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## U.S. Department of State

### Vietnam Country Report on Human Rights Practices for 1997

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#### VIETNAM

The Socialist Republic of Vietnam is a one-party state ruled and 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 party Politburo guidelines. The National Assembly, chosen in elections in which all candidates are approved by the party, remains subservient to the VCP. The party reduced its formal involvement in government operations. The Government made progress in strengthening the capacity of the National Assembly and reforming the bureaucracy. Government-proposed legislation received wide press attention, and the National Assembly played a stronger role in that debate in 1997. The Assembly also was more active in revising legislation and vetting ministerial and other candidates for office. Government officials have more latitude in implementing policies than in previous years. The judiciary remains subservient to the VCP.

The military services are responsible for external defense, including the border defense force. The military forces are assuming a more important role as the ultimate guarantor of internal security, as they seek to establish themselves in public education and campaigns against perceived threats to society. The Government continued to restrict significantly civil liberties on grounds of national security. The Ministry of Interior controls the police, a special national security investigative agency, and other units that maintain internal security. 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 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. However, this system has become less obvious and pervasive in its intrusion into

citizens' daily lives. Members of the security forces committed human rights abuses.

Vietnam is a very poor country undergoing 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). The country has experienced rapid growth in many primary 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 is approximately \$300. Particularly in urban areas, economic reforms have raised the standard of living and reduced party and government control over, and intrusion into, citizens' daily lives. Reforms have created a popular demand for social, legal, educational and physical improvements.

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 internal debate, the Government denied citizens the right to change their government. There were credible reports that security officials beat detainees. Prison conditions remain harsh. The Government arbitrarily arrested and detained citizens, including detention for peaceful expression of political and religious objections to government policies. The Government denied citizens the right to fair and expeditious trials and holds a number of political prisoners. The Government restricts significantly citizens' privacy rights, although the trend toward reduced government interference in citizens' daily lives continued. The Government significantly restricted freedom of speech, assembly, and association. The Government continued its longstanding policy of not tolerating most types of public dissent, although exceptions were made if they appeared to serve the interests of the party or the Government. The Government allowed citizens slightly greater freedom of expression and assembly to protest grievances. The Government prohibited independent political, labor, and other organizations; such organizations exist only under government control. The Government significantly restricts freedom of religion; it limits the operation of religious organizations to those entities approved by the State. Societal discrimination and violence against women remained problems. Trafficking in women and children for prostitution within the country and abroad grew, although the Government continued to combat the problem. Discrimination against ethnic minorities and child labor are problems. There were reports that certain prisons employed 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. There were reports that harsh prison conditions contributed to the death of a number of inmates (see Section 1.c.).

#### **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. There were no known reports of torture of detainees. Little information is available on the extent of police brutality during interrogations.

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 was higher than for female prisoners. Overcrowding, insufficient diet, and poor sanitation remain serious problems. Conditions in pretrial detention are particularly harsh, and there were credible reports that authorities sometimes denied inmates 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, some political prisoners were denied visitation rights, and there were reports 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 their diet and medical care were insufficient to sustain health, especially in remote, disease-ridden areas. Several political prisoners with serious medical conditions are held under harsh conditions in remote prisons, with limited 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, 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 him with medicine for his kidney disorder. Similarly, Do Van Thac, sentenced to 14 (reduced to 12) years' imprisonment on charges of attempting to overthrow the Government, remains imprisoned in remote Nam Ha province, despite reports that he suffered a stroke and is suffering from heart disease.

The Government does not permit independent monitoring of its prison and detention system.

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

The Government continued to arrest and detain citizens arbitrarily. The 1990 Criminal Procedures Code provides for various rights of 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.

The Supreme People's Procuracy approves the issuance of arrest warrants, but law enforcement officials appear able to arrest and incarcerate persons without presenting arrest warrants. Once arrested, detainees often are held for lengthy periods without formal charges or trial. Le Hong Ha was held without trial from December 5, 1995, until his conviction at a 1-day trial on August 22, 1996. He was finally released on August 6. Time spent in pretrial detention generally counts towards time served upon sentencing.

There were credible reports that authorities moved juvenile offenders from reform schools to labor camp prisons without legal due process, upon their reaching the age of majority.

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

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

The Government does not use exile as a means of political control but has employed internal isolation to restrict the movement of certain political and religious dissidents. For example, credible reports indicate that the leader of the United Buddhist Church of Vietnam (UBVC), Thich Huyen Quang, is under administrative detention and is prohibited from returning to his home pagoda in Hue. The Government claimed that he is not under any legal restrictions but did not permit outsiders to verify his status.

#### e. Denial of Fair Public Trial

Although 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 how to rule on politically important cases. The National Assembly votes for candidates that are presented by the President for Supreme People's Court president and Supreme People's procurator. The President appoints all other judges.

The court system consists of the Supreme People's Court in Hanoi, provincial courts, district courts, and military tribunals. The Supreme People's Court can review cases from the lower courts or tribunals. Separately, economic courts handle commercial disputes. Administrative courts deal with complaints by citizens about official abuse and corruption. The economic and administrative courts have addressed few cases since their creation in 1994 and 1995, respectively. Local mass organizations are empowered to deal with minor breaches of law or disputes.

The Supreme 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 have high moral standards but need not have legal training.

The Government continued its effort to develop the legal system as part of expanding the rule of law. The Government has made some progress; in July 1996, the 838-article Civil Code came into effect, a major step in this effort. Many judges and other court officials lack adequate legal training, and the Government conducts a training program to address this problem. However, the lack of openness in the judicial process and the continuing subservience of the judiciary to the party undermined the Government's efforts to develop a fair, effective, judicial system.

Trials generally are open to the public, although judicial authorities sometimes closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trial and to have a lawyer. The defendant or the defense lawyer has the right to cross-examine witnesses. In political cases, however, there are credible reports that defendants are 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.

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 imposed in 1990 for publishing a reformist newsletter. Others arrested with him, including Nguyen Van Thuan and Le Duc Vuoug, 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 reportedly 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." Some political prisoners were denied visitation rights.

Amnesty International lists 54 prisoners held for political reasons but suggests that the total may be

higher. 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 persons. The Government continued to release prisoners as part of regular amnesties to commemorate important national holidays. The Government released political prisoner Pham Duc Kham on September 4 and allowed him to emigrate to join his family. Kham was arrested with Doan Viet Hoat and had served 7 years of a 12-year sentence on charges of plotting to overthrow the Government.

The Government states that it does not hold any political prisoners; however, it usually does not publicize the arrests of citizens for political reasons and frequently conducts closed trials and sentencing sessions.

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

The Constitution provides for the right to privacy of home and correspondence. However, the Government restricts this right. It operates 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 with police when they leave home, remain in another location overnight, or when they change their residence (see Section 2.d.); however, these requirements are not consistently enforced. Many foreign observers in the country believe that this monitoring continues to be done with less vigor and efficiency than in past years, as the authorities focused on those suspected of involvement in unauthorized political or religious activities. Anecdotal evidence suggests that government is stricter in the south, especially in Ho Chi Minh City. There have been reports that some families have been unable to obtain household registration or residence permits, causing serious legal and administrative problems. In urban areas, most citizens were free to maintain contact and work with foreigners, but police questioned some citizens and families of citizens with extensive or close relations with foreigners.

On April 14, the Government issued a decree that specified regulations controlling "administrative surveillance." There is as yet no information as to how the decree is being implemented, but the language of the decree appears to give authorities extremely broad powers to place persons under surveillance. According to the official army newspaper, *The People's Army*, the regulations define administrative surveillance as an administrative penalty imposed on persons who break the law and violate national security, as determined by the definition of crimes in the Criminal Code, but whose offenses are not yet at the level that warrants "criminal responsibility." Persons under administrative surveillance must live and work in a designated locality and subject to the management and education of the local authorities and population. There are reports that these measures are used against suspected political dissidents, including a group in Dalat. The time span of administrative surveillance ranges from 6 months to 2 years but does not apply to persons under 18 years of age. The Ministry of Interior is reportedly the lead agency in implementing the decree.

The Government opened and censored citizens' mail, confiscated packages, and monitored telephone, electronic mail, and fax transmissions. The party now exerts little pressure on people to belong to one or more mass organizations, which exist for villages, city districts, schools, workers (trade unions), youth, veterans 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 generally

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 occasionally censors articles about the country in foreign periodicals for sale within the country. There were credible reports that the Government interfered with international radio broadcasts. The Government has not allowed citizens unrestricted access to the Internet, citing concerns for national security and cultural preservation. By law, access to satellite television is limited to top officials, foreigners, hotels, and the press. The law is not enforced and many people in urban areas and some in rural areas have access via home satellite equipment.

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

### **a. Freedom of Speech and Press**

The Constitution provides for freedom of speech and of 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 permitted somewhat more criticism than in the past. For example, citizens could and did complain openly about inefficient government, administrative procedures, corruption, and economic policy. However, there were limits imposed in these areas as well, and in the latter part of the year, the party and Government moved to rein in the media. In September the Government adopted a directive requiring Vietnamese journalists to obtain approval from the Ministry of Culture and Information before passing any information to foreign journalists. In October the party Politburo issued a circular underscoring that media activities are "under the leadership of the State and the management of the party." Also in October, journalist Nguyen Hoang Linh, the editor of a business newspaper, was arrested and charged with revealing state secrets. His arrest was believed to be related to a series of articles he wrote detailing corruption among customs officials.

The Government continued to prohibit free speech that strayed outside narrow limits to question the role of the party, criticize individual government leaders, promote pluralism or multiparty democracy, or questioned the regime's policies on sensitive matters such as human rights. Several authors whose works attracted official censure in past years continue to be denied permission to publish, speak publicly, or travel abroad. 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. Human Rights Watch/Asia (HRW/A) reported that local authorities in Dalat on March 28 interrogated Ha Si Phu, a nuclear scientist and political essayist previously imprisoned for possessing an internal party document, Bao Cu, a writer, and Bui Minh Quoc, a poet, on grounds of conveying disparaging and distorted information about the State. HRW/A reported that the authorities pressed the three men to promise not to send letters or articles abroad or give interviews to overseas media.

In September the Government banned a journalist from accepting a United Nations fellowship and traveling abroad.

The party, the Government, and party-controlled mass organizations control all print and electronic

media. The Government exercises oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship in the domestic media. The Government approved a number of new newspapers for publication, but in accordance with the Press Law of 1989, none is 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. There were credible reports that the Government interfered with international radio broadcasts, restricted access to the Internet, and censored foreign publications (see Section 1.f.).

The Government announced that as of November, it would permit unrestricted access to the Internet. However, technical difficulties have delayed full implementation. Some universities and medical facilities reported having Internet access.

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi. 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, all of which must be submitted 5 days in advance. A Foreign Ministry official accompanies foreign journalists during all interviews with citizens. The Government censors television footage and delays export of footage by several days.

The Government allowed artists some latitude in choosing the themes of their works. Many artists received permission to exhibit their works abroad, receiving exit permits to attend the exhibits and export permits to send their works out of the country. Police and municipal cultural authorities, prohibited several exhibits or removed selected works from authorized exhibits when they judged that the works strayed too far from what authorities considered the mainstream, made too much social commentary, or could have been interpreted as criticizing or making fun of the Government.

The Government has permitted a significant increase in the flow of information within the country and into the country from abroad, including 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. Government monitors regularly attend classes taught by foreigners and citizens without official notification. Academic publications usually reflect the views of the party and the Government, with more freedom for differing views on nonpolitical subjects.

#### 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 gather in informal groups without government interference. The Government does not permit demonstrations that could be seen as having a political purpose. However, it was more tolerant than in the past of occasional demonstrations by citizens about specific grievances against local officials. Nonetheless, the Government did not tolerate extended demonstrations. For example, reports indicate that the Government dispatched security forces to restore public order in at least two provinces to quell demonstrations by local citizens protesting corruption on the part of local officials. Domestic press reporting of these events was delayed but acknowledged the demonstrations and the dissatisfaction of the demonstrators with corrupt and inefficient local officials.

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 type independent organization, including political parties, labor unions, religious,

or veterans organizations. Such organizations exist only under government control.

### c. Freedom of Religion

Both the Constitution and government decrees provide for freedom of worship; however, the Government continued to restrict severely those religious activities it defined as being 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 spread significantly. However, government regulations control religious hierarchies and organized religious activities, in part because the party fears that organized religion may weaken its 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 train, ordain, promote, or transfer clergy. These powers lie principally with provincial or city people's committees. All religious groups face difficulty in obtaining teaching materials, expanding training facilities, publishing religious materials, and expanding the clergy in training in response to increasing demand from congregations.

The Government requires all Buddhist monks to work under a party-controlled umbrella organization, the Central Buddhist Church of Vietnam. The Government suppressed efforts by the non-government-sanctioned United Buddhist Church of Vietnam (UBCV) to operate independently, and tension between the Government and the UBCV continued. In November an appeals court upheld the 3-year sentence of Nguyen Moi, who was arrested in 1995 for possession of propaganda against the authorities and the official Buddhist church. An émigré organization estimated in September that about 70 UBCV members were in detention.

Credible reports from within the country indicate that the UBCV's leader, the Venerable Thich Huyen Quang, was moved to administrative detention against his will. The reports indicate that he is not allowed to visit his home pagoda in Hue. Worshipers in several Buddhist, Catholic, and Cao Dai centers of worship report that undercover government observers attend worship services and monitor the activities of the congregations and clergy. The Government stated that it had legally recognized Cao Dai, and had encouraged Cao Dai sects to expand.

The Government controls the Catholic Church hierarchy, in part by requiring all clergy to belong to the government-controlled Catholic Patriotic Association. It also insisted on approving Vatican appointments. The Government approved the Vatican's ordination of two bishops. The local Church hierarchy remained frustrated by the Government's restrictions but has reportedly accommodated them for many years. The Government prohibits the Catholic Church from engaging in educational and charitable activities.

The Government allowed bishops and priests to travel freely within their dioceses but restricted their travel outside these areas. The Government limits the Church to operating 6 major seminaries throughout the country, totaling approximately 500 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 is insufficient to support the growing Catholic population, estimated at 5 million.

There is no officially sanctioned umbrella organization for Protestants, but the Christian Missionary Alliance of Vietnam, the only government-approved Protestant organization in the country, operated with slightly greater freedom. Church attendance grew substantially despite continued government

restrictions on proselytizing activities. Protestants reported that congregations are not allowed to cooperate on joint religious observances or other activities. Police have raided house churches. Nongovernmental organizations (NGO's) abroad reported continued arrests and government harassment of some ethnic Hmong Protestants for proselytizing in northern Vietnamese villages. There were reports that members of the Cao Dai religion were subjected to arbitrary detention and persecution.

Mosques serving the country's small Muslim population operate in Hanoi, Ho Chi Minh City, and several provinces in the southern part of the country. The Government restricts exit permits for Muslims seeking to make the hajj (see Section I.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 (see Section I.f.). In practice, many people continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. However, moving without permission restricted their ability to obtain legal work permits. Citizens must notify police if they will be away from their residence overnight and register with police anywhere they stay overnight. These requirements are not always strictly enforced. The Government has employed internal isolation to restrict the movement of political and religious dissidents.

Foreigners are generally free to travel throughout the country, except in some areas restricted on grounds of national security. The Government retains the right to approve travel to border areas, to some areas in the central highlands, and to some islands, but in practice foreigners can easily travel to most border areas without approval. On several occasions, however, local police detained and fined foreigners who, police said, ventured too close to borders. In one instance, police detained foreigners and fined them for approaching the border with Cambodia in Gia Lai province.

In September the Government barred a journalist who was awarded a U.N. fellowship from traveling abroad to accept it (see Section 2.a.).

In November the Government required citizens traveling abroad, including government officials, to obtain exit and reentry visas. Both law and regulation provided for the right of all citizens to obtain an exit permit, except for the following: Members of the small Muslim community seeking to make the hajj; political activists; certain Buddhist clerics; the mentally ill; and those serving prison sentences under criminal investigation; holding state secrets; suffering serious health problems; involved in tax or real estate disputes; or whose sponsors abroad were engaged in activities opposed to the Government. The Government maintained the right to reject exit visa applications in these categories. In practice, citizens had to demonstrate an invitation and sponsorship from abroad to be issued a passport and exit permit.

In November the Government announced an easing of travel restrictions. According to a decision by the Prime Minister that came into effect on November 26, citizens holding valid passports would be freed from exit and reentry visa requirements. The directive also contained measures to punish citizens who stayed abroad longer than allowed without informing one of the country's embassies or consulates.

Citizens must demonstrate eligibility to emigrate to another country and show sponsorship abroad, before the Government issues exit permits. Citizens' access to exit permits was frequently constrained by factors outside the law. Refugee and immigrant visa applicants to the Orderly Departure Program (ODP)

sometimes encounter local officials who arbitrarily delay or deny exit permits based on personal animosities or on the official's perception an applicant does not meet program criteria, or in order to extort a bribe.

The ODP continued to resettle immigrant and refugee beneficiaries, including Amerasians, former reeducation camp detainees, and family unification cases, at the rate of over 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 nonethnic Vietnamese such as the Montagnards, may not have ready access to these programs. The Government denied exit permits for certain Montagnard applicants for emigration.

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 citizen under the law, even if they have adopted another country's citizenship. However, migrants are not permitted to use Vietnamese passports after they adopt other citizenship. Because overseas Vietnamese are considered a valuable potential source of foreign exchange and expertise to Vietnam but also a potential security threat, the Government generally encourages them to visit Vietnam but monitors many of them carefully.

In January Vietnam and the United States signed an agreement to allow several thousand Vietnamese returned from refugee camps elsewhere in Southeast Asia to apply for resettlement in the United States. Applicant interviews and movements to the United States were under way at year's end.

Vietnam cooperated with the international community in implementing the Comprehensive Plan of Action which was in effect between 1988 and June 1996, to resolve the situation of the thousands of Vietnamese who departed the country illegally. In 1988 Vietnam had signed a memorandum of understanding with the United Nations High Commissioner for Refugees (UNHCR) to increase acceptance of voluntary repatriates from camps in countries of first asylum, provided that there was financial assistance. The agreement included a commitment to waive prosecution and punitive measures for the 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 109,000 Vietnamese have returned from countries of first asylum. Of those, more than 95,000 returned voluntarily. Another 13,000 were repatriated involuntarily. A group of 522 was deported from Hong Kong, China during the year under a bilateral Hong Kong-Vietnam agreement. These persons had committed crimes in camps of first asylum, were tried and convicted, and had served jail sentences in the Hong Kong Special Administrative Region. The UNHCR, which monitors a high proportion of repatriates under all categories, reports that they do not face retribution or discrimination. There was no credible evidence to substantiate claims that refugees returned under UNHCR auspices were harassed or persecuted because they previously had fled the country. Individual returnees have faced legal action after return on charges of illegal activities carried out either before departure (other than illegal departure) or after return.

The Constitution allows consideration of asylum under certain circumstances for foreigners persecuted abroad. 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 that any individuals requested asylum in Vietnam. In the 1970's and 1980's, Vietnam admitted refugees from Cambodia, most of whom were ethnic Chinese. More recently, between 1993 and 1995, Vietnam admitted 30,000 persons from Cambodia, mainly ethnic Vietnamese. 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 do not have the right to change their government. Party control over the selection of candidates in elections for local government, the National Assembly, the presidency and the prime ministership, and this undermines this right. All authority and political power is vested in the VCP; political opposition movements 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. A standing board, consisting of five members of the Politburo, oversees day-to-day implementation of leadership directives. Public 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.).

Eligible citizens are required to vote in elections, although there is no penalty for not voting. Citizens elect the members of the National Assembly, ostensibly the main legislative body, but the party must approve all candidates, most of whom are VCP members. In July citizens voted for candidates to the 450-seat National Assembly; 66 nonparty members (15 percent) were elected, nearly double the previous proportion of nonparty members (8 percent) in the Assembly. Most Assembly members belong to the VCP, although in July, in elections for a new assembly nonparty representation increased from 8 to 15 percent. For the first time, the electoral roster included candidates not nominated by party or state organs. Of the 11 "self-nominated" candidates, 3 were elected, although 1 was disqualified before taking office on grounds of adultery.

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. During the year, the National Assembly engaged in increasingly vigorous debate on economic, legal, and social issues, including the banking sector and management of the budget. Legislators questioned and criticized ministers and voted down the Government's nomination of the ministerial-level chairman of the state bank to serve a new term. However, in voting for a new prime minister, president, vice president and cabinet, members could consider only candidates advanced by the party.

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. There is one woman in the Politburo. Women hold a few important positions, including vice president and several vice ministerships or equivalent positions. Voters elected 25 women, 10 percent more than in the previous National Assembly. 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, local human rights organizations to form or operate. It generally prohibits private citizens from contacting international human rights organizations. The Government permitted the UNHCR and 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 showed increased willingness to discuss human rights problems 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 problems.

## **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 was uneven. People formerly interned in reeducation camps on the basis of pre-1975 association with the government of the former Republic of South Vietnam continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. They and their families generally are not allowed employment with the Government. This prohibition is less important than earlier because of the growth in private sector job opportunities.

### **Women**

International NGO workers and many women report that domestic violence against women is common. The law addresses the issue of domestic violence, but it is not enforced effectively. Most divorces are reportedly due to domestic violence, but many women likely 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 to other countries for purposes of prostitution. The Government is working with international NGO's to supplement law enforcement measures and is cooperating with other governments to prevent this activity. Organized rings reportedly lure poor, often rural, women with promises of jobs or marriage and force them to work as prostitutes. Some women are kidnaped and sold as wives to men in other countries.

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, few women compete effectively for higher status positions. The Constitution provides that women and men must receive equal pay for equal work, but the Government does not enforce this provision. Despite the large body of legislation and devoted to the protection of women's rights in marriage as well as in the workplace and labor law provisions that call for preferential treatment of women, women do not receive equal treatment. Nonetheless, women play an important role in the economy and are widely engaged in business and in social and educational institutions.

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. International NGO's and international organizations regard the union as effective, but they and women's union representatives believe that much time is required to overcome societal attitudes relegating women to lower status than men. The Government also has a Committee for the Advancement of Women.

### **Children**

Reputable international organizations, including the U.N. Children's Fund (UNICEF), report that despite the Government's promotion of child protection and welfare, children are increasingly at risk of economic exploitation. It cited government estimates that approximately 29,000 children are working in exploitative labor (see Section 6.d.). While education is compulsory, the authorities do not enforce the requirement, especially in rural areas where government and family budgets for education are strained (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. Reports from local sources indicate that responsible officials generally take these goals seriously but are constrained by severely limited budgets. Despite some success, UNICEF estimates that there are still 3

million children living in "especially difficult" circumstances, of an estimated 18 million children in the country.

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

#### People With Disabilities

Government provision of services to the disabled is limited, and the Government provides little official protection or effective support for the disabled. Government agencies responsible for services to the disabled worked with domestic and foreign groups to "identify measures" to provide protection, support, and physical access for the disabled. Implementation is hampered by limited budgets. The 1995 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 disabled war or by subsequent accidents involving unexploded ordnance and has developed indigenous prosthetics manufacturing capabilities. There are no laws mandating physical access to buildings.

#### National/Racial/Ethnic Minorities

Although the Government states 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. However, many local and some central government officials, including the chairman of the National Assembly, are members of ethnic minorities. 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 join or form unions of their choosing; such action requires approval from the local office of the party controlled Vietnam General Confederation of Labor (VGCL). The VGCL is the umbrella organization under which all local trade unions must operate, and it claims 4 million members in branches in each of the major cities and provinces. VGCL officers report the VGCL represents 95 percent of public sector workers, 90 percent of workers in state-owned enterprises and 12-15 percent of private sector workers. The Labor Law requires provincial trade union organizations to establish unions within 6 months 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 by law 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 International Labor Organization (ILO) and foreign governments are providing technical assistance and training to the Ministry of Labor, Invalids, and Social Affairs and to the VGCL.

The Labor Law provides for the right to strike under certain circumstances. The law requires that management and labor resolve labor disputes through the enterprise's own labor conciliation council. If that fails, the matter goes to the provincial labor arbitration council. Labor courts, which were established in 1996 within the people's court system, heard 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 and include electrical production, posts and telecommunications, railway, maritime and air transportation, banking, public works and the oil and gas industry. The law also grants the Government the right to suspend a strike considered detrimental to the national economy or public safety. Strikes are prohibited 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 further in 1997, primarily against foreign-owned or joint venture companies but also involving state-owned and private firms. The Government tolerated these strikes, even though most were illegal. None was organized by the VGCL or its affiliate unions. The Labor Law prohibits retribution against strikers, and there were no credible reports of such retribution.

Vietnam is a member of the ILO. Individual unions are not legally free to, and do not in practice, individually join, affiliate with, or participate in international labor bodies. However, the VGCL has relations with 95 labor organizations in 70 countries.

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

Workers must have the approval of the provincial or metropolitan branch of the VGCL in order to organize unions in their enterprises, but they can also 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 Law prohibits antiunion discrimination on the part of employers against employees seeking to organize.

There are a number of export processing zones and 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 and bonded labor. The law does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur. Officials state that juveniles in reeducation camps, which function much as reform schools or juvenile detention centers do elsewhere, are assigned work for educational purposes that does not generate income. There were credible reports that some prisons employ the use of forced labor, sometimes as part of commercial ventures, without compensation to prisoners. The Government denies that this occurs. The Government periodically assesses required labor, or its monetary equivalent, on national infrastructure projects. The Government announced that every citizen of working age would be required to contribute 10 days' labor or its monetary equivalent toward the construction of a new national highway.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Law sets the minimum age for employment at 18 years of age, but enterprises may hire children from 15 to 18 years of age so long as the firm obtains special permission from the Ministry of Labor, Invalids, and Social Affairs and ensures that these young workers do not undertake hazardous work or work that harms their physical or mental development; that they do not work more than 42 hours per week; and that they receive special health care. It is not clear whether authorities enforce these regulations. Children as young as the age of 13 can register at trade training centers, which are a form of vocational training. There were no reports that state-owned enterprises or foreign-invested companies used child labor.

In rural areas, children work primarily on family farms and in other agricultural activities. In urban areas, children work in family-owned small businesses. There are compulsory education laws, but they are not effectively enforced, especially in rural areas where children are needed to work in agriculture. However, the culture's strong emphasis on education leads people who can afford to send their children to school to do so rather than work. The law does not specifically prohibit forced and bonded labor but there were no reports of such practices (see Section 6.c.).

However, UNICEF announced in August that children below the age of 16 face increased risk of economic exploitation and cited the Government's estimates that approximately 29,000 children below the age of 15 are victims of exploitative labor. That estimate may be low, UNICEF noted, since most children are working in the informal sector. UNICEF cited evidence of children working in gold mines, as domestic servants, or working up to 14 hours a day in hazardous conditions for meager pay or no payment.

#### e. Acceptable Conditions of Work

The Labor Law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for foreign-investment joint ventures is \$45 (518,000 dong) in Hanoi and Ho Chi Minh City, \$40 (461,000 dong) in certain other large cities, and \$35 (403,000 dong) elsewhere. The minimum monthly wage for Vietnamese-owned companies is \$12.50 (144,000 dong). The Government can temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations, or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than \$30. These minimum wage rates are inadequate to provide a worker and family with a decent standard of living. However, 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 only 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 at 1.5 times the regular wage and 2 times the regular wage on holidays. The law limits compulsory overtime. It is uncertain how well the Government enforces these provisions.

According to the law, a female employee who is to be married, is pregnant, is on maternity leave, or is raising a child under 1 year of age cannot be dismissed unless the enterprise is closed. Female employees who are at least 7 months pregnant or are raising a child under 1 year of age cannot work overtime, at night, or in distant locations.

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. The VGCL reports that there are 300 labor inspectors in the country but that at least 600 are needed. 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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