovation and Development Centre in Hanoi, who won the Goldman environmental prize, one of the world's most prestigious environmental awards; and several other prominent civil society and environmental activists.

A significant number of [political critics and dissidents](#) have also been arrested and convicted in recent years, including independent journalists, bloggers, and other activists. And just last month Hanoi jailed Professor [Hoang Ngoc Giao](#), the sometimes outspoken and irascible leader of a well-connected legal policy civil society group, also on tax evasion charges.

Sometimes other means are used to punish independent civil society organizations. Last year Towards Transparency in Vietnam, the Vietnam affiliate of the worldwide organization Transparency International, ceased activities after the Hanoi municipal government [fined it and shut down its website](#) for using a map provided by the international organization that did not display the Spratly and Paracel Islands in the South China Sea as Vietnamese territory. One observer writing for the [BBC Vietnamese service](#) queried whether the real goal was to silence an independent corruption monitoring organization.

Umbrella NGOs – which help build capacity of smaller NGOs, gather them in networks, and sometimes help them raise funds – also have come under increased scrutiny from Communist Party and state authorities. In recent months two well-respected umbrella NGOs in Ho Chi Minh City have closed their doors.

Authorities have made use of existing laws to carry out their crackdown, but also have taken steps to tighten the legal framework in which NGOs operate. In August 2022, the central government issued a [new decree on the registration and management of foreign NGOs](#) (Decree No. 58/2022/ND-CP), which replaces rules dating back to 2012. The new decree significantly tightens restrictions on foreign NGOs in Vietnam by narrowing the definition of permitted groups while retaining expansive prohibitions against activities that violate Vietnamese “national interests,” “social order,” “social ethics,” “national customs,” “traditions,” or “national unity,” among other provisions.

The new decree also makes registration in Vietnam more bureaucratic and difficult. It makes clear that foreign NGOs may not raise funds from local sources, and clarifies and expands the circumstances in which NGOs can be suspended or closed. So far, no foreign organizations have been suspended or shut down. According to international

NGO staff in Vietnam, the new decree is mostly being used to slow down approval processes and narrow the space available for those organizations to operate in Vietnam.

Of even more concern for Vietnamese domestic civil society organizations is the renewed push to adopt new restrictions on associational life. In summer 2022, the Vietnamese government released for public comment a [new draft central government decree that would promulgate the Regulation on the Organization, Operation and Management of Associations](#). As early as the 1990s, nascent Vietnamese NGOs began pressing for a rights-enhancing [Law on Associations](#). But for years such legislation was blocked by those in the ruling party and government who opposed the growth of civil society. Now, the pendulum in this long battle is on the side of the restrictive forces, and the draft that was released would codify some of the recent restrictive measures.

The draft provides financial subsidies for party and government-affiliated associations, strengthens the role of the party in managing associations, and provides an expansive and vague list of prohibited activities that can subject civil society groups to significant sanctions.

The draft regulation also makes the process of establishing organizations

onerous and difficult, requires government approval for many changes to an organization’s charter, rules, or leadership, and provides a wide range of grounds on which associations may be suspended or terminated. A [lengthy transmittal document](#) from the Vietnamese Ministry of Home Affairs laid out the expanded regulatory provisions and compared them to earlier regulations.

Criticisms of the new draft law began to emerge immediately. At a workshop convened by the Vietnam Union of Science and Technology Associations (VUSTA), an official umbrella organization hosting many NGOs as well as research and business organizations, participants pointed out [“many shortcomings”](#) in the draft regulation and pressed for an expansion of permitted policy advocacy by associations, among other recommendations.

Comments from organizations and the public were [due to be submitted by the end of August 2022 to the Vietnam Chamber of Commerce and Industry](#), an official business promotion group that serves as a clearinghouse for many comments on draft business and other laws. Since then the draft Regulation remains under consideration.

Taken as a whole, Vietnam’s moves in recent years have put increasing pressure on civil society and civic space, usually using regulatory means but occasionally using criminal prosecutions. Resistance has been somewhat muted, understandably, due to fear of becoming the next victim. Vietnam’s closing civic space may fall under the radar compared to its larger neighbors China and India, but the trend is similar and ominous.

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