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## U.S. Department of State

### Vietnam Report on Human Rights Practices for 1996

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#### VIETNAM

The Socialist Republic of Vietnam (SRV) is a one-party state controlled by the Vietnamese Communist Party (VCP). The VCP's constitutionally mandated leading role and the occupancy of all senior government positions by Party members ensures the primacy of Politburo guidelines. The National Assembly, chosen in elections in which all candidates are approved by the Party, remains largely subservient to the VCP, as does the judiciary. Most Assembly members belong to the VCP. The National Assembly played a stronger role than in the past by seriously debating and revising proposed legislation. The Government is working to reduce formal involvement of the Party in government operations, and government officials have some latitude in implementing policies. The Government continued to restrict significantly civil liberties on national security grounds.

The military services are responsible for external defense, including the border defense force. While they have no direct responsibility for maintaining internal security, the military forces are seeking to establish for themselves a role in public education and campaigns against perceived threats to society. The Ministry of Interior is responsible for internal security. It controls the police, a special national security investigative agency, and other units that maintain internal security. Acting under the control of the Party and the Government, the Ministry enforces laws and regulations that significantly restrict individual liberties and violate other human rights. The Ministry of Interior also maintains a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage, in unauthorized political activities. Members of the security forces committed human rights abuses.

Vietnam is a very poor country undergoing a transition from a centrally planned to a more market-oriented economy. Agriculture, primarily rice cultivation, employs two-thirds of the work force and accounts for one-third of gross domestic product (GDP). As a result of reforms, the country has experienced rapid growth in many industries, including construction, petroleum, textiles, and light manufacturing. Exports, led by crude oil, rice, marine products, textiles, and foodstuffs, have increased sharply. Estimated annual GDP per capita has increased to approximately \$300. Particularly in urban areas, economic reforms have raised the standard of living and reduced party and government control over, and intrusion into, people's daily lives.

The Government's human rights record continued to be poor. The Government continued to repress basic political and some religious freedoms and to commit numerous abuses. While the VCP moved to reform procedures and debate within itself, the Government denied citizens the right to change their government and significantly restricted freedom of speech, the press, assembly, association, privacy, and religion. The Government arbitrarily arrested and detained citizens, including detention for peaceful expression of political and religious objections to government policies, and denied them the right to a fair and expeditious trial. The Government continued its longstanding policy of not tolerating most types of public dissent and of prohibiting independent religious, political, and labor organizations. There were credible reports that security officials beat detainees. Prison conditions were harsh. Societal discrimination and violence against women remained problems. Trafficking in children for prostitution within Vietnam and to other countries grew, although the Government moved to combat the problem.

Within still narrow parameters, the National Assembly and the press engaged in increasingly vigorous debate on legal, economic, and social issues, and there was continued progress in building a legal infrastructure. In July a new Civil Code took effect that included an administrative court system to deal with complaints about abuse and corruption by state officials. The trend toward reduced government interference in people's daily lives continued, as did the trend toward economic liberalization. The Government allowed people slightly greater freedom of expression and assembly to protest grievances, but intermittently restricted some activities of clergy. There were credible reports that some political prisoners were denied visitation rights and that certain prisons employ the use of forced labor, sometimes as part of commercial ventures.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Political and Other Extrajudicial Killing**

There were no known politically motivated extrajudicial killings. Little information is available on the extent of deaths in police custody or on official investigations into such incidents. The Government is investigating a case reported in the domestic media wherein police may have tried to cover up the death of a man in police custody by attempting to depict his death as a suicide.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits physical abuse. However, there is evidence that security officials beat detainees and used threats and other psychological coercion to elicit confessions. There were no known reports of

torture of detainees. Little information is available on the extent of police brutality during interrogations. In September police beat and detained a foreign journalist reporting on a political demonstration in the capital.

Prison conditions are harsh. Conditions generally do not threaten the lives of prisoners, but some released prisoners reported that the death rate among male prisoners due to disease and violence was high. Overcrowding, insufficient diet, and poor sanitation remain serious problems. Conditions in pretrial detention are particularly harsh, and there were credible reports that detainees were sometimes denied access to sunlight, exercise, and reading material. Most prisoners have access to basic health care and, for those with money, to supplemental food and medicine. However, there were credible reports that some political prisoners were denied visitation rights and that some prisons employ the use of forced labor, sometimes as part of commercial ventures (see Section 6.c.). Prisoners sentenced to hard labor complained that the diet and health care were insufficient to sustain their health, especially when they were detained in remote, disease-ridden areas.

Several political prisoners with serious medical conditions are being held in harsh conditions in remote prisons with little access to medical care. For example, Dr. Doan Viet Hoat (see Section 1.e.) continued to serve a 15-year sentence at the Thanh Cam camp, in a remote and malaria-ridden area of Thanh Hoa province, 1,400 kilometers from his home and relatives. His location has made it difficult for his family to provide medicine for his kidney disorder. Similarly, Do Van Thac, imprisoned for 14 years (reduced to 12 years) on charges of attempting to overthrow the Government, remains imprisoned in remote Nam Ha province despite having suffered a stroke and suffering from heart disease. Dr. Nguyen Dan Que has been held in isolation in Camp Z30A-K3 in Xuan Loc, Dong Nai province for nearly 3 years. Reports indicate Thich Hai Tang, a Buddhist monk convicted of involvement in a demonstration by Buddhists in Hue in 1993 and sentenced to 4 years in prison, is ill and being held in solitary confinement.

The Government does not permit independent monitoring of its prison and detention system, although it did allow an Australian parliamentary delegation to visit one prison in 1995. The United Nations Working Group on Human Rights visited several prisons in October 1994.

#### d. Arbitrary Arrest, Detention, or Exile

The Government continued to arrest people arbitrarily. Although the 1990 Criminal Procedure Code provides various rights for detainees, including time limits on pretrial detention and the right of the accused to have a lawyer present during interrogation, in practice the authorities often ignore these legal safeguards.

Law enforcement officials appear able to arrest and incarcerate people without presenting arrest warrants. In cases where a warrant is presented, the procurator rather than an independent judiciary approves issuance of warrants. Once arrested, detainees often are held for lengthy periods without formal charges or trial. Nguyen Xuan Tu, also known as Ha Si Phu, and Le Hong Ha were held without trial from December 5, 1995 until their 1-day trial on August 22. Ha was released on December 9.

Those arrested for peaceful expression of their views are likely to be charged under any one of several provisions in the Criminal Code outlawing acts against the State.

No official statistics are available on what percentage of the prison population consists of pretrial detainees or the average period of time such detainees have been held. It is difficult to determine the exact number of political detainees in part because the Government does not usually publicize such arrests and frequently conducted closed trials and sentencing.

The Government does not use exile as a means of political control but has employed internal exile to restrict the movement of certain political or religious dissidents. For example, credible reports indicate that the leader of the United Buddhist Church of Vietnam (UBCV), Thich Huyen Quang, remains in a remote area of Quang Ngai province, where he was involuntarily moved from his pagoda in 1995. Similarly, two Buddhist monks, released in 1995 after serving sentences, were removed from their base pagoda in Hue in November and restricted to their home villages.

#### e. Denial of Fair Public Trial

While the Constitution provides for the independence of judges and jurors, in practice the VCP controls the courts closely at all levels, selecting judges primarily for political reliability. Credible reports indicate that party officials, including top leaders, instruct courts on how to rule on politically important cases. The President appoints judges.

The court system consists of local people's courts, military tribunals, and the Supreme People's Court. The Supreme People's Court can review cases from the lower courts or

tribunals. In addition, local mass organizations are empowered to deal with minor breaches of law or disputes. Economic courts handle commercial disputes, and administrative courts deal with complaints by citizens about official abuse and corruption; they have addressed few cases since their creation in 1993. In July the 838-article Civil Code came into effect, a major step in efforts to strengthen the rule of law.

The People's Procuracy has unchecked power to bring charges against the accused and serves as prosecutor during trials. A judging council, made up of a judge and one or more people's jurors (lay judges), determines guilt or innocence and also passes sentence on the convicted. The relevant people's council appoints people's jurors, who are required to be people of high moral standards but who are not required to have legal training.

Trials are generally open to the public, although judicial authorities sometimes closed trials or strictly limited attendance in sensitive cases. For example, the 1-day trial of Ha Si Phu, Le Hong Ha, and Nguyen Kien Giang on August 22 was closed to the public. The Government did not respond to requests by foreign diplomats to attend the trial. Defendants have the right to be present at their trial and to have a lawyer, and the defendant or the defense lawyer has the right to cross-examine witnesses. In political cases, however, there are credible reports that defendants were not allowed access to government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Little information is available on the extent to which defendants and their lawyers have time to prepare for trials. Those convicted have the right to appeal. Although Vietnam has made some progress in developing a legal system, many judges and other court officials lack adequate legal training. Government efforts to develop a fair, effective judicial system were undermined by the lack of openness in the judicial process and the continuing subservience of the judiciary to the Party.

The Government continued to hold a number of political prisoners incarcerated for the peaceful expression of dissenting religious or political views. For example, Doan Viet Hoat is serving a 15-year sentence for publishing a reformist newsletter. His family reports that the Government has withheld food, medicine, and letters that they have sent him, and denied him reading materials. Others arrested with him, including Pham Duc Kham, Nguyen Van Thuan, and Le Duc Vuong, are also serving lengthy prison sentences. Human rights activist Nguyen Dan Que, sentenced to 20 years' imprisonment in 1991 for publicly supporting political reform and respect for human rights, remains in isolation in prison despite being in poor health. Nine people, including Nguyen Dinh Huy, remain in prison for trying to

organize a conference on democracy in Ho Chi Minh City in 1993. At least seven Catholic priests of the Congregation of the Mother Co-redemptrix remain in prison under long sentences imposed after their 1987 arrest and conviction on charges of "sowing disunity between the people and State." Following diplomatic appeals, in February the SRV released political prisoner Doan Thanh Liem from prison and allowed him and his family to emigrate for humanitarian reasons.

Hoang Minh Chinh was released on June 14 upon completion of his 12-month sentence. Chinh was arrested with Do Trung Hieu in 1995 for spreading "antisocialist propaganda," apparently for writings that urged the party to admit past mistakes and move toward national reconciliation (see Section 2.a.). Chinh and Hieu were convicted of "abusing democratic privileges" and sentenced to 12 and 18 months' imprisonment, respectively. Ha Si Phu was released December 9 after completion of his 12-month sentence, including 8 months detention (see Section 2.a.).

Vietnamese exile groups have claimed that there are as many as 1,000 political prisoners in the country; other reliable sources put the figure closer to 200. Amnesty International lists 70 prisoners held for political reasons, but suggests that the number may be higher. The Government continued to release prisoners as part of regular amnesties to commemorate important national holidays.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy of home and correspondence. The Government continued, however, to operate a nationwide system of surveillance and control through household registration and block wardens who use informants to keep track of individuals' activities. Citizens must register when they change locations. However, many foreign observers believe that this monitoring was done with less vigor and efficiency than in the past, as the authorities focused on those suspected of involvement in unauthorized political or religious activities. Anecdotal evidence suggests that government monitoring is stricter in the south, especially in Ho Chi Minh City. In urban areas, most citizens were free to maintain contact and work with foreigners.

The Government continued to open and censor mail, confiscate packages, and monitor telephone, electronic mail, and fax transmissions. The Party now exerts less pressure on people than it has in the past to belong to one or more mass organizations, which exist for villages, city districts, schools, workers (trade unions), youth, and women. Membership in the VCP remains an aid to advancement in the Government or in state companies and is vital for promotion to senior levels of the Government. At the same time, diversification of the economy has made membership in mass organizations and the VCP less essential to financial and social advancement.

The Government continued to implement a family planning policy that urges all families to have no more than two children. In principle the Government can deny promotions and salary increases to government and party employees with more than two children. In practice the penalty is not applied to employees in good standing. For others, there are no penalties for those with more than two children, but local regulations permit fines based on the cost of extra social services incurred by the larger family, or reductions in state subsidies for those services. These penalties are not uniformly or universally applied.

While foreign language periodicals are widely available in the cities, the Government regularly censors articles about the country in foreign periodicals for sale within the country. The Government has not allowed citizens free access to the Internet, citing concerns for national security and cultural preservation. It formally restricted access to satellite television to top officials, foreigners, hotels, and the press by a November edict.

## Section 2. Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, but in practice the Government severely limits these freedoms, especially concerning political and religious subjects.

Both the Constitution and the Criminal Code include broad national security and antidefamation provisions that the Government uses to strictly limit such freedoms. The Party and Government tolerated public discussion and even criticism somewhat more than in the past, although less than in the period from 1987 to 1989. For example, citizens could and did complain openly about bureaucratic lethargy, administrative procedures, corruption, and even economic policy. However, the Government continued to clamp down on free speech that strayed outside narrow limits to question the role of the Party, criticize individual SRV leaders, promote pluralism, multiparty democracy, or question the regime's policies on sensitive matters such as human rights. There continued to be an ambiguous line between what constituted private speech about sensitive matters, which would be tolerated, and public speech in those areas, which would not. On August 22, the authorities tried and convicted two dissidents, Ha Si Phu and Le Hong Ha, a former security official, on charges of illegally possessing secret government documents (see Section 1.e.). Ha Si Phu was arrested on December 6, 1995 for criticizing the regime. Le Hong Ha was arrested at the same time for involvement with efforts to convince the Party to address past mistakes.

The Party, Government, and Party-controlled mass organizations control all print and electronic media. The Government exercises oversight through the Ministry of Culture, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship in the domestic media. In July the Government threatened to prosecute three state- or party-owned newspapers for "disclosing state secrets" after they criticized government actions in the nation's aviation and oil industries.

The Government also approved a number of new newspapers for publication; none are privately owned. With apparent party approval, several newspapers engaged in investigative reporting on corruption and mismanagement as well as in open and sometimes heated debate on economic policy. The Government made no effort to limit access to international radio, to which many citizens listen regularly, although it restricted access to the Internet and censored foreign publications (see Section 1.f.).

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi, and the number of foreign staff allowed each foreign press organization is limited. The Center monitors journalists' activities and decides on a case-by-case basis whether to approve their interview, photograph, film, or travel requests. A Foreign Ministry official accompanies foreign journalists during all interviews with Vietnamese. The Government censors television footage and delays export of footage by several days.

On September 9, uniformed and plain clothes police beat, kicked, and detained a foreign journalist for taking photographs of a small protest demonstration in Hanoi. The Foreign Ministry announced on September 13 that it would investigate the incident, the first physical assault on a journalist about which information is publicly available. In September the Government refused to extend the visa of a correspondent working for an international business magazine, effectively expelling him for articles that he had written which displeased the Government.

A general trend toward increased information flow appeared to extend into the university system.

Foreign academic visitors working temporarily at universities said that they were able to discuss nonpolitical issues widely and freely in the classroom, but government monitors regularly attended classes taught by foreigners and Vietnamese without official notification. Academic publications usually reflect the views of the Party and the Government.

#### b. Freedom of Peaceful Assembly and Association

The right of assembly is restricted in law and practice. People wishing to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. However, people routinely gathered in informal groups without government interference. The Government does not permit demonstrations that could be seen as having a political purpose, but was more tolerant than in the past of occasional popular demonstrations about specific grievances against local officials. Nonetheless, the Government did not tolerate extended demonstrations. For example, authorities arrested several leaders and suppressed a protest over expropriation of land for a golf course financed abroad.

With a few exceptions, the Government prohibits the establishment of private, independent organizations, insisting that individuals work within established, party-controlled organizations. Citizens may not establish any sort of independent organization, including political parties, labor unions, religious, or veterans organizations.

#### c. Freedom of Religion

Both the Constitution and government decrees provide for freedom of worship, but the Government continued to restrict severely religious activities it defined as at variance with state laws and policies. The Government generally allowed people to practice the religion of their choice, and participation in religious activities throughout the country continued to increase. However, the Government also maintained policies designed to control religious hierarchies and organized religious activities, in part because it fears that organized religion may undermine the Party's authority and influence.

Religious organizations must obtain government permission to hold training seminars, conventions, and celebrations outside the regular religious calendar, to build or remodel places of worship, to engage in charitable activities or operate religious schools, and to ordain, promote, or transfer clergy. All religious groups continued to face difficulty in obtaining teaching materials, expanding training facilities in response to increasing demand for clergy, and publishing religious materials.

The Government requires all Buddhist monks to work under the party-controlled Buddhist umbrella organization. The Government has actively continued to suppress efforts by the UBCV to operate independently. The tension between the Government and the UBCV, which resurfaced in 1992 and increased in 1993-94, continued in 1996. Despite SRV claims to the contrary, credible reports indicate that the UBCV's leader, the Venerable Thich Huyen Quang, remains under house arrest or

other confinement in a remote area of Quang Ngai Province. Worshipers in several Buddhist, Catholic, and Cao Dai sect centers of worship regularly report that undercover government observers attend worship services and monitor the activities of the congregations and clergy.

The Government has sought to control the Catholic Church hierarchy, in part by requiring that all clergy to belong to the government-controlled Catholic Patriotic Association. It has also insisted on approving Vatican appointments. The Church hierarchy remained frustrated with the Government's restrictions. In a February 2 letter to the Archbishop of Hanoi, Prime Minister Vo Van Kiet prohibited elder Bishop Huynh Van Nghi from being assigned to any post. The Government prohibits the Catholic Church from

educational and charitable activities because it will not accept government supervision and authority, as Buddhist congregations do.

The Government allowed bishops and priests to travel freely within their dioceses, but continued to restrict their travel outside these areas. The Government has limited the Church to operating 6 major seminaries throughout the country, totaling approximately 700 students. The Government allows the Church to recruit new students only every 2 years. All students must be approved by the Government, both upon entering the seminary and prior to ordination as priests. The number of graduating students was insufficient to support the growing Catholic population, estimated at 5 million. In his February 2 letter, the Prime Minister reiterated that local officials have the right to approve or disapprove the selection of candidates for training, continuation of study, and ordination. This power lies principally with the People's Committee of the province or city where the candidate lives.

In November the Government reported that it had closed a Zen Buddhist center in Dalat, alleging that its leader was not a real monk and had been sexually abusing his followers. There is evidence that the monk and the center had been legally registered as a Buddhist center since before 1975. There are reports that the followers allegedly abused by the monk have denied the reports and are seeking to sue government newspapers for spreading false reports. Witnesses reported that police destroyed the center.

The Christian Missionary Alliance of Vietnam, the only government-approved Protestant organization the country, enjoyed slightly greater freedom to operate. Church attendance grew despite continued government restrictions on proselytizing activities. Nongovernmental organizations (NGO's) reported continued arrests and government harassment of some ethnic Hmong Protestants for proselytizing in northern Vietnamese villages. In February police in Ho Chi Minh City and Pleiku

disbanded meetings held by Christians that included expatriates. Police interrogated, then released, the participants. The authorities in Hanoi questioned, harassed, and fined a U.S. citizen for distributing pens bearing a Christian religious symbol. According to reports, police interrogated her repeatedly during October and November, before fining and expelling her. There have been reports that members of the Cao Dai religion have also been subject to arbitrary detention and persecution.

There is no officially sanctioned umbrella organization for Protestants. Reports indicate that Protestant congregations are not allowed to cooperate on joint religious observances or other activities.

The Government restricts exit permits for Muslims seeking to make the hajj (see Section 1.d.).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Most citizens enjoy freedom of movement within the country. However, there were credible reports that local authorities required members of ethnic minority groups to obtain permission to travel outside certain highland areas. Officially, citizens must obtain permission to change their residence. In practice many people continued to move without approval, although this prevented them from obtaining legal work permits. Foreigners are generally free to travel throughout the country. Although the Government retains the right to approve travel to border areas, to some areas in the central highlands, and to some islands, in practice foreigners can easily travel to most border areas without approval.

The Government still requires citizens traveling abroad, including government officials, to obtain exit and reentry visas. Both law and regulation provide for the right of all citizens to obtain an exit permit, except for: Members of the small Muslim community seeking to make the hajj; political activists; certain Buddhist clerics; the mentally ill; those serving prison sentences; under criminal investigation;

holding state secrets; suffering serious health problems; involved in tax or real estate disputes; or whose sponsors are engaged abroad in activities opposed to the Government. The Government maintains the right to reject exit visa applications in these categories.

The Government continued to permit limited departure for some Vietnamese seeking to emigrate. The U.S. Orderly Departure Program (ODP) continued to resettle immigrant and refugee beneficiaries in the United States, including Amerasians, former reeducation camp detainees, and family unification

cases, at the rate of about 2,000 persons per month. Other nations operate smaller resettlement programs for Vietnamese citizens. There are some concerns that members of minority ethnic groups, particularly highland peoples, such as the Montagnards, may not have ready access to these programs. The Government continued to deny exit permits for certain Montagnard applicants for emigration to the United States. Former political prisoner Doan Thanh Liem emigrated to the United States through the ODP in February.

Citizens' access to exit permits is frequently constrained by factors outside the law. Refugee and immigrant visa applicants to the ODP sometimes encounter local officials who arbitrarily deny exit permits based on personal animosities or the official's perception that an applicant does not meet program criteria.

In May Vietnam and the United States reached an agreement in principle to allow several thousand Vietnamese living in refugee camps in Southeast Asia to apply for resettlement in the United States, provided that they first return to Vietnam and apply in writing. The two governments are consulting on implementation of the agreement.

The Government generally permits Vietnamese who emigrate to return to visit, but it considers them Vietnamese citizens and therefore subject to the obligations of a Vietnamese national under the law even if they have adopted another country's citizenship. However, Vietnamese who have emigrated are not able to obtain Vietnamese passports. Because overseas Vietnamese are both a valuable potential source of foreign exchange and expertise and a potential security threat, the Government generally encourages them to visit Vietnam but monitors many of them carefully.

In 1988 Vietnam signed a memorandum of understanding with the United Nations High Commissioner for Refugees (UNHCR) to increase acceptance of voluntary repatriates, provided that there was financial assistance. The agreement included a commitment to waive prosecution and punitive measures for illegal departure from Vietnam of persons who return under the UNHCR Voluntary Repatriation Program. Vietnam also agreed to permit the UNHCR to monitor the returnees through direct visits. More than 106,000 Vietnamese have returned voluntarily. The UNHCR, which extensively monitors those who have repatriated voluntarily, reports that they do not face retribution or discrimination. There was no credible evidence to substantiate claims that refugees returning under UNHCR auspices were harassed because of their status as returnees.

The Constitution allows consideration of asylum for foreigners persecuted abroad under certain circumstances. Otherwise, Vietnam is not signatory to, and does not have provisions for, the granting of asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. There were no reports of individuals requesting asylum in Vietnam. In the past, Vietnam admitted refugees from Cambodia, most of whom were ethnic Vietnamese, most recently 30,000 persons between 1993 and 1995. The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees. There were no reports of forced return of persons to a country where they feared persecution.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

Citizens are not free to change their government. All authority and political power is vested in the VCP; political opposition and other political parties are not tolerated. The VCP Central Committee is the supreme decisionmaking body in the nation, and the Politburo is the locus of policymaking. The Eighth Congress of the VCP in June replaced the Secretariat of the Central Committee with a standing board, consisting of five members of the Politburo, to oversee day-to-day implementation of leadership directives. Debate and criticism are limited to certain aspects of individual, state, or party performance determined by the VCP itself. No public challenge to the legitimacy of the one-party state or even debate on the subject is permitted (see Section 2.a.).

Citizens elect the members of the National Assembly, ostensibly the main legislative body, but the Party approves all candidates, almost all of whom are VCP members. During its semi-annual month-long sessions in April and October, the National Assembly engaged in increasingly vigorous debate on economic, legal, and social issues, including corruption, management of the budget, and foreign investment. Legislators questioned and criticized ministers. However, the National Assembly remained subservient to the VCP. It does not initiate legislation and may not pass legislation that the Party opposes. Party officials occupied most senior government and National Assembly positions and continued to have the final say on key issues.

The law provides the opportunity for equal participation in politics by women and minority groups, but in practice they are underrepresented. Most of the top leaders are male. In June the Party for the first time elected a woman to the Politburo. Women hold a few important positions, including vice president and several vice ministries or equivalent positions. The president of the National Assembly, who is also a Politburo member, is a member of an ethnic minority.

### **Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

The Government does not permit private human rights organizations to form or operate. It generally prohibits private citizens from contacting international human rights organizations. The Government permitted international visitors to monitor implementation of its repatriation commitments under the Comprehensive Plan of Action and carried on a limited dialog with foreign human rights organizations based outside Vietnam. The Government continued to refuse entry to some major international human rights NGO's. However, the Government did permit the September visit by a delegation from the Committee to Protect Journalists.

The Government has shown increased willingness to discuss human rights issues bilaterally with other governments if such discussions take place under the rubric of "exchanges of ideas" rather than as "investigations." Several foreign governments held official talks concerning human rights issues.

### **Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution prohibits discrimination based on gender, ethnicity, religion, or social class. Enforcement of these prohibitions has been uneven. People released from reeducation camps over the years have reported varying levels of discrimination in the areas of housing and education. They are generally not eligible to regain their citizenship rights until 1 year after their release. They and their families are not allowed employment with the Government, although this prohibition was less problematic than in the past because of the growth of private sector job opportunities.

## Women

Although the law addresses the issue of domestic violence, there is credible evidence that the problem is on the rise, and that the laws are not enforced adequately. International NGO workers and many women have stated that domestic violence against women is common. Most divorces are due to domestic violence, although many women remain in abusive marriages rather than confront the stigma of divorce. Domestic abuse appears to be more prevalent in rural areas.

The Government, international NGO's, and the press reported a marked increase in recent years in the trafficking of women both domestically and abroad for purposes of prostitution. Organized rings reportedly lure poor, often rural, women with promises of jobs or marriage and force them to work as prostitutes. Some are kidnapped and sold as wives to men in other countries. The press and anecdotal sources indicate that the problem of sex tourism is growing, with increasing prostitution of children. The Government is working with NGO's to supplement law enforcement measures in these areas.

While there is no legal discrimination, women face deeply ingrained social discrimination. Despite extensive provisions in the Constitution, in legislation, and in regulations that mandate equal treatment, and although some women occupy high government posts, in general few women are able to compete effectively for higher status positions. The Government has not enforced the constitutional provision women and men must receive equal pay for equal work. The large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace and the new labor law calling for the preferential treatment of women are distant from the reality of many, if not most, women.

The party-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. NGO's and international organizations regard the Union highly, but they and Women's Union representatives believe that it will take some time to overcome societal prejudices. The Government also has a Committee for the Advancement of Women, led by the Vice President, who is a woman.

## Children

Reputable international organizations, including the U.N. Children's Fund (UNICEF), commend the Government's interest in children's issues and its promotion of child welfare. While education is compulsory, the authorities do not enforce the requirement, especially in rural areas (see Section 6.d.). The Government has continued a nationwide immunization campaign, and the government-controlled press regularly stresses the importance of health and education for all children. Despite some success, UNICEF estimates that there are still 3 million children living in "especially difficult" circumstances.

Widespread poverty has contributed to the reported increase in trafficking of minors domestically and to foreign destinations as prostitutes. UNICEF reported that responsible government agencies are seriously engaged in combatting this abuse. There is no information publicly available on the extent of child abuse (see Section 6.c.).

## People with Disabilities

The Government provides little official protection or support for the disabled, and there are no laws mandating physical

access to buildings. However, the 1994 Labor Law requires the State to protect the rights and encourage

the employment of the disabled. It includes provisions for preferential treatment for firms that recruit disabled persons for training or apprenticeship and a special levy on firms that do not employ disabled workers. It is uncertain whether the Government enforces these provisions. The Government has permitted international groups to assist those who have been disabled by war or by subsequent accidents involving unexploded ordnance.

### National/Racial/Ethnic Minorities

Although the Government says that it is opposed to discrimination against ethnic minorities, there continued to be credible reports that local officials sometimes restricted ethnic minority access to education, employment, mail services, and travel, both domestic and foreign. The Government continued to implement policies designed to narrow the gap in the standard of living between ethnic groups living in the highlands and lowland ethnic Vietnamese by granting preferential treatment to domestic and foreign companies investing in highland areas. There were anecdotal reports that the Government continued to repress some highland minorities for suspected ties with resistance groups.

## Section 6. Worker Rights

### a. The Right of Association

All unions are Party-controlled. Workers are not free to form or join unions of their choosing unless they have obtained approval from the local office of the Party-controlled Trade Union Federation of Vietnam (VGCL). The VGCL is the umbrella organization under which all local trade unions must operate. The 1994 Labor Law requires provincial trade union organizations to establish unions at all new enterprises with more than 10 employees as well as at existing enterprises that currently operate without trade unions. Management of those companies is required to accept and cooperate with those unions. However, many joint ventures and small, private companies, especially at the retail level, do not have unions.

The Labor Law provides for the right to strike under certain circumstances. It calls for management and labor to resolve labor disputes through the enterprise's own labor conciliatory council. If that fails, the matter goes to the provincial labor arbitration council. On July 1, new labor courts within the people's court system came into being. The new courts have begun to hear a small number of cases, but still are in the early stages of development. Unions have the right to appeal a

council decision to the provincial people's court and to strike. However, the law prohibits strikes at enterprises that serve the public and those that are important to the national economy or national security and defense; these functions are defined by the Government. The law also grants the Prime Minister the right to suspend a strike considered detrimental to the national economy or public safety. On August 29, the Prime Minister prohibited strikes in 54 occupational sectors and businesses including public services, businesses producing "essential" goods, and businesses serving national defense under the Ministries of Interior and National Defense.

The number of strikes increased in 1996, primarily against foreign-owned companies but also involving state-owned and private firms. The Government tolerated these strikes, which were mostly illegal. None was organized by the VGCL or its affiliate unions. The Labor Law prohibits retribution against strikers, and there have been no credible reports of such retribution. In the wake of several highly publicized strikes, the SRV has promulgated new procedures for settlement of strikes as well as individual claims related to labor problems. The new procedures took effect on July 1.

Unions are not legally free to, and do not in practice, join, affiliate with, or participate in international labor bodies.

#### b. The Right to Organize and Bargain Collectively

Workers have the right to organize unions in their enterprises, but they must be approved by the provincial or metropolitan branch of the VGCL. They also can bargain collectively through the party-approved unions at their enterprises. In the past, the State generally set wages, since most employees worked for state companies. With the growth of the private sector and the increased autonomy of state firms, a growing percentage of companies are setting wages through collective bargaining with the relevant unions. Market forces also play a much more important role in determining wages. The Labor Code prohibits antiunion discrimination on the part of employers against employees seeking to organize.

The Government has approved formation of a number of export processing zones and new industrial zones, which are governed by the same labor laws as the rest of the country.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Law prohibits all forms of forced labor. However, there were credible reports that some prisons employ the use of forced labor, sometimes as part of commercial ventures.

#### d. Minimum Age for Employment of Children

The Labor Law sets the minimum age for employment at 15 years. Children as young as 13 can register at trade training centers, which are a form of vocational training. There are compulsory education laws, but they are not effectively enforced, especially in rural areas where children are needed in agriculture. However, the culture's strong emphasis on education leads people who can afford it to send their children to school rather than to work.

#### e. Acceptable Conditions of Work

The Labor Law requires the Government to set a minimum wage, which changes with inflation and other economic changes. The monthly minimum wage for foreign-investment joint ventures is \$35 (385,000 dong) in Hanoi and Ho Chi Minh city and \$30 (330,000 dong) elsewhere. The minimum monthly wage for Vietnamese-owned companies is \$11 (120,000 dong). This minimum wage alone is insufficient to provide a worker and family with a decent standard of living. Many workers receive bonuses and supplement their incomes by engaging in entrepreneurial activities. A decreasing number of workers receive government-subsidized housing. The Government enforces the minimum wage at foreign and major Vietnamese firms.

The Labor Law sets working hours at a maximum of 8 hours per day and 48 hours per week, with a mandatory 24-hour break each week. Any additional hours require overtime pay, and the law limits compulsory overtime. It is uncertain how well the Government enforces these provisions.

The Labor Law requires the Government to promulgate rules and regulations to ensure worker safety. The Ministry of Labor, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice, enforcement is inadequate because of the Ministry's inadequate funding. Anecdotal evidence indicates that workers, through labor unions, have been more effective in forcing changes in working conditions than has the Government. There was no information on the ability of workers to remove themselves from work situations that endanger health or safety without

jeopardy to their continued employment.

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