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National Assembly of Viet Nam

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Socialist Republic of Viet Nam

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INTERNATIONAL**



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Dear members of the Vietnamese National Assembly,

## **OPEN LETTER: VIET NAM MUST RESPECT HUMAN RIGHTS IN THE CYBERSECURITY LAW**

Amnesty International would like to express our grave concerns regarding the proposed Cybersecurity Law, and to urge the Vietnamese National Assembly to take immediate and effective steps to protect against the harms to human rights it may cause.

Currently, more than 60 million people in Viet Nam use the internet which is the main platform where people express ideas, opinions and excess information. The internet is central to Viet Nam's economic and social development. We are therefore deeply concerned that if implemented in its current form, this law would lead to restrictions and violations of the rights to freedom of expression, privacy, and freedom of information as well as other human rights. As a state party to the ICCPR, Viet Nam is legally bound to guarantee the rights to freedom of expression, both online and offline, and to privacy. International human rights law allows for the exercise of the right to freedom of expression to be subject to some restrictions. However, any such restrictions are only permissible if they are, first, provided by law; second, for the purpose of protecting national security or public safety, public order, public health or morals or the rights and reputations of others; and, third, demonstrably necessary for – and proportionate to – that purpose. Any restrictions imposed which do not meet all elements of this “three-part test” constitute a violation of these rights.

Amnesty international is concerned that the Cybersecurity Law does not comply with the international law and the 2013 Constitution. In particular we are concerned with certain articles that would be used to restrict and criminalize protected expression online under the 2015 Penal Code. For example, Article 8 lists prohibited conduct and activities such as “distorting history, denying revolutionary achievements, destroying the national solidarity block,” and “providing false information, causing confusion amongst the Citizens, causing harm to socioeconomic activities”. This provision is vaguely worded and grants the authorities excessive and arbitrary power to decide what constitutes the prohibited conduct. Article 16 provides an overly-broad definition of what constitutes propaganda against the state, including “Insulting the [Vietnamese] people, the national flag, national emblem, national anthem, great men, leaders, famous people or national heroes”. It is not sufficiently precise as to enable an individual to regulate his or her conduct”.

We are also deeply concerned about the draft Decree for implementation of the Cybersecurity Law which would impose further restrictions to online freedoms and could have a chilling impact on human rights online in Viet Nam. We are especially concerned about draft Article 58(5), which would compel all internet companies operating in Viet Nam to save and hand over users' personal data to the Cybersecurity Department upon request. Companies are likely to be liable for substantial penalties if they fail to do so and there is no transparency about how the data will be used by the authorities.

Ahead of the last meeting of the National Assembly in 2018, we are urging you to take immediate and effective action to ensure that the new Cybersecurity Law and its implementation decree respect and protect the rights of all people in Viet Nam to do this, we urge all members of the Viet Nam national Assembly to:

- Immediately suspend the implementation of the Cybersecurity Law pending a full review to bring it in line with international human right law and standards;
- Undertake a thorough review of the Cybersecurity Law and the implementing Decree to ensure they comply with international human rights law, and in particular:
  - Repeal or amend Articles 8 and 16 so that they are in line with the international human rights law and standards governing freedom of expression;
  - Include specific safeguards against arbitrary and discriminatory application of the law
  - Remove all provisions which would compel internet or tech companies to disclose personal data without adequate safeguards to prevent abuse, including, but not limited to, a requirement for an independently authorized warrant based on individualized reasonable suspicion of criminal wrongdoing.
- Undertake a review of all laws including Articles 109, 117 and 331 of the 2015 Penal Code which restrict the right to freedom of expression to bring them in line with international human rights law and standards.
- Call for the immediate and unconditional release of all prisoners of conscience in Viet Nam.

We would welcome the opportunity provide more information on these recommendations and other measures to improve respect for the rights to freedom of expression and privacy in Viet Nam. I remain at your disposal should you have any questions or require further information.

Sincerely

Nicholas Bequelin

Regional Director, South East Asia and the Pacific

Amnesty International