

internet activities. The Ministry of Public Security required "internet cafes," including cybercafes, to register the personal information of their customers, store records of internet sites visited by customers, and participate in government investigations of online activity. Internet cafes continued to use government-approved software to monitor customers' online activities. The Ministry of Public Security enforced these and other requirements and monitored the internet selectively.

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The government pressured firms such as Facebook and Google to eliminate "fake accounts" and content deemed "toxic," including "antistate" materials. The Ministry of Information and Communications pressured social media platforms to comply with political-speech takedown requests, especially for posts critical of senior CPV officials.

Authorities also suppressed online political expression by direct action against bloggers, such as arrests, short-term detentions, surveillance, intimidation, and the illegal confiscation of computers and cell phones from activists and their family members. The government continued to use national security and other vague provisions of the penal code against activists who peacefully expressed their political views online. Political dissidents and bloggers reported the Ministry of Public Security periodically ordered the disconnection of their home internet service.

Users of state-sponsored social networks and blogs were required to provide their full name, national identification number, and address before creating an account. In-country website and social network operators must allow authorities to inspect local servers upon request and must have a mechanism to remove prohibited content within three hours of detection or notification by authorities.

Restrictions on Academic Freedom and Cultural Events

The government restricted academic freedom and cultural events. Foreign academic professionals temporarily working at universities in the country could generally discuss nonpolitical topics widely and freely in classes, but government observers regularly attended classes taught by both foreigners and nationals. The government continued to require international and domestic organizations to obtain

advance approval for conferences involving international sponsorship or participation. Police sometimes attended these events as uninvited observers. The government allowed universities more autonomy over international exchanges and cooperation programs, but provincial and central authorities occasionally refused university requests to host foreign scholars and exchange participants. Visa requirements for visiting scholars and students remained onerous and fees and conditions were applied inconsistently.

Viewers reported interruption of coverage of various commentaries, documentaries, and movies on human rights incidents in the country, the Vietnam War, the Cold War, the Soviet era, or reports involving trade tensions. For example, in November viewers reported a cable network stopped international news coverage of COVID-related protests in China, citing problems with the satellite signal.

The Ministry of Information and Communications may revoke the licenses of foreign publishers; foreign publishers must renew their licenses annually.

The government continued to prohibit any public criticism of the CPV and state policy, including by independent scientific and technical organizations, even when the criticism was presented to a purely academic audience.

State-run media reported private entities produced more than 90 percent of all publications in the country, although outright private ownership or operation of any media outlet or publishing house was prohibited. Many nongovernmental entities, however, produced and distributed publications by subcontracting, joint publishing, or buying permits from government or other public publishing entities.

The government exerted influence over art exhibits, music, and other cultural activities by requiring numerous authorizations.

On July 16, authorities disrupted a workshop on Ukrainian culture held at the Southeast and North Asia Institute of Technology and Development Research (SENA) in Hanoi with the participation of many academics and Ukrainian diplomats. Police prevented some participants from leaving home to attend the workshop and cut off the institute's power during it.

On July 27, the Ministry of Public Security charged Nguyen Son Lo, former president of SENA, with "abusing democratic freedom." Lo had written several books and articles calling for CPV and government reforms and circulated his writings among CPV members. In January 2021 a Bach Thong District, Bac Kan Province government's website stated that his writings instilled "reactionary thoughts into the minds of government officials, party members and the public."

On August 17, the Ho Chi Minh City Department for Culture and Sports fined artist Bui Quang Vien 25 million dong (\$1,050) for organizing a painting exhibition without a permit and demanded he destroy all the exhibited paintings. After a public backlash against the government's actions, authorities rescinded the requirement that the artist destroy his paintings.

b. Freedoms of Peaceful Assembly and Association

The government restricted the freedoms of peaceful assembly and association.

Freedom of Peaceful Assembly

Although permitted by the constitution, the government restricted freedom of peaceful assembly. Laws and regulations require permits for group gatherings, which local authorities issued or denied without explanation. Only those arranging publicized gatherings to discuss matters the government considered "sensitive" appeared to require permits. The government generally did not permit any demonstrations that could be perceived as political. The law permits security forces to detain individuals gathering or protesting outside of courthouses during trials. Persons routinely gathered in informal groups without government interference so long as the gathering was not perceived as political or a threat to the state. For example the government permitted small groups of individuals to protest land rights concerns for short periods in Hanoi and Ho Chi Minh City.

In prior years police and plainclothes authorities routinely mistreated, harassed, and assaulted activists and those demonstrating against the government. No major demonstrations against the government were permitted during the year.

Freedom of Association

The constitution affords individuals the right of association, but the government severely restricted the establishment of associations involved in what the government considered “sensitive” fields such as politics, religion, and labor rights. The country’s legal and regulatory framework includes mechanisms particularly aimed at restricting the freedom of NGOs, including religious organizations, to organize and act. The government generally prohibited the establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the CPV’s Vietnam Fatherland Front (VFF).

Laws and regulations governing NGOs restrict their ability to engage in policy advocacy or conduct research outside of state-sanctioned topics and prohibit organizations focused on social science and technology from operating in fields such as economic policy, public policy, political matters, and a range of other areas considered sensitive. Authorities also did not permit NGOs generally to publicly advocate specific policy positions.

According to some recognized groups and others attempting to register, implementation of the law varied from province to province. They reported that the process was burdensome, lengthy, and that authorities often did not respond to their applications.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government regularly imposed limits on the movement of individuals, especially those released after serving sentences under national security or related charges or outspoken critics of the government.

In-Country Movement: Government restrictions required citizens and resident

foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of "national strategic storage," and "works of extreme importance for political, economic, cultural, and social purposes."

Citizens (or their hosts) must register with local police when staying overnight in any location outside their own homes. Foreign passport holders must also register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends or family.

Authorities did not strictly enforce residency laws for the general population, and migration from rural areas to cities continued unabated. Moving without permission, however, hampered persons from accessing public education, health care, and other government services.

Authorities restricted the movements of several political activists on probation or under house arrest, along with others not facing such legal restrictions. Authorities also continued to monitor and selectively restrict the movement of prominent activists and religious leaders. Authorities continued to prevent activists from leaving their houses during events that might draw public attention.

Several activists, such as Nguyen Tien Trung, Pham Thanh Nghien, and Bui Thi Minh Hang, reported plainclothes police prevented them from leaving their houses, especially during holidays or visits by senior foreign diplomats.

Foreign Travel: Prospective emigrants occasionally encountered difficulties obtaining a passport or exit permission, and authorities regularly confiscated passports of activists and government critics, at times indefinitely. The law allows authorities to postpone the departure of any person on various broad grounds, including for national security and defense. There were multiple reports of individuals crossing the land borders with Laos or Cambodia illegally because they were unable to obtain passports or exit permission; in some cases this included persons wanted for crimes and political or other disapproved activities.

The Ministry of Public Security continued to use foreign travel prohibitions against certain activists and religious leaders. Authorities banned and prevented dozens of individuals from traveling overseas, withheld their passports on vague charges, or

refused to issue passports to certain activists or religious leaders without clear explanation. Activists believed they were not authorized to travel abroad to reduce their opportunities to speak out against the government. Authorities also refused to issue passports to the family members of certain activists.

On April 9, customs officers at Ho Chi Minh City's Tan Son Nhat airport prevented Pastor A Dao from leaving for an international religious freedom conference and told him that he had a travel ban. Upon his return to Kon Tum Province, A Dao was detained and interrogated for two days. After his release, plainclothes police continued monitoring and harassing him.

Many ethnic minority Christians in the Central Highlands reported local authorities denied their passport applications.

e. Protection of Refugees

The government generally did not cooperate with the Office of the UN High Commissioner for Refugees (UNHCR) and other organizations regarding treatment of refugees, returning refugees, or asylum seekers, as well as other persons of concern.

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

f. Status and Treatment of Internally Displaced Persons

Not applicable.

g. Stateless Persons

According to 2021 statistics from UNHCR, there were 35,475 recognized stateless persons and persons of undetermined nationality in the country. This was a substantial increase from the estimated 11,000 stateless persons acknowledged in 2016, reflecting increased government efforts to identify such persons. The bulk of this population were ethnic H'mong living in border areas, but it also included women who lost their Vietnamese citizenship after marrying a foreign national but

then lost their foreign citizenship due to divorce.

Section 3. Freedom to Participate in the Political Process

Citizens could not choose their government through free and fair elections based on universal and equal suffrage and conducted by a secret ballot that guaranteed free expression and the will of the people. Although the constitution provides the ability to elect representatives to the National Assembly, people's councils, and other state agencies directly, constitutional and legal provisions established a monopoly on political power for the CPV, and the CPV oversaw all elections.

Elections and Political Participation

Recent Elections: The most recent National Assembly elections held in May 2021 allowed limited competition among CPV-vetted candidates but were neither free nor fair, and the government did not allow NGO monitoring. The CPV's VFF chose and vetted all candidates through an opaque, multistage process. CPV candidates won 485 of the 499 seats. The remaining 14 were non-CPV candidates unaffiliated with any party; nine of the 14 were self-nominated. There were no candidates from a party other than the CPV.

According to the government, 99 percent of eligible voters cast ballots in the May 2021 election, a figure activists and international observers considered improbably high. Voters may cast ballots by proxy, and officials charged local authorities with ensuring that all eligible voters cast ballots by organizing group voting and verifying that all voters within their jurisdiction had voted.

The law allows citizens to "self-nominate" as National Assembly candidates and submit applications for the VFF election-vetting process. A total of 74 non-CPV, self-nominated candidates received VFF approval and ran in the May 2021 National Assembly elections, down from 97 in the 2016 election. The independent candidates consisted of legal reformers, journalists, academics, activists, and human rights defenders, and included the country's first openly lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) candidate, who ran unsuccessfully in Hanoi. In contrast to the party's candidates, these candidates actively used Facebook and social media to advertise their policy platforms.

On February 17, a court in Ninh Binh upheld the 6.5-year prison sentence against Tran Quoc Khanh for "conducting antistate propaganda" in a brief appellate hearing without lawyer. Khanh previously announced through social media his intention to run for a seat in the National Assembly as an independent candidate. Before this arrest local police questioned Khanh on multiple occasions regarding his blogging, his announced candidacy for the National Assembly, and his application to a prodemocracy civil society organization called Democracy Association.

On April 19, a court in Hanoi upheld the sentence of five years' imprisonment and five years' probation against self-nominated National Assembly candidate Le Trong Hung for "conducting antistate propaganda." At the time of his arrest, Hung had submitted preliminary paperwork to run in the May elections but had not yet been formally screened by the VFF. Hung was a long-time human rights advocate who focused his civil rights advocacy on social injustice by distributing copies of the country's constitution. He was also critical of many incumbent legislators and other state and party leaders on his Facebook page.

Political Parties and Political Participation: Political opposition movements and other political parties are illegal. Although the constitution states that "all Party organizations and members of the CPV operate within the framework of the constitution and the laws," the CPV politburo in fact functioned as the supreme national decision-making body, although technically it reported to the CPV Central Committee.

On September 8, Phan Son Tung, a YouTuber with hundreds of thousands of subscribers, was arrested and charged with "spreading information against the state." He was in the process of launching a new political party at the time of his arrest.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of historically marginalized groups in the political process, and they did participate. The law sets a target of 35 percent of final candidates for the National Assembly and provincial people's councils to be women and 18 percent to be from minority groups. The 151 women in the National Assembly comprised 30 percent of the body; the 89 ethnic minority

delegates comprised 18 percent of the assembly.

Section 4. Corruption and Lack of Transparency in Government

Although the law provides criminal penalties for corruption by officials and there were multiple arrests and convictions for corruption, the government did not implement the law effectively, and officials frequently engaged in corrupt practices. This included existing and retired officials from the politburo, central party, military, and public security services.

Corruption: The lack of public consultation on land-use plans and government land compensation frameworks was a driver of corrupt land transfers. Corruption in financial, banking, natural resource mining, and public investment sectors was a significant political and social problem.

On April 14, police arrested Deputy Minister of Foreign Affairs To Anh Dung for allegedly soliciting bribes from Vietnamese nationals abroad seeking to be repatriated during the COVID-19 pandemic.

On June 7, the Ministry of Public Security arrested Minister of Health Nguyen Thanh Long and Hanoi People's Committee Chairperson Chu Ngoc Anh for mismanagement and involvement in a scheme to sell COVID-19 test kits at inflated prices.

On August 22 during its midyear review, the Central Steering Committee for Anti-Corruption reported that nearly 295 Communist Party members were disciplined during the first six months of the year for corruption and deliberate mismanagement. A separate anticorruption report prepared by the government for the National Assembly's Standing Committee in September stated that 74 officials were found in violation of regulations on asset and income declaration during the year.

On August 30, the People's Court in Hanoi sentenced former party secretary of Binh Duong Province, Tran Van Nam, to seven years in prison. Nam was found guilty of "violating regulations on the management and use of state assets" for allowing private investors to take over state-owned land in 2012.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

The government did not permit independent, local human rights organizations to form or operate, nor did it tolerate attempts by organizations or individuals to criticize its human rights practices publicly. Authorities often asserted that human rights and democracy advocacy were acts against the Communist Party and state.

Retribution against Human Rights Defenders: In January four individuals who ran registered NGOs (Nguy Thi Khanh, Dang Dinh Bach, Mai Phan Loi, and Bach Hung Duong) were convicted of tax evasion. Human rights organizations believed that these charges were tied to the individuals' social or environmental activism.

On May 20, the People's Court of Cu Kuin District, Dak Lak Province sentenced Y Wo Nie, a member of the Ede ethnic group, to four years in prison for "abusing democratic freedoms." State media reported he attended online courses on religious freedom, domestic civic laws, international covenants, and reporting human rights abuses. The indictment stated that in 2020 Y Wo Nie reported "falsified" human rights violations to "reactionary overseas subjects" through messaging applications and met with diplomats. Those actions "affected political security, social order and safety," "undermined public confidence in the regime," and "hurt the images of the state and the credibility of the party in diplomatic relations."

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law prohibits using or threatening gender-based violence, including rape, spousal rape, "other sexual contacts," and "forced sex crimes." It also criminalizes the rape of men. Conviction for rape is punishable by imprisonment of up to 15 years, depending on the severity of the case.

Authorities treated domestic violence cases as civil cases unless the survivor

suffered injuries to more than 11 percent of the body. The law specifies acts constituting domestic violence and stipulates punishments for convicted perpetrators ranging from warnings to imprisonment for up to three years.

The government did not enforce laws on rape and domestic violence effectively.

Domestic violence was common. The Women's Union reported in 2019 (latest data available) that at least 58 percent of married women worried about domestic violence and that 87 percent did not seek help. Officials acknowledged domestic violence was a significant social concern, and media discussed it openly. Social stigma prevented many survivors from coming forward due to fear of harassment from their spouses or family.

While police and the legal system generally remained unequipped to deal with cases of domestic violence, the government, with the help of international and domestic NGOs, continued to train police, lawyers, community advocates, and judicial officials in the law; supported workshops and seminars that aimed to educate women and men regarding domestic violence and women's rights; and highlighted the problem through public-awareness campaigns.

Sexual Harassment: The law specifically prohibits sexual harassment only in the workplace; the government did not enforce the law effectively. The Labor Code that came into effect in January 2021 allows workers to terminate a labor contract immediately without prior notice if the worker is sexually harassed in the workplace. The new Labor Code also requires employers to include sexual harassment in their "labor regulations." Perpetrators of sexual harassment outside of the workplace may be fined. A decree provides for administrative penalties for sexual harassment in public.

In serious cases survivors may sue offenders under a law that deals with "humiliating other persons" and specifies punishments for conviction that include a warning, noncustodial reform for up to two years, or a prison term ranging from three months to two years.

Reproductive Rights: Coercive population policies restricted reproductive rights. The constitution stipulates that society, families, and all citizens implement "the population and family planning program." By law couples or individuals are

limited to giving birth to one or two children, with exceptions based on government decree. Regulatory penalties apply to CPV members and public-sector officials.

The CPV, certain ministries, and some localities issued their own regulations, applicable only to party members and government officials, regarding family size. A politburo decree subjects party members to reprimand if they have three children, removes them from a ranking position if they have four, and expels them from the CPV if they have five. Violating the decree also decreases the likelihood of promotion and may lead to job termination. The CPV did not enforce these provisions consistently.

Access to sexual and reproductive health services was provided to all persons, including survivors of sexual violence, and included emergency contraception as part of the clinical management of rape.

According to the United Nations Population Fund (UNFPA), although the country made substantial progress in improving the sexual and reproductive health status of the population, disparities existed. The maternal mortality rate declined from 233 per 100,000 live births in the 1990s to 46 per 100,000 live births in 2019, but the rate was two to three times higher among ethnic minorities. UNFPA assessed that the higher rate of maternal deaths among ethnic minority women was due to poor quality health-care access for both family planning and maternal health services, geographic isolation, limited education on reproductive health, and socioeconomic factors that limit the utilization of sexual and reproductive health services in ethnic minority localities.

Young persons were particularly vulnerable, with unmet need for modern contraceptives at 29.6 percent, and the adolescent birth rate at 11 per 1,000. According to UNFPA, they lacked adequate and comprehensive information and services about contraception.

Discrimination: The law provides for gender equality, but women continued to face societal discrimination. Despite the large body of law and regulation devoted to protecting women's rights in marriage and the workplace as well as provisions that call for equitable treatment, women did not always receive equal treatment in

employment (see section 7.d.), education, or housing, particularly in rural areas.

Although the law provides for equal inheritance rights for men and women, a son was more likely to inherit property than a daughter, unless otherwise specified by a legal document such as a will, according to observers.

Gender-biased Sex Selection: According to 2019 data (the latest available) from the Ministry of Health, the average male to female sex ratio at birth was 111.5 boys to 100 girls, far greater than the natural norm of 104-106 boys to 100 girls. To address the topic of gender-biased sex selection, the government prohibits gender identification prior to birth and prohibits gender-based violence and discrimination. Abuses of these provisions were subject to fines or imprisonment. At the local or provincial level, some authorities awarded cash incentives for giving birth to girls.

Systemic Racial or Ethnic Violence and Discrimination

The law prohibits violence and discrimination against ethnic minorities, but societal discrimination was longstanding and persistent. The government did not enforce the law effectively.

Ethnic minority group members constituted a sizable percentage of the population in certain areas, including the northwest, the Central Highlands, and portions of the Mekong Delta. The constitution recognizes the rights of members of ethnic minorities to use their languages and protect and nurture their traditions and cultures. There were reports, however, that not all members of ethnic minorities were able to engage in decisions affecting their lands, cultures, and traditions.

International human rights organizations and refugees continued to allege that authorities monitored, harassed, and intimidated members of certain ethnic minority groups, particularly ethnoreligious minorities in the Central and Northwest Highlands, including Christian H'mong.

Authorities used national security laws to impose lengthy prison sentences on members of ethnic minorities for their connections to overseas organizations the government claimed espoused separatist aims.

According to community organizers, on February 4, police in Soc Trang

summoned Duong Khai, a member of the Khmer Krom ethnic group, and interrogated and abused him for two days. This was done after Khai distributed a United Nations publication on ethnic minority rights and participated in several online classes on domestic and international law on ethnic minority rights hosted by the Khmer Krom Foundation, an international NGO.

Although the government previously allocated land to ethnic minorities in the Central Highlands, land expropriation in these areas was common. Preferential government treatment for domestic and foreign companies that invested in highland areas populated predominantly by ethnic minorities as well as government-supported infrastructure and agricultural development programs in those areas tended to benefit nonindigenous residents.

Children

Birth Registration: By law the government considers anyone born to a citizen parent to be a citizen. Persons born to noncitizen parents may also acquire citizenship in certain circumstances.

Children born to stateless parents or to a stateless mother and unknown father may acquire citizenship only if the parents or mother are permanent residents, making the process difficult in most cases.

The law requires a birth certificate to access public services, such as education and health care. Nonetheless, some parents, especially from ethnic minorities, chose not to register their children. Local authorities, moreover, prevented some parents from registering children to discourage internal migration, according to observers.

Education: By law education is free, compulsory, and universal through age 14, but school fees were common. Under a government subsidy program, ethnic-minority students were exempt from paying school fees. Authorities did not always enforce required attendance laws or enforce them equally for boys and girls, especially in rural areas, where government and family budgets for education were limited and children's labor in agriculture was valuable.

A gender gap in education remained. For example, there were substantial differences in the education profile of men and women at the postsecondary level,

with men predominating, notably in applied technology programs.

The government sometimes denied education to children from families not registered in their locality, especially with H'mong communities in the Central Highlands, and on the children of some political and religious activists.

Child Abuse: The government did not effectively enforce existing laws on child abuse, and physical and emotional abuse were common.

Observers concurred that violence against children occurred in many settings including schools and homes and was usually inflicted by someone known to the child. The most common types of school violence were bullying and corporal punishment by teachers. The number of reported cases of child abuse, especially child sexual abuse, was increasing. The National Hotline for Child Protection reported large increases (150 percent) in calls involving violence and abuse against children between May and August compared with the first three months of the year.

UNICEF stated in 2019 there were no effective interdisciplinary child- and gender-sensitive procedures or processes for handling child-abuse reports and that the responsibilities of government agencies were unclear. The child protection workforce, from social workers to relevant professionals such as police, judges, prosecutors, teachers, and medical experts, was poorly trained, uninformed, and generally insufficient to address the problem, especially at local levels.

Child, Early, and Forced Marriage: The legal minimum age of marriage is 18 for girls and 20 for boys, and the law criminalizes organizing or entering an underage marriage.

Sexual Exploitation of Children: The law criminalizes the sale, deprivation of liberty, and all acts related to the commercial sexual exploitation of children younger than 16. The commercial sexual exploitation of children ages 16 and 17 is not fully criminalized. The law also prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development.

Punishment for sexual exploitation crimes ranges from three years' to life

imprisonment and may include significant fines. The law specifies prison sentences for conviction for acts related to the exploitation of children in commercial sex, including harboring commercial sex or commercial sexual exploitation of minors (12 to 20 years' imprisonment), brokering commercial sex (seven to 15 years'), and paying for sex with minors (three to 15 years'). The production, distribution, dissemination, or sale of child pornography is illegal, and a conviction carries a sentence of three to 10 years' imprisonment; the government did not effectively enforce the law. The country is a destination for child sex tourism.

The minimum age for consensual sex is 18. Conviction for statutory rape may result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18 vary from five to 10 years in prison, depending upon the circumstances. The penalty for rape of a child between the ages of 13 and 16 is seven to 15 years' imprisonment. If the survivor becomes pregnant, the rape is incestuous, or the offender is in a guardianship position to the survivor, the penalty increases to 12 to 20 years' imprisonment. The law considers all cases of sexual intercourse with children younger than 13 to be child rape, with sentences ranging from 12 years' imprisonment to death. The government enforced the law and convicted child rapists received harsh sentences.

Antisemitism

There were small communities of Jewish foreigners in Hanoi and Ho Chi Minh City. There were no reports of antisemitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuse Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No law criminalizes consensual same-sex sexual conduct between adults.

Violence against LGBTQI+ Persons: There were no reports of the government inciting, perpetrating, condoning, or tolerating violence against LGBTQI+ persons.

Discrimination: The law does not prohibit discrimination against LGBTQI+ persons in housing, employment, nationality laws, or access to most government services. According to LGBTQI+ activists and NGOs, inaccurate information regarding sexual orientation and gender identity remained pervasive and there was widespread social stigma and discrimination associated with being LGBTQI+, including in schools where LGBTQI+ students often experienced bullying.

Availability of Legal Gender Recognition: The civil code gives individuals who have undergone gender-affirming surgery the right to register their new status, although regulations to implement this were pending as of December.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: The belief that same-sex attraction is a diagnosable and curable mental health condition was common, and some lesbians reported “corrective” rape and forced marriages. In August the Ministry of Health issued an official dispatch to the medical system (provincial health departments and medical institutions nationwide) instructing that LGBTQI+ identities are not a disease to be cured, prohibiting involuntary treatments, stating that mental health services could only be provided by experts on sexual orientation and gender identity, and stipulating the ministry’s policy opposing “conversion therapy.” The ministry also stated that education should be strengthened so that all medical providers have correct knowledge concerning LGBTQI+ persons, and that they must be treated equally in medical environments. According to LGBTQI+ activists and NGOs, medically unnecessary “gender normalization” surgeries were performed on intersex children.

Restrictions on Freedom of Expression, Association, or Peaceful Assembly: The country’s broad limits on freedom of expression, association, or peaceful assembly also applied to LGBTQI+ groups and topics, although there were no reports of them being targeted like other advocacy groups.

Persons with Disabilities

Although the law protects the rights of persons with disabilities to access

education, employment, health services, information, communications, buildings, transport, the judicial system, and other state services, most persons with disabilities were not able to access education, health services, public buildings, and transportation on an equal basis with others. For example while the law requires new construction or major renovations of government and large public buildings to include access for persons with disabilities, enforcement was sporadic, particularly outside major cities.

Persons with disabilities faced widespread social stigmatization.

Access to education for children with disabilities, particularly deaf children and those with intellectual disabilities, remained limited. More than 90 percent of elementary and secondary schools did not have appropriate infrastructure for persons with disabilities. The education system also lacked sufficient trained teaching professionals for persons with disabilities. According to a 2018 study, the literacy rate of persons with disabilities 16 years and older was 76 percent, compared to a 95 percent literacy rate for persons without disabilities of the same age group. According to data from UNICEF and Vietnam's *National Survey on People with Disabilities 2016-2017*, the school attendance rate for children with disabilities was 82 percent at the primary level, 68 percent at the lower secondary level, and 34 percent at the upper secondary level.

There is no legal restriction on the right of persons with disabilities to vote, but many polling stations were inaccessible to persons with physical disabilities.

NGOs reported they continued to face challenges applying for funding and offering training for disability-related programs from certain provincial governments, which hampered access for international experts to conduct training.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers who are citizens to form and join unions under the Vietnam General Confederation of Labor (VGCL), a CPV-run organization. The VGCL, however, answered directly to the VFF, which did not protect trade unions from government interference in or control over union

activity. The labor code allows workers to form or join an independent employee representative organization of their choosing (workers' representative organization) that does not have to be affiliated with the VGCL. The labor code defines "employment relationship" such that a legally valid relationship exists when two parties agree to a document that includes a description of the job, salary, management, and supervision conditions. This may include a contract with an "independent contractor," "service provider," "freelancer," or other informal agreement with employment-like terms. The labor code also limits the repeated use of limited-term contracts. The law extends protection to part-time and domestic workers.

The law limits freedom of association by not allowing trade unions full autonomy in administering their affairs. All unions must follow the organizational and operational guidelines prescribed by the CPV and law. The law confers on the VGCL ownership of all trade-union property and gives it the right to represent lower-level unions. By law trade union leaders and officials are appointed rather than elected by union members. Implementing decrees needed to operationalize the labor code's section on workers' representative organizations were not yet in force as of November.

The law requires that if a workplace trade union does not exist, the next level "trade union" organization must perform the tasks of a grassroots union, even where workers have not so requested or have voluntarily elected not to organize. The labor code includes provisions for collective bargaining on any matter of concern to both parties to regulate working conditions and relationships between the parties and to develop progressive, harmonious, and stable labor relations. The law requires bargaining to commence within seven days of a party's request and provides 90 days to reach an agreement.

Collective bargaining is allowed at the enterprise, multi-enterprise, and sectoral levels but has additional requirements, such as establishment of a collective bargaining council by the people's committee of the province where the headquarters of the enterprise is located. Under the labor code, parties involved in multi-enterprise collective bargaining may request such a collective bargaining council, which comprises representatives nominated by each party as well as representatives from the provincial people's committee; the council disbands after

a collective bargaining agreement is signed.

The law prohibits strikes by workers in businesses the government considers essential to the national economy, defense, or public order. "Essential services" include electricity production; post and telecommunications; maritime and air transportation; navigation; public works; and oil and gas production. The law also grants the chairmen of provincial people's committees the right to suspend a strike considered detrimental to the national economy or public safety. Workers must also provide five days' prior notification to the employer and the provincial and district level people's committee labor agents before a strike. Strikes that do not adhere to the process outlined by law are illegal.

The law states the executive committee of a trade union may issue a decision to strike only when at least 50 percent of workers support it. Workers must request and exhaust an extensive and cumbersome process of mediation and arbitration before a lawful strike may occur. Unions or workers' representatives may either appeal decisions of provincial arbitration councils to provincial people's courts or strike. The law stipulates strikers may not be paid wages while they are not at work. The law prohibits retribution against legal strikers. By law individuals participating in strikes declared illegal by a people's court and found to have caused damage to their employer are liable for damages, although this has never been enforced. The law limits legal strikes to cases that arise from a collective labor dispute, and cases in which collective bargaining is not undertaken within the legal timeframes, or when a labor arbitration board has not been established.

The law includes provisions that prohibit antiunion discrimination and imposes administrative sanctions and fines for violations. The law does not distinguish between workers and managers, however, and fails to prohibit employers' agents, such as managers, from participating as union leadership or interfering in union activity. The International Labor Organization (ILO)-International Finance Corporation (IFC) Better Work project, which monitors workers' rights and working conditions in some apparel and footwear factories, reported that management participation in trade union activities was a significant concern.

The government did not effectively enforce applicable laws providing for freedom of association and collective bargaining. Penalties were not commensurate with

similar laws.

There were strikes, particularly during the period around the Lunar New Year celebration. Strikes did not follow the authorized conciliation and arbitration process and thus authorities considered them illegal "wildcat" strikes. The government, however, took no action against the strikers.

There were no registered domestic NGOs involved in labor organizing. Local, unregistered labor NGOs, however, supported efforts to raise awareness of worker rights and occupational safety and health (OSH) matters and to support Vietnamese and foreign migrant workers. Multiple international labor NGOs collaborated with the VGCL to train VGCL-affiliated union representatives in labor organizing, collective bargaining, and other trade union matters.

b. Prohibition of Forced or Compulsory Labor

The constitution and law prohibit forced or compulsory labor. The labor code's definition of forced labor, however, does not explicitly include debt bondage. The law criminalizes all forms of labor trafficking. The government does not effectively enforce the law. The law does not provide any penalty for violating provisions prohibiting forced labor. NGOs continued to report the occurrence of forced labor of men, women, and children (see also section 7.c.).

Labor recruitment firms, most affiliated with state-owned enterprises, and unlicensed brokers reportedly charged workers seeking overseas employment higher fees than the law allows. In 2021 the Ministry of Labor inspected 16 enterprises sending workers abroad and fined 12 for administrative violations. Despite these actions and ministry awareness-raising workshops, problems continued and workers seeking overseas employment incurred high debts and were thus more vulnerable to forced labor, including debt bondage, in the receiving countries. In addition there continued to be reports indicating forced labor in the informal apparel industry.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law does not prohibit all the worst forms of child labor. Deficiencies include the lack of a law proscribing slavery. The new labor code states a worker older than 14 and younger than 18 shall not perform work that might damage the physical or intellectual development and dignity of the minor, such as lifting heavy objects or dealing with alcohol or dangerous chemicals or gases. A minor worker aged 13 to 14 may perform light jobs included in a list from the Ministry of Labor, War Invalids, and Social Affairs. Children younger than age 13 may work in art and sports in certain circumstances for no more than 20 hours per week. Minor workers must have the permission of their parents.

Illegal child labor was reported in labor-intensive sectors, such as construction, garments and textiles, bricks, fish, furniture, footwear, and leather goods, agriculture, and some other manufacturing. Local media also reported children working as beggars in gangs whose leaders abused the children and took most of their income. Some children started work as young as age five, and nearly 49 percent of child workers did not attend school.

In the informal garment sector, children as young as age six reportedly worked in conditions of forced labor. The most recently available information from government raids, NGOs, and media reports indicated this was most common in small, privately owned informal garment factories and workshops.

The Ministry of Labor is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal violations, prosecute employers who violate child labor laws.

The government did not effectively enforce the law, and penalties were not commensurate with those for analogous serious crimes. Penalties were sometimes applied against violators.

Also see the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination based on gender, race, disability, color, social class, marital status, belief, religion, HIV status, and membership in a trade union or participation in trade union activities. The law does not prohibit discrimination based on political opinion, age, language, national origin, sexual orientation, or gender identity. Companies with a workforce composed of at least 51 percent employees with disabilities may qualify for special government-subsidized loans. No laws prohibit employers from asking about family or marital status during job interviews.

The labor code includes a definition of sexual harassment and assigns employer responsibility for its prevention. Employers must implement regulations against sexual harassment in the workplace and include it as possible grounds for dismissal.

Discriminatory hiring practices existed, including discrimination related to gender, age, disability, and marital status (see section 6). Under the labor code, the retirement age for most employees is 60 years and three months for men, and 55 years and four months for women; the labor code improved but did not eliminate this disparity, as it would gradually increase the retirement ages to 62 for men and 60 for women. The labor code includes a chapter on gender equality, which provides paternity leave for male workers and job security for women workers who take maternity leave.

Enterprises led by women had limited access to credit and international markets. Female workers earned, per year, an average of one month's income less than male workers. Many women older than 35 found it difficult to find a job, and there were reports of women, such as factory workers in garments and electronics, receiving termination letters at the age of 35. Legal restrictions exist against women in certain occupations and tasks considered to be harmful for their reproductive health, including jobs deemed "hazardous" in industries such as mining, construction, and transportation.

Social barriers and the limited accessibility of many workplaces remained problems in the employment of persons with disabilities.

Penalties for discrimination were less than those under laws related to civil rights. The government did not effectively enforce the laws. Penalties were rarely applied against violators.

e. Acceptable Conditions of Work

Wage and Hour Laws: The minimum wage varies by region. In all regions the minimum wage exceeds the World Bank official poverty income level.

The law provides for a 48-hour regular workweek, with overtime pay for additional hours. The labor code limits overtime to 40 hours per month, and 200 hours per year, but provides for an exception in special cases, with a maximum of 300 overtime hours annually, subject to advance approval by the government after consultations with the VGCL and employer representatives.

Credible reports, including the ILO-IFC *Better Work 2020 Annual Report*, indicated many apparel and footwear factories exceeded legal overtime thresholds. The ILO-IFC report stated that, while a majority of factories in the program complied with the daily limit of four hours overtime, 76 percent still failed to enforce monthly limits (40 hours).

Occupational Safety and Health: The law provides for OSH standards, describes procedures for persons who are victims of labor accidents and occupational diseases, and delineates the responsibilities of organizations and individuals regarding OSH. The law provides for the right of workers to remove themselves from situations that endanger health or safety without jeopardy to their employment. Migrant workers, including internal economic migrants, and workers without contracts were among the most vulnerable workers, and employers routinely subjected them to hazardous working conditions.

On-the-job injuries due to poor OSH practices and conditions and inadequate employee training remained a problem. In 2021 the government reported 6,504 occupational accidents and 786 fatalities, fewer than in 2020. These figures likely understated the problem, due to the lack of inspection. Migrant workers and workers without contracts remained most vulnerable to occupational injuries and fatalities.

Wage, Hour, and OSH Enforcement: The Ministry of Labor, War Invalids, and Social Affairs is the principal labor authority. The Labor Inspections Department is responsible for workplace inspections to confirm compliance with labor laws, including OSH standards.

Inspectors have the authority to make unannounced inspections and initiate sanctions. Inspectors may use sanctions, fines, withdrawal of operating licenses or registrations, closures of enterprises, and mandatory training in response to labor law violations. Inspectors may take immediate measures where they have reason to believe there is imminent danger to the health or safety of workers, and can temporarily suspend operations, although such measures were rarely used.

The government did not effectively enforce labor laws, particularly in the informal economy. The number of inspectors was not sufficient to enforce compliance. Labor inspectors accounted for fewer than one third of the labor inspectorate's staff, and of these, only a small number were OSH specialists. Most worksites went uninspected for years at a time. Penalties for wage, hour and occupational safety and health violations were commensurate with those for similar crimes, such as fraud, but penalties were rarely applied against violators.

Informal Sector: The informal sector includes small household businesses; individual vendors in traditional markets, street side, or online; and gig workers for transportation and delivery. Fifty-five percent of the country's workforce worked in the informal economy.

Members of ethnic minority groups often worked in the informal economy and, according to the ILO, informal workers typically had low and irregular incomes, endured long working hours, and lacked protection by labor market institutions. Additionally, workers in the informal sector were only eligible to pay into a voluntary social insurance fund covering only retirement and survivors' allowances. Workers in the formal sector and their employers contributed to a system that covers sickness, maternity, labor accidents, and occupational disease as well as retirement and survivors' allowances.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

70-CR-22-14898

FIRST JUDICIAL DISTRICT

Filed in District Court
State of Minnesota
1/19/2024 10:32 AM

File No. 70-CR-22-14898

State of Minnesota,

Plaintiff,

vs.

ORDER

Michael Tien Huynh,

Defendant.

The above-entitled matter came before the Honorable Caroline H. Lennon,
Judge of District Court, on October 6, 2023 & November 17, 2023, at the Scott County

Government Center, Shakopee, Minnesota.

Steven J. Kelm, Assistant Scott County Attorney, appeared as counsel for and on behalf
of the State of Minnesota.

Eric B. C. Anunobi, Attorney at Law, appeared as counsel for and on behalf of the
Defendant.

Based upon the proceedings, this Court makes the following:

FINDINGS OF FACT

1. At the hearing on October 6, 2023, the State called Detective Michael McLain ("Det. McLain") to testify about his interview with the Defendant on March 30, 2022.
 - a. On March 21, 2022, Det. McLain of the Shakopee Police Department was notified about an alleged sexual assault occurring between Defendant and a victim who resided at the same residence as Defendant.
 - b. On March 29, 2022, Defendant was involved in a vehicular crash and taken by

ADDENDUM 238

emergency services to St. Francis Hospital and eventually Hennepin County

Medical Center ("HCMC") where he was unconscious for a short period of time.

70-CR-22-14898
70-CR-22-14898

Filed in District Court
State of Minnesota
1/19/2024 10:32 AM

- c. Defendant was subjected to a hospital 72-hour hold for concerns about self-harm and suicidal behavior.
- d. On March 30, 2022, Det. McLain appeared at HCMC, having confirmed Defendant was conscious and able to communicate.
- e. Det. McLain testified that on the day of the interview, Defendant was awake when he entered the hospital room. There was another person in the room watching Defendant due to concerns of self-harm. That individual was not law enforcement nor was he there at Det. McLain's behest.
- f. The Defendant showed a passable understanding of the English language; however, a Vietnamese interpreter via phone was used to facilitate the interview.
- g. Det. McLain testified that he began his interview by introducing himself to the Defendant. He further stated that he understood Defendant was under a medical hold and that Defendant could "just tell me to leave and I would go." *Transcript 10/06/2023 at 11.*
- h. Det. McLain was dressed in plain clothes wearing his badge at his waist. He was not wearing a bodycam but recorded the interview on a handheld recording device.
- i. Det. McLain testified that he was carrying his sidearm at his waist during the interview but was not wearing a full duty belt or similar peace officer gear. Det. McLain never took his sidearm out of its holster during the interview.
- j. Det. McLain did not read a Miranda Warning to Defendant because he "wasn't in

custody” and was not there on March 30, 2022, to take Defendant into custody.

Id. at 12-3.

70-CR-22-14898

70-CR-22-14898

Filed in District Court
State of Minnesota
1/19/2024 10:32 AM

- k. Det. McLain testified that hospital staff entered in and out of the room during the interview, at one point bringing food in for the Defendant.
 - l. Det. McLain testified that he never threatened the Defendant with arrest and reminded the Defendant that he did not have to speak with him three times during the interview.
 - m. Det. McLain stated that he observed Defendant having no difficulty comprehending his questions and responding appropriately to the questioning.
 - n. The entire interview lasted around 40-45 minutes.
2. At the hearing on October 6, 2023, the Defense called Dr. Randy K. Ward (“Ward”) to testify.
 - a. Ward testified that Defendant was diagnosed with a mood disorder unspecified. Ward indicated that paperwork for the civil commitment process had been commenced.
 - b. Upon cross-examination, Ward also testified that Defendant was not experiencing psychosis when he spoke with Defendant, and that he, at times, had refused to speak with the healthcare team stating, “He [Defendant] was dismissive of our team in a sense. . .” *Id.* at 61.
3. At the hearing on October 6, 2023, the Defense called Dr. Ian J. Heath (“Heath”) to testify.
 - a. Heath testified that Defendant exhibited symptoms consistent with a diagnosis of major depression with psychotic features.

- b. Upon cross-examination, Heath further testified that the Defendant exhibited a reduction in normal thought processes, consistent with depressive episodes, but the Defendant could understand and comprehend what was happening around him.

70-CR-22-14898
70-CR-22-14898

Filed in District Court
State of Minnesota
1/19/2024 10:32 AM

4. At the hearing on November 17, 2023, the Defendant testified on his own behalf.
- a. Defendant testified that due to his upbringing in a totalitarian country and witnessing atrocities committed by police officers in the same, he developed a fear and apprehension for police officers.
 - b. Defendant testified that the highest education he received was approximately at a ninth-grade level.
 - c. Defendant testified that he had no interactions with police officers in the United States until the interview with Det. McLain.
 - d. Defendant testified that he "...felt afraid and worried" when Det. McLain entered the room. *Transcript 11/17/2023* at 28.
 - e. Defendant stated that he did not understand his constitutional rights and that he did not voluntarily waive them.
 - f. Upon cross-examination, Defendant could not recall any details about the person sitting in the hospital room watching over him.
 - g. Upon cross-examination, Defendant stated that Det. McLain did not make any threats against his person nor promised Defendant anything.
 - h. The Defendant claimed he was dizzy and tired during the interview with Det. McLain.

CONCLUSIONS OF LAW

Custodial Interrogation

70-CR-22-14898

70-CR-22-14898

Filed in District Court
State of Minnesota
1/19/2024 10:32 AM

1. The Fifth Amendment to the United States Constitution requires police officers to provide a suspect with the warnings from *Miranda v. Arizona*, 384 U.S. 436 (1966), before conducting a custodial interrogation. See *Dickerson v. United States*, 530 U.S. 428, 434–35 (2000). A “custodial interrogation” occurs when “questioning [is] initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his [or her] freedom of action in any significant way.” *Miranda*, 384 U.S. at 444. “An interrogation is custodial if, based on all the surrounding circumstances, a reasonable person under the circumstances would believe that he or she was in police custody of the degree associated with formal arrest.” *State v. Vue*, 797 N.W.2d 5, 10–11 (Minn. 2011). In considering whether an interrogation is custodial, courts consider the totality of the circumstances. *Id.* at 11.
2. Defendant argues that Det. McLain’s interview at HCMC on March 30, 2022, amounts to a custodial interrogation and thus any statements elicited in said interview are inadmissible in court. This argument fails to be persuasive when considering the totality of the circumstances.

First, Defendant claims that he was deprived of his freedom in a significant way. He argues that being immobilized in a hospital bed with tubes and machines hooked up to him and an individual who was watching over him created a hostile environment that only got worse when Det. McLain appeared. Defendant alludes that his situation is similar to the scenario found in *State v. Sickles*, 275 N.W.2d 809 (Minn. 1979). In *Sickles*, the defendant was taken to a detox center at Naeve Hospital in Albert Lea, Minnesota, where

he was read his *Miranda* rights and confessed to the allegations before him. The court found that the detox center environment and the police apprehension of the defendant was enough for a custodial environment to exist and require a *Miranda* warning. This is dissimilar to the situation in the present case. Defendant was taken to the hospital as a result of injuries sustained in a car accident and suicidal ideation, not brought there by police. Defendant was in a non-hostile environment, a hospital room, (*See State v. Smith*, No. A05-1651, 2-3 (Minn. Ct. App. 2006)), with individuals watching over him because of a risk of suicide not to arrest him. Det. McLain appeared without uniform, only a badge and gun (which stayed holstered through the entire interview) physically denoting his police affiliation. Det. McLain spoke in sympathetic and measured tones, offering Defendant ample opportunity to deny speaking with him. Individuals came into the hospital room during the interview to deliver the Defendant food and the door stayed open for part of the interview as well. Defendant did not present any evidence of coercion or threat by Det. McLain that would create a custodial interrogation and require a *Miranda* warning or render Defendant's statements inadmissible. Moreover, we know from testimony of the doctors that Defendant employed the strategy of not talking at all to medical staff when he chose not to.

The Court finds, under the totality of the circumstances, Defendant's argument that he was subjected to a custodial interrogation and deprived of his freedom in a significant way, unpersuasive.

Voluntariness

1. When the State uses coercive tactics such that a defendant's "will is overborne" and is not "the product of a rational intellect and free will," an incriminating statement is inadmissible