

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

1. Are there any general or specific issues for Vietnam (VN) nationals returning to VN after a long period of absence?
2. Does a VN national have to be on a household register in order to apply or renew a passport?
3. Is there any evidence of the existence of a young Buddhist movement in Australia?
4. Is there any evidence of anti VN regime demonstrations by a young Buddhist movement or other groups in Australia?
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RESPONSE

1. Are there any general or specific issues for Vietnam (VN) nationals returning to VN after a long period of absence?

A survey of previous research on this issue indicates that there have been no reports in recent times, which state that persons who returned to Vietnam after long periods would face adverse attention:

(i) Research Directorate, Immigration and Refugee Board, Ottawa:

No reports on the treatment by the Vietnamese authorities of Vietnamese returnees who have lived abroad and whose work contracts have expired or who are failed refugee claimants could be found among the sources consulted by the Research Directorate.

(Immigration and Refugee Board of Canada 2004, VNM42934.E *Vietnam: Further to VNM41980.E of 4 February 2004 on the treatment of Vietnamese returnees, especially those who are failed refugees, who have left the country without permission or who lived abroad and whose work contract had expired*, 9 September – Attachment 1)

(ii) A report from Thai News which states that the UNHCR had assessed and praised Vietnam's efforts to resettle illegal immigrants:

Vietnam has promoted socio-economic development in the Tay Nguyen (Central Highlands) region and facilitated the resettlement of returnees from Cambodia, said Erika Feller, an assistant of the United Nations High Commissioner for Refugees (UNHCR), in the capital.

After visiting the region, Feller said the ethnic minority returnees from Cambodia were neither punished or discriminated for migrating illegally, and were supported by the Vietnamese Government for reintegrating into the community.

She added that the returnees she spoke to had said they originally left Vietnam for economic reasons.

(‘UNHCR hails Vietnam's efforts to resettle illegal immigrants’ 2006, *Thai News Service*, 2 May - Attachment 2)

(iii) A further UNHCR assessment was carried out later that year and found that ethnic minority people who had left Vietnam illegally had not been punished upon their return:

The United Nations High Commissioner for Refugees (UNHCR) carried an article on its website this week saying that ethnic minority people who illegally left Vietnam and then returned had not been punished for their actions.

The article said that Giuseppe de Vincentis, deputy head of UNHCR's regional office in Bangkok, and Vu Anh Son, head of the agency's Vietnam operations, had visited the Tay Nguyen (Central Highlands) last week to ascertain that the ethnic minority people had not been punished for leaving the country illegally.

After last week's mission, UNHCR has monitored 100 per cent of returnees in Kon Tum province and nearly 70 per cent in Gia Lai province - "far above the numbers that are usually monitored by the refugee agency", the website stated.

"Most of the 33 returnees the team met were interviewed in private. The returnees told remarkably similar stories," the article said.

"In this collective society, most said they simply followed others to Cambodia, and no one seemed to know who had organised the departure of groups as large as 50 people, mostly men. None told their families they were leaving."

The website explained that the ethnic minority people had been crossing the border to Cambodia, en route to the USA, in hope of a better life.

According to the article, "Ksor Dim, aged 20, said the lure of America caused her to leave her husband on the spur of the moment and head for Cambodia with her infant son.

...

The returnees, who were deported from Cambodia or returned with the help of the UNHCR, all told the monitoring team that their families were happy to receive them back, and that they had easily resumed their old lives.

Son was quoted as saying, "The condition of the returnees is the same as the rest of the population in the villages.' Although the living standards of the ethnic minority people are low, the returnees 'are not necessarily worse off than other people in this area, and many said they have benefited from help from the local authorities - allocations of rice and kerosene - to help them re-establish their lives back home' he added."

(‘Vietnam: No punishment for minority returnees, reports UNHCR’2006, *Thai News Service*, 26 September – Attachment 3)

(iv) Research Response of 10 May 2007:

1. Have there been any recent reports of the mistreatment of persons returned to Vietnam? In particular, have persons who have left Vietnam without the permission of the Public Security authorities been mistreated?

No reports were found in the sources available relating to the mistreatment of persons returned to Vietnam from overseas who left without the permission of the Public Security authorities.

Information located on the treatment of returnees relates to “Montagnard refugees and asylum seekers who have returned to Vietnam from UN High Commission for Refugee (UNHCR) camps in Cambodia”. In a 2006 report, Human Rights Watch (HRW) alleged that “[t]he Vietnamese government continues to persecute Montagnards once they are out of the sight of international observers” (Human Rights Watch 2006, ‘Vietnam: Montagnards Face Religious, Political Persecution’, Human Rights Watch website, 14 June <http://hrw.org/english/docs/2006/06/14/vietna13542.htm> – Accessed 10 May 2007 – Attachment 4).

For general information on the extent of the Ministry of Public Security’s responsibilities and influence, the US Department of State’s 2006 report states the following:

Internal security primarily is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas the military is the primary government agency and provides public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintained 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 pervasive in its intrusion into most citizens’ daily lives.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of the people’s committees at each level. The police were generally effective at maintaining political stability and public order, but police capacities, especially investigative, were very low. Police training and resources were inadequate. Corruption was a significant problem among the police force at all levels. Internal police oversight structures existed but were subject to political influence (US Department of State 2007, *Country Report on Human Rights Practices for 2006 – Vietnam*, 6 March – Attachment 2).

(RRT Country Research 2007, *Research Response VNM13740*, 10 May – Attachment 4)

Another Research Response notes that there is a contradiction between official statements made by government authorities and the actual treatment of returnees:

1. Would a person face retribution or discrimination if he had left Vietnam illegally or who had committed crimes in camps of first asylum (or having settled in Australia for example – see USDOS 1998 and please update)?

The official statement from the Vietnamese government is that returnees, voluntary or involuntary, would not face any retribution if they had left Vietnam illegally or committed crimes in other countries. People did face imprisonment if they had outstanding criminal allegations against them in Vietnam prior to their departure. In 1995 the deputy head of the consular department at the Ministry of Foreign Affairs allegedly stated that “[w]e will do our best to re-integrate the returnees and we will not take action against them for illegal departure, but there are other people, very serious criminals, that we must put in jail” (McKenzie, S. 1995, One in 20 Faces Prison, *South China Morning Post*, 24 July – Attachment 1). Conversely, a 1992 report by Human Rights Watch raised concern regarding the treatment of returnees to Vietnam:

Despite Vietnam’s promise not to persecute or harass any returnees, whether they returned willingly or not, reports by voluntary returnees of harassment and statements by officials raised concern over the forced return of boat people from Hong Kong in November. Some voluntary returnees were subject to intensive interrogation about their associations and activities in Hong Kong, and others were required to report on their activities to their local police stations – treatment typically accorded those on probation. A series of statements by Vietnamese officials characterized as “criminals” worthy of “punishment” those who leave Vietnam a second time after returning once voluntarily. Although these statements were retracted after publicity, the attitude behind them raise questions about how local officials will treat those returned by force.

Increasing corruption has to some degree mitigated the effects of Vietnam’s extensive surveillance apparatus on ordinary citizens, at least for those with the means to bribe susceptible local officials. However, those forced to return will be especially vulnerable, since they are ineligible for any cash allowance and often will have sold all their possessions to finance their trip. The government still gathers extensive information on citizens’ political and family backgrounds, and those deemed undesirable still face discrimination in employment and educational opportunities... (‘Human Rights Watch 1992, *World Report – Vietnam*, http://www.hrw.org/reports/1992/WR92/ASW-15.htm#P938_343433 – Accessed 21 August 2006 – Attachment 2).

On 20 November 1995, the *South China Morning Post* reported the arrest and imprisonment of a returnee in which it was unclear whether he was jailed for illegal departure or not. The case is described as “extraordinary” as the returnee fled five times from Vietnam (‘Probe into Jailing of Returnee’ 1995, *South China Morning Post*, 20 November – Attachment 3 (RRT Country Research 2006, *Research Response VNM30820*, 30 October – Attachment 5)

2. Does a VN national have to be on a household register in order to apply or renew a passport?

Yes – according to advice from the Canadian authorities a household registration document forms part of the portfolio of documents which is required when one wishes to apply for a new passport in Vietnam. (Immigration and Refugee Board of Canada 2001, *VNM37730.E – Vietnam: Documents required by Vietnamese authorities in order to issue a passport to a Vietnamese citizen from within Vietnam; whether local police clearance is required*, 16 October – (Attachment 6).

According to advice from the UK Home Office

PASSPORTS

- 27.05 The USSD Report 2005 recorded that “Citizens’ access to passports sometimes was constrained by factors such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passport issuance based on personal animosities, on the officials’ perception that an applicant did not meet program criteria, or to extort a bribe.”
- 27.06 For a Vietnamese citizen to secure a passport within Vietnam, applicants must submit the following documents:
1. Birth certificate
 2. Household registration document (ho khau)
 3. Government-issued ID card
 4. Letter of introduction for a passport, if applicable.
- (Canadian IRB, 16 October 2001)
- 27.07 A representative of the Vietnamese Embassy in Ottawa stated that a certificate of police clearance is not required from Vietnamese citizens to obtain a passport in Vietnam. (Canadian IRB, 16 October 2001)
- 27.08 A Vietnamese human rights activist contacted by the Canadian IRB in August 2000 stated that it was relatively easy even for dissidents to obtain a Vietnamese passport for the purposes leaving Vietnam. However, the same source stated that dissidents living abroad may experience problems if applying for a visa to re-enter Vietnam. The same source also knew of cases where people openly opposed to the regime had been allowed to return to Vietnam, although they were kept under surveillance and harassed repeatedly by the police during their visit.
- 27.09 As recorded by the USSD Report 2005, “Although the government no longer required citizens traveling abroad to obtain exit or reentry visas, the government sometimes refused to issue passports. In the past the government did not allow some persons who publicly or privately expressed critical opinions on religious or political issues to travel abroad.”
- 27.10 Recently expired Vietnamese passports may be renewed abroad at consular offices. In Canada, the Embassy of Vietnam requires the expired passport, two photos and, if applicable, the applicant’s landed immigrant certificate. (Canadian IRB, 16 October 2001)
- 27.11 As noted by the US State Department’s Bureau of Consular Affairs on 24 August 2004, there are two types of standard Vietnamese passports:
1. The Socialist Republic of Vietnam (SRV) passport (ho chieu or giay ho chieu). SRV regulations effective from 26 November 1997 abolished exit and entry permits in Vietnamese passports.
 2. A laissez-passer (giay thong hanh or giay xuat canh) permitting only exit from Vietnam.
- 27.12 The same source stated that:
- “Passports are generally valid for five years and are made of blue plastic-laminated paper with gilt print on the cover. Official passports are dark green, while diplomatic passports are maroon. The bearer’s photo is on an inside page, with a dry impression seal and sometimes a clear plastic laminate over the photo. The issuance page shows the name stamp and ‘stamp of office’ of one of several issuing authorities.” (UK Home Office 2006, ‘Country of Origin Information Report: Vietnam’, Citizenship and Nationality. UK Home Office website, 21 December http://www.homeoffice.gov.uk/rds/pdfs06/vietnam_221206.doc - Accessed 9 January 2007- Attachment 7)

3. Is there any evidence of the existence of a young Buddhist movement in Australia?

A survey of the databases available to the Tribunal has failed to provide information to confirm or deny that there is a young Buddhist movement in Australia.

However, there is some information on Vietnamese Buddhists – according to a review of two books on this issue: “most of the 140,000 Buddhist in Australia in 1991 were born in Asia, a third of them in Vietnam.” (Waterhouse, Helen 1996, JBE Online Reviews, *Journal of Buddhist Ethics* – Attachment 8)

Treatment of Buddhists in Vietnam

According to a recent DFAT advice on this matter:

D. Buddhist monks affiliated with the Government-sanctioned 'Sangha Buddhist' organisation generally do not receive any form of biased treatment or harassment. Monks affiliated some other Buddhist sects can face harassment and/or ongoing movement restrictions. ((Department of Foreign and Trade 2007, *DFAT Report 706 – Vietnam: RRT Information Request: VNM32395*, 8 October – Attachment 9)

A list of various Vietnamese Buddhist groups is attached for your information. (Search results 2008, Buddhnet (9 January) – Attachment 10)

4. Is there any evidence of anti VN regime demonstrations by a young Buddhist movement or other groups in Australia?

A search of the databases available to the Tribunals has failed to confirm or deny that groups made of young Vietnamese Buddhists have been involved in such activities.

5. Is there any evidence of VN spy activity in Australia that reports on the activities of VN nationals whilst in Australia?

Although there is no information to confirm or deny that the Vietnamese government monitors Vietnamese nationals in Australia, a previous Research Response has found that the authorities appear well-informed:

Situation of returning Vietnamese

1. Are you aware of any monitoring activity by Vietnamese Embassies and Consulates of expatriate Vietnamese and Vietnamese citizens travelling or residing abroad?

The US Department of State's most recent report on human rights practices in Vietnam, *Country Reports on Human Rights Practices for 2004 – Vietnam*, makes no specific reference to the activities of Vietnamese authorities operating abroad but some information provided by the report suggests that domestic Vietnamese authorities are kept well informed of the activities of Vietnamese who are travelling, or living, abroad: the report notes a number of cases in which returning Vietnamese citizens have been mistreated on the basis of the Vietnamese government's awareness of the returnee's dissident activities, both domestically and overseas. For example, the report states that, “[o]n May 14 [2004], a court in Ho Chi Minh City sentenced Nguyen The Hanh to 2 years in prison for having been involved with Vietnamese-American political activist groups during the 2 years he spent outside the country” (see Section 2.b.) Similarly, “US citizen Hoang The Lan was detained by public security officers early on the morning of August 2 [2004]” and “was interrogated over a period of 4 days about his involvement with groups that advocate democracy in Vietnam” (see Section 1.d.). The report also notes that, “[a]lthough the Government no longer required

citizens traveling abroad to obtain exit or reentry visas... family members of refugees were unable to obtain passports to reunite abroad” (see Section 2.d.); and that “persons who expressed alternative opinions on religious or political issues were not allowed to travel abroad” (see Section 2.b.) (US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Vietnam*, 28 February – Attachment 3).
(RRT Country Research 2007, *Research Response VNMI7238*, 24 March - Attachment 11)

6. Are there any reports of VN nationals who live abroad illegally experiencing difficulties if they are returned to VN?

According to the Research Response cited above:

2. How are Vietnamese citizens who have been involved in anti-regime activity overseas and who have been critical of the Vietnamese regime treated on return by the Government? Does this also apply to failed asylum seekers, and would the authorities’ reaction be any different in these circumstances?

As noted above, ... the US Department of State’s most recent report on human rights practices in Vietnam, *Country Reports on Human Rights Practices for 2004 – Vietnam*, notes a number of instance in which returning Vietnamese citizens have been mistreated by the Vietnamese government as a result of actual or imputed dissident activities and/or beliefs (see Section 2.b.). This would also appear to be the case with regards to failed asylum seekers. The report indicates that “[t]hirteen potential refugees who received UNHCR protection in Phnom Penh”, and who were “independently returned to Vietnam in October”, were “interrogated extensively by authorities upon their return” (see Section 2.d.). The Vietnamese government refused to allow the UNHCR access to the Central Highlands; where UNHCR had hoped “to monitor conditions” and “ensure the safety of returned refugees” (see Section 2.d.). According to the US Department of State, “[t]here were numerous reports of Montagnards seeking to cross into Cambodia being returned to Vietnam by Vietnamese police operating on both sides of the border, sometimes followed by beatings and detentions” (see Section 5). Such instances of mistreatment have not been restricted to the Montagnards alone, “[o]n August 29, unregistered Protestant pastor Tran Mai was detained for 8 days after he allegedly committed immigration law violations when he returned to the country through Cambodia” (see Section 2.c.). And June 2004 saw the release of “Pham Van Tuong, a former UBCV monk known as Thich Tri Luc, who had been imprisoned since mid-2002, for the crime of “fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration” (see Section 2.d.; and, for more on this case, see below for the Human Rights Watch report, ‘Vietnam: Buddhist Dissident Forced to Flee’, of 24 June 2004)... [the] US Department of State notes that Vietnam “is not a signatory to the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol”; and that, in August 2004, “press reports” suggested that “as many as 100 North Korean refugees had been forcibly returned to China” by the Vietnamese authorities (see Section 2.d.). A pertinent extract follows in detail:
Following the April 10 protests in the Central Highlands a number of Montagnards hid in forests and rubber plantations, and some attempted to flee across the border into Cambodia (see Section 2.b.). Vietnamese police attempted to block these potential refugees and reportedly crossed the border into Cambodia. The UN High Commissioner for Refugees (UNHCR) sought to monitor conditions in the Central Highlands without restriction to ensure the safety of returned refugees. The Government did not allow this access. Thirteen potential refugees who received UNHCR protection in Phnom Penh independently returned to Vietnam in October. According to Vietnamese authorities, the 13 returned safely to their homes. However, newspapers later printed accounts that made it clear that the 13 had been interrogated extensively by authorities upon their return.

On March 12, Pham Van Tuong, a former UBCV monk known as Thich Tri Luc, was convicted by a court in Ho Chi Minh City of “fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration,” and sentenced to 20 months imprisonment, including 19 months time served. Released March 26, he left for another country in June, where he was granted refugee status.

The country is not a signatory to the 1951 UN Convention Relating to the Status of Refugees or its 1967 Protocol. In July, international NGOs and press reports speculated that the Government allowed more than 450 North Koreans illegally present in Vietnam to travel to South Korea. Reports from similar sources in August stated that as many as 100 North Korean refugees had been forcibly returned to China (Section 2.d.) (US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Vietnam*, 28 February – Attachment 3).

(RRT Country Research 2007, *Research Response VNMI7238*, 24 March - Attachment 11)

7. Would a child born overseas or to a dissident parent be able to expect the same level of support/benefit as a VN national?

According to information outlined, a child’s situation would be dependent on being included in the Ho Khau registration:

As recorded by the US State Department’s Bureau of Consular Affairs on 24 August 2004, “Every person residing in Vietnam must be listed on a household registry (*ho khau*), maintained by the Public Security Bureau.”

A report by the Canadian Immigration and Refugee Board (IRB) dated 16 October 2001 noted that if individuals move from one place to another without changing their household registration, they are moving illegally, and would be unable to obtain a job or schooling for their children.

(UK Home Office 2006, 'Country of Origin Information Report: Vietnam', Freedom of Movement. UK Home Office website, 21 December

http://www.homeoffice.gov.uk/rds/pdfs06/vietnam_221206.doc - Accessed 9 January 2007- Attachment 7)

Children of known dissidents are subjected to adverse attention:

A report produced by the Research Directorate of the Canadian Immigration and Refugee Board, in January 1999, indicates that “[e]ach Vietnamese citizen possesses a curriculum vitae that contains all his/her past history (*antécédents*) and that of his/her family, somewhat similar to a criminal or police record”. “This CV” is said to be “included in the residence permit (*ho khau*), which is issued by the area policeman in charge of the political surveillance of the population”. The relevant extract follows in detail:

The executive secretary states that the Vietnamese authorities discriminate against the families of ex-Communist dissidents. Each Vietnamese citizen possesses a curriculum vitae that contains all his/her past history (*antécédents*) and that of his/her family, somewhat similar to a criminal or police record. This CV is included in the residence permit (*ho khau*), which is issued by the area policeman in charge of the political surveillance of the population, and which is necessary for all administrative procedures (work, admission to school or hospital, etc.). Religious affiliation and politics are also included on this CV. The attachments provided by the executive secretary offer examples and confirm that children of dissidents experience discrimination and stigmatisation, cannot pursue university studies or enter

professions they would like to practise. One of the examples provided is that of the wife of a dissident who was forbidden from maintaining her small retail business, thereby placing her family in a more precarious economic situation (Immigration and Refugee Board of Canada 1998, *VNM28655.E Vietnam: Update to Response to Information Request VNM28180.E of 3 November 1997 on the treatment of families of individuals who have "fallen out of favour" with the government*, 14 January – Attachment 12).

(RRT Country Research 2007, *Research Response VNM17324*, 16 May. (Attachment 12))

8. When and why are names removed from the *Ho Khau*?

Names can be removed from the *Ho Khau* if a citizen has not lived in his/her residence continuously for one year. (Immigration and Refugee Board of Canada 2001, *VNM37802.E – Vietnam: Whether Vietnamese citizens or residents are required to cancel their Household Registration (ho khau) when leaving Vietnam to live abroad; whether the registration can be restored upon returning to Vietnam after two or more years of absence; grounds for refusal to issue a household registration to a returnee*, 16 October – Attachment 13)

9. What are the implications for someone who is not on the *Ho Khau*?

The *Ho Khau* is a compulsory legal requirement as outlined in this detailed study:

In Vietnam everyone has to be recorded as belonging to a household (ho). The name of every household member (khau) has to be entered, at declaration of birth, in a booklet, registered at a particular place. The administration of the rules governing household registration (ho khau) has had wide-ranging consequences for Vietnamese citizens. Instituted in the 1950s, the rules in question governed where Vietnamese people live. These rules presented many restrictions on freedom. The purpose of this article is to explore these rules and the ways they were negotiated both before and since the doi moi (renovation) market reforms. (pp1)

...

To live without a ho khau was to live without the rights granted to Vietnamese citizens under the law. And the ho khau, as we have seen, was intimately tied to place of residence. Rights were granted in the place of registered residence, and in that place alone. (pp5)

(Hardy, Andrew 2001 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn: Journal of Social Issues in SE Asia*, Institute of Southeast Asian Studies (ISEAS) – Attachment 14)

The importance of *ho khau* is confirmed in the following article:

A residential book is equally important to a Vietnamese national - more so when you consider that the small green book guarantees their economic and social rights to a large extent. To buy a house or land, to get married, to be employed, to register for a training course, to borrow from a bank, to register your child's birth, to get a motorbike licence, to go abroad, or to install a phone line if you are Vietnamese, you need a residential book. ('The little residential book' 2003, *Vietnam Investment Review Ltd*, 15 September – Attachment 15)

10. Is there any evidence to support the claims that the reality is different from what is reported about the state of humanitarian affairs in VN, and that local police are still powerful and will make life difficult?

Information contained in previous research deals with this issue:

Political rights and human rights

8. Do local authorities at times act arbitrarily at the local level regardless of directions from the central authority?

The US Department of State's most recent report on human rights practices in Vietnam, *Country Reports on Human Rights Practices for 2004 – Vietnam*, indicates that, in Vietnam, local authorities, and security forces in particular, are known to exercise their powers independently of government directions. For instance, the report states that, while “[t]here were no politically motivated killings by the Government or its agents”; “there were reports of killings by security forces”. Furthermore, the report indicates that laws regulating detention are such that local authorities, such as security forces and judges, are granted a great deal of latitude with regard to the judicial process. Relevant extracts follow in detail:

There were no politically motivated killings by the Government or its agents; however, there were reports of killings by security forces.

On April 10, ethnic minorities protested in numerous locations in the Central Highlands provinces of Dak Nong, Dak Lak, and Gia Lai. In some of the protests, individuals carried clubs and threw rocks at police officers. In a number of cases, police reportedly responded to by beating and firing upon demonstrators. The Government reported the deaths of three protestors, all at the hands of other demonstrators. Reports from inside the country and from nongovernmental organizations (NGOs) monitoring the situation from abroad suggested that many protestors were killed by police, or fled into the jungle where some died from their wounds, afraid to seek medical treatment. Credible estimates put the number of protestors killed by police at least in double digits; some international organizations report that the figures may be much higher (see Section 2.b.).

Police in the Northwest Highlands reportedly beat to death Protestant believers Vang Seo Giao in July 2003 and Mua Bua Senh in 2002. Also in 2003, police in Nam Dinh Province beat to death Tran Minh Duc, who had been detained following a domestic dispute. No action was taken against officials involved in these killings. Authorities continued to investigate three other deaths in custody from 2002, including: The case of three police officers in Quang Nam Province who reportedly killed Nguyen Ngoc Chau while questioning him on murder charges; the case of two police officers in Vinh Phuc Province charged in the death of Khong Van Thoi; and the case of two prison guards in Hai Duong Province charged with manslaughter in the killing of prison inmate Pham Van Dung (Section 1.a.).

...After a suspect is detained, a decision to initiate a formal criminal investigation must be issued by a judge within 9 days, or the suspect must be released. Under amendments to the Criminal Code which took effect in July, this investigative period may last from 3 months for “less serious” offenses (those that may result in less than 3 years’ imprisonment) to 16 months for “exceptionally serious” offenses (those that may result in over 15 years’ imprisonment, life imprisonment, or capital punishment) and an additional 4 months for national security cases. The amended code further permits the Procuracy an additional 2 months at the end of the investigation to consider whether they want to prosecute the detained, or return the case to the police for additional investigation. There is no legal limit on the time that a judge’s panel (a body consisting of at least one judge and two lay assessors) has to rule on a case (see Section 1.e.) (Section 1.d.).

...Forced entry into homes is not permitted without orders from the Procuracy; however, in practice, security forces seldom followed these procedures but rather asked permission to enter homes, with an implied threat for failure to cooperate. Some individuals refused to cooperate with such “requests.” In urban areas, police generally left when faced with noncompliance. In October 2003, security officers entered without permission a house in Gia Lai Province where a foreign diplomat was conducting a consular interview. The security officers later blocked the consular officer from entering residences in Dak Lak Province (Section 1.f.) (US Department

of State 2005, *Country Reports on Human Rights Practices for 2004 – Vietnam*, 28 February – Attachment 3).

... Professor Zachary Abuza's April 2004 Freedom House report states that, in Vietnam, "civic associations...operate in a complex web of arbitrary administrative rulings and contradictory regulations". Nonetheless, Abuza also states that there is "a commitment to legal procedure" in Vietnam; "courts are not an *ad hoc* system of arbitrary justice". Local authorities are, however, officially authorized to act with a degree of independence. For example, "Directive 89/CP in 1989...authorizes troops...to establish short-term detention centers to deal with people threatening peace and security until civil order is restored and the appropriate legal bodies can take over". The report also notes that "[n]early every independent analysis finds that Vietnam is one of the most corrupt countries in Southeast Asia"; and that "the party has proven unable to police itself effectively". Relevant extracts follow in detail:

Although the constitution prohibits arbitrary arrest and detention without trial, there have been a number of party decrees and directives to circumvent this. Under Directive 31/CP, issued in April 1997, the ministry of public security is authorized to detain people without trial or formal charges for up to two years, often in the form of house arrest. There is no appeal process, nor has the Vietnamese Supreme Court ever challenged the legality of this ruling (p.3).

...In order to contend with outbreaks of rural unrest and large-scale demonstrations, the Communist Party issued Directive 89/CP in 1989, which authorizes troops under both the ministry of public security and the ministry of defense to establish short-term detention centers to deal with people threatening peace and security until civil order is restored and the appropriate legal bodies can take over. The Communist Party views the outbreak of rural unrest as one of the greatest threats to its survival (p.4).

The trials of political prisoners are just as rapid and are almost always held behind closed doors. Yet there is a commitment to legal procedure, in which the prosecution must provide evidence and make a case, while the defense is allowed to refute the charges; courts are not an *ad hoc* system of arbitrary justice (p.8).

...Nearly every independent analysis finds that Vietnam is one of the most corrupt countries in Southeast Asia...the party has proven unable to police itself effectively (p.10).

...The Communist Party does have its own internal watchdog and disciplinary body. Overworked and understaffed, it has shown an inability to police the party with any degree of effectiveness (p.12) (Abuza, Zachary 2004, *Countries at the Crossroads*, 'Vietnam', April

<http://www.freedomhouse.org/research/crossroads/2004/Vietnam2004.pdf> –

Accessed 17 March 2005 – Attachment 23).

(RRT Country Research 2007, *Research Response VNM17238*, 24 March - Attachment 14)

List of Sources Consulted

Internet Sources:

Government Information & Reports

Immigration and Refugee Board Canada <http://www.irb-cisr.gc.ca/>

Search Engines

AlltheWeb search engine <http://www.alltheweb.com/>

Google search engine <http://www.google.com.au/>

Yahoo search engine <http://search.yahoo.com>

Copernic search engine

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)
MRT-RRT Library Catalogue

List of Attachments

1. Immigration and Refugee Board of Canada 2004, VNM42934.E *Vietnam: Further to VNM41980.E of 4 February 2004 on the treatment of Vietnamese returnees, especially those who are failed refugees, who have left the country without permission or who lived abroad and whose work contract had expired*, 9 September. (REFINFO – CISNET)
2. 'UNHCR hails Vietnam's efforts to resettle illegal immigrants' 2006, *Thai News Service*, 2 May. (FACTIVA)
3. 'Vietnam: No punishment for minority returnees, reports UNHCR' 2006, *Thai News Service*, 26 September. (FACTIVA)
5. RRT Country Research 2007, Research Response VNM30820, 30 October.
4. RRT Country Research 2007, *Research Response VNM13740*, 10 May.
6. Immigration and Refugee Board of Canada 2001, VNM37730.E – *Vietnam: Documents required by Vietnamese authorities in order to issue a passport to a Vietnamese citizen from within Vietnam; whether local police clearance is required*, 16 October. (REFINFO)
7. UK Home Office 2006, 'Country of Origin Information Report: Vietnam', Citizenship and Nationality. UK Home Office website, 21 December
http://www.homeoffice.gov.uk/rds/pdfs06/vietnam_221206.doc.
8. Waterhouse, Helen 1996, JBE Online Reviews, *Journal of Buddhist Ethics*.
(<http://www.buddhistethics.org/3/water1.pdf>)
9. Department of Foreign and Trade 2007, DFAT Report 706 – Vietnam: RRT Information Request: VNM32395, 8 October.
10. Search results 2008, Buddhnet (9 January) –
http://www.buddhanet.net/wbd/search.php?keyword=vietnamese&search=Begin+Search&country_id=18&province_id=0&tradition%5B%5D=theravada&tradition%5B%5D=mahayana&tradition%5B%5D=vajrayana&tradition%5B%5D=non-sectarian.
11. RRT Country Research 2007, *Research Response VNM17238*, 24 March.
12. RRT Country Research 2007, *Research Response VNM17324*, 16 May.
13. Immigration and Refugee Board of Canada 2001, VNM37802.E – *Vietnam: Whether Vietnamese citizens or residents are required to cancel their Household Registration (ho khau) when leaving Vietnam to live abroad; whether the registration can be restored upon returning to Vietnam after two or more years of absence; grounds for refusal to issue a household registration to a returnee*, 16 October. (REFINFO)

14. Hardy, Andrew 2001 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn: Journal of Social Issues in SE Asia*, *Institute of Southeast Asian Studies* (ISEAS). (FACTIVA)

15. 'The little residential book' 2003, *Vietnam Investment Review Ltd*, 15 September. (FACTIVA)