



VIETNAM

# BASELINE ASSESSMENT OF R2P IMPLEMENTATION



Asia-Pacific Centre for the  
Responsibility to Protect

 [r2pasiapacific.org](http://r2pasiapacific.org)

 [r2pinfo@uq.edu.au](mailto:r2pinfo@uq.edu.au)

The following Baseline Assessment Annex provides an overview of Vietnam's efforts in implementing R2P as of 2019. For a full description of the methodology used in this study, see Part II of 'Implementing the Responsibility to Protect in the Asia Pacific: An Assessment of Progress and Challenges', available [here](#).

# VIETNAM

Vietnam confronts several challenges when it comes to implementation of R2P. They perform strongest in relation to the UN's peer review process and retaining civilian control of the armed forces. In terms of international law, Vietnam has ratified eight of the twelve key legal instruments most relevant to R2P and the constitution ensures – in principle – equal access to justice.

Vietnam is not a state signatory to the Rome Statute, though in 2012 Vietnam signed an agreement with the European Union that recognized the importance of the International Criminal Court and included a commitment to consider joining the Court (although it has yet to do so). Additionally, the government has criminalized atrocity crimes in domestic law. Like most other states in the region, Vietnam is also not a party to the Refugee Convention. Whilst there remains work to be done, the government has also enacted numerous domestic laws to ensure greater gender equality and the protection of vulnerable groups from discrimination. Its education system has not always promoted diversity and inclusion, but Vietnam has been making efforts to improve the sector through a strategic partnership with UNESCO.

Internationally, Vietnam has made a modest contribution to debates and practices about atrocity prevention and civilian protection. It has given two statements at the Annual Informal Interactive Dialogue on R2P and, in 2012, the Diplomatic Academy of Vietnam co-hosted a national workshop on 'The Responsibility to Protect and the Role of the United Nations and Regional Organisations.' Vietnam served on the UN Human Rights Council between 2014 and 2016 and during that time it supported several resolutions that are cognate with R2P and human rights objectives.

Whilst Vietnam has abstained or not voted on the key R2P resolutions in the UN General Assembly, Vietnam voted in favour of Resolution 1894 (POC) S/RES/1894(2009) on the protection of civilians, which also reaffirmed the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In regards to peacekeeping, Vietnam has recently become a more active international contributor, opening a national Peacekeeping Centre in 2014 and contributing a small number of offices to missions in South Sudan (UNMISS) and the Central African Republic (MINSCA), both of which have a protection of civilians mandate.

# VIETNAM

Assessment	Indicator
<b>Strong</b>	Protection of populations from atrocity crimes
	Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council
	Ensure a legitimate, effective and civilian controlled security sector
<b>Fair</b>	Reduction of atrocity crime risks
	Dealing with past atrocities
	Sign, ratify and implement relevant instruments of international law
	Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations
	Ensure equal access to justice
	Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity
	Take measures to counter and prevent violent extremism
	Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence
	Ensure the education system reflects the ethnic, national and cultural diversity of society, and sets examples of inclusiveness
	Prevent nationals committing atrocity crimes overseas
	Participate in international, regional and national discussions on the further advancement of R2P
	Contribute to United Nations peacekeeping operations (especially those with a protection of civilians mandate)
<b>Weak</b>	Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination
	Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law
	Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage States to fulfil their responsibility to protect
	Strengthen the role and capacity of regional organisations
	Support the early warning and capacity building efforts of the UN Office on Genocide Prevention and R2P
	Support the strengthening of the UN's capacity for atrocity prevention, including through the UN Human Rights system
	Support preventive actions on atrocity crimes
	Develop the capacities needed to support civilian protection, including through the training of military and civilian personnel for peacekeeping
<b>Very Weak</b>	Appoint national R2P Focal Point
	Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships
	Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect

	Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court
	Establish and maintain National Human Rights Institutions in accordance with the Paris Principles
	Conduct a national assessment of risk and resilience
	Cultivate and protect an active, diverse and robust civil society
	Encourage and assist States to fulfil their R2P in situations of emerging and ongoing crisis, such as good offices and preventive diplomacy
	Strengthen regional and international networks for atrocity crime prevention
	Support the development and work of regional human rights and other preventive capacities
	Support atrocity prevention through development and assistance partnerships
	Support the Kigali Principles
	Support UN Security Council veto restraint on issues relating to atrocity prevention

### Vietnam Score: 28.5

Initially a skeptical 'fence-sitter', since 2008 Vietnam has demonstrated support in principle for R2P, especially Pillars I and II. However, the state confronts significant challenges in terms of protecting human rights, strengthening national resilience to atrocity crimes, and translating its principle atrocity prevention commitments into tangible policy positions.

Thematic Area	Indicator	Assessment	Notes
Basic Compliance	Protection of populations from atrocity crimes.	Strong	The government of Vietnam has been mostly effective in protecting its population from the atrocity crimes of genocide, war crimes, crimes against humanity and ethnic cleansing.
	Reduction of atrocity crime risks.	Fair	The lack of an independent civil society sector and the repression of many human rights by the Communist Party of Vietnam means there are significant risks of atrocity crimes occurring within the country. The restrictions placed on certain members of society and ethnic minorities by the government could potentially lead to crimes against humanity in the future. <sup>1</sup>
	Dealing with past atrocities.	Fair	While evidence of atrocity crimes committed by US forces in the Vietnam War are common knowledge, less is known about atrocities committed by the North Vietnamese Army and Vietcong guerrillas. Massacres of civilians and prisoners of war, particularly in Hue during the Tet Offensive, have long been covered up for the political benefit of Hanoi's government. <sup>2</sup>  Furthermore, there are still unresolved issues around Vietnam's invasion of Cambodia and China's short-lived invasion of Vietnam along its northern border in 1978 and 1979. For the veterans on both sides of these conflicts, these have become 'forgotten wars' in the national conscious of the countries that took part. Governments are willing to overlook past transgressions, and the lingering resentment that remains, in order to foster closer diplomatic ties. In China's case, this also includes using the conflict as a part of historical revisionism. <sup>3</sup> While focusing on a peaceful future is commendable, continued refusal to acknowledge and discuss past conflicts does nothing to mitigate the resentment that lingers unofficially between the countries.
Policy Mechanisms	Appoint a national R2P Focal Point.	Very Weak	Vietnam has no R2P Focal Point. <sup>4</sup>
	Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships.	Very Weak	The government has not incorporated atrocity prevention into conflict analysis or into their national policy framework.
	Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect.	Very Weak	There is little Vietnam has done to hold itself accountable to R2P domestically. As a socialist state with a sole legal political entity in the country, there is a lack of civil space to peacefully voice any grievances or disagreements. The lack of independent or alternative political views and spaces creates the potential for the State to act with

<sup>1</sup> E.g.: Human Rights Watch (HRW), 2017. *Cambodia: Protect Montagnards Refugees*, <https://www.hrw.org/news/2017/09/12/cambodia-protect-montagnards-refugees>.

<sup>2</sup> Dror, Olga, 2018. *Learning from the Hue Massacre*, <https://www.nytimes.com/2018/02/20/opinion/hue-massacre-vietnam-war.html>.

<sup>3</sup> Doyle, Kevin, 2014. *Vietnam's forgotten Cambodian war*, <https://www.bbc.com/news/world-asia-29106034>; Nguyen, Minh Quang, 2017. *The Bitter Legacy of the 1979 China-Vietnam War*, <https://thediplomat.com/2017/02/the-bitter-legacy-of-the-1979-china-vietnam-war/>.

<sup>4</sup> Global Centre for the Responsibility to Protect (GCR2P), 2016. *Members of the Global Network of R2P Focal Points*, [http://www.globalr2p.org/media/files/regional-breakdown\\_global-network-of-r2p-focal-points.pdf](http://www.globalr2p.org/media/files/regional-breakdown_global-network-of-r2p-focal-points.pdf).

International Human Rights Obligations	Sign, ratify and implement relevant instruments of international law.	<p>Fair</p> <p>Vietnam has ratified eight of the twelve key international human rights laws (IHRL) most relevant to R2P. The treaties ratified are:<sup>6</sup></p> <ul style="list-style-type: none"> <li>• <b><i>Convention on the Prevention and Punishment of the Crime of Genocide</i></b> (Ratification/Accession: 1981)</li> <li>• <b><i>Geneva Conventions</i></b> (Ratification/Accession: 1957)</li> <li>• <b><i>Geneva Protocol I</i></b> (Ratification/Accession: 1981)</li> <li>• <b><i>International Covenant on Civil and Political Rights [ICCPR]</i></b> (Ratification/Accession: 1982)</li> <li>• <b><i>International Covenant on Economic, Social and Cultural Rights [ICESCR]</i></b> (Ratification/Accession: 1982)</li> <li>• <b><i>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [CAT]</i></b> (Ratification/Accession: 2015)</li> <li>• <b><i>Convention on the Elimination of All Forms of Discrimination against Women [CEDAW]</i></b> (Ratification/Accession: 1982)</li> <li>• <b><i>Convention on Elimination of All Forms of Racial Discrimination [CERD]</i></b> (Ratification/Accession: 1982) and,</li> <li>• <b><i>Convention on the Rights of the Child [CRC]</i></b> (Ratification/Accession: 1990)</li> </ul> <p>The State has neither signed nor ratified:</p> <ul style="list-style-type: none"> <li>• <b><i>1951 Refugee Convention</i></b> and its <b><i>1967 Protocol</i></b></li> <li>• <b><i>Arms Trade Treaty [ATT]</i></b></li> <li>• <b><i>Rome Statute of the International Criminal Court</i></b></li> </ul> <p>Vietnam has declared various reservations regarding many of the treaties it has signed, the most significant being that whilst it originally signed the <b><i>Genocide Convention</i></b> in 1950, it currently does not consider itself bound by articles IX or XII and considers article XI to be discriminatory.<sup>7</sup></p>
--	---	---

<sup>5</sup> GlobalSecurity.org, 2018. *Vietnam – Politics*, <https://www.globalsecurity.org/military/world/vietnam/politics.htm>; Cotton, Joanne and Annie Pohlman, 2011. *The Responsibility to Protect in Viet Nam: Challenges, Opportunities and Cases for Implementation*, [https://r2pasiapacific.org/files/681/2011\\_r2p\\_in\\_vietnam\\_workingpaper.pdf](https://r2pasiapacific.org/files/681/2011_r2p_in_vietnam_workingpaper.pdf). See also further indicators below.

<sup>6</sup> United Nations Human Rights Office of the High Commissioner (UNOHCHR), n.d. *View the ratification status by country or by treaty*, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx); United Nations Treaty Collection (UNTC), 2019. 1. *Convention on the Prevention and Punishment of the Crime of Genocide*, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-1&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&clang=en); UNTC, 2019. 8. *Arms Trade Treaty*, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVI-8&chapter=26&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-8&chapter=26&clang=en); United Nations High Commissioner for Refugees (UNHCR), 2015. *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, <https://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>; International Committee of the Red Cross (ICRC), n.d. *Treaties, States Parties and Commentaries: Viet Nam*, [https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp\\_countrySelected=VN](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=VN); International Criminal Court, n.d. *The States Parties to the Rome Statute*, [https://asp.icc-cpi.int/en\\_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#V](https://asp.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#V).

<sup>7</sup> United Nation's Treaty Collection, 2019. 1. *Convention on the Prevention and Punishment of the Crime of Genocide*.

	Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court.	Very Weak	In 2012, Vietnam signed an agreement with the European Union to consider joining the ICC. However, as of 2019 Vietnam has neither joined the Court nor become a signatory to the <i>Rome Statute</i> .
	Establish and maintain National Human Rights Institutions (NHRI) in accordance with the Paris Principles.	Very Weak	Despite previous urgings from international and civil society organizations, Vietnam has yet to establish an NRHI.
	Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination.	Weak	<p>Vietnam’s human rights record is quite weak. “Basic rights, including freedom of speech, opinion, press, association, and religion, are restricted”.<sup>8</sup> A key concern has been the <i>Penal Code</i>, with various Articles (e.g. 87, 88 and 89) restricting freedom of speech and enabling discrimination against ethnic minorities.<sup>9</sup></p> <p>The constitution was amended in 2014, and since that time the National Assembly has passed several laws affecting the rights of its citizens, including a new penal code, criminal procedure code, law on custody and temporary detention, civil code, and civil procedure code. However, the National Assembly has delayed the implementation of several laws affecting the rights of citizens.<sup>10</sup></p> <p>Statelessness has been an ongoing issue in Vietnam, with the constitution guaranteeing rights only to citizens of Vietnam (Article 18). In 2016, there were an estimated 11,000 stateless ethnic Chinese whose situation dates back to the 1970s, when thousands of Cambodians fled to Vietnam to escape the Khmer Rouge and were no longer recognized as Cambodian citizens. Vietnamese women who gave up their citizenship to marry foreign men have found themselves stateless after divorcing and returning home to Vietnam. The government began to address this problem in 2009<sup>11</sup> and made further amendments to the <i>Law on Vietnamese Nationality</i> in 2014, but more work is needed.<sup>12</sup></p>
	Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council.	Strong	<p>Vietnam actively participates in the UPR process. As of early 2017, the State had a total of three overdue reports (Initial and periodic - CAT, ICCPR and CERD).</p> <p>The State presented its first UPR report in 2009 accepting 93 of the 123 recommendations. In addition to replying in a timely manner to all communications since July 2010, Vietnam has received four special procedures on minority issues, extreme poverty and human rights, the effects of foreign debt on human rights, and the</p>

<sup>8</sup> HRW, 2017. *Vietnam*, <https://www.hrw.org/asia/vietnam>.

<sup>9</sup> E.g. United Nations, Committee on the Elimination of Racial Discrimination (CERD), Reports submitted by States parties under article 9 of the Convention: Tenth to fourteenth periodic reports of States parties due in 2009, 21 September 2011, CERD/C/VNM/10-14, para. 34.

<sup>10</sup> U.S Department of State, 2016. *Vietnam 2016 Human Rights Report*, <https://www.state.gov/documents/organization/265598.pdf>.

<sup>11</sup> Central Intelligence Agency (CIA), 2018. *The World Factbook – Vietnam: Transnational Issues*, ‘Refugees and internally displaced persons’, <https://www.cia.gov/library/publications/the-world-factbook/geos/vm.html>.

<sup>12</sup> United Nations, Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of Viet Nam, 29 July 2015, CEDAW/C/VNM/CO/7-8, p. 2.

right to health.<sup>13</sup>

In 2014, at its second UPR, the State accepted 182 of 227 recommendations. A key area of work identified was to reform the criminal justice system and improve the legal and institutional framework to more effectively protect human rights.<sup>14</sup>

In 2015, the government adopted an *Action Plan* on the implementation of the UPR to increase engagement on human rights.<sup>15</sup>

Vietnam underwent its third UPR in January 2019 and received 428 recommendations. It has yet to reply with a formal response, yet it seems to support the majority of recommendations.<sup>16</sup> There is evidence from civil society after this UPR that the government is continuing to misrepresent its record and acceptance of human rights.<sup>17</sup>

Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations.

Fair

Vietnam cooperates to some degree with UN Human Rights mandate holders. Of the 23 requests by Special Procedures of the Human Rights Council, seven have been completed and one remains forthcoming.<sup>18</sup> Action on the remainder has yet to manifest. Vietnam has also not established a Standing Invitation to the UNOHCHR.

Ensure equal access to justice.

Fair

Principles of equal access to an independent judiciary are enshrined in the constitution (Articles 52 and 63). The principles and provisions on equality among ethnicities have been incorporated into laws, such as the *Law on Nationality*, *Law on the Election of National Assembly Deputies*, the *Penal Code*, *Criminal Procedures Code*, *Labour Law*, *Law on Education*, *Law on People's Healthcare*, *Law on State Compensations*.<sup>19</sup>

However, serious concerns remain regarding the rule of law and access to justice in practice. Women's access to legal aid remains low<sup>20</sup> and while judicial institutions are meant to be independent, the judiciary remains vulnerable to influence by outside elements, such as senior government officials.<sup>21</sup>

There are concerns about the low number of convictions since the entry into force of the *Anti-*

<sup>13</sup> United Nations, General Assembly, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, 28 August 2013, A/68/312.

<sup>14</sup> United Nations in Viet Nam, 2015a. *Protecting rights through law and judiciary reform*, para. 2, <http://www.un.org.vn/en/what-we-do-mainmenu-203/the-un-making-a-difference/4114-protecting-rights-through-law-and-judiciary-reform.html>.

<sup>15</sup> United Nations in Viet Nam, 2015b, *Delivering As One – Annual Results Report 2015*, [http://un.org.vn/en/publications/one-un-documents/doc\\_details/510-annual-results-report-2015.html](http://un.org.vn/en/publications/one-un-documents/doc_details/510-annual-results-report-2015.html).

<sup>16</sup> UPR Info, 2019. Database of Recommendations: Vietnam, [https://www.upr-info.org/database/index.php?limit=0&f\\_SUR=191&f\\_SMR=All&order=&orderDir=ASC&orderP=true&f\\_Issue=All&searchRec o=&resultMax=300&response=&action\\_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly](https://www.upr-info.org/database/index.php?limit=0&f_SUR=191&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchRec o=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly).

<sup>17</sup> CIVICUS, 2019. *VIETNAM: 'We hope UN member states will listen to civil society'*, <https://www.civicus.org/index.php/media-resources/news/interviews/3691-vietnam-we-hope-un-member-states-will-listen-to-civil-society>; HRW, 2019. *Vietnam: Hanoi Misleads UN on Rights Record*, <https://www.hrw.org/news/2019/02/01/vietnam-hanoi-misleads-un-rights-record>.

<sup>18</sup> UNOHCHR, n.d. *View Country visits of Special Procedures of the Human Rights Council since 1998*, <https://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=VNM>.

<sup>19</sup> Cf. United Nations, CERD, CERD/C/VNM/10-14, para. 34.

<sup>20</sup> United Nations, CEDAW, CEDAW/C/VNM/CO/7-8, para. 10.

<sup>21</sup> U.S Department of State, 2016. *Vietnam 2016 Human Rights Report*, p. 14-15.

*Corruption Law* (2005) and amendments.<sup>22</sup>

The UN has identified a number of legal and policy gaps in the country's responses to UPR recommendations, and in 2015 they commissioned research to help law and policy-makers better address key issues. Under a new *Penal Code* – which took effect on July 1, 2016 – the death penalty was abolished for seven crimes, while punishments for perpetrators of child abuse, human trafficking, smuggling of migrants and violence against women were strengthened.<sup>23</sup>

Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity.

Fair

The *Penal Code* contains three Articles that criminalize atrocity crimes – Article 341 'Undermining peace, provoking aggressive wars', Article 342 'Crimes against mankind' and Article 343 'War crimes'.<sup>24</sup>

There appears to be no explicit provision for criminalizing hate speech, but the Vietnam Program for Internet Society has proposed a draft *Code of Conduct for Social Network*, based on the European Commission's *Code of Conduct on illegal online hate speech*.<sup>25</sup>

Take measures to counter and prevent violent extremism.

Fair

Vietnam has for many years voiced its opposition to terrorism and extremism. While there has been some criticism in the past that domestic anti-terror laws within the State require modification to be more practically effective,<sup>26</sup> Vietnam remains committed to combating terrorism. The State has been willing to participate in UN and regional efforts to further this objective.<sup>27</sup>

Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence.

Fair

Equality is provided for under the constitution<sup>28</sup> and the government has enacted various laws to support its obligations under CEDAW (ratified with reservations in 1982). These include the *Law on Domestic Violence Prevention and Control* (2007), and the *Law on Marriage and Family* (2014). The government has also instigated various national programs to further support social protection goals, e.g. *National Action Plan on Human Trafficking* (2011- 2015), the *National Programme on Gender Equality* (2011-2015), and the *National Strategy for Gender Equality* (2011 – 2020). Vietnam has one of the highest percentages of women's participation in the labor force globally,<sup>29</sup> and was the first Asian country to ratify the *Convention on the Rights of the Child* in 1990, domesticated through the law for

<sup>22</sup> United Nations, Committee on Economic, Social and Cultural Rights, Concluding observations on the second to fourth periodic reports of Viet Nam, 15 December 2014, E/C.12/VNM/CO/2-4, para. 5.

<sup>23</sup> United Nations in Viet Nam, 2015a. *Protecting rights through law and judiciary reform*, para. 6.

<sup>24</sup> World Intellectual Property Organisation, n.d. *Criminal Code No. 15/1999/QH10 of December 10, 1999*, articles. 341, 342 & 343, [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=385615](http://www.wipo.int/wipolex/en/text.jsp?file_id=385615). See also: Library of Congress, 2016. *Genocide, Crimes Against Humanity, and War Crimes Jurisdiction*, [https://www.loc.gov/law/help/genocide/chart.php#skip\\_menu](https://www.loc.gov/law/help/genocide/chart.php#skip_menu).

<sup>25</sup> Baker McKenzie, 2017. *Illegal Hate Speech and Upcoming Actions from the Vietnam Government*, <http://www.bakermckenzie.com/en/insight/publications/2017/06/symposium-illegal-hate-speech/>.

<sup>26</sup> Phan Quang Vinh, 2009. *Vietnamese Law on Anti-terrorism*, p. 6, [www.iadllaw.org/files/Phan%20Quang%20Vinh%20VIETNAMESE%20LAW%20ON%20ANTI-TERRORISM.pdf](http://www.iadllaw.org/files/Phan%20Quang%20Vinh%20VIETNAMESE%20LAW%20ON%20ANTI-TERRORISM.pdf).

<sup>27</sup> E.g. Socialist Republic of Vietnam Mission to the United Nations, 2011. *Statement by Mr. Pham Vinh Quang Deputy Permanent Representative of the Socialist Republic of Viet Nam at the United Nations Secretary-General's Symposium on International Counter-Terrorism Cooperation*, <http://www.un.org/en/terrorism/ctif/pdfs/vietnam.pdf>.

<sup>28</sup> Articles 52 (all citizens are equal before the law) and 63 (male and female citizens have equal rights in all fields).

<sup>29</sup> International Labour Organisation (ILO), 2015. *Gender Equality In Recruitment and Promotion Practices in Viet Nam*, [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_349666.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_349666.pdf).

the *Protection and Care and Education of the Child* (1991). The government has also instigated various National Programmes aimed at increasing child rights-related protection.<sup>30</sup>

However, numerous NGO and UNOHCHR reports raise concerns about insufficient implementation, ongoing legislative weakness and discrimination in practice.<sup>31</sup>

National law prohibits discrimination against ethnic minorities, and the government has made considerable efforts to reduce poverty across all population groups. However, societal discrimination against ethnic minorities persists and they remain disproportionately the poorest and most vulnerable citizens of Vietnam.<sup>32</sup> Women belonging to the indigenous and ethnic minority groups of the Hmong, Degar, Montagnard and Khmer face considerable hardship and discrimination.<sup>33</sup>

Despite the overall worsening of political rights and civil liberties in Vietnam, the government has recently increased visibility of LGBTIQ rights, with pride days held in 2013 and 2014 and the country's state media airing a gay-themed sitcom.<sup>34</sup>

Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law.

Weak

As mentioned in a previous Indicator, the statelessness of Cambodian refugees who fled the Khmer Rouge in 1975 has been an ongoing problem for Vietnam. However, since 2010 and thanks to a revision of laws in 2009, Vietnam has been holding naturalization ceremonies for Cambodian refugees living in UNHCR refugee camps.<sup>35</sup> As of 2013, all of these refugees became naturalized citizens.<sup>36</sup> While this is encouraging, Vietnam's reticence in signing and ratifying the *1951 Refugee Convention* and its *1967 Protocol* means ambiguity remains in how well it deals with refugees.

Domestic Implementation

Conduct a national assessment of risk and resilience.

Very Weak

Vietnam has not conducted a national assessment of risk and resilience.

<sup>30</sup> E.g. National Programme of Action for Vietnamese Children for 2011-2020, National Programme on Poverty Reduction for 2011-2020, National Programme on Child Protection for 2011-2015.

<sup>31</sup> E.g. United Nations, CEDAW, CEDAW/C/VNM/CO/7-8, p. 2- 3; United Nations, CERD, CERD/C/VNM/10-14, paras. 7, 9, and 101; United Nations, Committee on Economic, Social and Cultural Rights, E/C.12/VNM/CO/2-4, para. 27. See also: United Nations, CRC, Consideration of reports submitted by States parties under article 44 of the Convention- Concluding observations: Viet Nam, 22 August 2012, CRC/C/VNM/CO/3-4, para. 6.

<sup>32</sup> See: Unrepresented Nations and Peoples Organization (UNPO), 2017. *Submission to the UN Office of the High Commissioner for Human Rights for the consideration of the 2nd mid-term Universal Periodic Review of the Socialist Republic of Vietnam*, <http://unpo.org/downloads/2033.pdf>; UNPO, 2015. *Alternative (NGO) report submitted to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), for the consideration of the seventh and eighth reports of the Socialist Republic of Viet Nam, during its 61st session*, <http://unpo.org/downloads/1497.pdf>.

<sup>33</sup> UNPO, 2015, *ibid.*; UNPO, 2012. *Alternative Report submitted to the UN Committee on the Elimination of Racial Discrimination at the 80th Session during the consideration of the 10th to 14th Periodic Reports of the Socialist Republic of Viet Nam*, [http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/VNM/INT\\_CERD\\_NGO\\_VNM\\_80\\_10317\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/VNM/INT_CERD_NGO_VNM_80_10317_E.pdf).

<sup>34</sup> Freedom House, 2015. *Vietnam in the World 2015*, <https://freedomhouse.org/report/freedom-world/2015/vietnam>.

<sup>35</sup> United Nations High Commissioner for Refugees (UNHCR), 2015. *Good Practices Paper – Action 1: Resolving Existing Major Situations of Statelessness*, p. 34, <https://www.refworld.org/country,,UNHCR,,VNM,,54e75a244,0.html>.

<sup>36</sup> UNHCR, 2013. *Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Socialist Republic of Viet Nam*, p. 1, <https://www.refworld.org/country,,UNHCR,,VNM,,51c946514,0.html>.

	Cultivate and protect an active, diverse and robust civil society.	Very Weak	<p>The constitution and law state that citizens have the right to freedom of speech and a free press. However, the <i>Criminal Code</i> prohibits speech that is critical of the government. The definition of such speech is vague and broadly interpreted, and the government frequently brings charges under Article 88 of the <i>Code</i>, which prohibits the dissemination of “antigovernment propaganda”.<sup>37</sup> In 2011, the government issued a decree – <i>Sanctions for Administrative Violations in Journalism and Publishing</i> – to restrict the use of pseudonyms and anonymous sources and to exclude bloggers from press freedom protections. Moreover, the decree on the <i>Management, Provision, and Use of Internet Services and Internet Content Online</i>, in effect since 2013, prohibits the sharing of news articles and other information on social media. Several individuals have been charged for publishing blogs critical of the government.<sup>38</sup> Foreign reporters require written approval from the Ministry of Foreign Affairs or the Ministry of Information and Communication, and are sometimes denied entry into the country after covering politically sensitive topics.<sup>39</sup></p> <p>NGOs in Vietnam are restricted by government law and regulation. For example, civil society organizations are not permitted to engage in the public distribution of policy advocacy positions. Despite these restrictions, the number of independent NGOs is on the rise.<sup>40</sup></p>
	Ensure a legitimate, effective, and civilian controlled security sector.	Strong	<p>The government maintains effective control over its security forces, and the security sector has effective and sufficient methods of investigating allegations of abuse; however there have been widespread appointments of former security sector officials into government positions, accounts of police acting with impunity, and limited resources impinging on the effectiveness of police investigation.<sup>41</sup></p>
	Ensure the education system reflects the ethnic, national and cultural diversity of society and sets an example of inclusiveness.	Fair	<p>Article 61.1 – 61.3 of the constitution concerns education and guarantees free primary schooling, aims to gradually universalise secondary education, and specifically mentions prioritizing education in “mountainous areas, on islands, [and] in ethnic minority areas”, as well as to create the conditions for people with disabilities and poor people to receive education and vocational training.</p> <p>However, in practice, educational materials perpetuate discriminatory gender biases and stereotypes, there are insufficient resources for the education sector,<sup>42</sup> and there is an especially high drop-out rate among children of ethnic minorities, mainly due to lack of access, poverty-related</p>

<sup>37</sup> Freedom House, 2016. *Viet Nam: Freedom of the Press 2016*, <https://freedomhouse.org/report/freedom-press/2016/Vietnam>.

<sup>38</sup> Ibid.; U.S Department of State, 2016. *Vietnam 2016 Human Rights Report*, p. 20.

<sup>39</sup> Baker & McKenzie, 2012. *Guide to Media and Content Regulation in Asia Pacific*, p. 104,

[http://www.commsalliance.com.au/\\_data/assets/pdf\\_file/0016/42136/Guide-to-Media-and-Content-Regulation-in-Asia-Pacific.pdf](http://www.commsalliance.com.au/_data/assets/pdf_file/0016/42136/Guide-to-Media-and-Content-Regulation-in-Asia-Pacific.pdf).

<sup>40</sup> U.S Department of State, 2016. *Vietnam 2016 Human Rights Report*, p. 22.

<sup>41</sup> Ibid., p. 1.

<sup>42</sup> United Nations, CEDAW, CEDAW/C/VNM/CO/7-8, page 8.

			reasons, and linguistic barriers. <sup>43</sup>
	Prevent nationals committing atrocity crimes overseas.	Fair	In 2015, UNESCO and the Vietnam Ministry of Education and Training (MOET) implemented the “Gender Equality and Girl’s Education Initiative in Viet Nam” to address the gender equality issues in the Vietnamese education system. <sup>44</sup> Limited legislation covers crimes committed by nationals in third countries. Vietnam has not yet ratified the <i>Rome Statute</i> . In its UPR in both 2010 and 2014, it accepted numerous recommendations to consider ratifying the treaty. <sup>45</sup>
Bilateral and Multilateral Relations	Participate in international, regional and national discussions on the further advancement of R2P.	Fair	Vietnam has made just two statements at the UN General Assembly’s Annual Informal Interactive Dialogues on R2P, in 2009 and 2012. In 2009 Ambassador Bui The Giang stated: “On our part, we commit to proactively and constructively working with other members of the international community to ensure success in this process [of education and raising public awareness of R2P]”. <sup>46</sup> In 2012, Ambassador Pam Vinh Quang noted: “... it is immensely important to promote education and public awareness and assist states to strengthen their capacity in preventing and circumventing the occurrence of, or the incitement to commit such crimes.” <sup>47</sup> Domestically, in 2012 the Diplomatic Academy of Vietnam co-hosted a national workshop on ‘The Responsibility to Protect and the Role of the United Nations and Regional Organizations’. <sup>48</sup>
	Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage States to fulfil their responsibility to protect.	Weak	Vietnam served on the UN Human Rights Council between 2014 and 2016. <sup>49</sup> During that time, Vietnam supported several resolutions that are cognate with R2P and human rights objectives. <sup>50</sup>  Vietnam served as a non-permanent member of the United Nations Security Council in 2008-2009. During that time, they voted in favor of Resolution 1894 (POC) S/RES/1894 (2009) on the protection of civilians, which also reaffirmed the responsibility to protect populations from

<sup>43</sup> United Nations, CRC, CRC/C/VNM/CO/3-4, para. 67.

<sup>44</sup> UNESCO Office In Ha Noi, 2015. *Working Together for Gender Equality and Girls’ Education in Viet Nam: Empowering girls and women for a more equal society*, <http://www.unesco.org/new/en/hanoi/about-the-ha-noi-office/single-view/news/working-together-for-gender-equality-and-girls-education/>.

<sup>45</sup> Coalition for the International Criminal Court (CICC), 2014. *Time Is Now for Vietnam to Join the International Criminal Court*, [http://www.iccnw.org/documents/CICCPR\\_CGJ\\_Vietnam\\_Nov2014\\_ENG.pdf](http://www.iccnw.org/documents/CICCPR_CGJ_Vietnam_Nov2014_ENG.pdf).

<sup>46</sup> Permanent Mission of the Socialist Republic of Viet Nam to the United Nations, 2009. *Statement by Ambassador, Deputy Permanent Representative of Viet Nam, at the GA’s Plenary Meeting on Responsibility to Protect (R2P)*, p. 3, <http://www.globalr2p.org/media/files/vietnam-2009-r2p-debate.pdf>.

<sup>47</sup> Socialist Republic of Vietnam Mission to the United Nations, 2012. *Statement by Ambassador Pham Vinh Quang, Deputy Permanent Representative of the Socialist Republic of Viet Nam at the General Assembly Interactive Dialogue on Responsibility to Protect New York, 5 September 2012*, p. 2, <http://www.globalr2p.org/media/files/viet-nam-statement-2012.pdf>.

<sup>48</sup> ICRtoP, 2012. *Voices From Civil Society*, p. 6, [http://responsibilitytoprotect.org/Voices2012\\_final\(1\).pdf](http://responsibilitytoprotect.org/Voices2012_final(1).pdf).

<sup>49</sup> United Nations Human Rights Council, 2018. *Membership of the Human Rights Council, 1 January - 31 December 2014 by regional groups*, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Group2014.aspx>.

<sup>50</sup> The following examples can be found in: United Nations, 2016. *Report of the Human Rights Council, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/195/99/PDF/G1619599.pdf?OpenElement*. Section 31/25 Human Rights in the occupied Syrian Golan – calling on Israel to respect the human rights of those in the Syrian Golan region and to desist from imposing citizenship and restricting access back to Syria, (p. 106); and Section 31/21 Human rights education and training – affirming among other things the importance of education “as a tool to help to prevent terrorism and violent extremism, as well as racial and religious intolerance, genocide, war crimes, ethnic cleansing and crimes against humanity worldwide [...]” (p. 92).

genocide, war crimes, ethnic cleansing and crimes against humanity.

**UN General Assembly Resolutions<sup>51</sup>**

In the General Assembly, Vietnam voted as follows in regards to the resolutions that referenced R2P.

- 2013: The situation in the Syrian Arab Republic A/RES/67/262: **abstained**.
- 2014: Situation of human rights in the Democratic People’s Republic of Korea A/RES/69/188: **abstained**.
- 2014: Situation of human rights in the Syrian Arab Republic A/RES/69/189: **no vote**.
- 2015: Situation of human rights in the Democratic People’s Republic of Korea A/RES/70/172: **abstained**.
- 2015: Situation of human rights in the Syrian Arab Republic A/RES/70/234: **no vote**.
- 2016: The situation in the Syrian Arab Republic A/RES/71/130: **abstained**.
- 2016: Situation of human rights in the Syrian Arab Republic A/RES/71/203: **no vote**.
- 2017: Situation of human rights in the Democratic People’s Republic of Korea A/RES/72/188: **adopted without vote**.
- 2017: Situation of human rights in the Syrian Arab Republic A/RES/72/191: **abstained**.

Additionally, Vietnam voted in favour of A/RES/69/182 on ‘Extrajudicial, summary, or arbitrary executions’ which acknowledged that extrajudicial, summary or arbitrary executions may, under certain circumstances, amount to genocide, crimes against humanity or war crimes as defined in international law, including in the *Rome Statute of the International Criminal Court*.<sup>52</sup>

Regionally, Vietnam is a member of ASEAN (since 1995).<sup>53</sup> It is actively involved in the ASEAN Intergovernmental Commission on Human Rights (AICHR) and has hosted a number of AICHR meetings.<sup>54</sup>

Encourage and assist States to fulfil their R2P in situations of emerging or ongoing crisis, such as good offices and preventive diplomacy.	Very Weak	No evidence found.
Strengthen regional and international networks for atrocity crime prevention.	Very Weak	Vietnam has done little to strengthen regional or international networks for atrocity prevention.

<sup>51</sup> GCR2P, 2017. *UN General Assembly Resolutions referencing R2P*, <http://www.globalr2p.org/resources/1133>. (Voting records for each resolution accessed using the UNGA’s voting records search, available at: <http://www.un.org/en/ga/documents/voting.asp>).

<sup>52</sup> United Nations, General Assembly, Resolution adopted by the General Assembly on 18 December 2014: 69/182 Extrajudicial, summary or arbitrary executions, 30 January 2015, A/RES/69/182, p. 2.

<sup>53</sup> Chauhan, Sadhavi, 2013. *Vietnam’s role in ASEAN*, para. 1.

<sup>54</sup> E.g. AICHR, 2016b. *Press Release: Special Meeting of the AICHR 27-28 October 2016 in Ha Noi, Viet Nam*.

	Strengthen the role and capacity of regional organisations.	Weak	Vietnam is both an active member of ASEAN and AICHR, and has done some work in strengthening and developing the agenda and policy objectives of these organisations.
	Support the development and work of regional human rights and other preventive capacities.	Very Weak	While officials praise their State's support for human rights <sup>55</sup> , very little evidence of practical effort outside of the AICHR could be found. By law, advocacy groups working within the country need to be registered as part of the Vietnamese Fatherland Front, an umbrella organization controlled by the ruling party. <sup>56</sup> Given the government's current attitude towards grassroots activism, chances of furthering independent human rights advocacy are slim.
	Support atrocity prevention through development and assistance partnerships.	Very Weak	Vietnam is involved in many development partnerships with international and regional actors that have been of enormous benefit to the country. <sup>57</sup> However, atrocity prevention does not seem to factor into these partnerships at all.
United Nations prevention, Peacekeeping and assistance	Support the early warning and capacity building efforts of the UN Office of Genocide Prevention and R2P.	Weak	Vietnam has done little to directly support the UN's work in this area.
	Support the strengthening of the UN's capacity for atrocity prevention, including through the UN Human Rights system.	Weak	Vietnam has pledged its support for IHRL and to continue to incorporate human rights treaties for the benefit of their citizens. <sup>58</sup> They annually engage in talks with the UN to discuss progress on human rights and cooperation with UN frameworks. <sup>59</sup> Yet, despite rhetoric to the contrary, Vietnam continues to crackdown on human rights, rather than support them. <sup>60</sup>
	Support preventive actions on atrocity crimes.	Weak	Vietnam has expressed some support for atrocity prevention. They support eradicating hunger, adapting to climate change and anti-discrimination measures as the country considers these critical in tackling the root causes of atrocities. <sup>61</sup>
	Contribute to United Nations peace operations (especially those with a protection of civilians mandate).	Fair	Vietnam is not a large contributor to UN peacekeeping missions (ranked 70 out of 124 October 2018). <sup>62</sup> Since 2014, when its contributions began, Vietnam has sent around 20 officers to missions in South Sudan (UNMISS) and the Central African Republic (MINSCA); both of which have a protection of civilians mandate. They are currently preparing for the deployment of a Level-2 field hospital and

<sup>55</sup> VOVWorld, 2018. *Vietnam supports promotion and protection of human rights*, <http://vovworld.vn/en-US/news/vietnam-supports-promotion-and-protection-of-human-rights-695150.vov>.

<sup>56</sup> Murray, Bennett. 2017. *Vietnam's Quiet Human Rights Crisis*, <https://thediplomat.com/2017/04/vietnams-quiet-human-rights-crisis/>.

<sup>57</sup> E.g.: The World Bank, 2018. *The World Bank in Vietnam: Overview*, <https://www.worldbank.org/en/country/vietnam/overview>; Australian Government Department of Foreign Affairs and Trade (DFAT), n.d. *Development assistance in Vietnam*, <https://dfat.gov.au/geo/vietnam/development-assistance/Pages/regional-global-programs-vietnam.aspx>.

<sup>58</sup> Vu, Vi, 2018. *Vietnam will work non-stop to protect human rights: UN ambassador*, <https://e.vnexpress.net/news/news/vietnam-will-work-non-stop-to-protect-human-rights-un-ambassador-3716978.html>.

<sup>59</sup> Delegation of the European Union to Vietnam, 2019. *8th EU-Vietnam Human Rights Dialogue*, [https://eeas.europa.eu/delegations/vietnam\\_en/59207/8th%20EU-Vietnam%20Human%20Rights%20Dialogue](https://eeas.europa.eu/delegations/vietnam_en/59207/8th%20EU-Vietnam%20Human%20Rights%20Dialogue).

<sup>60</sup> HRW, 2019. *Hanoi Misleads UN on Rights Record*; Agostini, Isabella, 2018. *Human Rights in Vietnam*, <https://borgenproject.org/human-rights-in-vietnam-2/>.

<sup>61</sup> United Nations, 2018. *Speakers Disagree over Suitable Level of Intervention for Stopping Atrocity Crimes, as General Assembly Concludes Debate on Responsibility to Protect*, <https://www.un.org/press/en/2018/ga12038.doc.htm>.

<sup>62</sup> UN Peacekeeping, 2018. *Summary of Troop Contributing Countries by Ranking*, [https://peacekeeping.un.org/sites/default/files/2\\_country\\_ranking\\_6.pdf](https://peacekeeping.un.org/sites/default/files/2_country_ranking_6.pdf).

			military engineering unit to South Sudan. <sup>63</sup>
	Develop the capacities needed to support civilian protection, including through the training of military and civilian personnel for peacekeeping.	Weak	Vietnam has engaged in some relevant training. For example, the Integrated Training Service (ITS) deployed a Mobile Training Team of three military officers to Hanoi to build the capacity of trainers in the Vietnam Armed Forces by familiarizing them with the United Nations core pre-deployment training materials. <sup>64</sup> However, the degree of specific atrocity crime risk factors and dynamics that could be found in training is unclear.
	Support the Kigali Principles.	Very Weak	Vietnam is not a signatory to the Kigali Principles on the Protection of Civilians. <sup>65</sup>
	Support UN Security Council veto restraint on issues relating to atrocity prevention.	Very Weak	Vietnam is not a signatory of the Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes. <sup>66</sup> Neither has it signed the 'French/Mexican initiative on Veto restraint in case of Mass atrocities'. <sup>67</sup>

<sup>63</sup> United Nations Secretary-General, 2015. *Marking First Anniversary of Viet Nam Peacekeeping Centre, Secretary-General Heralds Commitment, Leadership in Ongoing Initiatives*, para. 4, <https://www.un.org/press/en/2015/sgsm16783.doc.htm>.

<sup>64</sup> Department of Peace Keeping Operations (DPKO) and Department of Field Support (DFS), 2016. *UN Peacekeeping helps build the capacity of Vietnam's peacekeeper*, <https://www.un.int/news/un-peacekeeping-helps-build-capacity-vietnams-peacekeeper>.

<sup>65</sup> GCR2P, 2015. *The Kigali Principles on the Protection of Civilians*, <http://www.globalr2p.org/media/files/kp-principles-1.pdf>.

<sup>66</sup> GCR2P, 2017. *List of Supporters of the Code of Conduct regarding Security Council action against genocide, crimes against humanity and war crimes, as elaborated by ACT*, <http://www.globalr2p.org/media/files/2017-01-25-coc-list-of-supporters.pdf>.

<sup>67</sup> GCR2P, 2016. *Support to the French Mexican initiative on veto restraint in case of mass atrocities*, <http://www.globalr2p.org/media/files/veto-list.pdf>.