Home Office
UK Border Agency

VIETNAM

COUNTRY OF ORIGIN INFORMATION (COI) REPORT

COI Service

20 April 2012

SECURING OUR BORDER CONTROLLING MIGRATION

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Preface

i This Country of Origin Information (COI) Report has been produced by the COI Service, United Kingdom Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The main body of the report includes information available up to 20 April 2012. The report was issued on 20 April 2012.

ii The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any UKBA opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.

iii The Report aims to provide a compilation of extracts from the source material identified, focusing on the main issues raised in asylum and human rights applications. In some sections where the topics covered arise infrequently in asylum/human rights claims only web links are provided. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.

iv The structure and format of the COI Report reflects the way it is used by UKBA decision makers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.

v The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated. Similarly, the absence of information does not necessarily mean that, for example, a particular event or action did not occur.

vi As noted above, the Report is a compilation of extracts produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents though COI6S will bring the discrepancies together and aim to provide a range of sources, where available, to ensure that a balanced picture is presented. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties, etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term ‘sic’ has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.

vii The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because

they contain relevant information not available in more recent documents. All sources contain information considered relevant at the time this Report was issued.

viii This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the COI Service upon request.

ix COI Reports are published regularly on the top 30 asylum intake countries. Reports on countries outside the top 30 countries may also be published if there is a particular operational need. UKBA officials also have constant access to an information request service for specific enquiries.

x In producing this COI Report, COI Service has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to UKBA as below.

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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

xi The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's COI material. The IAGCI welcomes feedback on UKBA's COI Reports and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at http://www.ociukba.homeoffice.gov.uk

xii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at http://www.ociukba.homeoffice.gov.uk/

xiii Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries

designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself. The IAGCI can be contacted at:

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Background Information

1. GEOGRAPHY

OVERVIEW

1.01 The Socialist Republic of Vietnam is situated in South-East Asia, bordered to the north by the People's Republic of China, to the west by Laos and Cambodia, and to the east by the South China Sea. The capital is Hanoi. (Europa World, accessed on 20 March 2012) **[1a]** Vietnam's relations with its largest neighbour, China, are complicated by disagreement over sovereignty of the Spratley and Paracel Islands in the South China Sea, which continues to lead to occasional incidents. (Foreign & Commonwealth Office, Country Profile: Vietnam, updated 2 March 2012, accessed on 8 March 2012) **[8a] (History)**

1.02 The Central Intelligence Agency, World Factbook Profile on Vietnam, updated on 7 March 2012, accessed on 20 March 2012, recorded that the population was estimated to be 91,519,289 in July 2012. Life expectancy was expected to be 69.95 years for males and 75.16 years for females. **[4a]**

1.03 A July 2010 Media Release on the 2009 Population and Housing Census by the Statistics Documentation Centre - General Statistics Office of Vietnam noted that:

"In the last ten years there has been a total increase of 9.523 million people; an annual average increase of 952,000 people. The average annual population growth rate between two the [sic] 1999 and 2009 Population and Housing Censuses was 1.2% per year, while in the previous 10 years there was a total increase of 1,200,000 people (1.7% per year). This confirms the fact that Vietnam's fertility rate has been continuously declining over the last 10 years, as reported by statistics data from Annual Population Change and Family Planning Surveys implemented by the General Statistics Office.

"A total of 25,436,896 people (29.6%) live in urban areas and 60,410,101 people (70.4%) live in rural areas. Between 1999 and 2009, the average annual growth rate of the urban population was 3.4% per year, while that of the rural population was only 0.4% per year. The rapid growth of the urban population is mainly attributed to migration and urbanization." **[39a]**

1.04 The 2009 Population and Housing Census also revealed three cities and provinces that had a population of more than three million people, which were Ho Chi Minh City (7.163 million people), Ha Noi City (6.452 million people) and Thanh Hoa province (3.401 million people). There were 5 provinces with a population under 500,000 people, including Bac Kan, Dien Bien, Lai Chau, Kon Tum and Dak Nong. **[39a]**

1.05 Vietnam is divided into 63 administrative units, comprised of provinces and cities. The website of the Vietnam National Administration of Tourism provides information on some of those areas. **[17d]**

1.06 While the official language of the country is Vietnamese, there are another 105 languages in use. (Ethnologue.com, accessed on 20 March 2012) **[24a]**

See also Section 19: Ethnic Groups

1.07 Public holidays in 2012 include: "2 January (for New Year's Day); 23–26 January (Tet, lunar new year)*; 3 February (Founding of the Communist Party); 2 April (Hung Kings Day)*; 30 April (Liberation of Saigon); 1 May (Labour Day); 3 September (for National Day).

"* Varies according to the lunar calendar." **(Europa World Online, accessed 20 March 2012) [1a]**

See also Section 18: Religious groups

See also Section 19: Ethnic groups

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1.08 MAP

[15a] (p2) The Economist Intelligence Unit, Country Report, March 2012)

For further maps of Vietnam see ReliefWeb's Map Centre.

The Lonely Planet's travel guide to Vietnam provides further background, geographical, infrastructure and travel information. **[37a]**

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2. ECONOMY

2.01 The Central Intelligence Agency (CIA) World Factbook, updated on 7 March 2012, accessed on 20 March 2012, recorded:

"Vietnam is a densely-populated developing country that in the last 30 years has had to recover from the ravages of war, the loss of financial support from the old Soviet Bloc, and the rigidities of a centrally-planned economy. While Vietnam's economy remains dominated by state-owned enterprises (SOEs), which still produce about 40% of GDP, Vietnamese authorities have reaffirmed their commitment to economic liberalization and international integration. They have moved to implement the structural reforms needed to modernize the economy and to produce more competitive export-driven industries. Vietnam joined the WTO [World Trade Organisation] in January 2007 following more than a decade-long negotiation process. Vietnam became an official negotiating partner in the developing Trans-Pacific Partnership trade agreement in 2010. Agriculture's share of economic output has continued to shrink from about 25% in 2000 to about 22% in 2011, while industry's share increased from 36% to 40% in the same period. Deep poverty has declined significantly, and Vietnam is working to create jobs to meet the challenge of a labor force that is growing by more than one million people every year. The global recession has hurt Vietnam's export-oriented economy, with GDP [Gross Domestic Product] in 2009-11 growing less than the 7% per annum average achieved during the last decade. In 2011, exports increased by more than 33%, year-on-year, and the trade deficit, while reduced from 2010, remained high, prompting the government to maintain administrative trade measures to limit the trade deficit." **[4a] (Economy)**

2.02 The CIA World Factbook further added:

"Vietnam's managed currency, the dong, continues to face downward pressure due to a persistent trade imbalance. Since 2008, the government devalued it in excess of 20% through a series of small devaluations. Foreign donors pledged nearly $8 billion in new development assistance for 2011. However, the government's strong growth-oriented economic policies have caused it to struggle to control one of the region's highest inflation rates, which reached as high as 23% in August 2011 and averaged 18% for the year. In February 2011, Vietnam shifted its focus away from economic growth to stabilizing its economy and tightened fiscal and monetary policies. In early 2012 Vietnam unveiled a broad 'three pillar' e[c]onomic reform program, proposing the restructuring of public investment, state-owned enterprises and the banking sector. Vietnam's economy continues to face challenges from low foreign exchange reserves, an undercapitalized banking sector, and high borrowing costs. The near-bankruptcy and subsequent default of the state-owned-enterprise Vinashin, a leading shipbuilder, led to a ratings downgrade of Vietnam's sovereign debt, exacerbating Vietnam's borrowing difficulties." **[4a] (Economy)**

2.03 In its Country Profile on Vietnam, updated on 2 March 2012, accessed on 8 March 2012, the Foreign & Commonwealth Office (FCO) noted:

"Compared with many of its neighbours, Vietnam suffered three 'lost decades' of economic development due to war. But it is catching up fast. Notwithstanding a hiccup following the 1997 Asian economic crisis, Vietnam has boomed since the CPV [Communist Party of Vietnam] turned away from communist economic policies and central planning in the late 1980s under its 'doi moi' (renovation) policy. Vietnam is now among the fastest-growing economies in Asia.

"Recent years have been challenging with high inflation - it touched 23% in 2011. The Government's "[sic] high growth mentality since the renovation has been revised with a focus in 2011 on sustainable growth. In the second half of 2008 the impact of the global economic turbulence started to kick in, with reduced overseas demand for Vietnamese goods and declining foreign investment. 2011 global issues have further affected world-wide demand and the availability of finance. There is still a large fiscal deficit, a persistent trade deficit and pressure on the Dong. Inefficient state-owned enterprises and poor domestic investment remain concerns. Reform of state-owned enterprises, to place them on a sounder economic footing, is happening - but slowly and has focused on smaller enterprises. Large amounts of lending by state-owned banks to unreformed state-owned enterprises, has resulted in non-performing loans and the inefficient use of capital. Poor performance of commercial banks has necessitated stronger banking sector reform steps.

"Long term investors maintain that Vietnam's long term prospects are good, providing that the government sticks to its reform plans, overcomes skills and infrastructure challenges, and tackles corruption." **[8a] (Economy)**

2.04 In Vietnam, private ownership of land is not allowed. The Economist Intelligence Unit (EIU), Country Report, Vietnam, published in March 2012, noted: "… land is owned by the state and leased to farmers or other users and leases are subject to renegotiation. It is not unusual to see groups of farmers outside government ministries in the capital, Hanoi, protesting against the way that the state appropriated their land for various projects at below market prices." **[15a] (p11 – The Political Scene)**

2.05 The currency of Vietnam is the Dong (VND), and the exchange rate on 2 April 2012 was £1 (sterling) = 33,347.70 VND and $1 (US Dollar) = 20,825.00 VND. (XE online Internet foreign exchange tools and services) **[40a]**

2.06 Additional basic economic data:

- GDP growth in 2011, estimated at 5.8%
- Inflation rate in 2011, estimated at 18.9%;
- Unemployment rate in 2011, estimated at 4.1%; and
- Labour force by occupation for years 2009: agriculture 53.9%, industry 20.3%, and services 25.8% (CIA World Factbook, updated 7 March 2012, accessed on 20 March 2012) **[4a] (Economy)**

See also Section 19: Ethnic groups

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3. HISTORY

FRENCH RULE AND VIETNAM'S INDEPENDENCE

3.01 In its Country Profile on Vietnam, updated on 2 March 2012, accessed on 8 March 2012, the Foreign & Commonwealth Office (FCO) noted:

"During World War II, Japanese forces displaced the French colonial rulers of Vietnam. Following Japan's surrender, the Viet Minh, a communist-dominated nationalist grouping under the leadership of Ho Chi Minh, stepped into the power vacuum and proclaimed Vietnam's independence in September 1945. The French tried to re-establish their authority over Vietnam, however, and fighting erupted between their forces and the Viet Minh. Following their defeat at Dien Bien Phu, the French agreed at the 1954 Geneva Conference to withdraw. Vietnam was effectively divided into a communist-controlled North (the Democratic Republic of Vietnam) and a Western-backed South (the Republic of Vietnam). After the South reneged on an agreement to hold nation-wide elections, the North began to strengthen the communist movement in the South with the aim of achieving national re-unification. The South became increasingly dependent on the USA." **[8a] (History)**

NORTH AND SOUTH PARTITION

3.02 The USSD Background Note: Vietnam, updated 5 January 2012, accessed on 9 March 2012, stated:

"The 1954 Geneva agreement provided for a cease-fire between communist and anti-communist nationalist forces, the temporary division of Vietnam at approximately the 17th parallel, provisional northern (communist) and southern (noncommunist) zone governments, and the evacuation of anti-communist Vietnamese from northern to southern Vietnam, as well as the movement of a smaller number of former communist-led Viet Minh anti-colonial fighters to the north. The agreement also called for an election to be held by July 1956 to bring the two provisional zones under a unified government, a provision that the South Vietnamese Government refused to accept, arguing that conditions for free elections throughout Vietnam were not present. On October 26, 1955, South Vietnam declared itself the Republic of Vietnam.

"After 1954, North Vietnamese communist leaders consolidated their power and instituted a harsh agrarian reform and socialization program. During this period, some 450,000 Vietnamese, including a large number of Vietnamese Catholics, fled from the north to the south, while a much smaller number, mostly consisting of former Viet Minh fighters, relocated north. In the late 1950s, North Vietnamese leaders reactivated the network of communist guerrillas that had remained behind in the south. These forces--commonly known as the Viet Cong--aided covertly by the north, started an armed campaign against officials and villagers who refused to support the communist reunification cause." **[2g] (History)**

AMERICAN ASSISTANCE TO THE SOUTH

3.03 The USSD Background Note, further stated:

"In December 1961, at the request of South Vietnamese President Ngo Dinh Diem, President Kennedy sent U.S. military advisers to South Vietnam to help the government there deal with the Viet Cong campaign. In the wake of escalating political turmoil in the south after a November 1963 generals' coup against President Diem, which resulted in his death, the United States increased its military support for South Vietnam. In March 1965, President Johnson sent the first U.S. combat forces to Vietnam. The American military role peaked in 1969 with an in-country force of 534,000. Although the Viet

Cong's surprise Tet Offensive in January 1968 failed militarily, it damaged American and South Vietnamese morale and brought into question-domestically-U.S. reports of successes prior to the offensive. In January 1969, the United States, governments of South and North Vietnam, and the Viet Cong met for the first plenary session of peace talks in Paris, France. These talks, which began with much hope, moved slowly. They finally concluded with the signing of a peace agreement, the Paris Accords, on January 27, 1973. The Accords called for a ceasefire in place in which North Vietnamese forces were permitted to remain in areas they controlled. Following the Accords, the South Vietnamese Government and the political representatives of the communist forces in the South, the Provisional Revolutionary Government, vied for control over portions of South Vietnam. The United States withdrew its forces, although reduced levels of U.S. military assistance continued, administered by the Defense Attaché Office." **[2g] (History)**

REUNIFICATION

3.04 The USSD Background Note, further stated:

"In early 1975, North Vietnamese regular military forces began a major offensive in the south, inflicting great damage to the south's forces. The communists took Saigon on April 30, 1975, and announced their intention to reunify the country. The Democratic Republic of Vietnam (north) absorbed the former Republic of Vietnam (south) to form the Socialist Republic of Vietnam on July 2, 1976.

"After reunification, the government confiscated privately owned land and forced citizens to adopt collectivized agricultural practices. Hundreds of thousands of former South Vietnamese government and military officials, as well as intellectuals previously opposed to the communist cause, were sent to study socialist doctrine in re-education camps, where they remained for periods ranging from months to over 10 years.

"Expectations that reunification of the country and its socialist transformation would be condoned by the international community were quickly dashed as many countries expressed concern over Vietnam's internal practices and foreign policy. Vietnam's 1978 invasion of Cambodia in particular, together with its increasingly tight alliance with the Soviet Union, appeared to confirm suspicions that Vietnam wanted to establish a Soviet-backed hegemony in Indochina.

"Vietnam's invasion of Cambodia also heightened tensions that had been building between Vietnam and China. Beijing, which backed the Khmer Rouge regime in Cambodia, retaliated in early 1979 by initiating a brief, but bloody border war with Vietnam.

"Vietnam's tensions with its neighbors, internal repression, and a stagnant economy contributed to a massive exodus from Vietnam. Fearing persecution, many ethnic Chinese in particular fled Vietnam by boat to nearby countries. Later, hundreds of thousands of other Vietnamese nationals fled as well, seeking temporary refuge in camps throughout Southeast Asia.

"The continuing grave condition of the economy and the alienation from the international community became focal points of party debate. In 1986, at the Sixth Party Congress, there was an important easing of communist agrarian and commercial policies." **[2g] (History)**

3.05 The USSD Background Note added:

"Vietnam did not begin to emerge from international isolation until it withdrew its troops from Cambodia in 1989. Within months of the 1991 Paris Agreements [See subsection on American assistance to the south], Vietnam established diplomatic and economic relations with ASEAN [Association of Southeast Asian Nations], as well as with most of the countries of Western Europe and Northeast Asia. China reestablished full diplomatic ties with Vietnam in 1991, and the two countries began joint efforts to demarcate their land and sea borders, expand trade and investment ties, and build political relations." **[2g] (Foreign relations)**

3.06 The USSD Background Note reported that:

"Of particular significance was Vietnam's acceptance into the Association of Southeast Asian Nations (ASEAN) in July 1995. Vietnam's influence in ASEAN has expanded significantly; the country served as Chairman in 2010. Vietnam joined the Asia-Pacific Economic Cooperation forum (APEC) in November 1998 and hosted summits for APEC in 2006 and ASEAN in 2010. In December 2009, Vietnam completed a 2-year term as a non-permanent member of the United Nations Security Council." **[2g] (Foreign relations)**

See also Section 2: Economy

See also Section 6: Political system

See also Annex A – Chronology of major events

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4. RECENT DEVELOPMENTS – DECEMBER 2011 TO MARCH 2012

4.01 A Radio Free Asia news article reported on 22 March 2012:

"Hundreds of farmers gathered in the Vietnamese capital Thursday [22 March 2012] to demand the return of rice fields they say were confiscated by heavily armed police just days after receiving an eviction notice. The farmers, from three different villages in Vietnam's northern Hung Yen province, said they never received an offer for compensation for the 500 hectares (1,235 acres) of land from which they were forcibly removed on Wednesday… The protests follow a call from Vietnamese Prime Minister Nguyen Tan Dung in February to revamp the country's land management policies and a vow to punish corrupt local officials for their role in a high-profile land eviction case in Hai Phong city… All land in Vietnam belongs to the state, and people only have the right to use it. Land expropriation has been linked to several incidents of unrest in recent years." **[41d]**

4.02 On 27 February 2012 the BBC reported that around one thousand Communist Party delegates attended a three day meeting to discuss the reforming of the governing Communist Party, in a move that should see the removal of barriers that inhibited "leadership, management and administration". The article reported that "Vietnam's leaders have been grappling with corruption and economic mismanagement of state-owned firms." Adding "In a newspaper interview, Mr [Nguyen Phu] Trong [Communist Party General Secretary] said the country faced 'numerous challenges and difficulties, including high inflation and high national and foreign debts'. **[14f]**

4.03 On 21 February 2012 hundreds of farmers from three locations in Vietnam protested in Hanoi demanding the return of land they say was taken away by the government and granted to developers without proper negotiations. Several protesters were detained while the others camped outside parliament, calling for their colleagues to be released. (Radio Free Asia, 21 February 2012) **[41b]**

4.04 Police arrested 20 Catholics and their parish priest on 2 December 2011 during a rally in Vietnam's capital Hanoi, in which they demanded the return of a 15-acre property which they said was illegally acquired by the government. The parishioners claimed the land belonged to their church but the government said they were simply carrying out renovations. (Radio Free Asia, 2 December 2011) **[41b]**

See also Section 15: Freedom of speech and media

See also Section 18: Freedom of Religion - Catholics

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5. CONSTITUTION

5.01 The US Department of State (USSD), Background Note: Vietnam, updated on 5 January 2012, accessed on 9 March 2012, stated: "A new state constitution was approved in April 1992, reaffirming the central role of the Communist Party of Vietnam (CPV) in politics and society, and outlining government reorganization and increased economic freedom. Though Vietnam remains a one-party state, adherence to ideological orthodoxy has become less important than economic development as a national priority." **[2g] (Government and political conditions)**

5.02 According to Article 4 of the 1992 Constitution, amended in 2001, "The Communist Party of Vietnam, the vanguard of the Vietnamese working class, the faithful representative of the rights and interests of the working class, the toiling people, and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the force leading the State and society." **[17a] (Chapter 1)**

5.03 A citizen's rights and duties are defined under Articles 50 to 80 of the 1992 Constitution, amended in 2001. Regarding the fundamental rights of the citizen, Article 50 claims, "In the Socialist Republic of Vietnam human rights in the political, civic, economic, cultural and social fields are respected. They are embodied in the citizen's rights and are determined by the Constitution and the law." **[17a] (Chapter 5)**

6. POLITICAL SYSTEM

6.01 The Foreign and Commonwealth Office (FCO) Country Profile on Vietnam, updated on 2 March 2012, accessed on 8 March 2012, noted:

"Vietnam is a one-party state in which the Communist Party of Vietnam (CPV) decides all major policy issues, which are then implemented by the government. The country is led by a triumvirate of CPV General Secretary, State President and Prime Minister. Although the National Assembly is increasingly powerful, it remains firmly subordinate to the CPV. However, its Chairman sits on the Politburo along with the above three leaders and ten others." **[8a] (Politics)**

6.02 The Economist Intelligence Unit (EIU), Country Report, published in March 2012, observed:

"Appointments to CPV posts take place behind closed doors, with votes conducted merely to confirm decisions that have already been made. NA [National Assembly] delegates are chosen by popular vote; the most recent election took place in May 2011, and the next poll is due to be held in 2015. Candidates are carefully vetted by the Vietnam Fatherland Front, a CPV-controlled umbrella body that includes all of the country's 'mass organisations', and only those deemed suitable are allowed to stand. At the 2011 election only 42 of the 500 people elected to the NA were non-CPV members." **[15a] (p5, Political outlook – Election watch)**

6.03 The FCO Country Profile also stated:

"There are no free elections in Vietnam. Candidates for election to the National Assembly and local People's Councils must in practice be approved by the CPV. There is, however, an increasing minority of elected representatives who are not CPV members.

"Vietnam's main legislative body is the National Assembly, which convenes twice per year. It has developed, in recent years, from little more than a 'rubber stamp' body to one increasingly able to scrutinise legislation and hold government to account. It has, on paper at least, wide powers over the state budget and its Members, 25% of whom are full time, are increasingly professional. Ultimately, however, the National Assembly remains firmly under the control of the CPV and thus is still far from being a proper democratic legislature. Elections to the 500-Member National Assembly are held every five years. The last election was in May 2007 and the next will be in 2012." **[8a] (Politics)**

6.04 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), Vietnam, published on 8 April 2011, noted that "The most recent National Assembly elections, held in 2007, were neither free nor fair, since the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's mass organizations, vetted all candidates." **[2a] (Introduction to Vietnam)**

6.05 The same source stated:

"The National Assembly, although subject to the control of the CPV (all of its senior leaders and more than 90 percent of its members were party members), continued to take incremental steps to assert itself as a legislative body. The National Assembly publicly criticized socioeconomic policies, corruption, the government's handling of inflation, financial problems of large state-owned enterprises, and the plan to mine bauxite in the Central Highlands. For the first time, the National Assembly voted against an official government project sponsored by the prime minister--a VND 1.12 quadrillion ($56 billion) high-speed rail project. Assembly sessions were televised live countrywide. Some legislators also indirectly criticized the CPV's preeminent position in society. All authority and political power is vested in the CPV, and the constitution recognizes the leadership of the CPV." **[2a] (Section 3)**

See also Section 14: Political affiliation

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Human Rights

7. INTRODUCTION

7.01 The US Commission on International Religious Freedom (USCIRF), Annual Report 2012, covering the period from 1 April 2011 – 29 February 2012, published March 2012. Stated:

"Vietnam's overall human rights record remains poor, and has deteriorated since Vietnam was removed from the CPC [Countries of Particular Concern] list and joined the World Trade Organization in January 2007. Vietnam is an authoritarian state ruled by the Communist Party. Over the past four years, the government has moved decisively to repress any perceived challenges to its authority, tightening controls on freedom of expression, association, and assembly. New decrees were issued prohibiting peaceful protest in property disputes, limiting speech on the Internet, and tightening controls on journalists and access to the Internet at cafes. During 2011 alone, the government sentenced at least 33 peaceful dissidents including political reform advocates, free speech and democracy activists, and those protesting religious freedom restrictions." **[34a] (p261)**

7.02 In March 2012 the International Federation for Human Rights (FIDH) provided an update on the human rights situation in Vietnam, noting:

"Despite having ratified some of the key international human rights treaties, Vietnam continues to make a mockery of its human rights obligations domestically by routinely violating the rights of its people. In 2010 and 2011, we have witnessed an escalating pattern of repression of individuals and groups advocating for universally recognised human rights, as an increasing number of human rights defenders, journalists, lawyers and religious activists have been intimidated, arbitrarily detained, convicted and jailed or put under house arrest. Unprecedented peaceful protests in Hanoi opposing China's claim to islets in the South China Sea faced a severe crackdown after being held for more than 10 weeks from June to August 2011.

"Donors and development agencies have contributed a substantial amount of financial assistance to legal reform and good governance programs in Vietnam, but these have so far failed to have a positive impact on the ground as Vietnam continues to adopt and use restrictive laws to silence and criminalise the peaceful exercise of fundamental freedoms. The rule of law has been replaced by the rule by law in Vietnam." **[44d]**

7.03 The Human Rights Watch (HRW) World Report 2012: Vietnam, covering events of 2011, published 22 January 2012, stated:

"The Vietnamese government systematically suppresses freedom of expression, association, and peaceful assembly. Independent writers, bloggers, and rights activists who question government policies, expose official corruption, or call for democratic alternatives to one-party rule are routinely subject to police harassment and intrusive surveillance, detained incommunicado for long periods of time without access to legal counsel, and sentenced to increasingly long terms in prison for violating vague national security laws.

"Police frequently torture suspects to elicit confessions and, in several cases, have responded to public protests over evictions, confiscation of land, and police brutality with excessive use of force. Anti-China protests in Hanoi and Ho Chi Minh City in 2011

were dispersed and protesters were intimidated, harassed, and in some cases detained for several days.

"The 11th Vietnam Communist Party Congress in January 2011 and the stage-managed National Assembly election in May determined the leadership of the party and government for the next five years. During both, there was no sign of any serious commitment to improve Vietnam's abysmal human rights record. Prime Minister Nguyen Tan Dung began his second term in July, enjoying strong support from the Ministry of Public Security and other hard-liners." **[5a] (p401)**

See also Section 14: Political affiliation

7.04 A Human Rights Watch (HRW) news article of 11 January 2012, while reporting on the human rights situation in Vietnam, noted:

"During 2011, at least 33 peaceful bloggers and rights activists were convicted of crimes for expressing their political and religious beliefs. The authorities arrested at least 27 other rights activists pending investigation and/or trial. In addition, two bloggers – Nguyen Van Hai (a.k.a. Dieu Cay) and Phan Thanh Hai (a.k.a. Anhbasg) – have been held without trial since 2010. A land rights activist, Bui Thi Minh Hang, was sent to an education camp for two years of administrative detention without trial for participating in peaceful protests in Hanoi and Ho Chi Minh City that took place between June and August [2011]." **[5b]**

7.05 The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, covering events in 2010, published on 31 March 2011, noted:

"Freedom of expression and political accountability did not improve in Vietnam in 2010. While the National Assembly played a more prominent role in holding the government to account, the authorities in this one-party state continued to target individuals who criticised the Communist Party and its policies. Freedom of expression and access to information were suppressed through a combination of stringent legislation, tight control of the state-run media, internet restrictions and the arrest and imprisonment of bloggers and political activists. These restrictions have tightened over the past year.

"In the area of social and economic rights, Vietnam's performance was noticeably better. Vietnam's impressive record of socio-economic development was underscored by the country meeting or exceeding a number of the 2015 UN [United Nations] Millennium Development Goal targets in 2010, including alleviating extreme poverty and hunger.

"Modest advances were made in freedom of religion, with the government continuing to promote compliance with its legal framework on freedom of religion, although concerns remained over implementation in some areas. **[8b] (p332 - Vietnam)**

7.06 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 noted:

"Citizens could not change their government, and political opposition movements were prohibited. The government increased its suppression of dissent, arresting at least 25 political activists, convicting 14 dissidents arrested in 2008, 2009, and 2010, and denying the appeals of another 10 dissidents convicted at the end of 2009. Police commonly mistreated suspects during arrest or detention. Prison conditions were often austere. Although professionalism in the police force improved, members of the police

sometimes acted with impunity. Individuals were arbitrarily detained for political activities and denied the right to fair and expeditious trials. Political influence, endemic corruption, and inefficiency strongly distorted the judicial system. The government increased measures to limit citizens' privacy rights and freedom of the press, speech, assembly, movement, and association. Internet freedom was further restricted as the government orchestrated attacks against critical Web sites and spied on dissident bloggers. Freedom of religion continued to be subject to uneven interpretation and protection; despite some progress, significant problems remained, especially at the provincial and village levels. Police corruption remained a significant problem. The government maintained its prohibition of independent human rights organizations. Violence and discrimination against women as well as trafficking in persons continued to be problems, despite laws and government efforts to combat such practices. Some ethnic minority groups suffered societal discrimination. The government limited workers' rights to form and join independent unions." **[2a] (Introduction to Vietnam)**

7.07 The USSD Report 2010 also noted:

"The government does not permit private, local human rights organizations to form or operate. The government did not tolerate attempts by organizations or individuals to comment publicly on its human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of the press and assembly, interference with personal communications, and detention. The government generally prohibited private citizens from contacting international human rights organizations, although several activists did so. The government usually did not permit visits by international NGO [Non-Governmental Organisation] human rights monitors; however, it allowed representatives from the press, the UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands. The government criticized almost all public statements on human rights and religious matters by international NGOs and foreign governments." **[2a] (Section 5)**

See also: Section 11: Arrest and Detention – Legal rights

See also Section 14: Political Affiliation

See also Section 15: Freedom of Speech and media

See also Section 16: Human rights institutions, organisations and activists

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8. SECURITY FORCES

8.01 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, recorded, "Internal security is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas, the military is the primary government agency and performs public safety functions, including maintaining public order in the event of civil unrest." **[2a] (Section 1d)**

8.02 The same report continued:

"The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintains a system of household registration and block wardens to monitor the population. While this system was less intrusive than in the past, it continued to be used to monitor those suspected of engaging, or likely to engage, in unauthorized political activities. Credible reports suggested that local police used 'contract thugs' and 'citizen brigades' to harass and beat political activists and others, including religious worshippers, perceived as 'undesirable' or a 'threat' to public security." **[2a] (Section 1d)**

POLICE

8.03 Jane's Security Country Risk Assessment: Vietnam, Security and Foreign Forces - Police, updated 5 December 2011, accessed on 20 March 2012, noted that:

"The police force falls under the authority of the Ministry of the Interior. The force's role is geared more to upholding party doctrine than combating law-breakers. Conventional police are composed of the urban People's Security Force (PSF - also known as People's Police), and the rural/village-based People's Public Security Force (PPSF - also known as People's Security Service). A plain-clothes secret police force is also in operation under the Ministry of the Interior." **[23b]**

8.04 The USSD Report 2010 noted:

"Police organizations exist at the provincial, district, and local levels and are subject to the authority of people's committees at each level. At the commune level, it was common for guard forces made up of residents to assist the police. The police were generally effective at maintaining public order, but police capabilities, especially investigative, were generally very low. Police training and resources were inadequate… Corruption among police remained a significant problem at all levels, and members of the police sometimes acted with impunity. Internal police oversight structures existed but were subject to political influence." **[2a] (Sections 1d and 4)**

See also Section 11: Arrest and detention – legal rights

See also Section 16: Human rights institutions, organisations and activists

See also Section 17: Corruption

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ARMED FORCES

8.05 Branches of the Peoples Armed Forces included: "People's Army of Vietnam (PAVN; includes People's Navy Command (with Naval Infantry, Coast Guard), Air and Air Defense Force (Khong Quan Nhan Dan), Border Defense Command), People's Public Security Forces, Militia Force, Self-Defense Forces." (CIA World Factbook, updated on 7 March 2012, accessed on 20 March 2012) **[4a]**

8.06 Europa World, Country Profile: Vietnam, accessed on 20 March 2012 noted:

"As assessed at November 2010, the total strength of the armed forces was an estimated 482,000: army 412,000; navy 40,000; air force 30,000. Men are subject to a two-year minimum term of compulsory military service between 18 and 35 years of age. Paramilitary forces number in excess of 5m. and include the urban People's Self Defence Force and the rural People's Militia. Border defence troops number an estimated 40,000." **[1a]**

8.07 Jane's Security Country Risk Assessment: Vietnam, Armed Forces, updated 23 September 2011, accessed on 12 March 2012, noted:

"Vietnam's armed forces remain a powerful and influential institution with close ties to the ruling communist party. However, this position had not, until recently, been translated into access to resources. This now seems to be changing, particularly in terms of increased emphasis on expanding and modernising the navy and air force as a reflection of the importance of the country's offshore oil and gas reserves and unresolved maritime territorial disputes with neighbouring states. Nevertheless, the army is set to remain the dominant service and can be expected to claim its share of increased expenditure in order to maintain parity with the navy and air force as well as replace much of its aging Soviet-era equipment…

"The armed forces ability to define and protect the country's territorial claims is uneven. The army is able to maintain a credible presence along Vietnam's land borders - notably with China - but limited naval and air capabilities have forced the country to concede in maritime disputes with Beijing in recent years. Vietnam has no other potential adversaries in the region, while lagging behind many of the other regional states in terms of modern equipment and technical expertise. Vietnam's armed forces main advantage remain its collective experience of conflict among its most senior officers and a large and increasingly well educated source of military recruits. Vietnam also retains strong defence ties with Russia, while developing new relationships with India and France. Security relations with other Association of Southeast Asian Nations (ASEAN) member states are generally best described as correct rather than close." **[23a]**

8.08 Jane's Security Country Risk Assessment added:

"In order to balance and fund the needs of the three services, the government decided to raise defence spending by 70 per cent in 2011 and, in January 2011, designated the modernisation of its armed forces and defence industry landscape as one of its 'five key tasks' for the 2011-2015 period. Rising tensions with China over disputed maritime claims in the first half of 2011 have strengthened this rationale.

"Separately, in December 2009, Vietnam's armed forces adopted a new uniform. While uniforms will remain olive green, rank will be reflected in changes in shading. The significance of the first major change in uniform design in decades appears to be to de-emphasise commonality in favour of exclusivity among personnel, and may reflect proposals to make the armed forces an increasingly professional body." **[23a]**

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Army

8.09 Jane's Security Country Risk Assessment reported that:

"The Vietnam People's Army is a tough and resilient defensive force despite the rundown of its equipment and the loss of foreign assistance following the collapse of the Soviet Union in 1991. The VPA's current weaknesses result from a lack of sufficient funding to maintain and procure modern defence equipment.

"The VPA is organised into main forces and local forces (militia and self-defence). The main forces come under the overall command of the General Staff, while the local forces come under the control of military commands at province and municipal levels and district/provincial town/city levels. The paramilitary Border Guard Force totals 40,000 and local forces total approximately five million. The army is organised not as a separate command, but by military region, combined arms army corps, and arms (artillery, engineer, signal corps, chemical defence, armour, commando and other units directly under the Ministry of National Defence).

"The bulk of the army consists of 61 infantry divisions, only three of which are mechanised. The strength of these divisions varies enormously, depending on location and state of readiness. Reduction in the size of main force strength may also be reflected among field units. The infantry is reinforced by autonomous armoured and artillery brigades, with paramilitary reserve forces also providing support. The size of these divisions varies along with their capability and range from 5,000 to 12,500 troops." **[23a]**

HUMAN RIGHTS VIOLATIONS BY SECURITY FORCES

Arbitrary arrest and detention

8.10 **The Human Rights Watch (HRW)** World Report 2012: Vietnam, covering events of 2011, published 22 January 2012, reported "Vietnamese law continues to authorize arbitrary 'administrative detention' without trial. Under Ordinance 44 (2002) and Decree 76 (2003), peaceful dissidents and others deemed threats to national security or public order can be involuntarily committed to mental institutions, placed under house arrest, or detained in state-run 'rehabilitation' or 're-education' centers." **[5a] (p406)**

See also Section 11: Arrest and detention – legal rights

See also Section 25: Medical issues – Drug detention centres

See also Section 18: Freedom of religion

Torture

8.11 The HRW World Report 2012, Vietnam, stated that "Police brutality, including torture and fatal beatings, continues to be reported in all regions of the country. At least 13 people died in police custody within the first 10 months of 2011." **[5a] (p406)**

8.12 In September 2010 a Human Rights Watch (HRW) statement reported that there had been documented evidence of police brutality where fatalities had occurred. The statement noted:

"Human Rights Watch has documented 19 incidents of reported police brutality, resulting in the deaths of 15 people, all reported in the state-controlled press in Vietnam during the last 12 months. The Vietnamese government should publicly recognize this problem, issue orders outlawing abusive treatment by police at all levels, and make clear that any police officers found responsible for such practices will face disciplinary action and, where appropriate, criminal prosecution, Human Rights Watch said." **[5h]**

8.13 The Vietnam Human Rights Network, Annual Report 2011, stated that: "In 2011, the same condition of police brutality continued to haunt the people. Besides daily brutalities causing injuries to innocent people in the cities as well as in the countryside…" **[62a] (p15)** **The Vietnam Human Rights Network** Annual Report 2011 cited some of the incidents recorded widely on Internet blogs **[62a] (p15-16)**

8.14 The September 2010 HRW statement added:

"'Police brutality is being reported at an alarming rate in every region of Vietnam, raising serious concerns that these abuses are both systemic and widespread,' said Phil Robertson, deputy Asia director of Human Rights Watch.

"In some cases, detainees died after beatings inflicted while they were in the custody of the police or civil defense forces (dan phong). In other instances, victims were killed in public areas when police used what appears to have been excessive force. Many of these incidents provoked public protests throughout Vietnam during the past year.

"Deaths of people in police custody or at the hands of police have been reported in provinces in the far north such as Bac Giang and Thai Nguyen, in major cities such as Hanoi and Da Nang, in Quang Nam along the central coast, in the remote highland province of Gia Lai, and in the southern provinces of Hau Giang and Binh Phuoc." **[5h]**

8.15 The same HRW statement noted that very little had been done to convict those responsible, noting:

"In the 19 incidents of police brutality documented since September 2009, there are no reports that police officers were convicted by a court for their actions. In the majority of cases, higher officials have imposed minor punishments such as requiring offending officers to apologize to the victim's family, accept transfer to another unit, or write a report about the incident for review by superiors.

"In the few cases in which offending police officers have been suspended and/or detained pending investigations, such as the case in Bac Giang, the result appears to have been a response to pressure from public demonstrations against police brutality and exposés on independent internet sites that feature incriminating accounts by witnesses, photographs, videos, and blog reports." **[5h]**

Examples of documented cases were listed in the HRW statement

8.16 Since the HRW statement of September 2010, The Telegraph reported in May 2011 of the drive to clean up the Police force and present a better image. The article noted:

"Police in Vietnam have been banned from wearing black sunglasses, chatting, smoking and putting their hands in their pockets while on duty in a reported anti- corruption drive. Under a new order from the Ministry of Public Security, officers must also 'keep appropriate manners and be in the right position when on duty,' said the state-controlled Tuoi Tre newspaper said. 'This means traffic cops must not hide behind trees to

ambush' and issue fines. The report also said on-duty police were now banned from reading books, making or answering non-work related phone calls, drinking alcohol or eating at restaurants that illegally encroach onto pavements. Vietnam's traffic police are seen by citizens as notoriously corrupt. Last year US-based Human Rights Watch urged Vietnam to investigate 'widespread police brutality', saying it had documented 19 incidents of reported brutality by law enforcers over the previous year, resulting in 15 deaths." **[27a]**

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AVENUES OF COMPLAINT

8.17 The USSD Report 2010 noted:

"There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses committed by authorities. Civil suits are heard by administrative courts, civil courts, and criminal courts, all of which follow the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience. By law a citizen seeking to press a complaint regarding a human rights violation by a civil servant is required first to petition the officer accused of committing the violation for permission to refer the complaint to the administrative courts. If a petition is refused, the citizen may refer it to the officer's superior. If the officer or his superior agrees to allow the complaint to be heard, the matter is taken up by the administrative courts. If the administrative courts agree that the case should be pursued, it is referred either to the civil courts for suits involving physical injury seeking redress of less than 20 percent of health-care costs resulting from the alleged abuse, or to the criminal courts for redress of more than 20 percent of such costs. In practice this elaborate system of referral and permission ensured that citizens had little effective recourse to civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system. In August [2010] the government issued new regulations limiting the number of government agencies that could receive a complaint and restricting each complaint to only one signatory. The new regulation restricted the common practice of individuals, particularly land-rights petitioners, from sending joint complaints to numerous federal agencies." **[2a] (Section 1e)**

8.18 The report stated further:

"The anticorruption law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In regular Internet chats with high-level government leaders, citizens asked pointed questions about anticorruption efforts. However, the government continued to consider public political criticism a crime unless the criticism was controlled by authorities. Attempts to organize those with complaints to facilitate action are considered proscribed political activities and subject to arrest. Senior government and party leaders traveled to many provinces, reportedly to try to resolve citizen complaints. Corruption related to land use was widely publicized in the press, apparently in an officially orchestrated effort to bring pressure on local officials to reduce abuses." **[2a] (Section 4)**

See also Section 10: Judiciary

See also Section 15: Freedom of speech and media for information on restrictions and violations against those working for the media.

See also Section 17: Corruption

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9. MILITARY SERVICE

9.01 The Central Intelligence Agency (CIA) World Factbook, Vietnam, updated 7 March 2012, accessed on 20 March 2012, noted that men from the age of 18 were obliged to undergo two years compulsory military service or three to four years in the navy; but females could volunteer for active duty military service. The age range to serve in the Militia Force or Self Defense Forces was 18-45 years of age for males and 18-40 years of age for females. **[4a]**

9.02 Chapter XXIII (Articles 315-344) of the Penal Code, accessed on 9 February 2012, observed the 'Crimes of Infringing upon the Duties and Responsibilities of Army Personnel', 21 December 1999 **[17e]**

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10. JUDICIARY

ORGANISATION

10.01 The Global Security profile of the judicial and legal system in Vietnam, updated on 9 July 2011, accessed on 12 March 2012, noted that:

"At the apex of the judicial system is the Supreme People's Court (SPC), which is the highest court for appeal and review. The SPC reports to the National Assembly, which controls the judiciary's budget and confirms the president's nominees to the SPC and Supreme People's Procuracy. The Supreme People's Procuracy issues arrest warrants, sometimes retroactively. Below the SPC are district and provincial people's courts, military tribunals, and administrative, economic, and labor courts. The people's courts are the courts of first instance. The Ministry of Defense (MOD) has military tribunals, which have the same rules as civil courts. Military judges and assessors are selected by the MOD and SPC, but the SPC has supervisory responsibility." **[55a]**

10.02 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam, accessed on 20 March 2012 noted:

"The Supreme People's Court in Hanoi is the highest court and exercises civil and criminal jurisdiction over all lower courts. The Supreme Court may also conduct trials of the first instance in certain cases. There are People's Courts in each province and city which exercise jurisdiction in the first and second instance. Military courts hear cases involving members of the People's Army and cases involving national security. In 1993 legislation was adopted on the establishment of economic courts to consider business disputes. The observance of the law by ministries, government offices and all citizens is

the concern of the People's Organs of Control, under a Supreme People's Organ of Control. The Chief Justice of the Supreme People's Court and the Chief Procurator of the Supreme People's Organ of Control are elected by the National Assembly, on the recommendation of the President." **[1a]**

10.03 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, recorded:

"There was a shortage of trained lawyers and judges. Low salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad in countries with communist legal traditions. The government continued to participate in training programs to address the problem of inadequately trained judges and other court officials. In May [2010] the government granted a foreign nongovernmental organization (NGO) an operating license to conduct training initiatives aimed at reforming the criminal code and strengthening lawyers' capacity." **[2a] (Section 1e)**

INDEPENDENCE

10.04 The USSD Report 2010 recorded:

"The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels through its effective control over judicial appointments and other mechanisms. In many cases the CPV determined verdicts. Most, if not all, judges were members of the CPV and were chosen at least in part for their political views. As in past years, the judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high-profile cases and other instances in which a person was charged with challenging or harming the CPV or the state." **[2a] (Section 1e)**

10.05 The Global Security profile of the judicial and legal system in Vietnam, updated on 9 July 2011, accessed on 12 March 2012, noted that:

"Although the constitution provides for independent judges and lay assessors (who lack administrative training), the U.S. Department of State maintains that Vietnam lacks an independent judiciary, in part because the Vietnamese Communist Party (VCP) selects judges and vets them for political reliability. Moreover, the party seeks to influence the outcome of cases involving perceived threats to the state or the party's dominant position. In an effort to increase judicial independence, the government transferred local courts from the Ministry of Justice to the SPC in September 2002. However, the Department of State saw no evidence that the move actually achieved the stated goal. Vietnam's judiciary also is hampered by a shortage of lawyers and rudimentary trial procedures. The death penalty often is imposed in cases of corruption and drug trafficking." **[55a]**

10.06 The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, covering events in 2010, published on 31 March 2011, noted:

"The Vietnamese authorities recognise the need to overhaul their judicial system, which lacks independence from the Communist Party and the government. However, progress on implementing the Communist Party's Judicial Reform Strategy to 2020 has been slow, and we continue to have concerns about political interference in the judiciary and the failure of the authorities to respect citizens' legal rights. The judiciary faces a number of challenges, including a lack of trained court officials and the frequent

turnover of politically appointed judges. There also remains a serious shortage of qualified lawyers." **[8b]**

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FAIR TRIAL

10.07 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated that: "Vietnam's judiciary is subservient to the CPV [Communist Party of Vietnam], which controls courts at all levels. Defendants have a constitutional right to counsel, but lawyers are scarce, and many are reluctant to take on human rights and other sensitive cases for fear of harassment and retribution—including arrest—by the state. Defense attorneys cannot call or question witnesses and are rarely permitted to request leniency for their clients." **[29a]**

10.08 The USSD Report 2010 recorded:

"The constitution provides that citizens are innocent until proven guilty; however, many lawyers complained that judges generally presumed guilt. Trials generally were open to the public, but in sensitive cases judges closed trials or strictly limited attendance. Juries are not used. The public prosecutor brings charges against an accused person and serves as prosecutor during trials. Defendants have the right to be present and have a lawyer at trial, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer generally were provided one only in cases involving a juvenile offender or with possible sentences of life imprisonment or capital punishment. The defendant or defense lawyer has the right to cross-examine witnesses; however, there were cases in which neither defendants nor their lawyers were allowed to have access to government evidence in advance of the trial, cross-examine witnesses, or challenge statements. Defense lawyers commonly had little time before trials to examine evidence against their clients. In national security cases, judges occasionally silenced defense lawyers who were making arguments on behalf of their clients in court that because the judges deemed the arguments reactionary. Convicted persons have the right to appeal. District and provincial courts did not publish their proceedings. The Supreme People's Court continued to publish the proceedings of all cases it reviewed." **[2a] (Section 1e)**

10.09 The report continued, "There continued to be credible reports that authorities pressured defense lawyers not to take as clients any religious or democracy activists facing trial, and several lawyers who took these cases faced harassment, arrest, conviction, and occasionally disbarment. Other human rights lawyers… were stripped of their bar memberships and were not permitted to practice law." **[2a] (Section 1e)**

10.10 The Amnesty International (AI) Annual Report 2011: The state of the world's human rights: Vietnam, (AI Report 2011) published on 13 May 2011, covering events in 2010, stated that:

"By the end of the year courts had convicted at least 22 pro-democracy and human rights activists in a series of dissident trials that began in October 2009. They were all prisoners of conscience. Trials fell far short of international standards of fairness, disregarding basic rights such as the presumption of innocence and the right to defence. As in previous years, court proceedings were short, and permission for family

members, journalists and diplomats to observe was either not given or arbitrarily restricted.

"In January [2010], Ho Chi Minh City People's Court sentenced four dissidents – lawyer Le Cong Dinh, businessman Le Thang Long, computer engineer and blogger Nguyen Tien Trung and businessman Tran Huynh Duy Thuc – to between five and 16 years' imprisonment after a trial lasting one day. They were convicted of 'activities aimed at overthrowing the people's administration'. The judges deliberated for 15 minutes before returning with a judgement which took 45 minutes to read out, suggesting it had been prepared in advance. Some family members and journalists observed the trial through a video link in an adjacent room; others were refused entry. Sentences of three of the accused were upheld on appeal in May [2010]; Le Thanh Long's prison sentence was reduced from five to three and a half years.

"Novelist and journalist Tran Khai Thanh Thuy was tried by Dong Da District People's Court in February [2010]. She was arrested after being beaten by thugs several hours after police had stopped her from travelling to another town to attend a dissidents' trial in October 2009. In an apparently deliberate distortion of the incident, she was charged with assault and sentenced to three and a half years in prison after a trial that lasted less than a day." **[3a]**

See also Section 8: Avenues of Complaint

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11. ARREST AND DETENTION – LEGAL RIGHTS

This section should be read in conjunction with Section 8: Security forces – Arbitrary arrest and detention and Section 24: Medical issues – Drug detention centres.

11.01 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 noted:

"The criminal code [Penal Code] allows the government to detain persons without charges indefinitely under vague 'national security' provisions such as articles 84, 88, and 258. The government also arrested and detained indefinitely individuals under other legal provisions. Authorities subjected several dissidents throughout the country to administrative detention or house arrest… Arbitrary detentions, particularly for political activists, remained a problem. The government used decrees, ordinances, and other measures to detain activists for the peaceful expression of opposing political views. During the year authorities increasingly charged political dissidents with violating article 79, 'attempting to overthrow the state,' due to their alleged membership in political parties other than the CPV. While violators of article 79 had the possibility of receiving the death penalty, they typically received sentences of up to seven years in prison, although one individual received a sentence of 16 years' imprisonment. Unlike in previous years, all activists who appealed their sentences had their original sentences upheld. There were continued reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad. Peaceful land-rights protests in Ho Chi Minh City and Hanoi resulted in the temporary detention and surveillance of several organizers, although the government handled the dispersal of these protests without significant violence. Religious and political activists also were subject to varying degrees

of informal detention in their residences. In Ho Chi Minh City, prominent activists Nguyen Dan Que and Do Nam Hai remained under house arrest." **[2a] (Section 1d)**

11.02 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011 stated that: "Police can hold individuals in administrative detention for up to two years on suspicion of threatening national security." **[29a]**

11.03 The HRW World Report 2012 also stated:

"People dependent on illegal drugs can be held in government detention centers where they are subjected to 'labor therapy,' the mainstay of Vietnam's approach to drug treatment. In early 2011 there were 123 centers across the country holding some 40,000 people, including children as young as 12. Their detention is not subject to any form of due process or judicial oversight and routinely lasts for as long as four years. Infringement of center rules - including the work requirement - is punished by beatings with truncheons, shocks with electrical batons, and being locked in disciplinary rooms where detainees are deprived of food and water. Former detainees report being forced to work in cashew processing and other forms of agricultural production, including potato or coffee farming; construction work; and garment manufacturing and other forms of manufacturing, such as making bamboo and rattan products." **[5a] (p406-408)**

11.04 The Amnesty International (AI) Report 2011: The state of the world's human rights: Vietnam, (AI Report 2011) published on 13 May 2011, covering events in 2010, stated that: "More than 17,000 prisoners were released under a large-scale prisoner amnesty to mark National Day. No prisoners of conscience were among those released." **[3a]**

See also Section 14: Political affiliation - Opposition groups and political activists

11.05 The USSD Report 2010 noted:

"The criminal code outlines the process by which individuals are taken into custody and treated until they are brought before a court or other tribunal for judgment. The Supreme People's Procuracy (Public Prosecutor's Office) issues arrest warrants, generally at the request of police. However, police may make an arrest without a warrant on the basis of a complaint filed by any person. The procuracy issues retroactive warrants in such cases. The procuracy must issue a decision to initiate a formal criminal investigation of a detainee within nine days; otherwise, police must release the suspect. In practice the nine-day regulation was often circumvented.

"The investigative period typically lasted from three months for less serious offenses (punishable by up to three years' imprisonment) to 16 months for exceptionally serious offenses (punishable by more than 15 years' imprisonment or capital punishment) or more than two years for national security cases. However, at times investigations were prolonged indefinitely. The criminal code further permits the procuracy to request additional two-month periods of detention after an investigation to consider whether to prosecute a detainee or ask police to investigate further. Investigators sometimes used physical abuse, isolation, excessively lengthy interrogation sessions, and sleep deprivation to compel detainees to confess.

"By law detainees are permitted access to lawyers from the time of their detention; however, authorities used bureaucratic delays to deny access to legal counsel. In cases investigated under broad national security laws, authorities prohibited defense lawyers' access to clients until after an investigation had ended and the suspect had been

formally charged with a crime, most often after approximately four months. Under the regulations, investigations can be continued and access to counsel denied for more than two years. In addition a scarcity of trained lawyers and insufficient protection of defendant rights made prompt detainee access to an attorney rare. In practice only juveniles and persons formally charged with capital crimes were assigned lawyers.

"Attorneys must be informed of and allowed to attend interrogations of their clients. However, a defendant first must request the presence of a lawyer, and it was unclear whether authorities always informed defendants of this right. Attorneys also must be given access to case files and be permitted to make copies of documents. Attorneys were sometimes able to exercise these rights." **[2a] (Section 1d)**

11.06 The report continued:

"Police generally informed families of detainees' whereabouts, but family members could visit a detainee only with the permission of the investigator, and this permission was not regularly granted. During the investigative period, authorities routinely denied detainees access to family members, especially in national security cases. Prior to a formal indictment, detainees also have the right to notify family members. However, a number of detainees suspected of national security violations were held incommunicado. There is no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing.

"Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that one of five 'administrative measures' be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or 'humiliating other persons.' Terms of 24 months were standard for drug users and prostitutes. Individuals sentenced to detention facilities were forced to meet work quotas to pay for services and the cost of their detention. Chairpersons may also impose terms of 'administrative probation,' which generally was some form of restriction on movement and travel. Authorities continued to punish some individuals using vaguely worded national security provisions in the criminal [Penal] code." **[2a] (Section 1d)**

11.07 The Freedom House report added:

"Vietnam's judiciary is subservient to the CPV [Communist Party of Vietnam], which controls courts at all levels. Defendants have a constitutional right to counsel, but lawyers are scarce, and many are reluctant to take on human rights and other sensitive cases for fear of harassment and retribution - including arrest - by the state. Defense attorneys cannot call or question witnesses and are rarely permitted to request leniency for their clients. Police can hold individuals in administrative detention for up to two years on suspicion of threatening national security. The police are known to abuse suspects and prisoners, and prison conditions are poor. Many political prisoners remain behind bars, and political detainees are often held incommunicado. Human rights groups have expressed concern that the bloggers and other online activists arrested in 2010 have been beaten and tortured." **[29a]**

See also Section 8: Security forces - Human rights violations by security forces

11.08 In a report dated 10 November 2010, Human Rights Watch stated:

"Several lawyers have been arbitrarily arrested for defending controversial cases or exercising their rights to freedom of expression and association. On January 20, the People's Court of Ho Chi Minh City sentenced Le Cong Dinh, a lawyer who is former vice president of the Ho Chi Minh City Bar Association, to five years in prison on subversion charges under article 79. His arrest has been attributed to his alleged links with the banned Democratic Party of Vietnam and to his legal representation of human rights lawyers Le Thi Cong Nhan and Nguyen Van Dai, and Nguyen Van Hai, the blogger known as Dieu Cay." **[5j]**

See also Section 8: Security forces - Police

See also Section 8: Security forces - Arbitrary arrest and detention

See also Section 14: Political affiliation - Opposition groups and political activists

See also Section 25: Medical issues – Drug detention centres

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12. PRISON CONDITIONS

The King's College London, World Prison Brief, undated, provided statistical data on Vietnam's prisons. **[42a]**

12.01 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, observed that prison conditions were poor and police were reported to have abused suspects and prisoners. **[29a]** The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 recorded:

"Prison conditions could be austere but generally were not life threatening. Overcrowding, insufficient diet, lack of clean drinking water, and poor sanitation remained serious problems. Prisoners generally were required to work but received no wages. Foreign diplomats observed Spartan but clean living areas and generally acceptable labor conditions during a November 2009 visit to Nam Ha Prison in Ha Nam Province. Prisoners sometimes were placed in solitary confinement, where they were deprived of reading and writing materials for periods of up to several months. Family members made credible claims that prisoners received benefits by paying bribes to prison officials or undertaking hunger strikes.

"Prisoners had access to basic health care, with additional medical services available at district or provincial hospitals. However, in many cases officials prevented family members from providing medication to prisoners. Family members of imprisoned activists who experienced health problems claimed that medical treatment was inadequate, resulting in greater long-term health complications.

"The total number of prisoners and detainees was not publicly available. Pretrial detainees were held separately from convicted prisoners. Juveniles were held separately from adults in prison, but on rare occasions they were held with adults in detention for short periods of time due to unavailability of space. Men and women were

held separately. Political prisoners were typically sent to specially designated prisons that also held other regular criminals, and in most cases political prisoners were kept separate from nonpolitical prisoners. Some high-profile political prisoners were kept in complete isolation from all other prisoners. While prison sentences could be extremely lengthy, prisoners were not forced to serve beyond the maximum sentence for their charged offense.

"Prisoners were limited to one 30-minute family visit a month, and family members were generally permitted to give supplemental food and bedding to prisoners. Prisoners did not have the right to manifest their religious beliefs or practices in public. Roman Catholic priest Thaddeus Nguyen Van Ly (released in March), Le Thi Cong Nhan, and Nguyen Van Dai were allowed to keep the Bibles given to them by visiting foreign delegations, but in general prisoners were denied access to religious books and scriptures. Prisoners were allowed to submit complaints to prison management and judicial authorities, but their complaints were routinely ignored." **[2a] (Section 1c)**

12.02 The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, covering events in 2010, published on 31 March 2011, noted: "Prisons in Vietnam remain overcrowded. Inmates often share cells with up to 40 others and have limited access to recreational facilities. Inmates are forced to work and are punished if they refuse. Food rations are basic and prisoners rely on supplies brought in by family members to supplement their diet. There is no independent inspectorate of prisons. Any reported abuses are dealt with internally by the Ministry of Public Security." **[8b] (p336)**

12.03 The USSD Report 2010 stated, "Authorities allowed foreign diplomats and a foreign delegation to make limited prison visits and meet with prisoners in various prisons. The press was permitted limited visits to prisons, but state control of the media restricted reporting on living conditions. In the past the International Committee of the Red Cross was permitted to visit prisons, but no such visits occurred during the year." **[2a] (Section 1c)**

12.04 The Foreign & Commonwealth Office commented in its report, that "In 2010, staff from our Embassy in Hanoi visited Hoang Tien prison in Hai Duong province with EU colleagues to monitor prison conditions. Separately, our consular staff visited two British prisoners being held at Thanh Xuan prison on the outskirts of Hanoi. Along with our EU partners, we continued to press the authorities to grant us access to prisoners included on the EU's list of persons and detainees of concern." **[8b] (p336)**

See also Section 14: Political affiliation

12.05 The USSD Report 2010 recorded, "In honor of National Day, the central government amnestied approximately 17,500 prisoners, the overwhelming majority of whom had ordinary criminal convictions." **[2a] (Section 1d)**

12.06 The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, covering events in 2010, published on 31 March 2011, noted:

"Prisons in Vietnam remain overcrowded. Inmates often share cells with up to 40 others and have limited access to recreational facilities. Inmates are forced to work and are punished if they refuse. Food rations are basic and prisoners rely on supplies brought in by family members to supplement their diet. There is no independent inspectorate of prisons. Any reported abuses are dealt with internally by the Ministry of Public Security… In September [2010], 17,520 prisoners were released under a National Day amnesty, including 27 foreign nationals and 20 Vietnamese prisoners charged under

national security laws. To be granted amnesty, prisoners had to meet criteria set down by the government, including paying an additional fine and expressing remorse for their crimes." **[8b] (p336)**

See also Section 13: Death Penalty for information on conditions for death row prisoners

See also Section 25 Medical issues – Drug addiction - Drug detention centres

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13. DEATH PENALTY

13.01 The International Federation for Human Rights (FIDH) released a Special edition for the 4th Congress against the death penalty, which stated:

"The use of the death penalty is frequent in the Socialist Republic of Vietnam (SRV). Capital punishment is applied for 22 offences, including murder, armed robbery, drug trafficking, rape, sexual abuse of children, and a range of economic crimes, such as graft and corruption, fraud and embezzlement (for 500 million dong - $33,200 - or more of state property), illegal production and trade of food, foodstuffs and medicines. Seven political acts perceived as 'threats against national security' carry the death penalty as a maximum sentence. Capital punishment is most often used to sanction drug-related offences, followed by corruption, black-market and violent crimes. Vietnam has some of the harshest drug laws in the world. A 1997 law made possession or smuggling of 100g or more of heroin, or 5 kilograms or more of opium, punishable by death. In 2001, 55 sentences were pronounced for drug trafficking alone.

"Death sentences are frequently pronounced, despite revisions in the Criminal Code adopted by the National Assembly in 1999 which reduced the number of offences punishable by death from 44 to 29, and further revisions in 2009, which reduced this number to 22. Many high-ranking government officials, including President Nguyen Minh Triet, have expressed their opposition to the too-frequent use of the death penalty, but their stance has had no effect on the rising trend of executions. A reform of the death penalty adopted in May 2000 made only one change – death sentences were commuted to life imprisonment for pregnant women and mothers of children under 3 years old." **[44b] (p3)**

13.02 The FIDH Special edition further stated:

"In Vietnam, statistics on capital punishment are classified 'State secrets'. The State-controlled media has reported 11 death sentences since January 2010, and 58 death sentences in 2009, 14 of them for drug offences. However, the real figures are much higher. Peaceful dissent is punishable by death under vaguely-defined 'national security laws', such as Article 79 of the Criminal Code, which makes no distinction between acts of terrorism and peaceful exercice [sic] of the right to freedom of expression." **[44b] (p3)**

13.03 In Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, published on 31 March 2011, the FCO stated:

"Figures on the death penalty remain a state secret in Vietnam, although the government claims that all death sentences are reported in the media. By December,

state-controlled media sources had reported that at least 110 people had been sentenced to death in 2010, although the actual numbers may have been much higher. The overwhelming majority were convicted of murder or drug trafficking. From January, the number of capital offences was reduced from 29 to 21, with crimes such as smuggling, hijacking of aircraft and ships, and bribery no longer carrying the death penalty. In May, the National Assembly approved a change in the method of execution from firing squad to lethal injection. This comes into effect in July 2011." **[8b]**

13.04 A Reuters article about the change to the method of execution in June 2011, noted that:

"Vietnam will carry out the death penalty using lethal injection from July instead of a firing squad, police said, to reduce suffering. Vietnam, one of several countries in Asia where the death penalty remains in force, has been executing around 100 condemned prisoners a year by firing squad. The switch to lethal injection will 'reduce physical pain for the condemned and also provide psychological relief to executioners,' police Major General Cao Ngoc Oanh was quoted as saying by the Nguoi Dua Tin (nguoiduatin.vn) newspaper... The administration is building chambers at prison facilities where the lethal injection will be administered to convicted prisoners, Oanh said." **[19a]**

13.05 The Amnesty International (AI) Report 2011: The state of the world's human rights: Vietnam, (AI Report 2011) published on 13 May 2011, covering events in 2010, stated that: "The National Assembly voted in May [2010] to change the method of execution from firing squad to lethal injection, claiming that it causes less pain, costs less and reduces psychological pressure on executioners. The change was due to come into effect in July 2011. According to media reports, at least 34 people were sentenced to death. No executions were reported in the media. Official statistics on the death penalty were not made public." **[3a]**

13.06 The FIDH Special edition further described the conditions for prisoners on death row:

"Conditions on death row are particularly inhumane. 3-4 prisoners are detained in each cell. The cells are extremely unhygienic, with one latrine bucket and no ventilation. Prisoners are not allowed to leave their cells except to receive visits, which are extremely rare. Their legs are chained to a long pole, and they are generally lined up in order of execution – the first to be executed being nearest the door. Occasionally, for 'humanitarian reasons', prisoners are allowed to change places in the line.

"Executions take place at 4.00 am. As prisoners are not informed in advance of their execution date, they stay awake in fear of being called, only sleeping at 6.00 am when they know their turn has not come. Prisoners' families are not informed of the execution until after it has taken place.

"Over the past few years, the authorities have increasingly encouraged the practice of public executions, ostensibly to discourage crime. One foreign tourist witnessed the execution of Phan Huu Ha in the province of Lao Cai, and reported that a crowd of over 100 people had been brought in to watch the execution.

"The official Police Review (Cong An) reports that condemned criminals are taken before dawn to a desolate site, read the court's verdict, offered a bowl of noodle soup and a cigarette, and allowed to write a last letter home. Then they are tied to a wooden pole, gagged with a lemon and blindfolded, and shot by five policemen. The commander then fires a last 'humane shot' into the convict's ear. According to reports in the official press, many policemen suffer trauma after working as 'executioners'.

"Relatives are not informed beforehand, but are asked to collect the belongings of the executed two to three days after their death. Under current practice, bodies of executed criminals are held for three years before being released to families for funerals, although photos in the official and foreign press show graves dug alongside execution fields which suggest that the bodies of executed prisoners are not always returned to their families." **[44b] (p5)**

See also Section 12: Prison conditions

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14. POLITICAL AFFILIATION

FREEDOM OF POLITICAL EXPRESSION

14.01 The US Department of State Country Report on Human Rights Practices 2010, Vietnam, published on 8 April 2011 (USSD Report 2010), stated:

"The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them… Political opposition movements and other political parties are illegal. The government continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of government policy from private citizens, including some former senior party members… The government continued to crack down on the small opposition political groupings established in 2006, and members of these groups faced arrests and arbitrary detentions." **[2a] (Section 3)**

14.02 The Amnesty International (AI) Report 2011: The state of the world's human rights: Vietnam, (AI Report 2011) published on 13 May 2011, covering events in 2010, concurred, noting that: "Freedom of expression, association and assembly remained severely restricted..." adding that: "Provisions of the national security section of the 1999 Penal Code, including Article 79 ('Carrying out activities aimed at overthrowing the people's administration') were used to criminalize peaceful political and social dissent. In April [2010], new internet monitoring regulations affecting retail locations in the capital, Ha Noi, were introduced, placing further restrictions on freedom of expression and access to information. Vietnamese language dissident blogs and websites suffered widespread hacking which internet companies Google and McAfee alleged may have been politically motivated." **[3a]**

14.03 The CIA World Factbook, Profile of Vietnam, updated 7 March 2012, accessed on 20 March 2012, reported that: "The country continues to experience small-scale protests from various groups, the vast majority connected to land-use issues, calls for increased political space, and the lack of equitable mechanisms for resolving disputes. Various ethnic minorities, such as the Montagnards of the Central Highlands and the Khmer Krom in the southern delta region, have also held protests." **[4a]**

14.04 Vietnam also cracked down on activists publicly critical of the Chinese government. Examples reported in a Human Rights Watch (HRW) news release on 4 January 2012 observed that:

"In 2008, nine days before the Beijing Olympic torch traveled to Ho Chi Minh City, authorities arrested the activist Nguyen Van Hai (pen name Dieu Cay), who has blogged critically about China's claims over the Spratly and Paracel islands as well as other issues. He was later sentenced to 30 months in prison on a trumped-up tax evasion charge and has been held incommunicado since October 20, 2010, the day of his scheduled release.

"In November 2011, Vietnam sentenced Vu Duc Trung and Le Van Thanh to five years in prison for broadcasting a Falun Gong radio program into China. Falun Gong is banned in China but not in Vietnam." **[5d]**

14.05 USSD Report 2010 noted, "There were no precise estimates of the number of political prisoners [In Vietnam]. The government reportedly held more than 100 political detainees at year's end, although some international observers claimed there were even more." **[2a] (Section 1e)**

14.06 The AI Report 2011stated however that:

"At least 30 prisoners of conscience remained behind bars, including members and supporters of banned political groups, independent trade unionists, bloggers, business people, journalists and writers. A further eight activists were arrested and held in pre-trial detention. Other dissidents were held under house arrest following their release from prison, including prisoner of conscience Le Thi Cong Nhan.

"•Five members of Viet Tan, a Vietnamese group calling for democracy and political reform which is based overseas but has a network in Viet Nam, were arrested. Three were reportedly campaigning on land rights for farmers. Maths lecturer Pham Minh Hoang had protested against bauxite mining in the Central Highlands; and Hong Vo, an Australian national, took part in a peaceful protest against China. Hong Vo was charged with 'terrorism' and deported 10 days after arrest.

"•In October, independent labour activists Do Thi Minh Hanh, Nguyen Hoang Quoc Hung, and Doan Huy Chuong were charged and tried under Penal Code Article 89 (Disrupting security), for distributing anti-government leaflets and advocating strike action at a factory. They received seven- to nine-year prison sentences." **[3a]**

See also Section 6: Political system

See also Section 12: Prison conditions

FREEDOM OF ASSOCIATION AND ASSEMBLY

14.07 The Vietnam Human Rights Network, Annual Report 2011, stated that:

"Freedom of association is completely forbidden to all political organizations. Prior to the opening of the 11th National Congress of the CPV in January 2011, Mr. Dinh The Huynh, now a Politburo member, Chair of the Party Central Propaganda and Education Committee, and Chair of the Central Political Thought Council, confirmed in a press conference that 'Vietnam has no demand (for) - and is determined not to have - pluralism or a multiparty system.'" **[62a] (p8)**

14.08 The Vietnam Human Rights Network, Annual Report 2011, stated that:

"A number of political groups that were previously formed, including the 8406 Bloc, the People's Action Party, the Vietnam Progress Party, the Populist Party, and the Viet Tan Party, etc... continued to be tracked down. Most recent was the arrest of 14 people belonging in the 'Hội đồng Công luật Công án Bia Sơn' (translation uncertain) by the Phu Yen provincial police in February 2012. The group is accused of 'abusing freedom and democratic rights to violate state interests'." **[62a] (p8-9)**

14.09 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated that: "Freedoms of association and assembly are restricted. Organizations must apply for official permission to obtain legal status and are closely regulated and monitored by the government. A small but active community of nongovernmental groups promotes environmental conservation, women's development, and public health. Human rights organizations and other private groups with rights-oriented agendas are banned." **[29a]**

14.10 The USSD Report 2010 concurred noting:

"Opposition political parties were neither permitted nor tolerated. The government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF [Vietnam Fatherland Front]. However, some entities, including unregistered religious groups, were able to operate outside of this framework with little or no government interference." **[2a] (Section 2b)**

14.11 The same report noted:

"Freedom of assembly is limited by law, and the government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required by law and regulation to apply for a permit, which local authorities can issue or deny arbitrarily. In practice only those arranging publicized gatherings to discuss sensitive matters appeared to require permits, and persons routinely gathered in informal groups without government interference. The government generally did not permit demonstrations that could be seen to have a political purpose. The government also restricted the right of several unregistered religious groups to gather in worship. Demonstrations by citizens demanding redress for land-rights claims frequently took place in Ho Chi Minh City and occasionally in Hanoi. Police monitored these protests but generally did not disrupt them." **[2a] (Section 2b)**

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OPPOSITION GROUPS AND POLITICAL ACTIVISTS

14.12 The Central Intelligence Agency, World Factbook Profile on Vietnam, updated on 7 March 2012, accessed on 20 March 2012, named the following as groups that advocate democracy but are illegal and not recognised by the government: Bloc 8406; Democratic Party of Vietnam (DPV); People's Democratic Party Vietnam (PDP-VN); Alliance for Democracy. There are no officially-recognised opposition parties or groups in Vietnam. **[4a]** The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, covering events in 2010, published on 31 March 2011, noted: "The Vietnamese government does not tolerate political dissent or criticism of the

Communist Party's role. Opposition political parties are illegal and dissidents expressing opinions about multi-party democracy risk imprisonment." **[8b]**

See also Section 14: Political affiliation - Freedom of association and assembly

14.13 The Human Rights Watch (HRW) World Report 2012: Vietnam, covering events of 2011, published 22 January 2012, reported:

"2011 saw a steady stream of political trials and arrests, likely spurred in part by Vietnamese government concerns that pro-democracy Arab Spring movement might reach Asia. During the first 10 months of 2011, the authorities sent at least 24 rights activists to prison. All but one were convicted of 'conducting propaganda against the state' (Penal Code article 88), 'undermining national unity' (article 87), or 'subversion of the administration' (article 79). These three vaguely defined articles have been employed to imprison hundreds of peaceful activists in the last decade. In addition, the police arrested at least 27 political and religious advocates in 2011. Blogger Nguyen Van Hai, known by his pen name Dieu Cay, has been held incommunicado since October 2010. Two other pro-democracy internet writers, Nguyen Ba Dang and Phan Thanh Hai, have been detained since 2010 without trial.

"In a major trial in April 2011, prominent legal activist Dr. Cu Huy Ha Vu was convicted of conducting propaganda against the state and sentenced to seven years in prison. The sentence was upheld on appeal.

"In May [2011] the People's Court of Ben Tre convicted seven peaceful land rights activists, including Mennonite pastor Duong Kim Khai and Hoa Hao Buddhist member Tran Thi Thuy, for subversion and sentenced them to long prison terms." **[5a] (p401-402)**

14.14 The HRW World Report 2012, added

"Authorities continue to harass, interrogate, and in some cases detain and imprison online critics. In January 2011 police arrested human rights blogger Ho Thi Bich Khuong. In May [2011] democracy advocate Nguyen Kim Nhan was arrested for allegedly conducting propaganda against the state, five months after he was released from prison on the same charge. In August blogger Lu Van Bay was sentenced to four years for his pro-democracy articles published on the Internet. Also in August blogger Pham Minh Hoang was sentenced to three years for subversion.

"Ethnic minority activists also face arrest and imprisonment. In January [2011] the Lang Son provincial court sentenced blogger Vi Duc Hoi, an ethnic Tay, on charges of conducting propaganda against the state to eight years in prison, reduced to five years on appeal in April. In March [2011] land rights activist Chau Heng, a member of the Khmer Krom minority group, was sentenced to two years in prison in An Giang on charges of 'destruction of property' and 'causing public disorder.' The People's Court of Gia Lai imprisoned eight Montagnard Protestants in April [2011] to sentences between eight to twelve years for violating article 87 of the Penal Code, which outlaws 'undermining unity policy.'" **[5a] (p402)**

14.15 The Vietnam Human Rights Network, Annual Report 2011, stated that: "The 11th CPV National Congress met in January 2011 but it was preceded by a wave of arrests of dissidents from the mid of 2010 to the early days of 2011. This was an indication of the communists' determination not tolerate any challenge to their single-party rule and its government. This round of suppression was especially aimed at Net bloggers" **(p9)** The

Vietnam Human Rights Network Annual Report 2011 provided information on some of the arrests. **[62a] (p9-11)**

See also Section 15: Freedom of Speech and media – Internet users/bloggers

14.16 A news article by the British Broadcasting Corporation (BBC) in June 2011, reported on the protests of Chinese naval operations in disputed waters of the South China Sea, held in Hanoi and Ho Chi Minh City. The article noted:

"The demonstrations in Hanoi and Ho Chi Minh City follow a confrontation last month between a Vietnamese oil and gas survey ship and Chinese patrol boats. China, Vietnam, the Philippines, Malaysia, Brunei and Taiwan all claim territories in the South China Sea. It includes important shipping routes and may contain oil and gas deposits. China's claim is by far the largest.

"Tensions between China and Vietnam escalated after an incident on 26 May in which Hanoi accused a Chinese patrol of cutting the cables of a Vietnamese ship conducting seismic research about 120km (80 miles) off Vietnam's south-central coast…

"Public protests happen rarely in Vietnam, but calls for demonstrations have spread on the internet and via mobile phones in the past few days… the protesters in Hanoi shouted slogans including 'The Paracels and Spratlys belong to Vietnam', a reference to two groups of islands claimed by both countries. They also carried signs that read: 'Stop Chinese invasion of Vietnam's islands.' They marched to the Chinese embassy, where Vietnamese police watched them for a time before leading them away." **[14e]**

14.17 On 4 January 2012, a Human Rights Watch (HRW) campaign, calling for the release of activist Bui Thi Minh Hang, sentenced on 28 November 2011 to 24 months of administrative detention in the Thanh Ha Education Center in Binh Xuyen district, Vinh Phuc province, stated in a news release that:

"Police arrested Bui Thi Minh Hang, 47, on November 27 [2011] outside Notre Dame Cathedral in Ho Chi Minh City for allegedly 'causing public disorder.' She was conducting a silent protest against the arrests of peaceful protesters in Hanoi earlier that morning. The next day the police ordered her detained without trial at the 'education center.'…

"Bui Thi Minh Hang is a land rights activist who recently emerged as a prominent critic of the Chinese government. She participated in Sunday protests against Chinese territorial claims on the Spratly and Paracel islands that took place in Hanoi and Ho Chi Minh City between June and August.

"The Hanoi Municipal People's Committee ordered Bui Thi Minh Hang's 24-month administrative detention under Ordinance 44 on Handling of Administrative Violations. She had no opportunity to contest the decision in a court.

"Article 25 of the ordinance gives officials extremely broad authority to lock people up on arbitrary, ill-defined grounds. Anyone can be sent to an 'education center' if it is determined that they have 'committed acts of infringing upon the properties of domestic or foreign organizations, the properties, health, honor and/or dignity of citizens or foreigners, breaking social order and safety regularly but not to the extent of being examined for penal liability'." **[5d]**

14.18 In July 2011 the British Broadcasting Company (BBC) reported on the re-arrest of dissident Catholic priest Nguyen Van Ly, who in March 2010 had been released from prison after he had an eight year sentence he was serving for subversion suspended to allow him to seek treatment for a brain tumour. His arrest in July at a church in the Hue area of central Vietnam came after the government accused him of "… distributing anti-government writing." The BBC added that: "He has spent more than 15 years in prison since 1977." **[14c]**

14.19 Describing the opposition group Block 8406, a HRW news release of 7 April 2011, noted: "Named for its inception date of April 8, 2006, Block 8406 swelled into a movement of thousands through online petitions calling for respect for basic human rights, establishment of a multiparty political system, and guarantees of freedom of religion and political association. Vietnamese authorities respond with harassment and arrests to nonviolent appeals by Block 8406 and other groups advocating for democracy and human rights." **[5o]**

14.20 The USSD Report 2010 noted, "Members of Bloc 8406… continued to face harassment and imprisonment. At least 38 members of the group were in detention at year's end [2010]." **[2a] (Section 3)**

14.21 The HRW news release of 7 April 2011 added:

"Since June 2010, Vietnamese authorities have arrested and detained at least 24 dissidents, house church activists, and bloggers, many of whom have been held incommunicado for many months without access to legal counsel or to their families.

"During the last month alone, courts sentenced a prominent legal activist, Cu Huy Ha Vu, to seven years in prison on April 4; upheld harsh sentences for three young labor activists on March 18; and sentenced Chau Heng, a land rights activist and member of the Khmer Krom ethnic minority in An Giang province, to two years in prison on March 31. On April 8, Vu Duc Trung and Le Van Thanh, who have been held by Hanoi police since June 2010, will be tried for broadcasting information from an illicit house-based radio station about the Falun Gong religion." **[5o]**

14.22 The USSD Report 2010 also stated:

"On January 21 [2010], the Haiphong Appellate Court rejected the appeals of six dissidents affiliated with Bloc 8406 who were arrested in 2008 and convicted in October 2009 for violating article 88. The six were sentenced to jail terms ranging from two to six years' imprisonment for displaying banners that criticized the Communist Party and advocated multiparty democracy… Several other political dissidents affiliated with outlawed political organizations, including Bloc 8406, PDP [People's Democratic Party], People's Action Party, Free Vietnam Organization, DPV [Democratic Party of Vietnam], UWFO [United Workers and Farmers Organization], and others, remained in prison or under house arrest in various locations. In March Bloc 8406 published a list of 38 members imprisoned for their affiliation with the movement. Several of approximately 30 activists arrested in 2006-07 but later released remained under investigation and administrative detention without being formally charged... Authorities also detained and imprisoned persons who used the Internet to publish ideas on human rights, government policies, and political pluralism." **[2a] (Section 1e)**

14.23 The same report stated:

"On January 24 [2010], dissident Nguyen Ba Dang, a member of the People's Democratic Party (PDP), was arrested in Hai Duong Province and charged with violating article 88, which prohibits distribution of propaganda against the state… In February Doan Huy Chuong, Nguyen Hoang Quoc Hung, and Do Thi Minh Hanh, affiliated with the For the People's Party (FPP) and the United Workers and Farmers Organization (UWFO), were arrested for distributing pamphlets calling for citizens to advocate for democracy and fight attempted invasions from China. The distribution of the leaflets was a joint campaign by Viet Tan, Rally for Justice, the PDP, and the Viet Labor Movement. The individuals were tried jointly in October and convicted of violating article 89, 'causing public disorder to oppose the people's government.' Nguyen Hoang Quoc Hung was sentenced to nine years' imprisonment, while Do Thi Minh Hanh and Doan Huy Chuong each were sentenced to seven years' imprisonment…

"In June Phung Lam from Binh Phuoc Province was arrested for alleged ties to the Democratic Party of Vietnam (DPV) and DPV chairman Nguyen Sy Binh. Police claimed that Lam posted articles opposing the government on the Internet. Lam fled to Cambodia in May but was arrested when he attempted to return to visit his family in June. He was awaiting trial at year's end. In July and August, Nguyen Thanh Nam and Pham Van Thong from Ben Tre Province, Pastor Duong Kim Khai from Ho Chi Minh City, and Tran Thi Thuy from Dong Thap were arrested for their alleged ties to Viet Tan and for organizing and advocating on behalf of land-rights claimants in Ben Tre and Dong Thap provinces; they were charged with violating article 79… Several family members of the accused denied any connection to Viet Tan…

"On January 20, prominent attorney Le Cong Dinh, businessman and blogger Tran Huynh Duy Thuc, Le Thang Long, and DPV leader and Viet Youth for Democracy cofounder Nguyen Tien Trung, arrested in mid-2009, were tried jointly in Ho Chi Minh City for violating article 79. The government claimed the individuals were involved in a plot to create new political parties and overthrow the government. Dinh and Trung pled guilty to joining political parties other than the CPV but denied they were attempting to overthrow the government. They were sentenced to five and seven years' imprisonment, respectively. Long and Thuc maintained their innocence but were sentenced to five and 16 years' imprisonment, respectively… On March 11, the Ho Chi Minh City Appellate Court rejected the appeals of Le Cong Dinh, Le Thang Long, and Tran Huynh Duy Thuc and upheld their original sentences… On April 29, the Thai Binh Province Appeals Court upheld the five-and-a-half-year prison term of Tran Anh Kim, arrested in July 2009 and convicted in December 2009 for violating article 79 due to his leadership role in the DPV." **[2a] (Section 1e)**

14.24 The report also stated:

"On October 29, U.S. citizen Le Kin was arrested in Ho Chi Minh City for violating article 79 relating to his alleged involvement with overseas political organizations critical of the government. He was awaiting trial at year's end… In December Chau Heng, a Khmer Krom land-rights activist from An Giang Province, was arrested upon reentering Vietnam after being denied political refugee status by the Office of the UN High Commissioner for Refugees (UNHCR) in Thailand. Heng led large-scale protests in 2007 and 2008 against local government land seizures… On April 20, four FPP members arrested in September 2009 were convicted in Lam Dong Province for violating article 91 for 'fleeing abroad to oppose the government.' Duong Au was sentenced to five years' imprisonment and five years' administrative probation, Phung

Quang Quyen was sentenced to four years' imprisonment and four years' administrative probation, and Truong Van Kim and Truong Thi Tam were each sentenced to three years' imprisonment and three years' administrative probation… Nguyen Anh Hao was released in July after completing a 13-year sentence. Hao was arrested in 1997 and convicted of 'fleeing abroad to oppose the government'." **[2a] (Section 1e)**

14.25 The report noted further:

"Police forcibly entered homes of a number of prominent dissidents, such as Nguyen Khac Toan, Nguyen Thanh Giang, Le Tran Luat, Nguyen Cong Chinh, and Do Nam Hai, and removed personal computers, cell phones, and other material. Government authorities opened and censored targeted persons' mail; confiscated packages and letters; and monitored telephone conversations, e-mail, text messages, and fax transmissions. The government cut the telephone lines and interrupted the cell phone and Internet service of a number of political activists and their family members… Political activists and family members of prisoners occasionally were physically prevented from meeting with foreign diplomatic representatives. Tactics included setting up barriers or guards outside their residences or calling them into the local police station for random and repetitive questioning… Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements. Although their probation ended in 2009, dissidents Nguyen Khac Toan, Pham Hong Son, Le Thi Kim Thu, and others were prohibited from receiving a passport and traveling overseas. Attorney Le Quoc Quan, attorney Le Tran Luat, and journalist Nguyen Vu Binh were allowed to travel within the country but were prohibited from traveling overseas." **[2a] (Sections 1f, 2a and 2d)**

The Vietnam Human Rights Network Annual Report 2011 provided a list of 163 detained prisoners of conscience in Vietnam, updated as of March 2011. **[62a] (p34-54)**

See also Section 11: Arrest and detention – legal rights

See also Section 12: Prison conditions

See also Section 15: Freedom of speech and media

See also Section 29: Exit and return

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15. FREEDOM OF SPEECH AND MEDIA

OVERVIEW

15.01 Article 69 of the Constitution, amended in 2001, states that "Citizens are entitled to freedom of speech and freedom of the press; they have the right to receive information and the right of assembly, association and demonstration in accordance with the law." **[17a] (Chapter V)**

15.02 The Vietnam Human Rights Network, Annual Report 2011, stated that:

"There are no private press organizations in Vietnam, where all media such as the press, the publishing business, radio stations, TV stations, official press, are owned by

the state. Currently, not a single independent private newspaper or broadcasting station is allowed to exist. Decree No. 37/CP of 29 November 2006 signed into law by Premier Nguyen Tan Dung and still effective in 2011, firmly stated that 'no private press under any form, or any organization or individual, is permitted to take advantage of the press to serve personal interests while undermining the state's interests'." **[62a] (p4)**

15.03 Sources however, report that, in reality, freedom of speech and the media is restricted. For example the Human Rights Watch (HRW) World Report 2012: Vietnam, covering events of 2011, published 22 January 2012, stated:

"The government does not allow independent or privately-owned domestic media to operate and exerts strict control over the press and internet. Criminal penalties apply to authors, publications, websites, and internet users who disseminate materials deemed to oppose the government, threaten national security, reveal state secrets, or promote 'reactionary' ideas. The government blocks access to politically sensitive websites, requires internet cafe owners to monitor and store information about users' online activities, and subjects independent bloggers and online critics to harassment and pressure." **[5a] (p402-405)**

15.04 The Freedom House, Freedom of the Press 2011 report, published on 27 October 2011, stated:

"Although the 1992 constitution recognizes freedom of expression, the criminal code contains vaguely worded prohibitions against speech that is critical of government officials or that threatens national security. The propaganda and training departments of the ruling Communist Party of Vietnam (CPV) control all media and set press guidelines. A 1999 law requires journalists to pay damages to individuals or groups that are found to have been harmed by press articles, even if the article's assertions are accurate. The CPV levies charges under defamation laws or the commonly used Article 88 of the criminal code, which prohibits the dissemination of 'antigovernment propaganda,' in response to articles it deems threatening. Reacting to increasingly vibrant reporting by both the traditional and internet-based news media, the government issued a decree in 2006 that defined over 2,000 additional violations of the law in the areas of culture and information, with a particular focus on protecting 'national security.' The judiciary is not independent, and many trials related to free expression last only a few hours. Courts frequently use dubious allegations unrelated to press freedom to silence opposition views…

"The CPV generally views the media as a tool for the dissemination of party and state policy. Criticism of government leaders, advocacy for political reforms or the creation of a multiparty democracy, discussion of national security issues, human rights, religious freedom, environmental issues, and border disputes with China are the topics most commonly targeted for official censorship or retribution. Journalists are sometimes permitted to report official corruption at the local level, as it serves the interests of the CPV's national anticorruption platform. Foreign reporters are often required to remain in the capital, Hanoi, and face disciplinary action from the propaganda department for covering politically sensitive topics. International periodicals, though widely available, are sometimes censored." **[29b]**

15.05 An International Federation for Human Rights (FIDH) report on the situation of human rights defenders in Vietnam, updated May 2011, observed that:

"The CPV [Communist Party of Vietnam] continued to tightly control the media, relentlessly clamping down on any form of dissent, using a diverse set of tools, including the judiciary system and technical means such as blocking websites and interfering with the transmission of radio stations. Independent, privately-owned media is non-existent, and websites or blogs carrying opposition or critical media content were again exposed to harsh reprisals by Government agencies." **[44c]**

15.06 The British Broadcasting Corporation (BBC) Country Profile, Vietnam, updated 15 January 2012, accessed on 20 April 2012, noted: "Media outlets and journalists risk sanctions for broaching sensitive topics and for criticising the government. But some press titles and online outlets do report on corruption in official circles." **[14a]**

15.07 The Reporters Without Borders, Press Freedom Index 2011 ranked Vietnam 172 out of the 179 countries included in the index (one being the most free and 179 being the least free). **[7b]** Vietnam was ranked at 165 in 2010 **[7c]**

NEWSPAPERS, RADIO, INTERNET AND TELEVISION

15.08 The BBC Country Profile, Vietnam, updated 15 January 2012, accessed on 20 April 2012, noted:

"TV is the dominant medium. State-run Vietnam Television (VTV) broadcasts from Hanoi. There is a growing pay TV industry, which includes the K+ satellite platform. State-run Voice of Vietnam (VoV) has six radio networks, including VoV 5 with programmes in English, French and Russian. There are hundreds of newspapers and magazines. The best-selling dailies are Tuoi Tre and Thanh Nien, which are run by youth organizations in Ho Chi Minh City. There were around 28.6 million internet users by May 2011 (InternetWorldStats.com). Material deemed obscene is filtered, as are opposition sites. Facebook is blocked." **[14a]**

15.09 The Freedom House, Freedom of the Press 2011 report stated:

"Almost all print media outlets are owned by or are under the control of the CPV, government organs, or the army. Several of these newspapers – including Thanh Niên, Nguoi Lao Dông, and Tuoi Tre (owned by the Youth Union of the CPV) – have attempted to become financially self-sustaining. They, along with the popular online news site VietnamNet, also have a fair degree of editorial independence, though ultimately they are still subject to the CPV. Several underground publications have been launched in recent years, including Tu Do Ngôn Luân, whose editor, Nguyen Van Lý, was released in 2010 after serving three years in prison, and Tô Quõc, which continues to circulate despite harassment of staff members. Radio is controlled by the government-run Voice of Vietnam or other state entities. The broadcasts of international stations such as Radio Free Asia are periodically jammed. State-owned Vietnam Television (VTV) is the only national television provider, although cable services do carry some foreign channels. Vietnam launched its first telecommunications satellite in 2008, indicating that access to television, telephone service, and the internet may increase in rural areas in the coming years. Many homes and local businesses in urban areas have satellite dishes, in some cases allowing them to access foreign programming." **[29b]**

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JOURNALISTS

15.10 The Vietnam Human Rights Network, Annual Report 2011, stated that: "Statistics from the Information and Communications Ministry disclosed that up to June 2011, there were 17,000 journalists nationwide, all paid and licensed by the state or its subsidiaries." **[62a] (p4)**

15.11 The same report added:

"Journalists have often been reminded to keep to the 'right lane,' meaning to respect the one-way, truth-twisting information provided by the state. Many resistant ones among them have been arrested, fired, or detained because of their different views from those of the communist state on serious issues related to the CPV policies as well as to the corruption of officials at all levels. A number of reporters, including foreigners, who followed the anti-China demonstrations in July 2011 were harassed and detained by the police." **[62a] (p4)**

15.12 The USSD Report 2010 noted:

"In speeches in January and February [2010], the prime minister stated that 'journalists must be loyal soldiers serving the nation,' called on news agencies to fight against 'sedition,' and asserted that the press 'should not report information that harms the country's interests.'… Several journalists were attacked or threatened relating to their reporting on sensitive stories… The law requires journalists to pay monetary damages to individuals or organizations whose reputations were harmed as a result of journalists' reporting, even if the reports were true. Independent observers noted that the law severely limited investigative reporting." **[2a]**

15.13 A recently reported case was that of Journalist Nguyen Van Khuong, who was arrested on 2 January 2012 in Ho Chi Minh City in connection with his undercover investigative reporting for the newspaper Tuoi Tre. Khuong. He was ordered to be detained for four months while the authorities investigated his use of a bribe to expose traffic police corruption. (Reporters Without Borders, 3 January 2012) **[7f]**

Internet users/bloggers

15.14 The BBC Country Profile, Vietnam, updated 15 January 2012, accessed on 20 April 2012, noted: "There were around 28.6 million internet users by May 2011." **[14a]** A Reporters Without Borders reported in March 2011 that: "Internet use continues to spread among the population: 31% of Vietnamese are now connected. Young people are particularly keen about spending time online. Facebook users now number two million and 70% of them are 14 to 24 years old." **[7d]** The BBC Country Profile added however, that: "Material deemed obscene is filtered, as are opposition sites. Facebook is blocked." **[14a]** Reporters Without Borders noted that Vietnam was the world's second largest prison for netizens. **[7d]**

15.15 The Freedom House, Freedom of the Press 2011 report stated:

"The internet remains both the most accessible space for disseminating opposition views and the main target for government crackdowns. In 2008, the Ministry of Information and Communications formed an agency to monitor the internet and blogosphere. In April 2010, the government introduced the latest in a series of restrictions on public internet usage, requiring internet café owners to install software that records the personal information and browsing activities of users. The government

continues to shut down blogs, including the popular sites Blogosin and Bauxite Vietnam in February 2010. Though the government has denied using cyberattacks to monitor and prevent dissident activity, malicious programs attached to downloadable Vietnamese-language software most frequently targets politically sensitive websites. In March, experts from the U.S. companies Google and McAfee reported that distributed denial-of-service (DDoS) attacks, which overwhelm servers and websites with traffic, had been used to censor dissidents.

"Conditions for cyberactivists and online journalists continue to deteriorate. Bloggers are frequent targets for arbitrary detention, interrogation, and arrest. Five bloggers were imprisoned in 2010, a dramatic increase from just one in 2009. After a high-profile trial in January, three cyberdissidents were convicted under Article 79 of the criminal code for supposed national security violations, with sentences ranging from 5 to 16 years in prison. In August, blogger Pham Minh Hoàng was arrested and held for six weeks for public statements on bauxite-mining issues, then charged with 30 counts of terrorism and intent to overthrow the government. By year's end he was still being held without access to lawyers or his family. In October [2010], authorities arrested bloggers Phan Thanh Hài, for blogging about mining and Chinese border issues, and Lê Nguyen Huong Trà, for accusing a senior security minister of corruption." **[29b]**

15.16 The Committee to Protect Journalists report, Attacks on the Press 2011, stated:

"Vietnam intensified a media crackdown targeting online journalists and bloggers, reasserting the government's near-total control of domestic news media. Authorities arrested and detained five bloggers and contributors to online news publications, bringing to nine the number of journalists behind bars. Political bloggers Pham Minh Hoang and Vi Duc Hoi were both given harsh prison sentences on antistate charges related to their writings. Authorities continued to hold and deny visitation privileges for blogger Nguyen Van Hai even though his prison sentence expired in October 2010. A new executive decree that came into force in February gave the government greater powers to penalize journalists, editors, and bloggers who reported on issues deemed sensitive to national security. An 'accusation' bill passed in November [2011] was designed to force journalists to reveal the identities of confidential sources critical of government agencies." **[22a] (p184)**

15.17 The International Federation for Human Rights (FIDH) report on the situation of human rights defenders in Vietnam, updated May 2011, observed that:

"The authorities attempted to silence any dissenting voices in the run-up to the 11th Congress of the CPV. Indeed, in 2010 independent bloggers, journalists, peaceful democracy activists, religious leaders promoting tolerance and democracy were targeted through a variety of means. The Government increasingly resorted to vaguely worded provisions of the Criminal Code, such as Article 79 ('subversion'), Article 88 ('conducting propaganda against the State') and Article 258 ('abusing democratic freedoms to infringe upon the interests of the State'). On-line critics were harassed, ill-treated, tortured and arbitrarily detained. Critical websites and blogs deemed 'politically sensitive' by the authorities were blocked or closed down. Firewalls were widely used to prevent access to foreign news sources and critical opposition websites based outside the country experienced cyber attacks originating from Viet Nam. On April 26, 2010, the Hanoi People's Committee issued Decision No. 15/2010/QD-UBND, which obliges the owners of any place that offers public access to the Internet in Hanoi to install a monitoring software, which enables authorities to track all on-line activities. It is feared that this measure will be extended to the rest of the country. In addition, a new media

decree (Decree No. 2/ND-CP on Sanctions for Administrative Violations in Journalism and Publishing) was signed by the Prime Minister on January 6, 2011, and entered into force on February 25, 2011, to regulate the activities of journalists and bloggers." **[44c]**

15.18 A Reporters Without Borders article from March 2011 stated:

"Online media and blogs, mainly those hosted on Wordpress, Multiply or Blogspot, thanks to contributions from citizen journalists, have acquired a de facto status equivalent to a sort of independent private press and are having a growing impact on public opinion. Websites such as Vietnam Net and Vietnam News cover such topics as corruption, social issues and the political situation. Bloggers are carrying out actual field surveys whose results could not be published in the traditional media. Thanks to the Internet and to the debate and opinion-sharing spaces which it offers, a virtual civil society has emerged. Pro-democratic activists and critics of the government have found refuge there, which worries the authorities.

"The most widely discussed topics are territorial disputes with China, corruption, disagreements over land ownership and freedom of expression – subjects which are rarely, if ever, mentioned in the traditional media. China's bauxite mining activities and the related environmental risks are taboo, particularly because they are causing rifts within the party itself.

"The filtering of Internet websites seems to have neither increased nor declined in the last few months. The majority of bloggers practice self-censorship for fear of becoming a target for the authorities. Certain bloggers have indicated that when they write on 'sensitive' subjects, their posts are deleted by 'third parties.'

"Authorities close down websites or blogs in the open. On 5 May 2010, Gen. Vu Hai Trieu, Deputy Director of the Public Security Ministry, announced: 'Our technical departments have destroyed 300 Internet web pages and blogs posting unsuitable contents.',

"Filtering is no longer the main method used to curtail Internet freedom. The Vietnamese regime prefers to deploy cyberattacks and spyware, and to steal users' IDs and passwords from opposition website administrators." **[7d]**

15.19 The same Reporters Without Borders article reported:

"American Internet giant Google has also been accusing Vietnam of carrying out cyberattacks and online surveillance to muzzle critical opinions. It claims that tens of thousands of people may have been affected. The sites targeted are said to be those which discuss the highly controversial issue of the bauxite mining being done by Chinese companies, despite activists exposing them as having a harmful impact on the environment and China's growing influence in this strategic region. Nart Villeneuve, of Toronto University's Citizen Lab, stated to Associated Press on 1 April 2010 that these attacks and malware programmes had made it possible to infiltrate and place under surveillance human rights activists' websites." **[7d]**

15.20 Adding to this, Reporters Without Borders noted:

"In April 2010, the Vietnamese authorities issued 'Decision 15,' ordering over 4,000 cybercafés and Internet service providers in Hanoi to install a government-supplied software programme which might – like its temporarily suspended Chinese equivalent

Green Dam – block access to some websites and set up surveillance of netizen activities.

"In August 2010, the Vietnamese authorities decided to close, by the end of 2010, all cybercafés located within a 200-metre radius of schools, in an attempt to curb online game addiction and access to 'inappropriate content.' This measure allegedly concerns over 800 establishments, primarily in Saigon and Hanoi, but its enforcement has been sketchy, primarily due to economic reasons. Moreover, technical measures are expected to be implemented in order to suspend Internet links in all of the capital's cafés from 11:00 p.m. to 6:00 a.m., and all violators will be fined.

"A spokesman for the Vietnam Ministry of Foreign Affairs has indicated that the authorities were trying to ensure 'security and a healthy/sound use' of the Internet in public places, and rejects any accusation that this constitutes a violation of freedom of expression. The Ministry had recently denounced the growing use of the Internet and of 'violent and pornographic' content." **[7d]**

15.21 The Freedom House, Freedom of the Press 2011 report noted: "Police occasionally use physical violence and threats against opposition-oriented media personnel. Numerous reports of law enforcement officers raiding homes and confiscating computers surfaced throughout 2010, including in the cases of well-known bloggers Hà Si Phu and Ta Phong Tãn. In April, police physically assaulted internet activist Lu Thi Thu Trang of the prodemocracy group Block 8406 in front of her young son." **[29b]**

15.22 In another article by Reporters Without Borders, dated 14 January 2011, it stated:

"Vietnam has issued a new decree regulating the activities of journalists and bloggers that includes provision for fines of up to 40 million dong (2,000 dollars) in a country in which the average salary is 126 dollars… Signed by Prime Minister Nguyen Tan Dung and due to take effect next month, the decree makes it an offence to publish information that is 'non-authorised' or 'not in the interests of the people.' By interpreting these vague definitions broadly, the authorities will be able to increase the number of arrests of blogger and journalists. The decree also provides for fines of up to 3 million dong (155 dollars) for anyone who publishes documents or letters without identifying themselves or revealing their sources, and for up to 20 million dong if the documents are linked to an official investigation. With a total of 15 netizens and three journalists currently detained, Vietnam is already the world's second biggest prison for netizens." **[7a]**

15.23 A Voice of America News (VOA) article, dated 25 February 2011 reported that:

"Rights groups in Vietnam say the law imposes vague new rules on journalists and bloggers that will make it harder for them to work. The decree establishes fines of up to $1,000 for writers and editors who do not reveal sources of information and fines of up to $2,000 for those who publish unauthorized information. Phil Robertson, deputy Asia director at Human Rights Watch, says the decree is part of an ongoing crackdown by the Vietnamese government against free speech, political dissent and Internet access. 'There's a lot of innovative journalism that's coming up in Vietnam, people exposing corruption, people exposing abuses, but ultimately a lot of that will diminish and, frankly, just sort of melt away if in fact the people who are providing information need to be named in the articles,' Robertson said. Robertson adds the decree is problematic partly because it allows Vietnam to censor news under the guise of safeguarding national security. 'What we're seeing very clearly is the Vietnamese government responding in a

very negative way to the greater freedom of communication and information that the Internet provides,' he said." **[36a]**

The Freedom House report, Freedom on the Net 2011 - Viet Nam, published on 18 April 2011 provides additional information on internet usage in Vietnam. [29c]

See also Section 8: Security forces – Arbitrary arrest and detention

See also Section 14: Political affiliation - Opposition groups and political activists

See also Section 16: Human rights institutions, organisations and activists

The US Department of State Country Report on Human Rights Practices 2010, Vietnam, published on 8 April 2011 (USSD Human Rights Report 2010) provided further examples where journalists had been arbitrarily arrested and detained. **[2a] (Section 2)**

The Committee to Protect Journalists (CPJ) **[22b]** and the Reporters sans Frontières' (Reporters Without Borders) **[7e]** websites included details of journalists attacked, threatened, abducted and imprisoned.

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16. HUMAN RIGHTS INSTITUTIONS, ORGANISATIONS AND ACTIVISTS

This section should be read in conjunction with Section 7: Human Rights – Introduction, Section 8: Security Forces – Human rights violations by security forces and Section 15: Freedom of speech and media – Internet users/bloggers.

16.01 In March 2006 The Human Rights Watch (HRW) reported:

"In a country like Vietnam, where the government bans independent human rights organizations and rejects visits by international human rights groups and UN human rights experts there is no human rights infrastructure beyond the networks that human rights defenders create among themselves. When these defenders' organizing activities are uncovered by the authorities, they are invariably considered a threat and many times, deemed illegal by the government. The government forbids the operation of free media, outlaws independent human rights organizations, and prevents the formation of trade unions outside the control of the government-directed Vietnam General Confederation of Labor (VGCL).

"The Party is not shy in defending its repression of human rights to a domestic audience. The Communist Party of Vietnam's (CPV) general secretary, Nong Duc Manh, said on February 2, 2010, that 'We struggle against all the ... hostile forces by preventing them from profiting from ... democracy, human rights, multi-partyism and pluralism to sabotage the Vietnamese revolution.' However, in its May 2009 Universal Periodic Review (UPR) at the United Nations Human Rights Council, the government asserted that it has no 'so-called prisoners of conscience,' that no one is arrested for criticizing the government, but only for violating Vietnam's laws; and that its national security laws 'conform to international law.' The government rejected 45 recommendations from other governments at the UPR, including ones calling on Vietnam to allow individuals and groups to promote human rights.

"The government treats the myriad advocates for greater openness, freedom, and reform as nothing less than challengers to the Party's authoritarian rule. The government continues to harshly suppress peaceful dissent, free speech, independent media, and unrestricted access to the internet, and does everything it can to silence its critics, often through sentencing them to long jail terms. Favorite tools used against human rights defenders are vague national security provisions of the criminal codes such as article 79 'opposing the people's administration,' article 258, 'abusing democratic freedoms to infringe upon the interests of the state,' and article 88, 'conducting propaganda against the state.'" **[5p]**

16.02 The same HRW report added:

"Human rights defenders and dissidents in Vietnam are a diverse group-villagers protecting communal resources and land; lawyers representing politically sensitive clients; well-educated and computer-literate writers, artists, students, and intellectuals, often using blogs to press their cause; political activists peacefully exercising rights to association and assembly in an independent political party; communities of faith seeking to worship without state interference; workers organizing an independent trade union to help themselves and their fellow workers achieve a better life; and even former military or party officials challenging the status quo.

"Unsurprisingly, the government's responses to the diverse range of rights defenders are equally diverse. They are harassed and intimidated by local officials or hired thugs. Some are dismissed from their jobs, or denounced and humiliated in orchestrated public meetings. Others are imprisoned or involuntarily committed to mental institutions, and some are tortured. One alarming new line of harassment of bloggers and other human rights defenders that has received relatively little attention: even after they are imprisoned, their family members are harassed and their freedom of movement restricted.

"Legislative means are also employed to silence rights defenders. In addition to provisions in the penal code that criminalize freedom of expression and are often employed to threaten or imprison activists for defending human rights, the government is tightening up its restrictions on the internet and blogs. For example, new regulations limit bloggers' postings to personal content, and ban posting of articles about politics or issues the government considers state secrets, subversive, or threats to national security and social order. In 2009, the government called on internet service providers to block access to a number of websites, including Facebook and a website tracking developments at the besieged Bat Nha Buddhist monastery, in order to 'protect the national security and to fight against the anti-Party and anti- state propaganda activities.'

"Other popular sites calling for democratic reforms and human rights are not simply firewalled by the government, but targeted for cyber-attacks. For example, Dien Dan X-Café, one of the most popular independent internet forums which discusses Vietnamese political and social issues, is now based in Europe after its Saigon-based moderators endured police harassment. The site has been cyber-attacked in the form of 'DDOS' (denial-of-service attack), and information on a number of the forum administrators has been published on the internet with a malicious mixture of real and fake information. Lawyer Le Quoc Quan has promised to defend any member of X-Café in Vietnam who may get into troubles due to this exposure; it is possible that he in turn will be prosecuted for trying to defend the bloggers." **[5p]**

17. CORRUPTION

17.01 The Anti-corruption Law was passed on November 29, 2005, by the XIth National Assembly sitting its 8th session. **[64a]**

17.02 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 noted:

"The law provides for criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption continued to be a major problem. The government persisted in efforts to fight corruption, including publicizing budgets of different levels of government and continuing to streamline government inspection measures. Cases of government officials accused of corruption occasionally were widely publicized. The anticorruption law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In regular Internet chats with high-level government leaders, citizens asked pointed questions about anticorruption efforts. However, the government continued to consider public political criticism a crime unless the criticism was controlled by authorities." **[2a] (Section 4)**

17.03 An article on corruption in Vietnam by Voice of America (VOA) news, dated 8 June 2011, stated:

"As in many developing nations, corruption remains a problem in Vietnam, which a recent report ranks as the fifth-most corrupt country in Asia. Some activists say part of the problem is that many people feel ill-equipped to fight graft. An annual survey by Political and Economic Risk Consultancy [PERC], a Hong Kong consulting firm, indicates that in Asia, only Cambodia, Indonesia, the Philippines and India are more corrupt than Vietnam. On a scale from 0 to 10, with 10 indicating extreme tolerance for corruption, Vietnam earns a score of 8.3 in the PERC survey this year." **[36b]**

17.04 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated that:

"Corruption and abuse of office are serious problems. Although senior CPV and government officials have acknowledged growing public discontent, they have mainly responded with a few high-profile prosecutions of corrupt officials and private individuals rather than comprehensive reforms. Major government decisions are made with little transparency, and revelations of contracts with Chinese state-owned companies have generated considerable controversy. In 2009 and 2010, 98-year-old Vo Nguyen Giap, the famed commander of Vietnamese forces during the wars of independence and unification, led public criticism of a government deal to allow a Chinese company to open a huge bauxite-mining operation in the Central Highlands, which opponents said would displace indigenous residents, cause environmental damage, and threaten national security." **[29a]**

17.05 The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, covering events in 2010, published in March 2011, noted:

"Transparency International's Global Corruption Barometer, published in December [2010], found that urban Vietnamese perceived corruption to be on the increase. The report also found that institutional and political limitations prevented ordinary citizens from becoming involved in anticorruption efforts. The government struggled to

implement a legal framework on anti-corruption but reviewed the effectiveness of existing measures, guided by the UN Convention against Corruption, which Vietnam ratified in 2009." **[8b] (p340)**

17.06 In Transparency International's (TI) Corruption Perceptions Index, released on 1 December 2011, Vietnam was placed at 112 out of 183 countries (183 being the most corrupt). Vietnam scored 2.9 out of ten, ten representing lowest levels of corruption. The Corruption Perceptions Index (CPI) ranks countries according to perception of corruption in the public sector. The CPI is an aggregate indicator that combines different sources of information about corruption, making it possible to compare countries. The 2010 CPI draws on different assessments and business opinion surveys carried out by independent and reputable institutions. **[26a]**

17.07 In January 2012 Journalist Nguyen Van Khuong was arrested in Ho Chi Minh City in connection with his undercover investigative reporting for the newspaper Tuoi Tre. Khuong. He was ordered to be detained for four months while the authorities investigated his use of a bribe to expose traffic police corruption. (Reporters Without Borders, 3 January 2012) **[7f]**

17.08 The World Bank reported in August 2011 on an anti-corruption initiative, launched in 2010, noting:

"The Vietnam Anti-Corruption Initiative Program 2011 (VACI 2011), under the theme 'Strengthening public integrity and law implementation for effective anti-corruption' today awarded 34 community initiatives in order to minimize corruption, strengthen transparency and bring a better living environment. Mr. Huynh Phong Tranh, Chief Government Inspector and Ms. Victoria Kwakwa, Country Director of the World Bank Vietnam joined the event.

"The Program, co-organized by the Government Inspectorate of Vietnam and the World Bank in Vietnam and co-sponsored by the Australian Agency for International Development (AusAID), the Canadian International Development Agency (CIDA), Embassy of Finland, Embassy of Sweden and the Department for International Development (DFID-UK), was first launched on December 9, 2010…

"Participating initiatives focused on various fields, including anti-corruption in health care services, education, administrative procedures, recruitment management, involving also ethnic minorities and people with disabilities…

"The Vietnam Anti-Corruption Initiative Program 2011 (VACI) supports innovative ideas to minimize corruption, strengthen transparency, and bring a better living environment for people. The program is co-organized by the Government Inspectorate and the World Bank with support from many bilateral donors." **[12d]**

See also Section 8: Police: Avenues of Complaint

18. FREEDOM OF RELIGION

18.01 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam, accessed on 20 March 2012 noted:

"Traditional Vietnamese religion included elements of Indian and all three Chinese religions: Mahayana Buddhism, Daoism and Confucianism. Its most widespread feature

was the cult of ancestors, practised in individual households and clan temples. Various Buddhist sects belong to the 'new' religions of Caodaism and Hoa Hao. The Protestant and Roman Catholic Churches are also represented. In 2007 operating licences were granted to several additional religious groups, including the Mennonite Church, the Baptist Church and the Bahá'í faith." **[1a]**

18.02 Article 70 of the 1992 Constitution, as amended in 2001, states:

"Citizens have the right to freedom of belief and religion, and may practise or not practise any religion. All religions are equal before the law.

"Public places of religious worship are protected by law.

"No one has the right to infringe on the freedom of faith and religion or to take advantage of the latter to violate State laws and policies." **[17a]**

18.03 **The Human Rights Watch (HRW)** World Report 2012: Vietnam, covering events of 2011, published 22 January 2012, reported:

"The government restricts religious practices through legislation, registration requirements, and harassment and surveillance. Religious groups are required to register with the government and operate under government-controlled management boards. Despite allowing many government-affiliated churches and pagodas to hold worship services, the government bans any religious activity that it arbitrarily deems to oppose 'national interests,' harm national unity, cause public disorder, or 'sow divisions'." **[5a] (p405)**

18.04 The US Department of State International Religious Freedom Report 2010, Vietnam, covering events between 1 July 2010 and 31 December 2010, (USSD IRF Report 2010, updated), published on 13 September 2011, noted: "The constitution and other laws and policies protect religious freedom, but, in practice, the government regulated and in some cases restricted religious freedom. The government generally respected the religious freedom of most registered religious groups; however, some registered and unregistered groups reported abuses." **[2b] (Introduction)**

18.05 The US Commission on International Religious Freedom (USCIRF), Annual Report 2012, covering the period from 1 April 2011 – 29 February 2012, published March 2012, included Vietnam on its list of "countries of particular concern" (CPC). The report stated, "The government of Vietnam continues to control all religious communities, restrict and penalize independent religious practice severely, and repress individuals and groups viewed as challenging its authority." **[34a] (p260)**

18.06 The USCIRF, Annual Report 2012, noted:

"The number of religious adherents continues to grow in Vietnam, and in large urban areas the Vietnamese government allows religious activity to occur openly. The government has supported the building of religious venues and the training of religious leaders, and allowed some large religious gatherings and pilgrimages (though not without restrictions). Government training sessions for local officials on Vietnam's religion laws have occurred, though the content remains problematic and serious abuses continue in ethnic minority areas. In some parts of the Central Highlands, churches and meeting points have been re-opened, and the government and the officially-recognized Protestant organization have established a working relationship." **[34a] (p261)**

18.07 In June 2004, Vietnam promulgated a new Ordinance on Belief and Religion. The USSD IRF Report 2010, published on 13 September 2011, noted:

"The 2004 Ordinance on Religion and Belief serves as the primary document governing religious practice. It reiterates citizens' rights to freedom of belief and religion, but warns that the 'abuse' of freedom of belief or religion 'to undermine the country's peace, independence, and unity' is illegal, and religious activities must be suspended if they 'negatively affect the cultural traditions of the nation.'… Under the Ordinance on Religion and Belief, the government has control and oversight of religious organizations, which must be officially recognized or registered. "Appropriate" lower-level authorities must approve leadership, activities, and the establishment of seminaries or religious classes. The appointment of priests or other religious officials requires authorities' approval only when a higher-level foreign religious organization, such as the Vatican, is involved. The ordinance explicitly bans forced renunciations of faith. The ordinance requires religious organizations to inform appropriate authorities of their annual activities or the investiture and transfer of clerics, and it no longer requires official government approval. Furthermore, the ordinance encourages religious groups to carry out charitable activities in health care and education, which were limited in the past." **[2b] (Section II)**

18.08 The UN Human Rights Council, Report of the independent expert on minority issues, Gay McDougall, Mission to Viet Nam (5 - 15 July 2010), published 24 January 2011, stated:

"The Ordinance on Belief and Religion came into effect on 15 November 2004 with the aim of concretizing the constitutional provisions into institutionalized policies and guidelines, and is the primary document governing religious practices. The Government issued Decree 22/2005/ND-CP in March 2005 to provide additional guidance on the Ordinance on Religion and Belief. The Decree provides procedures for official recognition and registration of religious organizations, their places of worship, clerics and activities." **[53c] (p15, Religious Minorities)**

18.09 The USSD IRF Report 2010, published in September 2011, described more specifics of the decree, noting:

"The decree specifies that a religious organization must have 20 years of "stable religious operation" in the country to be recognized by the government and states that past operation in the country can be counted toward this requirement.

"The decree also clarifies the procedures for religious organizations and individual congregations seeking official recognition. To obtain official recognition, a denomination must receive national-level registration, which according to the legal framework involves several legal stages. First the religious organization must apply for and receive registration in each local administrative area in which it operates. Registration requires a religious organization to file information with relevant authorities about its structure, leadership, and activities. After maintaining national registration for one year, the eligible religious group may apply for full legal recognition after hosting a national convention where it elects leaders. The decree further specifies that appropriate authorities must provide a written response to requests for official recognition within 30, 45, 60, or 90 days, depending on the scope of the request. In the case of a refusal, a specific reason must be included in the written response, although this requirement also does not appear to be consistently followed. There is no specific mechanism for appeal in the ordinance, nor are the reasons for denying a request restricted in any way.

"Finally Decree 22 states, "Acts to force citizens to follow a religion or renounce their faith...are not allowed." The Prime Minister's Instruction on Protestantism contained a similarly worded statement. Although government officials stated forced conversions or renunciation of faith had always been illegal, these were the first legal documents to state so explicitly." **[2b] (Section II)**

18.10 The USCIRF, Annual Report 2012, noted:

"Other provisions of the Ordinance do not meet international standards and restrict rather than promote religious freedom. For example, national security and national solidarity provisions override any legal protections guaranteeing the rights of religious communities. These include Article 8(2) of the Ordinance, which prohibits the 'abuse' of religion to undermine national unity, 'sow division among the people, ethnic groups and religions' or 'spread superstitious practices,' and Article 15, which provides that religious activities will be suspended if they 'negatively affect the unity of the people or the nation's fine cultural traditions.' The government continues to limit the organized activities of independent religious groups and individuals viewed as a threat to party authority on these grounds. There are reports that Vietnamese officials are considering revising the Ordinance on Religion and Belief, which would offer the international community an opportunity to engage Vietnam in ways to change its legal structure on religion so that it conforms to international standards." **[34a] (p262)**

18.11 The USCIRF, Annual Report 2012, further noted:

"The central government has also delayed implementation and enforcement of the Ordinance in ethnic minority areas and issued a training manual on religious groups in the northwest provinces that counsels restricting rather than advancing religious freedom. The manual, first issued in 2007 by the central government's Committee on Religious Affairs, has gone through several revisions because of international scrutiny. Nevertheless, problematic language regarding measures to halt the growth of religious communities remains. Provincial officials continue to carry out the manual's recommendation to halt the growth of Protestantism." **[34a] (p263)**

18.12 The USSD IRF Report 2010, published in September 2011, noted:

"There were continued reports of abuses of religious freedom in the country. There was no change in the status of respect for religious freedom by the government during the reporting period. Despite areas of progress, significant problems remained, especially at the provincial and village levels. These included slow - or no - approval of registration for some groups, including the unrecognized Hoa Hao, Buddhist faith, and Protestant groups in the North and Northwest highlands. There were reports of harsh treatment of detainees after a protest over the closing of a cemetery in Con Dau parish. Some Christian groups also reported harassment when they tried to hold Christmas services. The government also showed signs of progress; it facilitated the construction of hundreds of new places of worship, granted national registration to two new religions, registered new congregations, permitted the expansion of charitable activities, and allowed large-scale worship services with more than 100,000 participants.

"There were a few instances of societal violence based on religious affiliation, belief, or practice during the reporting period. Many Catholics and Protestants reported that Christians experienced unofficial discrimination when applying for government positions." **[2b] (Introduction)**

18.13 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated that:

"Religious freedom remains restricted. All religious groups and most individual clergy members must join a party-controlled supervisory body and obtain permission for most activities. The Roman Catholic Church can now select its own bishops and priests, but they must be approved by the government. Many restrictions on charitable activities have been lifted, and clergy enjoy greater freedom to travel domestically and internationally. However, several religious leaders and adherents remain in prison. In January 2010, Vietnamese Catholic groups reported that priests and believers in the area of Dong Chiem had been attacked on their way to pray; similar sporadic attacks were reported throughout the year." **[29a]**

18.14 The USCIRF, Annual Report 2012, stated:

"Police also continue, explicitly or implicitly, to sanction violence against religious communities and venues, including by 'contract thugs' and gangs. For example, police and military units forcibly removed several thousand Hmong Christians in May 2011 who gathered for religious reasons. There are reports of death and arrests, though the government has closed access to that part of Dien Bien province. In August 2011, police reportedly watched as a group of men attacked a Catholic from Vinh who was returning from participating in a public protest at embattled Thai Ha parish. On November 13, 2011, a group of men, including a local official, attacked the Agape Baptist Church in Vietnam's northwest provinces, destroying vehicles and property, severely beating eight members of the congregation and threatening to kill Pastor Nguyen Danh Chau if he 'continued gathering Christians.' The attackers were not arrested." **[34a] (p264)**

18.15 The Minority Rights Group International (MRI) Report, State of the World's Minorities and Indigenous Peoples 2011, covering events in 2010, published 6 July 2011, stated:

"Religious and ethnic minorities in Vietnam continued to experience restrictions on freedoms reports throughout the country of local police interrupting religious services, with parishioners being accused of 'gathering illegally'. In May [2010], police clashed with Catholic parishioners who were trying to bury the body of an elderly woman, according to RFA [Radio Free Asia]. Witnesses reported that 66 people were beaten. Tensions also flared in January [2010], when police demolished a cross near a Catholic cemetery south of Hanoi. The Catholic website, AsiaNews.it, reported that police then shot tear gas at parishioners." **[58a] (p167-168, Vietnam)**

18.16 The Institute for Global Engagement (IGE) reported in November 2011:

"As part of the 2011 religious freedom training series co-conducted by the Vietnamese Government's Committee on Religious Affairs (CRA) and IGE, a three-day training took place from 6-8 November 2011, in Dien Bien Province. Dien Bien reportedly has been experiencing religious unrest since May 2011.

"151 local authorities were trained on the Vietnamese Government's policies on religious freedom, emphasizing the need for registering house churches and the basic theology of Protestant faith. The training also encouraged participants to be more responsible towards national unity by respecting and building close and equal relationships with religious and non-religious people at the local level. During the opening discussion, a number of participants, both local authorities and Protestant

leaders, contributed significant ideas about addressing the religious situation in their province." **[56a]**

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RELIGIOUS DEMOGRAPHY

18.17 The USSD IRF Report 2010, published in September 2011, stated:

"There are 34 recognized religious organizations affiliated with 11 recognized religions (Buddhism, Islam, Catholicism, Protestantism, Hoa Hao, Cao Dai, Pure Land Buddhist Home Practice, the Four Gratitudes, Threefold Enlightened Truth Path, Threefold Southern Tradition, and the Bahai Community). The government also has granted national registration to two religious organizations: one distinct religious group, the Mysterious Fragrance from Precious Mountains, and one Protestant denomination, the Assemblies of God." **[2b] (Section II)**

18.18 The USSD IRF Report 2010, published in September 2011, added:

"The country has an area of 127,000 square miles and a population of 89.6 million. Most estimates suggest more than half of the population is at least nominally Buddhist. The Roman Catholic Church constitutes 7 percent. Several Cao Dai organizations constitute 2.5 to 4 percent, the primary Hoa Hao organization 1.5 to 3 percent, Protestants 1 to 2 percent, and Muslims less than 0.1 percent of the population. Most other citizens consider themselves nonreligious, although some practice traditional beliefs such as animism and veneration of ancestors and national heroes.

"The government Committee for Religious Affairs (CRA) estimates there are 10 million (11 percent of the population) Mahayana Buddhists, most of whom are members of the ethnic Kinh community (the country's majority group, also referred to as Viet). In Ho Chi Minh City alone, there are more than 1,000 active Buddhist pagodas. A Khmer ethnic minority in the south, numbering more than one million, practices Theravada Buddhism and has more than 570 pagodas.

"Although government statistics indicate there are 6.28 million Catholics, other estimates place the number at eight million. Catholicism has revived in recent years with newly rebuilt or renovated churches and a growing number of persons who want to be religious workers. Three archbishops, 44 bishops, and nearly 4,000 priests oversaw 26 dioceses. There are more than 10,000 places of worship including six seminaries and two clergy training centers. The number preparing for the priesthood has grown by more than 50 percent over the past five years and now totals 1,500, according to the Vatican.

"Government statistics put the number of Cao Dai, a syncretic religion combining elements of many faiths, at 2.3 million, although Cao Dai officials claim approximately 3.9 million adherents. According to the government, there are 1.3 million Hoa Hao followers; affiliated expatriate groups estimate as many as three million adherents. A small number of Hoa Hao belong to other sects that oppose the officially sanctioned Hoa Hao Administrative Committee, such as the Pure Hoa Hao Church and the Traditional Hoa Hao Church…

"There are several smaller religious communities, the largest of which is the Hindu community. Approximately 50,000 ethnic Cham in the south-central coastal area practice a devotional form of Hinduism. There are an estimated 7,200 Bahais, largely

concentrated in the south. There are approximately 1,000 members of The Church of Jesus Christ of Latter-day Saints (Mormons) throughout the country, with two locally recognized congregations in Ho Chi Minh City and Hanoi. The Jehovah's Witnesses have 55 active congregations in 18 provinces with 3,000 members. There is one Jewish temple in Ho Chi Minh City serving approximately 150 Jews, mainly foreign residents, living in the city.

"At least 14 million citizens, constituting 17 percent or more of the population, reportedly do not practice any organized religion. The government does not categorize those whose activities are limited to visiting pagodas on ceremonial holidays as practicing Buddhists. No statistics were available on the level of participation in formal religious services, but it was generally acknowledged that this number has continued to increase since 2000." **[2b] (Section I)**

18.19 The US State Department's International Religious Freedom Report 2010: Vietnam, published on 17 November 2010, noted that the Hoa Hao followers were "… concentrated in the Mekong Delta, particularly in provinces such as An Giang and Dong Thap, where the Hoa Hao were dominant as a social, political, and military force before 1975." **[2f] (Section I)**

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RELIGIOUS GROUPS

Buddhists

18.20 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam accessed on 20 March 2012 noted:

"In the North a Buddhist organization, grouping Buddhists loyal to the Democratic Republic of Viet Nam, was established in 1954. In the South the United Buddhist Church was formed in 1964, incorporating several disparate groups, including the 'militant' An-Quang group (mainly natives of central Viet Nam), the group of Thich Tam Chau (mainly northern emigrés in Saigon) and the southern Buddhists of the Xa Loi temple. In 1982 most of the Buddhist sects were amalgamated into the state-approved Viet Nam Buddhist Church (which comes under the authority of the Viet Nam Fatherland Front). The number of adherents was estimated at 10m. in 2005, approximately 12% of the total population. The Unified Buddhist Church of Viet Nam is an anti-Government organization." **[1a]**

18.21 The CIA World Factbook, updated on 7 March 2012, accessed on 20 March 2012, noted that Buddhists made up 9.3 per cent of the current population. **[4a] (People and society: Religions)**

18.22 The US State Department (USSD) International Religious Freedom Report 2010: Vietnam, published on 17 November 2010 stated: "Many Buddhists practice an amalgam of Mahayana Buddhism, Taoism, and Confucianism that is sometimes called the 'triple religion.' **[2f] (Section I)** The Encyclopaedia Britannica, accessed on 20 December 2011 observed that: "Confucianism, Daoism, and Mahayana Buddhism entered Vietnam over many centuries. Gradually they became intertwined, simplified,

and Vietnamized to constitute, along with vestiges of earlier local beliefs, an indigenous religion that came to be shared to some considerable extent by all Vietnamese, regardless of region or social class. It is largely this religious amalgam that is practiced by the roughly half of the population that identifies itself as being Buddhist." **[57a]**

18.23 The USCIRF, Annual Report 2012, noted:

"The government continues to discourage independent Buddhist religious activity and refuses legal recognition for the UBCV and some Hoa Hao and Cao Dai groups. Government-approved organizations oversee Buddhist and other indigenous religions' pagodas, temples, educational institutes, and activities. Approval is required for all ordinations and ceremonies, donations, and expansions of religious venues. The government-approved leaders of Buddhist, Hoa Hao, and Cao Dai organizations also vet the content of publications and religious studies curricula offered at schools." **[34a] (p266)**

18.24 The USSD International Religious Freedom Report 2010, published on 17 November 2010 stated:

"In 1981 the officially sanctioned Vietnam Buddhist Sangha (VBS) was established incorporating all Mahayana, Theravada, and Bhikshu Buddhism under its umbrella. All Buddhist groups within the VBS are proportionally represented throughout the leadership structure and organization. In practice Theravada monks meet separately to determine issues such as doctrine, education, and other community needs to raise within the VBS. The government requires all Buddhist monks, including Khmer Krom monks who practice the Theravada tradition, to be approved by and work under the government-sponsored VBS. In theory the CRA [Committee for Religious Affairs] regulates the number of Buddhist student monks, although the number of Buddhist academies at the local and provincial levels, in addition to four university-equivalent academies, has greatly increased in recent years. Since the government's merger of all Buddhist organizations into the VBS, the government does not recognize the legitimacy of the UBCV [Unified Buddhist Church of Vietnam]. There are several recently recognized religious organizations that have Buddhist influences, although they are separate and distinct from the VBS. Of these the Pure-Land Buddhist Home Practice faith has the largest membership with more than 1.3 million followers." **[2f] (Section I)**

18.25 The report further noted, "Protestant Khmers (also) reported harassment, intimidation and, in some cases, property damage and beatings by Khmer Krom Buddhists in certain districts of Tra Vinh Province. They reported that authorities did little to prevent the incidents and, in some cases, may have participated in or instigated the actions." **[2f] (Section III)**

18.26 On 21 January 2009 Human Rights Watch published a report entitled, On the Margins: Rights Abuses of Ethnic Khmer in Vietnam's Mekong Delta, documenting ongoing violations of the rights of the Khmer Krom in southern Vietnam and also abuses in Cambodia against Khmer Krom who fled there for refuge. **[5g]** On the same day Human Rights Watch stated:

"The Vietnamese government should immediately free Khmer Krom Buddhist monks and land rights activists in prison or under house arrest for the peaceful expression of their political and religious beliefs…The Khmer Krom is a large ethnic group in the Mekong Delta that is central to Vietnam-Cambodia relations. Wary about possible Khmer Krom nationalist aspirations, Vietnam has suppressed peaceful expressions of dissent and banned Khmer Krom human rights publications. It also tightly controls the

Theravada Buddhism practiced by the Khmer Krom, who see this form of Buddhism as the foundation of their distinct culture and ethnic identity." **[5f]**

Unified Buddhist Church of Vietnam (UBCV)

18.27 The USCIRF, Annual Report 2012, noted:

"The UBCV is Vietnam's largest religious organization with a history of peaceful social activism and moral reform. The UBCV has faced decades of harassment and repression for seeking independent status and for appealing to the government to respect religious freedom and related human rights. Senior UBCV monks, including the Most Venerable Thich Quang Do, with whom USCIRF delegations met in 2007 and 2009, remain under some form of administrative probation or arrest in their home or pagoda.

"Local authorities continue to prevent monks from organizing UBCV provincial boards or carrying out charitable activities. Police routinely question UBCV monks and monitor their movement and activities. Foreign visitors to UBCV monasteries have been assaulted and harassed. Government officials have taken steps to make sure that government-affiliated monasteries do not affiliate overtly with the UBCV. Routine systematic harassment of UBCV monks and affiliated pagodas occurs in the provinces of Quang Nam-Danang, Thua Thien Hue, Binh Dinh, Khanh Hoa, Ba Ria-Vung Tau, Dong Nai, Hau Giang, and An Giang." **[34a] (p266)**

18.28 The USSD International Religious Freedom Report 2010, published on 17 November 2010 stated noted that the government continued "to restrict and actively discourage participation in certain unrecognized religious groups, including the UBCV." The report further reported:

"The government continued to oppose UBCV operation of charitable activities and restricted the movement of some UBCV leaders, although the UBCV operated many pagodas without restriction. The UBCV held several large events to mark Vesak Day, most without incident. UBCV Supreme Patriarch traveled to Hue and delivered a sermon during a ceremony attended by more than 700 individuals. In April [2010] the UBCV executive board consisting of 40 senior monks denounced the Vietnamese Buddhist Sangha (VBS), asked the government to return all UBCV properties, and called for a democratic regime in Hanoi. As in previous reporting periods, UBCV leaders reported they were urged to restrict their movements although they were able to receive visits from foreign diplomats, visit other UBCV members, and maintain contact with associates overseas; however, these activities were closely scrutinized… Provincial leaders of the UBCV throughout the southern region reported routine surveillance by local authorities. UBCV Supreme Patriarch Thich Quang Do stated he was allowed to leave his pagoda to visit his doctor once or twice a month and could meet with others inside and outside the pagoda." **[2f] (Section II)**

18.29 The Amnesty International Report 2011 concurred, observing that: "Members of the Unified Buddhist Church of Viet Nam (UBCV) continued to face harassment and restrictions on their freedom of movement in some provinces. Supreme Patriarch Thich Quang Do remained under de facto house arrest. Local authorities and police harassed and used unnecessary force against UBCV members at Giac Minh Pagoda in Quang Nam-Da Nang province in May and August as they attempted to hold special prayers." **[3a]**

See also subsection on Protestants

See also Section 19: Ethnic groups

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Hoa Hao

18.30 A Human Rights Watch (HRW) news report from December 2011 described the foundations of the Hoa Hao Buddhist sect:

"Founded in 1939 by Huynh Phu So, Hoa Hao is a Buddhist sect based in the western Mekong delta. Some Hoa Hao adherents opposed the Republic of Vietnam in the mid 1950s as well as the communist insurgency throughout the Vietnam War. After 1975, the Hoa Hao sect was not recognized as an official religion by the Socialist Republic of Vietnam. A section of the Hoa Hao church agreed to submit to state supervision and gained official recognition in 1999. But other Hoa Hao Buddhist factions remain at odds with the government." **[5i]**

18.31 The USSD International Religious Freedom Report 2010, published on 17 November 2010 noted: "The government-recognized Hoa Hao Administrative Committee (HHAC) was organized in 1999. A small number of Hoa Hao belong to other sects that oppose the HHAC, such as the Pure Hoa Hao Church and the Traditional Hoa Hao Church." **[2f] (Section I)**

18.32 The HRW news report added:

"Unsanctioned Hoa Hao Buddhist groups have long been a target of government repression. In August 2005, after one serious crackdown, a Hoa Hao Buddhist follower, Tran Van Ut, burned himself to death in protest. At least 13 other Hoa Hao Buddhist activists are serving long prison terms. The most recent arrest, occurred in July 2, 2011, when Dong Thap province police arrested Hoa Hao Buddhist activist Tran Hoai An as he returned from visiting Hoa Hao Buddhist prisoners. Tran Hoai An was also among the four Hoa Hao Buddhist activists who met with American diplomats in December 2010." **[5i]**

18.33 The USCIRF, Annual Report 2012, noted:

"Independent Hoa Hao groups face severe restrictions and abuses of religious freedom, particularly in An Giang province. According to the State Department, members of the independent Hoa Hao Central Buddhist Church (HHCBC) face 'significant official repression.' There is continued friction between independent Hoa Hao and government officials in the Mekong Delta region, including reports of confiscation and destruction of HHCBC-affiliated buildings. HHCBC religious leaders refuse to affiliate with the government-approved Hoa Hao Administrative Council (HHAC) and are openly critical of it, claiming that it is subservient to the regime. HHCBC leaders and their followers have been arrested and sentenced to terms up to four years for staging hunger strikes, distributing the writings of their founding prophet, had ceremonies and holiday celebrations broken up by police and sacred properties confiscated or destroyed, and individual followers faced discrimination and loss of jobs." **[34a] (p267)**

18.34 The **HRW** World Report 2012 reported restrictions towards Buddhist groups, including reports of local police prohibiting "… unsanctioned Buddhist Hoa Hao groups from commemorating the anniversary of the death of Hoa Hao founder Huynh Phu So. During Buddhist festivals in May and August, Da Nang police blocked access to Giac

Minh and An Cu pagodas and intimidated Buddhist followers. Both pagodas are affiliated with the un-sanctioned Unified Buddhist Church of Vietnam." **[5a] (p405)**

18.35 A British Broadcasting Corporation (BBC) article of 13 December 2011, reported on the arrest and imprisonment of a Hoa Hao Buddhist, noting:

"A court in Vietnam has given at least one Buddhist activist a prison sentence for distributing anti-government material, state media says. Nguyen Van Lia, 71, a member of the minority Hoa Hao Buddhist sect, got a five year term for distributing anti-government leaflets and CDs. There are unconfirmed reports that another man was also given a jail term." Adding "With nearly four million followers in Vietnam, the sect is state sanctioned but some members oppose the government. State media said that Mr Lia was guilty of 'abusing democratic freedom to undermine the state interest'. He denied the charges, according to his daughter, who followed the half-day trial via loudspeakers outside the courtroom. Officials at the People's Court of Cho Moi District in the province of An Giang declined to comment. The Associated Press also reported that another Buddhist activist, Tran Hoai An, received a three-year sentence on the same charges." **[14d]**

18.36 The USSD International Religious Freedom Report 2010, published on 17 November 2010 also noted:

"The government continued to refuse registration and to discourage participation in unrecognized factions of the Hoa Hao Buddhist and Cao Dai faiths reportedly due to their past and current support of opponents of the government… The government formed and recognized the official Hoa Hao body, the Hoa Hao Administrative Council, in 1999. Several leaders of the Hoa Hao community, including several pre-1975 leaders, openly criticized the council as subservient to the government. Dissenting Hoa Hao groups formed two smaller churches, the Traditional Hoa Hao Church and the Pure Hoa Hao Church. They have also faced some restrictions on their religious and political activities since 1975, due in part to lingering CPV [Communist Party of Vietnam] concerns about the Hoa Hao's prior armed opposition to communist forces dating back to French colonial rule and involvement with dissident political groups… In March 2010 two leaders of unrecognized Hoa Hao groups in Can Tho, Dang Thanh Dinh, and Dang Van Nghia, were denounced in the state-run media for opposing the government and stirring unrest. The two leaders led a large and growing congregation of 700 followers. Local officials followed suit with public denouncements. Six Pure Hoa Hao followers, a related group, alleged that they were assaulted by police in Dong Thap Province and fined for conducting services in March." **[2f] (Introduction to Vietnam and Section II)**

Catholics

18.37 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam, accessed on 20 March 2012 noted: "The Roman Catholic Church has been active in Viet Nam since the 17th century, and since 1933 has been led mainly by Vietnamese priests. Many Roman Catholics moved from North to South Viet Nam in 1954–55, but some remained in the North. The total number of adherents was estimated at 6,089,223 in December 2007, representing 6.9% of the population. For ecclesiastical purposes, Viet Nam comprises three archdioceses and 23 dioceses." **[1a]** The Central Intelligence Agency (CIA) World Factbook, updated on 7 March 2012, updated on 20 March 2012, recorded the current population of Catholic's was 6.7 per cent. **[4a] (Religions)**

18.38 The USCIRF, Annual Report 2011, stated:

"Catholicism continues to grow rapidly, and the church has expanded both clerical training and charitable activities in recent years. Hanoi and the Vatican continue to discuss resuming diplomatic relations. Nevertheless, the relationship between the Vietnamese government and the Catholic Church laity and members of the Redemptorist Order continues to be tense. In the past several years, including last year, police have used tear gas and batons against, and have detained, participants at peaceful prayer vigils and demonstrations at properties formerly owned by the Catholic Church. Government officials have employed 'contract thugs' to assault and intimidate Catholics attending these vigils and attack individuals viewed as organizers.

"Catholics in Hanoi and Vinh have demonstrated publicly against intimidation by unofficial gangs and plans to confiscate and use properties formerly owned by the Catholic Church. In August 2011, thousands of Catholics in Vinh protested against a decision by local authorities to seize land in Cau Ram parish to build a park dedicated to soldiers who died during the war with the United States. In November and December 2011, priests and laypeople from the Thai Ha parish in Hanoi took to the streets to protest further government plans to expropriate church property to build a sewage treatment plant and public attacks on their church properties. Thai Ha parish church was the site of 2008 protests against land confiscation that led to violence and the arrest of six Catholics. The church is part of the Redemptorist Order, whose priests, parishes, and leadership have been targeted in recent years." **[34a] (p269)**

18.39 The **HRW** World Report 2012 reported on the following arrests in 2011: "Three Catholic Ha Mon Montagnard activists - Blei, Phoi, and Dinh Pset - were arrested in March… At least 15 Catholics affiliated with Redemptorist churches in Hanoi and Ho Chi Minh City, including bloggers Le Van Son and Ta Phong Tan, were arrested in July, August, and September." **[5a] (p405)**

18.40 Reporting on the d**isputes over land ownership between local authorities and the Catholic church, t**he Amnesty International (AI) Report 2011: The state of the world's human rights: Vietnam, (AI Report 2011) published on 13 May 2011, covering events in 2010, stated that:

"In May [2010] hundreds of police used batons and electric prods against Catholics of Con Dau parish who were attempting to bury a woman in a cemetery on land designated by the authorities for development. Dozens of people were injured, and around 60 briefly detained. Two were sentenced in October [2010] to nine and 12 months' imprisonment, and five received non-custodial sentences after being charged with public order offences. Some 40 parishioners fled Viet Nam to seek asylum in Thailand." **[3a]**

18.41 Reporting on the incident of the disputed land in Con Dau parish in Da Nang, the Human Rights Watch (HRW) noted in its World Report 2011 (covering events in 2010), that after the event "… one of the villagers, Nguyen Thanh Nam, was interrogated and beaten by police on several occasions; he died in July from injuries suffered during a beating by civil defense forces." **[5l]**

18.42 The USSD International Religious Freedom Report 2010, published on 17 November 2010 noted:

"The government does not permit religious instruction in public schools; however, it permitted clergy to teach at universities in subjects in which they are qualified…

Catholic religious education, on weekends or evenings, is permitted in most areas and has increased in recent years… Religious groups are not permitted to operate independent schools beyond preschool and kindergarten… In some areas, especially in the south, Catholic priests and nuns operated kindergartens, orphanages, vocational training centers, and clinics and engaged in a variety of other humanitarian projects. Operating without a legal basis, however, created some difficulties for the church… Charitable activities of religious groups in the northern section of the country were comparatively more restricted… The Catholic charity Caritas held training courses for social workers assisting people living with HIV/AIDS and substance abuse… The church also operated a shelter for HIV-positive mothers and HIV-infected children." **[2f] (Section II)**

18.43 The report further noted:

"Despite protests surrounding land disputes, the relationship between the Catholic Church and the government continued to improve during the reporting period. For the first time, the president traveled to the Vatican and met the Pope in December 2009. The Vatican called it 'a significant stage in the progress of bilateral relations with Vietnam.' Catholic leaders regularly traveled to the Vatican for consultations. In June 2009 30 Catholic Bishops met with the Pope and presented a request for the Pope to visit Vietnam in 2010. The government also facilitated the first-ever meeting of the Federation of Catholic Bishops Conferences of Asia in Ho Chi Minh City in October… On June 23 and 24, 2010, the government and the Vatican held the second round of discussions in Rome under a newly created 'Joint Vietnam-Holy See Working Group' on re-establishing diplomatic relations. The two sides highlighted that positive progress has been made in the religious life in the country, discussed plans for future talks, and agreed to a Vatican appointment of a non-resident Representative of the Holy See for Vietnam. The government maintained regular dialogue with the Vatican on other issues, such as church leadership, organizational activities, land issues, and interfaith dialogue." **[2f] (Section II)**

See also Section 19: Ethnic groups

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Protestants

18.44 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam, accessed on 20 March 2012 noted that Protestants were "Introduced in 1920 with 500 adherents; the total number was estimated at 500,000 in 2005." **[1a]**

18.45 The USSD IRF Report 2010, published in September 2011, added: "Ethnic minorities constitute approximately 14 percent of the population. Based on adherents' estimates, two-thirds of Protestants are members of ethnic minorities, including minority groups in the Northwest Highlands (H'mong, Dzao, Thai, and others) and in the Central Highlands (Ede, Jarai, Sedang, and M'nong, among others). The Khmer Krom ethnic group overwhelmingly practices Theravada Buddhism." **[2b] (Section I)**

18.46 The USSD's IRFR 2010 report, published in September 2011, also stated: "The two largest officially recognized Protestant churches are the Southern Evangelical Church of Vietnam (SECV) and the smaller Evangelical Church of Vietnam North (ECVN). The Vietnam Baptist Convention (Grace Southern Baptist), United World Mission Church,

Vietnam Mennonite Church, Vietnam Presbyterian Church, Vietnam Baptist Society (Southern Baptist), Vietnam Seventh-day Adventist Church, and Vietnam Christian Fellowship also are officially recognized. Other Protestant denominations also are present, including the Assemblies of God (registered nationally) as well as others registered locally but not registered on the national level. Estimates of the number of Protestants ranged from government figures of one million to claims by churches of more than two million." **[2b] (Section I)** Adding, "Additionally nearly 300 new Protestant prayer chapels were built on land granted by authorities." **[2b] (Section II)**

18.47 The Human Rights Watch (HRW) report, Montagnard Christians in Vietnam: A Case Study in Religious Repression, 30 March 2011, stated:

"In 2000 an activist Montagnard church movement - Tin Lanh Dega, or Dega Protestantism - emerged in the Central Highlands that combined evangelical Christianity with aspirations for greater political freedom, protection of ancestral lands, and for some, autonomy or self-rule. Less than one year later, in February 2001, unprecedented mass protests broke out in all four provinces of the Central Highlands. Thousands of Montagnards marched on the provincial towns to demand the return of ancestral lands and religious freedom.

"In response, the government launched an aggressive crackdown, dispatching military and police units to seal off the region and arresting dozens of Montagnards, sometimes using torture to elicit confessions and public statements of remorse. By the end of 2001, Montagnards had been sentenced to prison terms ranging from four to 13 years, with another individuals awaiting trial. Fearing arrest, many Montagnards went into hiding in Vietnam. By early 2002, more than 1,000 Montagnards had fled to Cambodia, where they were recognized as refugees and resettled abroad.

"The past decade has seen ongoing waves of repression and unrest. In April 2004 thousands of Montagnards again took to the streets, with smaller protests taking place in September 2002 and April 2008." **[5k] (p4)**

18.48 The USSD's IRFR 2010 report, published in September 2011, noted: "The government continued to assert that some ethnic minorities or Montagnards in the Central Highlands were operating a 'Dega' church. The government accused the Dega churches of calling for the creation of an independent Montagnard state. The SECV [Southern Evangelical Church of Vietnam] and house churches in the provinces of Dak Lak, Gia Lai, Kon Tum, Binh Phuoc, Phu Yen, and Dak Nong continued to experience government scrutiny because of feared association with separatist groups overseas." **[2b] (Section II)**

18.49 The report further observed that "Several unrecognized Protestant denominations were prohibited from holding large-scale Christmas services in Hanoi, Danang, and Thanh Hoa… In Pha Xom Village in Xa Dung commune of Dien Bien Dong District in Dien Bien Province, in June the village chief asked several Protestant households to renounce their faith by December and return to traditional beliefs; otherwise, they would face expulsion from the village. The individuals claimed they were also fined 200,000 VND ($10.50)." **[2b] (Section II)**

18.50 The **HRW** World Report 2012 reported on the following Protestant arrests recorded in 2011: "Protestant pastor Nguyen Trung Ton was arrested in January [2011] on unknown charges… Also in April Protestant pastor Nguyen Cong Chinh was arrested and charged with 'undermining national unity'." **[5a] (p405)**

See also Section 18: Freedom of religion - Buddhists

See also Section 19: Ethnic groups, H'mong and Montagnards

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Cao Dai

18.51 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam, accessed on 20 March 2012 noted that Caodaism was "Formally inaugurated in 1926, this is a syncretic religion based on spiritualist seances with a predominantly ethical content, but sometimes with political overtones. There are 13 different sects, of which the most politically involved (1940–75) was that of Tay Ninh. Another sect, the Tien Thien, was represented in the National Liberation Front from its inception." **[1a]**

18.52 As noted by the USSD's IRFR 2010 report, published in September 2011, several Cao Dai organisations comprise 2.5 to 4 per cent of the population. **[2b] (Section I)** The Encyclopaedia Britannica, accessed on 20 December 2011 observed that: "The religion of Cao Dai, a synthesis of Confucianism, Daoism, Buddhism, and Roman Catholicism, appeared during the 1920s, and in the 1930s the Hoa Hao neo-Buddhist sect spread through parts of the Mekong delta. Cao Dai has about twice as many adherents as Hoa Hao, but both congregations are growing." **[57a]**

18.53 The USSD's IRFR 2010 report, published in September 2011, noted that the government continued to restrict and actively discourage participation in certain unrecognised religious groups, including some Cao Dai ones. **[2b] (Section II)** The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, recorded:

"In May [2010] a priest with the unrecognized Cao Dai faith in Tay Ninh was convicted for 'slandering an on-duty official,' according to the MPS-affiliated People's Police newspaper. The priest was arrested in November 2009 after criticizing several police officers for actions against religious followers of the unrecognized Cao Dai faith. In 2008 the priest had led a protest of more than 300 followers of the group to the Cao Dai Holy See to denounce the leader of the official Cao Dai organization and demand that the officially recognized church return properties, including the Cao Dai Holy See, to the unrecognized church." **[2a] (Section 1e)**

Muslims

18.54 The USSD IRF Report 2010, published in September 2011, stated: "The small Muslim population numbers 70,000 to 80,000, and mosques are located in Ho Chi Minh City, Hanoi, western An Giang Province, and provinces in the southern coastal area. The government estimates there are nearly 73,000 Muslims. Approximately 40 percent of Muslims are Sunnis; the remaining 60 percent practice Bani Islam." **[2b] (Section I)**

18.55 Muslim groups are allowed to provide religious education to children. Cham Muslims regularly hold religious and language classes outside of normal classroom hours in their mosques, but, like other religious groups, are not permitted to operate independent schools beyond preschool and kindergarten. (USSD IRFR 2010, published in September 2011) **[2b] (Section II)**

The US Commission on International Religious Freedom (USCIRF), Annual Report 2012, covering the period from 1 April 2011 – 29 February 2012, published March 2012 provided recorded incidents where religious freedom had been restricted. **[34a] (p260-281)**

See also Section 8: Security forces – Human rights violations by security forces.

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19. ETHNIC GROUPS

19.01 In the Encyclopaedia Britannica's Profile of Vietnam, accessed on 20 December 2011 observed that:

"Vietnam has one of the most complex ethnolinguistic patterns in Asia. The Vietnamese majority was significantly Sinicized during a millennium of Chinese rule, which ended in ad 939. Indian influence is most evident among the Cham and Khmer minorities. The Cham formed the majority population in the Indianized kingdom of Champa in what is now central Vietnam from the 2nd to the late 15th century ad. Small numbers of Cham remain in the south-central coastal plain and in the Mekong delta near the Cambodian border. The Khmer (Cambodians) are scattered throughout the Mekong delta.

"Many other ethnic groups inhabit the highlands. While cultures vary considerably in the central region, shared characteristics include a way of life still largely oriented toward kin groups and small communities. Known collectively by the French as Montagnards ('highlanders' or, literally, 'mountain people'), these central highlanders have affinities with other Southeast Asians and have exhibited an intense desire to preserve their own cultural identities. In the northern uplands, the various groups have ethnolinguistic affiliations with peoples in Thailand, Laos, and southern China." **[57a] (Ethnic Groups)**

19.02 The US Department of State's Background Note on Vietnam, updated on 5 January 2012, accessed on 9 March 2012, noted:

"Other significant ethnic minority groups include central highland peoples (formerly collectively termed Montagnards) such as the Gia Rai, Bana, Ede, Xo Dang, Gie Trieng, and the Khmer Krom (Cambodians), who are concentrated near the Cambodian border and at the mouth of the Mekong River. Taken collectively, these groups made up a majority of the population in much of Vietnam's central highlands until the 1960s and 1970s. They now compose a significant minority of 25% to 35% of the provinces in that region." **[2g] (People)**

19.03 Ethnologue.com, a website specialising in languages of the world, accessed on 20 March 2012, stated that there are 54 official ethnic communities within Vietnam. **[24a]** The Central Intelligence Agency (CIA) World Factbook, Profile on Vietnam, updated on 10 November 2011, accessed on 22 December 2011, noted that Kinh (Viet) made up the largest ethnic group at 85.7 percent, followed by Tay at 1.9 percent, Thai 1.8 percent, Muong 1.5 percent, Khmer 1.5 percent, Mong 1.2 percent, Nung 1.1 percent, others 5.3 percent. **[4a]**

19.04 The Minority Rights Group International (MRGI) Report, State of the World's Minorities and Indigenous Peoples 2011, covering events in 2010, published 6 July 2011, stated:

"Ethnic minorities and indigenous people, who together comprise an estimated 14 per cent of Vietnam's population, continued to face difficulty throughout the year and activists from minority communities continued to be jailed… Statistics continued to show that ethnic minorities are disproportionately represented among Vietnam's poor. The government has pegged the poverty rate in ethnic minority communities at around 50 per cent – a drop of 36 percentage points since 1993, but still more than triple the national rate. Women from ethnic minority groups also have some of the country's highest maternal mortality rates." **[58a] (p168, Vietnam)**

19.05 The UN Human Rights Council, Report of the independent expert on minority issues, Gay McDougall, Mission to Viet Nam (5 - 15 July 2010), published 24 January 2011, stated:

"Vietnamese is the official language of Viet Nam, the medium of instruction in schools and of administration. Many minority communities in isolated and remote locations do not frequently interact in Vietnamese. Many speak ethnic languages in almost all family and social interactions, and others, particularly older generations, speak and understand only a little Vietnamese. Only 24 ethnic minority languages have written scripts, which creates particular challenges for their preservation." **[53c] (p12, Language and education)**

19.06 The same report noted however, that:

"Ethnic Khmer representatives provided information to the independent expert in, which they alleged restrictions on the Khmer language in schools and public places. They claimed that Khmer was not offered even as a separate subject in schools in Khmer regions in southern Viet Nam, and that the teaching of the Khmer language was therefore limited to the home or to those who attend Pagoda or pali religious schools. They also claimed that ethnic Khmer had faced restrictions on their activities to use, teach or promote the Khmer language, and that the authorities imposed strict restrictions on the publication of books or documents in Khmer.

"The Government contested these allegations and stated that it took steps to encourage the preservation and development of the languages of ethnic minorities. It added that the national television channel had daily programmes in 13 languages of ethnic minorities, including Khmer. National radio had a separate station for 11 ethnic minority languages (VOV4), including Khmer. Daily and weekly newspapers and electronic news portals are also available in Khmer." **[53c] (p12, Language and education)**

19.07 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 observed that: "The government maintained a program to conduct classes in some local ethnic minority languages in elementary and secondary schools. The government worked with local officials to develop local language curricula, but it appeared to implement this program more comprehensively in the Central Highlands and the Mekong Delta than in the mountainous northern and northwestern provinces." **[2a] (Section 6)**

19.08 The same report stated: "Although the government officially prohibits discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities persisted. Despite the country's significant economic growth, some ethnic minority communities benefited little from improved economic conditions. In certain areas, including the Northwest Highlands, Central Highlands, and portions of the Mekong Delta, ethnic minority groups made up the majority of the population." **[2a] (Section 6)**

19.09 The report noted further, "The government continued to address the causes of ethnic minority discontent through special programs to improve education and health facilities and expand road access and electrification of rural communities and villages." **[2a] (Section 6)**

19.10 The same report stated:

"Ethnic minorities were not required to pay regular school fees, and the government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the middle- and high-school levels. The government offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level. There were also a few government-subsidized technical and vocational schools for ethnic minorities. Nonetheless, there were credible cases of discrimination against Christian ethnic minorities, although the law provides for universal education for children regardless of religion or ethnicity." **[2a] (Section 6)**

The World Bank paper, Indigenous Peoples, Poverty and Development, Ch. 8 Vietnam, A Widening Poverty Gap for Ethnic Minorities, by Hai-Anh Dang, revised November 2009 and again in January 2010, "circulated to encourage thought and discussion" provided further information on ethnic groups amongst Vietnamese society. **[12c]**

See also Section 18: Freedom of religion – Buddhists, Catholics and Protestants

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CHINESE (HOA)

19.11 The Minority Rights Group International (MRGI) World Directory of Minorities and Indigenous Peoples - Vietnam: Chinese (Hoa), noted:

"There is some controversy as to the size of the Chinese minority in Vietnam: official figures tend to float around the 1 million figure, but estimates from outside sources tend to be much higher, even exceeding 2 million in some cases. In any event, it would seem that in all likelihood the Chinese are probably the largest minority in the country. Not all Chinese (known as Hoa) are officially recognized by the government of Vietnam: the Hoa category excludes the San Diu (mountain Chinese) and the Ngai.

"Most Hoa are descended from Chinese settlers who came from the Guangdong province from about the eighteenth century, and it is for this reason that most of them today speak Cantonese, though there is also a large group who speak Teochew.

"The majority of ethnic Chinese today live in the south, with perhaps 600,000 living in Ho Chi Minh City." **[58b] (Profile)**

See also Section 27: Citizenship and nationality

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H'MONG

19.12 The US Department of State, International Religious Freedom Report 2010: Vietnam, 17 November 2010, stated:

"Based on adherents' estimates, two-thirds of Protestants are members of ethnic minorities, including minority groups in the Northwest Highlands (H'mong, Dzao, Thai, and others)… Increasing numbers of H'mong, Dao, Jarai, Ede, M'nong, Thai, and Sedang in the Northwest and Central Highlands are converting to Protestantism… The Religious Publishing House has not yet acted on a longstanding request to allow printing of the Bible in the H'mong language. The delay was due to the fact that the government recognizes only an archaic form of the H'mong language that is not in regular use today and cannot be read by the average H'mong. The proposed H'mong translation is a more current form of the language… the ECVN (also) held numerous training activities for hundreds of ethnic minority lay pastors (H'mong and Dzao)." **[2f] (Sections I and II)**

19.13 The report stated further:

"Local officials in several northwestern villages continued to attempt to convince or force H'mong Protestants to recant their faith. Local authorities encouraged clan elders to pressure members of their extended families to cease practicing Christianity and to return to traditional practices… In Dien Bien Dong District of Dien Bien Province in December 2009, district officials pressured 10 Christian convert families in the Ho Kaw Village in Nam Son Commune to return to their traditional beliefs. Three ethnic Protestant H'mongs, Sung Cua Po, Sung A Sinh, and Hang A Xa, who refused to renounce Christianity were allegedly detained, handcuffed, and beaten by police in order to force them to renounce their faith. Following the beatings, most Christians in the village stopped practicing their religion under pressure from local officials and family members. It was alleged that each paid fines of 33 pounds (15 kilograms) of pork and alcohol to gain release. Later in December local police and authorities allegedly took Po and his wife to meet members of their extended family to exert further pressure on them to return to traditional beliefs. After additional police threats, Po signed a renunciation of Christianity. In March, Po and his family fled his home after continued abuse from authorities and family members, and have not been seen since that time." **[2f] (Section II)**

See also Section 18: Freedom of religion - Protestants

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MONTAGNARDS

19.14 The Montagnards is the collective term used for a number of ethnic minorities that inhabit the Central Highlands of Vietnam. The Human Rights Watch (HRW) report Montagnard Christians in Vietnam: A Case Study in Religious Repression, 30 March 2011, detailed the history of Montagnards, noting:

"Montagnards, who traditionally followed animist religious practices, began to convert to Christianity in the 1950s and 1960s. With the North Vietnamese victory in 1975, Catholic and Protestant churches in the Central Highlands were closed and many Montagnards, including pastors, were imprisoned. Some Montagnards went underground and joined the highland resistance army known as the United Front for the

Liberation of Oppressed Races (FULRO), which fought on the side of United States and South Vietnamese forces during the Vietnam War. As FULRO's fighting capacity steadily dwindled in the late 1980s and early 1990s, many Montagnards converted - or returned to - Christianity as they abandoned armed struggle. During the 1990s, increasing numbers of Montagnards joined unofficial Christian house churches.

"In 2000 an activist Montagnard church movement - Tin Lanh Dega, or Dega Protestantism - emerged in the Central Highlands that combined evangelical Christianity with aspirations for greater political freedom, protection of ancestral lands, and for some, autonomy or self-rule. Less than one year later, in February 2001, unprecedented mass protests broke out in all four provinces of the Central Highlands. Thousands of Montagnards marched on the provincial towns to demand the return of ancestral lands and religious freedom.

"In response, the government launched an aggressive crackdown, dispatching military and police units to seal off the region and arresting dozens of Montagnards, sometimes using torture to elicit confessions and public statements of remorse. By the end of 2001, 36 Montagnards had been sentenced to prison terms ranging from four to 13 years, with another 32 individuals awaiting trial. Fearing arrest, many Montagnards went into hiding in Vietnam. By early 2002, more than 1,000 Montagnards had fled to Cambodia, where they were recognized as refugees and resettled abroad.

"The past decade has seen ongoing waves of repression and unrest. In April 2004 thousands of Montagnards again took to the streets, with smaller protests taking place in September 2002 and April 2008." **[5k] (p3-4)**

19.15 An article by the Human Rights Watch (HRW) in March 2011, reflecting on the persecution of Montagnards, stated:

"The Vietnamese government has intensified repression of indigenous minority Christians from the country's Central Highland provinces who are pressing for religious freedom and land rights, Human Rights Watch said in a report released today…

"Human Rights Watch found that special 'political security' (PA43) units conduct operations with provincial police to capture, detain, and interrogate people they identify as political activists or leaders of unregistered house churches. More than 70 Montagnards have been detained or arrested in 2010 alone, and more than 250 are known to be imprisoned on national security charges." **[5m]**

19.16 The HRW article continued:

"'Montagnards face harsh persecution in Vietnam, particularly those who worship in independent house churches, because the authorities don't tolerate religious activity outside their sight or control,' said Phil Robertson, deputy Asia director of Human Rights Watch. 'The Vietnamese government has been steadily tightening the screws on independent Montagnard religious groups, claiming they are using religion to incite unrest.'

"Human Rights Watch documented the abuses in the Central Highlands, which is off-limits to independent, international rights groups, through interviews with Montagnards who have fled Vietnam and reports in Vietnam's government-controlled media." **[5m]**

19.17 The USSD Report 2010 noted:

"The government continued to honor a tripartite memorandum of understanding signed with the Government of Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic Vietnamese who did not qualify for third-country resettlement. Local government authorities observed but did not hinder fact-finding and monitoring visits by UNHCR and foreign diplomatic representatives to the Central Highlands. The UNHCR reported that it was able to meet with returnees in private. Foreign diplomats experienced some resistance from lower-level officials in permitting private interviews of returnees. As in previous years, local police officials sometimes were present during foreign diplomat interviews with returnees but left when asked. Provincial governments generally continued to honor their obligations to reintegrate peacefully ethnic minority returnees from Cambodia. The UNHCR, which conducted several monitoring trips throughout the year, reported that there was 'no perceptible evidence of mistreatment' of any of the ethnic minority individuals it monitored in the Central Highlands." **[2a] (Section 2d)**

See also Section 29: Exit and Return

19.18 The same source recorded:

"Some members of ethnic minority groups continued to leave for Cambodia and Thailand, reportedly to seek greater economic opportunity or shortcuts to immigration to other countries. Government officials monitored certain highland minorities closely, particularly several ethnic groups in the Central Highlands, where it continued to impose security measures because of concern that the religion they practiced encouraged ethnic minority separatism.

"The government continued to impose security measures in the Central Highlands in response to concerns over possible ethnic minority separatist activity. There were reports that ethnic minority individuals who telephoned the ethnic minority community abroad were a special target of police attention. Several individuals connected to overseas separatist organizations were arrested, convicted, and sentenced to lengthy prison terms. During the period around sensitive occasions and holidays, an increased security presence was reported throughout the region. There were a few reports that members of ethnic minorities seeking to enter Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by police beatings and detentions… The government continued to address the causes of ethnic minority discontent through special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The government allocated land to ethnic minorities in the Central Highlands through a special program, but there were complaints that implementation of these special programs was uneven." **[2a] (Section 6)**

19.19 The USSD Report 2010 also noted, "International NGOs estimated that several hundred ethnic minority demonstrators associated with the 2004 Central Highlands protests remained in prison... During the year there were reports that authorities released more than 100 Montagnards from the Central Highlands convicted of violating national security laws relating to 2001 and 2004 protests in the Central Highlands." **[2a] (Section 1e)**

19.20 In its World Report 2011 (covering events in 2010), Human Rights Watch recorded:

"In January the Gia Lai provincial court handed down prison sentences to two Montagnards, Rmah Hlach and Siu Koch, on charges of violating the country's unity

policy. After conflicts broke out in June between Montagnards and a rubber plantation company in Gia Lai, authorities reinforced the security presence in three districts and arrested Montagnards belonging to independent Protestant house churches, who they accused of using religion to forward a political agenda. In November the Phu Yen provincial court sentenced Ksor Y Du and Kpa Y Ko to prison for 'undermining national unity'… Those currently in prison for their religious or political beliefs-or a combination of the two-include more than 300 Montagnard Christians…" **[5l]**

See also Section 12: Prison conditions

See also Section 18: Freedom of religion - Catholics and Protestants

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20. LESBIAN, GAY, BISEXUAL AND TRANSGENDER PERSONS

LEGAL RIGHTS

20.01 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, recorded, "There are no laws that criminalize homosexual practices." **[2a] (Section 6)**

20.02 The age of consent in Vietnam for male-female sex is 18; for male-male sex it is 18 and for female-female sex it is 18. (Avert, accessed 30 December 2011) **[59a]**

TREATMENT BY, AND ATTITUDES OF, STATE AUTHORITIES

20.03 The USSD Report 2010 stated, "There was no official discrimination in employment, housing, statelessness, or access to education or health care based on sexual orientation… There was growing public awareness of homosexuality and little evidence of direct official discrimination based on sexual orientation." **[2a] (Section 6)**

20.04 According to the Gay Times website, accessed on 12 April 2011, "…there has been a burgeoning gay scene developing in Ho Chi Minh City (Saigon) and to a lesser extent a smaller scene in Hanoi. In both cities various bars and clubs have opened catering to gays." **[31]**

SOCIETAL TREATMENT AND ATTITUDES

20.05 The USSD Report 2010 noted, "…social stigma and discrimination was pervasive. Most homosexual persons chose not to tell family of their sexual orientation for fear of being disowned." **[2a] (Section 6)** A report by the Canadian Immigration and Refugee Board (IRB), dated 8 January 2010, stated, "…sources report that overt hostility towards homosexuals [in Vietnam] is not common... the majority of Vietnamese are largely unaware of homosexuality." **[6a]**

20.06 On 18 December 2009 Radio Free Asia reported, "Communist-ruled Vietnam is home to an increasingly vibrant gay community, but homosexual men who 'come out' and acknowledge their orientation are still subject to social stigma and workplace

discrimination… Most gay support groups operate independently and receive financial assistance from NGOs." **[41a]**

LESBIANS

20.07 A report by the Canadian IRB, dated 8 January 2010, referred to "a gay man who opinions that lesbians 'have it even worse than gay men' due to greater social and family pressure on women". The report went on to record that "Online gay magazine Gay Times also notes that 'life has become much easier for gays and lesbians' in the last ten years." **[6a]** The same source continued, "…there are 'little pockets of LGTB [lesbian, gay, transgendered and bisexual] expression in the smaller cities like Hoi An and Hue'." **[6a]**

TRANSGENDER PERSONS

20.08 In addition to the above reference to transgender persons, the USSD Report 2010 stated, "In contradiction of the Penal Code, the chief judge of the Quang Binh Provincial People's Court in August refused to prosecute the gang rape of a transsexual, claiming the code did not address rape of transgendered individuals." **[2a] (Section 6)**

The GlobalGayz website has additional news and reports on LGBT issues in Vietnam **[18a]** See also the website: Look at Vietnam **[66a]**

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21. DISABILITY

21.01 According to Article 67 of the 1992 Constitution, amended in 2001:

"The State grants preferential treatment to war invalids, sick soldiers and families of fallen combatants, creates conditions for the rehabilitation of disabled soldiers' working ability, to help them find employment suited to their health conditions and lead a stable life.

"Persons or families who have rendered services to the country shall be commended and rewarded and shall receive proper attention.

"Old people, disabled persons and orphans with no family support are entitled to assistance from the State and society." **[17a] (Chapter V)**

21.02 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), Vietnam, published on 8 April 2011, noted that

"The Law on Disabled Persons prohibits discrimination against or maltreatment of persons with disabilities. The law also encourages the employment of persons with disabilities. In June [2010] the National Assembly enacted a national law providing for the rights of people with physical, sensory, intellectual, and mental disabilities. The new law requires equality for people with disabilities through accommodation, access to education, employment, health care, rehabilitation, transportation, and vocational training…

"Access to education for children with disabilities, including blindness, deafness, and mobility restrictions, was extremely limited. The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the government enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities can qualify for special government-subsidized loans." **[2a] (Section 6)**

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22. WOMEN

OVERVIEW

22.01 Vietnam became a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on 29 July 1980; which was ratified on 17 February 1982. (United Nations Treaty Collection, accessed 6 December 2011) **[52a]** In addition, the CEDAW, Concluding comments of the Committee on the Elimination of Discrimination against Women: Viet Nam, report published on 2 February 2007, stated:

"The Committee commends the State party for the adoption of a number of new laws that aim at eliminating discrimination against women and promoting gender equality in compliance with the State party's obligation under the Convention. In particular, the Committee welcomes the adoption of the Law on Gender Equality of November 2006, which will enter into force on 1 July 2007, the 2003 amendment to the Land Law and the Law on Marriage and Family." **[53b]**

Further information on the CEDAW Treaty and other Vietnam and UN Treaty Bodies can be located on the Office of the United Nations High Commissioner for Human Rights (OHCHR) website. **[53a]**

22.02 The Central Intelligence Agency (CIA) World Factbook, updated 7 March 2012, accessed on 20 March 2012, noted that Vietnam's estimated population of 90,549,390 was made up of:

"0-14 years: 25.2% (male 11,945,354/female 10,868,610)

"15-64 years: 69.3% (male 31,301,879/female 31,419,306)

"65 years and over: 5.5% (male 1,921,652/female 3,092,589) (2011 est.)" **[4a]**

22.03 Kim Lien, Programme Officer for the Asia Foundation, in an article of 17 October 2007, entitled 'In Vietnam: Women's Leadership Essential to an Equal Society', stated:

"In Vietnam, women's status is determined by a complex interaction of social, family, economic, and cultural factors…

"Women face an uphill battle in achieving gender equality. Confucian ideology and traditional preference for sons combine to favour boys over girls. Men are considered highly desirable for their social, symbolic and economic value, their role in continuation of the male family line, and the importance of their role in honouring the tradition of ancestor worship. Men have the advantage of being conferred with a powerful 'double

role', one as head of household and the other as religious head of household for ancestor worship. Further, inheritance of land and property, as well as associated wealth and power, continue to pass through the eldest son. Many poor families force or 'convince' girls to drop out of school early to earn money to support the education of their brothers.

"Gender stereotypes that favour males over females are often reinforced in school textbooks and other educational materials…

"The Gender Equality Law [of July 1, 2007] has been instrumental in empowering some Vietnamese women and reducing gender gaps in urban environments. However, enforcement of these laws, in the complexity of long-standing Vietnamese culture and tradition deeply rooted in rural areas, will take time. Essential steps include raising awareness among Vietnamese men of women's equality and fostering an enabling environment for women to be able to be full participants in political, economic and social life." **[9a]**

22.04 The World Economic Forum, Global Gender Gap Index, 2011, taking into account economic participation, opportunity, educational attainment, health and survival, and political empowerment, ranked Vietnam 79th out of 135 countries (1 having the smallest gender gap and 135 the greatest). **[45a]**

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LEGAL RIGHTS

22.05 Article 63 of the Vietnamese Constitution, amended in 2001, states, "Male and female citizens have equal rights… All acts of discrimination against women and all acts damaging women's dignity are strictly banned." **[17a]** In a report dated 2 February 2007, the UN Committee on the Elimination of Discrimination against Women stated:

"While welcoming the adoption of the new Law on Gender Equality as an improvement of the legal regime and the implementation of the Convention as well as other legal and policy measures that have been put in place in different areas in recent years to eliminate discrimination against women and girls and to promote gender equality, the Committee regrets that the State party did not provide sufficient information or data on the actual impact of these laws and measures and the extent to which they have resulted in accelerating the advancement of women and girls and their enjoyment of their human rights in all areas covered by the Convention." **[32] (p2)**

22.06 The US State Department's Country Report on Human Rights Practices 2010 (USSD Report 2010), published on 8 April 2011, noted, "Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage and in the workplace, as well as labor code provisions that call for preferential treatment of women, women did not always receive equal treatment." **[2a] (Section 6)**

22.07 Vietnamese law does not recognize common-law marriages. The US State Department's Bureau of Consular Affairs, accessed on 19 March 2012 noted that: ". Authorities do issue certificates verifying cohabitation but these do not constitute legal marriages. Vietnamese law prohibits marriage between blood siblings, half siblings, first cousins or any two persons related closer than three degrees of separation. The legal

age for marriage is 20 for men, 18 for women… Divorce records are maintained by the courts where they were issued." **[2d]**

22.08 The Organisation for Economic Co-operation and Development's Social Institutions and Gender Index (SIGI), Country Profile on Vietnam, accessed 6 December 2011 noted that: "Women in Vietnam are well protected within the family context, although some traditional practices sustain male domination. The Marriage and Family Law sets the minimum marriage age at 18 for women and 20 for men. Under the country's Penal Code, anyone who imposes marriage on under-age persons is subject to punishment, including imprisonment." **[54a]**

22.09 The USSD Report 2010 concurred, noting: "Although legislation provides for equal inheritance rights for men and women, in practice women faced cultural discrimination. A son was more likely to inherit property than a daughter, unless specified by a legal document. Labor laws prohibit gender-based preferential hiring for jobs, and while NGOs assumed that such discrimination occurred, allegations were hard to prove." **[2a] (Section 6)**

22.10 The USSD Report 2010 also observed:

"The CPV-affiliated Women's Union and the government's National Committee for the Advancement of Women (NCFAW) continued to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote the advancement of women. The NCFAW continued implementing the government's national strategy on the advancement of women. Key areas of this strategy focused on placing more women in senior ministry positions and in the National Assembly. The strategy also focused on increasing literacy rates, access to education, and health care." **[2a] (Section 6)**

POLITICAL RIGHTS

22.11 The USSD Report 2010 stated, "The law provides the opportunity for equal participation in politics by women and minority groups. There were 127 women in the National Assembly, or 26 percent, a slightly lower percentage than in the previous assembly." **[2a] (Section 3)**

22.12 Where women were involved in political circles, the World Bank Report, Vietnam Country gender assessment, published on 8 November 2011, observed the figures provided by the Office of the National Assembly showed that the National Assembly was represented by 25.76 percent women during the years 2007 to 2011, slightly less than between 2002 to 2007 when 27.30 percent were women. **[12b] (p78)**

22.13 Kim Lien, Programme Officer for the Asia Foundation, in an article of 17 October 2007 entitled 'In Vietnam: Women's Leadership Essential to an Equal Society', noted however:

"In recent years, the Vietnamese government has taken some positive steps to promote gender equality, including supporting policies and programs aimed at increasing women's participation in public decision-making and political life. While these efforts have been quite successful in increasing the number of women who hold public office, little effort has been made to build capacity of women to be effective once in office. As a result, even when women do manage to enter the political arena, they often find

themselves marginalized in the male dominated culture, with real power remaining in the hands of a select group of men." **[9a]**

22.14 The USSD Report 2010 also noted:

"The CPV-affiliated Women's Union and the government's National Committee for the Advancement of Women (NCFAW) continued to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote the advancement of women. The NCFAW continued implementing the government's national strategy on the advancement of women. Key areas of this strategy focused on placing more women in senior ministry positions and in the National Assembly. The strategy also focused on increasing literacy rates, access to education, and health care." **[2a] (Section 6)**

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SOCIAL AND ECONOMIC RIGHTS

22.15 The USSD Report 2010 noted, "Women continued to face societal discrimination." **[2a] (Section 6)** The Freedom House report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated that "Although economic opportunities have grown for women, they continue to face discrimination in wages and promotion. Many women are victims of domestic violence, and thousands of women each year are trafficked internally and externally and forced into prostitution. A number of cases of international adoption fraud have been exposed in recent years." **[29a]**

22.16 The SIGI Country Profile on Vietnam, accessed 6 December 2011 noted:

"Women in Vietnam are well protected within the family context, although some traditional practices sustain male domination. The Marriage and Family Law sets the minimum marriage age at 18 for women and 20 for men. Under the country's Penal Code, anyone who imposes marriage on under-age persons is subject to punishment, including imprisonment. Early marriage nevertheless occurs in rural and mountainous regions: a 2004 United Nations report estimated that 8 per cent of Vietnamese girls between 15 and 19 years of age were married, divorced or widowed.

"In marriage, men and women are generally treated equally. Polygamy has been illegal in Vietnam since the 1950s and is no longer practised. Parental authority is granted to both parents, but women are typically responsible for childcare and domestic chores.

"In regard to inheritance, Vietnam's Civil Code provides men and women with equal opportunities to write a will or benefit as an heir. However, certain inequalities can be observed. If a person dies without a will, the law requires an equal distribution of property among the next of kin. In practice, the general custom is for the eldest son to inherit the parental home and the largest portion of the family property, particularly land. Younger sons will often inherit some land or other assets of value, while daughters receive only small symbolic items. Children generally become part of their father's patrilineage at birth, although matrilineal customs prevail in some highland groups." **[54a]**

22.17 The SIGI Country Profile further added:

"Women and men in Vietnam have equal ownership rights, including access to land. However, the government of Vietnam does not legally recognise privately owned land; instead, the Land Law grants individuals long-term leaseholds through land-use right certificates. According to a CEDAW study, women accounted for only 10 per cent to 12 per cent of the 12 million farmers having been allotted land by the end of 2000. This reflects women's limited awareness of their right to access to land and traditional customs that place the husband as the head of the household. Consequently, land-use right certificates are usually issued in the husband's name.

"Vietnamese women have equal access to property other than land. Some ethnic minority groups favour male ownership; others follow matriarchal systems in which women control family property.

"Officially, women in Vietnam have legal access to bank loans, but many women have only a limited understanding of their financial possibilities and lack the capacity to formulate the effective business plans needed to acquire commercial loans. These issues may be addressed by the recent establishment of lending institutions that specifically target women borrowers." **[54a]**

22.18 The Agulhas Applied Knowledge report on the 'Paris Declaration/Hanoi Core Statement Phase 2 Evaluation', Vietnam Country Evaluation, January 2011, by Marcus Cox, Tran Thi Hanh Tran Hung and Dao Dinh, on a evaluation mission that was conducted over a 3-week period from 19 July to 7 August 2010, which involved key informant interviews with a wide range of Government of Vietnam stakeholders and Development Partners, as well as independent observers, noted:

"In some aspects of gender equality, in particular access to services, Vietnam has performed very well. At 83%, the labour force participation rate of working age women is extremely high. The figure of 26% female representatives in the National Assembly is the highest in the ASEAN region, although the proportion of women in ministerial or equivalent posts in government is only 4.5%, down from 12% in the previous term of government. There are still major equity issues in land, with only 11% of women in rural areas registered as joint title holders for their land, despite laws requiring their registration. Family violence is a serious concern, particularly in remote and mountainous areas, and trafficking in women and children has become a growing problem, the true extent of which is unknown. There are acute problems of gender equity among the minority populations, particularly for women heading households while their husbands are absent as migrant labourers." **[21a]**

22.19 Pham Van Thuan, vice director of the Party Central Committee's Commission for Organisation's Personnel and Organisation Department, while attending a conference organised as part of a project implemented by the unions in the provinces of Quang Binh, Phu Tho, Kon Tum, Kien Giang, Binh Phuoc and Hai Phong, to strengthen the rate of women's participation in leadership positions in agencies, organisations and political posts, launched in 2010, observed that: "The traditional role of women in the family sometimes makes them reluctant to apply for higher positions, so it was necessary to raise awareness among women and their families about the issue." Adding that "Maternity leave, child-rearing and various features of leadership posts including frequent travel and working aboard were common barriers." (Viet Nam News, updated 30 December 2011) **[61a]**

Reproduction and abortion rights

22.20 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), Vietnam, published on 8 April 2011, noted that: "The law restricts the number of children per couple to two. The government primarily implemented the policy through media campaigns that strongly encouraged individuals to practice family planning. The government also enforced the policy by denying promotions and salary increases to public-sector employees with more than two children, albeit in an inconsistent manner." **[2a] (Section 6)**

22.21 RH Reality Check in a report of 17 December 2008 called Vietnam's Two-Child Policy: Bad for Women, Bad for the Country, noted:

"A policy of population control seems directly at odds with the government's concerns about the country's growing gender imbalance. Vietnam has far more males than females. The international ratio at birth is about 105 boys for every 100 girls, but in Vietnam, echoing trends in China and India, the imbalance has grown to 110 boys for every 100 girls and is as high as 120 boys in some provinces. Vietnam has one of the highest abortion rates in Asia, if not one of the highest in the world. Abortion in Vietnam has been legal and available since the early 1960s, for pregnancies up to 12 weeks, and sometimes later, with the average woman having two abortions in her lifetime. Research indicates that couples resort to abortion to achieve their desired family composition." **[48a]**

22.22 The report continued, "As a signatory of the CEDAW Convention, the Government's policy denies women their right to decide the number and spacing of their children. The CEDAW Committee has in fact explicitly stated that the decision whether or not to have a child should not be limited by Government. Sexuality Policy Watch has also criticized the Government's focus on women's bodies and sexualities as vehicles for its project of nation building." **[48a]**

22.23 The journal, Reproductive Health Matters, carried a report of 2008 called Second Trimester Abortion in Viet Nam: Changing to Recommended Methods and Improving Service Delivery, which explained why many women in Vietnam resort to abortion which has been legal up to 22 weeks of pregnancy since the 1960s:

"Many are not aware they are pregnant. Since the Family Planning Program in Viet Nam focuses only on married couples, young people do not receive sexuality education, and do not know where to get contraceptive methods or where to go if they are pregnant…Some women described negative consequences for their educational or employment opportunities. Some had waited to try and convince their partner to get married but failed. In some cases, women come to the health sector early, but pregnancy detection is delayed due to the poor quality of early pregnancy tests, and this can push the abortion into the second trimester…

"Son preference exists in Viet Nam. Sex selective abortion is becoming an issue in the country, which the government is concerned about and has made policies to try and prevent it…

"They are used both to screen for foetal anomalies and sometimes for sex determination. Many pregnant women learn their child's sex by their 15th week. With abortion possible up to 22 weeks, some women seek abortion for sex selection." **[47a]**

See also Section 23: Children

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Access to education and employment

22.24 A report of January 2008 by HealthBridge and the Institute of Social Development Studies called Women's Economic Contribution through their Unpaid Work in Vietnam, considered women's unpaid work in the home:

"Despite the much improved economic position, women continue to face disadvantages in the reform process, as seen in gender segregation in the labour market as well as by persistent gender inequality in wage and job mobility. In addition, it has been argued that the emphasis on each individual household as an autonomous economic unit as the primary focus of Doi moi restructuring has reinforced the Confucian belief and practices regarding the rightful place of men and women in the household and in the wider society…

"[It has been noted by researchers] that in comparison with men, women continue to shoulder more of the obligations within the household. This has been especially true in terms of their traditional tasks, such as caring for others and domestic work, at a time when the attendant state services have either been cut back, commercialised or partially privatised.

"Studies have revealed that although women are mainly responsible for decisions surrounding the management of the household, they still have to consult their husbands prior to any financial expenditure." **[49a]**

22.25 Vietnam Industrial Park Investment Promotion, in a report of 9 August 2009, called Women still lack equality at work, noted:

"Female labourers are still not treated fairly by many companies in HCM City [Ho Chi Minh City] and Dong Nai Province, even though the State has created policies to protect them, women workers and their representatives told the National Assembly's Committee for Social Issue late August [2009].

"At a conference in HCM City and Dong Nai Province on the implementation of fair-labour laws, female workers issued the following complaints: they are paid less than their male counterparts; they are not given the same access to training courses; they face age discrimination; their employers don't offer them adequate housing; and they are fired when they become pregnant or give birth.

"According to a recent survey of 92 industrial zones in 12 cities and provinces, females – typically aged 18 to 35 – make up 61 per cent of all workers. Some sectors have a disproportionately higher percentage of female workers, including footwear, with 80 per cent. The percentage of females in the overall labour force has increased by about 20 per cent each year since 2003.

"Even so, female workers' representatives said many enterprises are not paying attention to gender equality, flouting a series of Government decrees, some of which date back to 1996.

"Female workers did not get as many chances as male workers to increase their salaries, labour representatives said. Many companies did not make public their policies on allowances, bonuses and social insurance for female labourers – who then often wind up ignorant of how much extra pay and benefits they were entitled to receive. The overtime pay for female shift-workers is very low, and not commensurate with their labour.

"Women are not given priority to attend extra-skills training courses. Many worksites with female-heavy labour forces lack warning and guide signs, as well as training courses on safety and hygiene. When hiring females, many companies show clear bias for those aged 18 to 25.

"Motherhood brings further inequities for women labourers. Under the law, pregnant women and new mothers are supposed to receive extra allowances and pay raises. But some enterprises not only shirk those obligations, but also have even docked the wages for such workers.

"Some companies fired women who became pregnant or give birth, which was illegal, said Nguyen Thai Thanh, deputy chairman of Labour Union at industrial and export processing zones. Others had fallen into the habit of issuing one-year contracts for their female workers, and renewing them perpetually until the women became pregnant or give birth, at which point the firms refused to sign new contracts. Although this practice violated a law allowing companies to sign a maximum of two contracts with workers, the women had no recourse once their contracts expired, Thanh said.

"Disregarding regulations for female workers with young children, many enterprises do not offer the requisite apartment buildings, kindergartens, enough toilets or child-care support." **[50a]**

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VIOLENCE AGAINST WOMEN

Domestic and sexual violence

22.26 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated that "Many women are victims of domestic violence…" **[29a]** In Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, published on 31 March 2011, the FCO stated, "The first-ever national study on domestic violence in Vietnam was completed in 2010. It reported that almost 35% of women who took part in the survey had experienced physical or sexual violence by their husbands and more than 50% reported emotional abuse. Although a Law on Prevention and Control of Domestic Violence was passed in 2007, implementation remained patchy." **[8b]**

22.27 The Immigration and Refugee Board of Canada (IRB) noted in a Response to Information Request (RIR), dated 8 January 2010, that: "The law legislates the duties of the state, individuals, families, organizations and institutions in regards to preventing and controlling domestic violence and supporting of its victims… The law also defines what constitutes domestic violence… and states that those who perpetrate domestic violence 'shall either be fined as a civil violation, disciplined or charged for criminal

penalty and have to compensate for any damages caused'… The law also prescribes 're-education' measures for repeat offenders…" **[6b]**

22.28 The USSD Report 2010 stated:

"Domestic violence against women was considered common. A landmark survey conducted jointly by the UN [United Nations] and the General Statistics Office in November [2010] found that 58 percent of married women had been victims of physical, sexual, or emotional domestic violence. Officials increasingly acknowledged it as a significant social concern, and it was discussed more openly in the media. The law prescribes punishment ranging from warnings to a maximum of two years' imprisonment for 'those who cruelly treat persons dependent on them.' The Law on Domestic Violence Prevention and Control specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and stipulates punishments for perpetrators of domestic violence; however, NGO and victim advocates considered many of the provisions to be weak. While the police and legal system generally remained unequipped to deal with cases of domestic violence, the government, with the help of international and domestic NGOs, continued to train police, lawyers, and legal system officials in the law." **[2a] (Section 6)**

22.29 The IRB response, dated 8 January 2010, also noted that:

"Domestic violence is reportedly present in all areas of the country and across the social spectrum… In June 2008, the Vietnamese Ministry of Culture, Sports and Tourism and the United Nations (UN) Children's Fund (UNICEF) jointly published the Result of Nation-wide Survey on the Family in Viet Nam 2006, which was conducted in collaboration with the Vietnamese General Statistics Office and the Viet Nam-based Institute for Family and Gender Studies… According to the survey, approximately 21 percent of married couples stated that they had experienced some form of domestic violence in their marriage… Sources report that from 50 to 70 percent of divorces throughout Vietnam have been linked to domestic violence…

"Various sources note the continuing prevalence of traditional values which encourage wives to be subordinate to their husbands… According to human rights observers, some within Vietnamese society believe that husbands can discipline their wives, including through physical punishment, because it is a husband's responsibility to educate his wife… Sources report that victims are often reluctant to report cases of domestic violence… Many Vietnamese believe domestic violence to be a private, family-related matter…" **[6b]**

22.30 A press release of 25 November 2010, by the General Statistics Office of Vietnam called, New study shows high prevalence of domestic violence in Viet Nam, stated:

"34 percent, of ever-married women report that they have suffered physical or sexual violence from their husbands at some time in their lives, according to the National Study on Domestic Violence Against Women in Viet Nam, launched today by the Government of Viet Nam and the United Nations. Ever-married women who are currently experiencing either of these two types of violence amount to 9 percent.

"When all three main types of partner violence – physical, sexual and emotional – are considered, more than half (58 percent) of Vietnamese women report experiencing at least one type of domestic violence in their lifetime. The study findings also show that

women are three times more likely to be abused by a husband than by any other person…

"New data from the study highlight the fact that most women in Viet Nam are potentially at risk of domestic violence at some point in their lives. In some regions of the country, the home is not a safe place for four out of ten women. In the South East region, for example, 42 percent of women report having experienced physical or sexual violence by their husbands at some time. However, while there are regional variations, greater differences are evident between different ethnic groups, with reported lifetime prevalence rates of domestic violence ranging from 8 percent (H'Mong) to 36 percent (Kinh).

"'Although domestic violence is widespread, the problem is very much hidden,' said Ms. Henrica A.F.M. Jansen, the lead researcher of the study. 'Besides the stigma and shame causing women to remain silent, many women think that violence in relationships is 'normal' and that women should tolerate and endure what is happening to them for the sake of family harmony.' In fact, one in two women said that before the survey interviews, they had never told anyone about instances of violence by their husbands…

"It is clear that domestic violence has serious consequences on both the physical and mental health of women. In Viet Nam, one in four women who were physically or sexually abused by their husbands reported suffering physical injuries, and more than half of them reported being injured multiple times. Compared to women who have never been abused, those who have experienced partner violence are almost two times more likely to report poor health and physical problems, and three times more likely to have ever thought of suicide.

"Pregnant women are also at risk. According to the report, about 5 percent of women who had been pregnant reported being beaten during pregnancy. In almost all of these cases, the women had been abused by the father of the unborn child." **[17b]**

22.31 A report on the Inter Press Service (IPS) dated 9 March 2009 called Gender Equality Far Off Despite Political Will, noted:

"According to statistics over 20 percent of households suffer from domestic violence. The United Nations Development Fund for Women (UNIFEM) believes the figure to be higher. 'There's an issue of underreporting and people not recognising a situation as domestic violence,' April Pham, a gender specialist with UNIFEM, told IPS.

"With increased media reports about domestic violence in Vietnam, many of them focusing on the worst cases, and the recently enacted law, it is an issue which is coming to prominence in the communist country, albeit slowly.

'I think it's (domestic violence) a big problem here,' said [hairdressing] salon owner Huong. The other women in her salon agreed. 'But we don't really want to talk about these problems. Everyone has good and bad in their lives.'

"It's this reticence, and the belief that it is both a private issue and the 'right' of husbands, which has seen the problem go unrecognised and often accepted. Confucianist values, which hold a wife to be the temperate yin to her husband's fierier yang, have also been blamed by both gender experts and local media.

"Hanoi, with a population of over three million, has only two centres for victims of domestic violence.

"'(They're) very new for Vietnam. So people don't know much about them,' Bich Ngoc Vu, the programme manager in Vietnam for the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), told IPS." **[46b]**

22.32 The USSD Report 2010 also noted:

"The act of sexual harassment and its punishment is clearly defined in the law; however, in reality there was no legal requirement to prevent it. Publications and training on ethical regulations for government and other public servants do not mention the problem, although it existed. Victims of sexual harassment may contact social associations such as the Women's Union to request their involvement. If the victim has access to a labor union representative, complaints can also be lodged with the labor officers. In serious cases victims may sue offenders under article 121 of the Penal Code, which deals with 'humiliating other persons' and specifies punishments that include a warning, noncustodial reform for up to two years, or a prison term ranging from three months to two years. However, in reality sexual harassment lawsuits were unheard of, and most victims were unwilling to denounce the offenders publicly." **[2a] (Section 6)**

22.33 The same source stated:

"The law prohibits using or threatening violence, taking advantage of a person who cannot act in self-defense, or resorting to trickery to have sexual intercourse with a person against that person's will. This criminalizes rape, spousal rape, and in some instances sexual harassment. In 2009 a man from the Phan Thiet Province was jailed for 18 months for raping his wife. Other rape cases were traditionally prosecuted to the full extent of the law. No reliable data were available on the extent of the problem." **[2a] (Section 6)**

22.34 A report by the Canadian Immigration and Refugee Board (IRB), dated 8 January 2010, noted:

"Domestic violence directed at women in Viet Nam is 'a serious problem'… Domestic violence is reportedly present in all areas of the country and across the social spectrum… According to human rights observers, some within Vietnamese society believe that husbands can discipline their wives, including through physical punishment, because it is a husband's responsibility to educate his wife… Sources report that victims are often reluctant to report cases of domestic violence… Many Vietnamese believe domestic violence to be a private, family-related matter… On 21 November 2007, the government of Viet Nam passed the Law on Domestic Violence Prevention and Control, which came into force on 1 July 2008… The law legislates the duties of the state, individuals, families, organizations and institutions in regards to preventing and controlling domestic violence and supporting of its victims… The law also defines what constitutes domestic violence… and states that those who perpetrate domestic violence 'shall either be fined as a civil violation, disciplined or charged for criminal penalty and have to compensate for any damages caused'… The law also prescribes 're-education' measures for repeat offenders… punishment ranging from warnings to two years' imprisonment can be imposed by the law… Concerns have been raised over the law's effectiveness… The Ho Chi Minh City-based newspaper Than Nien reports that according to government and non-governmental officials at a conference on domestic violence in September 2008, 'it takes six to nine months to prepare documents required

by the law before sending a person committing domestic violence to education centers' during which time the victim 'would continue to suffer'… According to the article, many of the officials also 'expressed the opinion that domestic violence should be considered a crime under the Vietnam Criminal Codes,' indicating that domestic violence is not criminalized… According to a 3 December 2009 article from the Hanoi-based newspaper Viet Nam News (VNS), a report from the Viet Nam Domestic Violence Prevention Network detailing the implementation of the law in the provinces of Yen Bai, Hoa Binh, Dien Bien, Lai Chau and Hung Yen reports that the legislation against domestic violence is being implemented 'at a snail's pace'… The report also indicates that many Vietnamese, including government officials, are not aware of the law or choose to ignore it." **[6b]**

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Trafficking of women

This subsection should be read in conjunction with Section 23: Trafficking where further information can be located on this topic.

22.35 The Freedom House (FH) report, Freedom in the World 2011, Vietnam, covering events in 2010, published on 29 June 2011, stated noted, "…thousands of women each year are trafficked internally and externally and forced into prostitution." **[29]**

22.36 The US State Department's Trafficking in Persons Report 2011, published 27 June 2011 (USSD TiP Report 2011), noted:

"Vietnamese women and children subjected to forced prostitution throughout Asia are often misled by fraudulent labour opportunities and sold to brothels on the borders of Cambodia, China, and Laos, with some eventually sent to third countries, including Thailand and Malaysia. Some Vietnamese women are forced into prostitution in Thailand, Malaysia, Singapore and in Europe…

"Some Vietnamese women moving to China, Taiwan, Hong Kong, Macau, and increasingly to South Korea as part of internationally brokered marriages are subsequently subjected to conditions of forced labour (including as domestic servants), forced prostitution, or both. There are reports of trafficking of Vietnamese, particularly women and girls, from poor, rural provinces to urban areas, including Hanoi, Ho Chi Minh City, and newly developed urban zones, such as Binh Duong." **[2c]**

22.37 The International Federation for Human Rights in a report of 12 February 2007, entitled 'Only genuine and concrete measures will improve the respect for women's rights', stated:

"The persistence of trafficking in women and girls and the exploitation of prostitution are issues of concern for the Committee. It recommends that Vietnam 'facilitate the reintegration into society of women and girls who are victims of exploitation and trafficking, including children born to Vietnamese women abroad, by ensuring that they are neither criminalized nor penalized'. The authorities should also prosecute and punish traffickers and ensure the protection of the human rights of trafficked women and girls." **[44a]**

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ASSISTANCE AVAILABLE TO WOMEN

22.38 The United States Department of State, Trafficking in Persons Report 2011: Vietnam, published 27 June 2011, gave details of assistance available for those caught up in trafficking:

"The government's Vietnamese Women's Union (VWU), in partnership with NGOs, continued to operate three trafficking shelters in Vietnam's largest urban areas, which provided counseling and vocational training to female sex trafficking victims. The VWU and border guards also operate smaller shelters that provide temporary assistance to migrants in need of assistance at some of the most heavily used crossing points. The government, however, lacks the resources and technical expertise to adequately support shelters, and as a result, in many areas shelters are rudimentary, underfunded, and lack appropriately trained personnel. Trafficking victims also are inappropriately housed at times in MOLISA shelters co-located with those of drug users' rehabilitation and reintegration of individuals leaving prostitution. There are no shelters or services specifically dedicated to assisting male victims of trafficking or victims of labor trafficking." **[2c] (Country Narratives: Countries N Through Z: Vietnam)**

22.39 The USSD Report 2010 stated:

"Several domestic and international NGOs worked to address domestic violence. Hotlines for victims operated by domestic NGOs existed in major cities. The Center for Women and Development, supported by the Vietnam Women's Union, also operated a nationwide hotline, although it was not widely advertised in rural areas. Another NGO, Hagar Vietnam, established a training program to reintegrate into society women who suffered domestic abuse. In September [2010] the first 13 girls graduated from the program. While rural areas often lacked the financial resources to provide crisis centers and hotlines, a 2007 law establishes 'reliable residences' allowing women to turn to another family while local authorities and community leaders attempt to confront the abuser and resolve complaints. Government statistics reported that approximately half of all divorces were due in part to domestic violence. The divorce rate continued to rise partly due to domestic violence and also to growing societal acceptance of divorce, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty. The government, with the help of international NGOs, supported workshops and seminars aimed at educating women and men about domestic violence and women's rights in general and also highlighted the problem through public awareness campaigns. Domestic NGOs were increasingly engaged in women's issues, particularly violence against women and trafficking of women and children." **[2a] (Section 6)**

22.40 The IRB response, dated 8 January 2010, noted that:

"In 2008, the government put in place an 'anti-violence pilot model' at the grassroots level throughout the country involving local authorities, law enforcement and health professionals in dealing with domestic violence… As well, a 'National Program of Action' against domestic violence will begin in 2010 and continue until 2020… Vietnamese authorities, foreign governments, domestic and international non-governmental organizations (NGOs) and several UN agencies have collaborated on domestic violence awareness campaigns in recent years… Those involved in law enforcement and the justice system have also reportedly begun to receive training in dealing with domestic violence issues… Several domestic and international NGOs offering support to victims of domestic violence operate in Viet Nam… They include the National Committee for the

Advancement of Women (NCFAW), which provides policy advice to the Prime Minister and relevant government agencies on issues relating to women… As well, the Vietnam Women's Union, founded in 1930, works to protect women's rights and promote gender equality... The Center for Women and Development (CWD), established in 2002 by the Vietnam Women's Union, offers counselling and raises awareness on domestic violence related issues… It also operates at least one shelter for victims of domestic violence… other shelters for domestic violence survivors are also being been built by the CWD… According to a media report, Hanoi has a shelter for victims of domestic violence called the Peaceful House which reportedly assisted more than 1,200 people during the first ten months of 2009, an increase of 130 percent from 2008." **[6b]**

See also Section 23: Children

See also Section 24: Trafficking

HEALTH AND WELFARE

22.41 The World Bank Report, Vietnam Country gender assessment, published on 8 November 2011, observed that:

"The greater likelihood of women than men seeking health care is to be found in all age groups, except the young and old in rural areas. A similar pattern was reported for 2004 and 2006… This may have to do with gender differences in patterns of health needs. Generally speaking, women have higher rates of utilization during childbearing years, but when males are very young or very old they are more likely to get services. When men do get services, it is more likely to be for curative care; women have higher rates of preventative care…

"Around 58% of women had health insurance, compared to about 62% of men, a disadvantage for women that was also observed in 2004 and 2006… Health insurance appears to serve as an important determinant of the extent to which people seek health care. The highest rates of access to health care are observed for people who have health insurance as policy beneficiaries and people with other voluntary health insurance. People with coverage under these insurance types tend to be older, on average, than people covered by other types of health insurance… Some of the lowest rates of health care access are found for individuals with no health insurance and for individuals covered by student health insurance, especially in the urban sector. The female advantage in access to health care services holds across most types of health insurance in the rural and urban sectors (in keeping with the 2006 VHLSS) , [Viet Nam Household Living Standards Survey] and it is largest for rural residents with non-state health insurance." **[12b] (p30)**

See also Section 25: Medical issues

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23. CHILDREN

OVERVIEW

Basic statistical information can be obtained on the United Nations Children's Fund (UNICEF) website **[10b]**

23.01 From a population estimated to be at 91,519,289 in July 2012, 25 percent are minors aged between 0-14 years. Of these, 11,945,354 were male and 10,868,610 were female. (CIA World Factbook, updated 7 March 2012, accessed 20 March 2012) **[4a]**

23.02 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 noted:

"The law restricts the number of children per couple to two. The government primarily implemented the policy through media campaigns that strongly encouraged individuals to practice family planning. The government also enforced the policy by denying promotions and salary increases to public-sector employees with more than two children, albeit in an inconsistent manner… Not all births were registered immediately, but this was sometimes the result of an uneducated populace. A birth certificate is required for public services, such as education and health care, and the choice by some parents, especially ethnic minorities, to not register their children affected the ability to enroll them in school and receive government-sponsored care." **[2a] (Section 6)**

See also Section 22: Women - Reproduction and abortion rights

23.03 A report by the United Nations Children's Fund (UNICEF), accessed on 21 March 2011, stated:

"Children are often on the frontline of vast change. In 2007 the Ministry of Labour, Invalids and Social Affairs (MOLISA) estimated that over 2.5 million children were living in 'special circumstances,' which is nearly 10 per cent of all Vietnamese boys and girls and includes: 1.2 million children with disabilities; 300,000 children affected by HIV and AIDS, of which 4,720 children are living with HIV; 168,000 orphans and children without care of their biological parents; 27,000 working children; over 13,000 street children; 20,000 children living in institutions; 3,800 children using drugs; and at least 850 sexually abused children. Issues such as the commercial sexual exploitation of children and trafficking are also significant, but the numbers are not known, as reliable data is not available." **[10a]**

23.04 The report continued:

"These problems are intensified by the absence of a strong and effective social protection system, including the lack of professional social work and protection services to support all vulnerable children - from the prevention of abuse, neglect and exploitation all the way to care and treatment services. Where specialised services exist, they are often fragmented or unregulated. Volunteers do their best to fill the role of social worker in their communities, but without adequate training or skills." **[10a]**

See also subsection on Childcare and protection

23.05 The USSD Report 2010 also noted:

"The law prohibits most child labor but allows exceptions for certain types of work. However, child labor remained a problem, particularly in rural areas, where two-thirds of the population resided. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA [Ministry of Labor, Invalids, and Social Affairs]. A 2006 ILO [International Labor Organization] analysis of the country's household surveys showed that 6.7 percent, or 930,000, of children between the ages of six and 17 participated in

some economic activity, usually on family farms or in family businesses not within the scope of the law." **[2a] (Section 7d)**

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Basic legal information

23.06 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), Vietnam, published on 8 April 2011, noted that:

"By law the government considers anyone born to at least one Vietnamese citizen parent to be a citizen, although persons born to non-Vietnamese parents can also acquire citizenship under certain circumstances. Not all births were registered immediately, but this was sometimes the result of an uneducated populace. A birth certificate is required for public services, such as education and health care, and the choice by some parents, especially ethnic minorities, to not register their children affected the ability to enroll them in school and receive government-sponsored care." **[2a] (Section 6)**

See also Section 27: Citizenship and Nationality

23.07 The USSD Report 2010 further added: "The minimum age of consensual sex is 18. Statutory rape is illegal under article 111 of the criminal code. Statutory rape can result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18, dependent upon the circumstances, vary from five to 10 years in prison. The production, distribution, dissemination, or selling of child pornography is illegal under article 253 of the criminal code and carries a sentence of three to 10 years' imprisonment." **[2a] (Section 6)**

See also subsection on Violence against children

23.08 Article 18 of the Civil Code, accessed 9 February 2012, noted: "Persons who are full eighteen years old or older are adults. Persons who are not yet full eighteen years old are minors." (Vietnam Embassy, USA, 2005) **[17c]** While Article 20 states

"1. Persons who are between full six years old and under full eighteen years old must have the consents of their representatives at law when establishing and performing civil transactions, except those transactions to meet their daily-life needs suitable to their age group or otherwise provided for by law.

"2. In cases where a person who is between full fifteen years old and under full eighteen years old has his/her own property to ensure the performance of obligations, such person may establish and perform civil transactions by him/herself without the consent of his/her representative at law, unless otherwise provided for by law." **[17c]**

LEGAL RIGHTS

23.09 In its Concluding Observations on Vietnam dated 17 October 2006, the UN Committee on the Rights of the Child (CRC) expressed concern that "some provisions in the Penal Code (including articles 254 to 256 related to child prostitution) refer to children as to those below the age of 16 only." **[13a] (p3)** Article 12, paragraph 2 of the Penal Code, accessed on 9 February 2012, observed that "Persons aged full 14 or older but under

16 shall have to bear penal liability for very serious crimes intentionally committed or particularly serious crimes." **[17e]**

Further information on the provisions applicable to juvenile offenders can be located in Chapter X of the Penal Code **[17e]**

VIOLENCE AGAINST CHILDREN

23.10 An undated report by the United Nations Children's Fund (UNICEF), accessed on 13 February 2012, stated:

"The impressive increase in social and economic development over the past 20 years has put new pressures on the Vietnamese family. Not all changes that come with rapid economic development are positive and with an ever-widening gap between rich and poor, more people are moving to cities and migrating all over the country to find work. The resulting increases in economic disparity and unemployment, rapid urbanisation, migration, family break-ups, and the erosion of traditional values, have contributed to an increased number of abandoned, neglected, abused and exploited children." **[10a]**

23.11 According to the Ministry of Public Security there were 1548 child abuse cases reported in 2011, an increase of 25 cases from 2010. Child sexual abuse cases accounted for 60 percent of the total cases of child abuse. (VietNamNet Bridge, 17 January 2012) **[60a]**

23.12 An Inter Press Service (IPS) article from March 2010 reported:

"A survey conducted in 2006 by Vietnam's Commission for Population, Family and Children in several provinces, quoted in media reports, showed that 58.3 percent of children were insulted, hit or slapped when they make a mistake or to discipline them. A seminar on corporal punishment was held by the government in 2008. The sight of an adult hitting a child usually goes unnoticed. Only when a child is badly injured that the police interfere and charge the adult with social disorder, not child abuse." **[63a]**

23.13 The USSD Report 2010 noted: "According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were an estimated 23,000 street children, who were sometimes abused or harassed by police. MOLISA managed two centers to provide support for children in needy situations. Youth unions also launched awareness campaigns." **[2a] (Section 6)**

23.14 An Integrated Regional Information Networks (IRIN) article from August 2008 highlighting the rise in child abuse cases in Vietnam, remarked that there was no accepted definition of 'child abuse'." Adding:

"There are no social workers. There are no specific laws against physical punishment, according to Duong Tuyet Mien, a professor at Hanoi Law University, and other experts in the field. Disciplining children by striking or humiliating them has traditionally been a normal part of good parenting in Vietnam. It is a part of good teaching. Indeed, it would be irresponsible not to use physical punishment if a child misbehaved, according to parents interviewed by IRIN and authorities at the Ministry of Labour, Invalids and Social Affairs (MOLISA)." **[51a]**

23.15 Nguyen Hai Huu, director of the Ministry for Labour, Invalids and Social Affairs' child-protection unit was quoted in an article from Time magazine online from July 2010 that: "We don't consider beating a child to be violence against children". The article added: "Disciplining children has traditionally been considered a family matter and officials are

still loath to interfere. Under the current law, a criminal case of child abuse can only be filed if a child suffers injuries on more than 11% of his or her body." **[38a]**

23.16 The USSD Report 2010 reported that there had been anecdotal evidence of widespread corporal punishment and child abuse in schools, noting:

"A study conducted by the UN [United Nations] and the General Statistics Office found that 25 percent of children were victims of child abuse as reported by their mothers during a study on domestic violence. Child prostitution, particularly of girls but also of boys, existed in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some minors entered into prostitution for economic reasons. The penal code, issued in 1999 and updated in 2009, criminalizes all acts of sale, fraudulent exchange, or control of children as well as all acts related to child prostitution and forced child labor. The 2009 penal code carries sentences ranging from three years' to life imprisonment and fines from VND five million to VND 50 million ($256 to $2,564). Articles 254, 255, and 256 describe acts related to child prostitution, including harboring prostitution (12 to 20 years' imprisonment), brokering prostitution (seven to 15 years' imprisonment), and buying sex with minors (three to 15 years' imprisonment). Similarly, the 1991 Law on Protection, Care, and Education of Children prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development. The 2004 revised version has an additional chapter on protection and care of disadvantaged children." **[2a] (Section 6)**

23.17 In its Concluding Observations on Vietnam dated 17 October 2006, the UN Committee on the Rights of the Child (CRC) noted:

"The Committee expresses concern at the information that child prostitution and sex tourism are an increasing problem in the country and that at least 10 per cent of sex workers in Viet Nam are believed to be children… While the Committee notes that the official institutions, including the Ministry of Labour, Invalids and Social Affairs (MOLISA), the Women's Union, the Youth Union and the Committee for the Population, Family and Children, have active programmes aimed at victims' protection, it is concerned that many of these efforts lack adequate financial resources… the Committee is concerned that: (a) Recovery and reintegration services are limited in coverage and there is a lack of adequately trained professionals; (b) Measures to assist families in the process of reunification with child victims are insufficient; (c) With regard to articles 254 to 256 of the Penal Code, victims of prostitution aged between 16-18 may not always be treated as victims under the law and can be administratively sanctioned; and (d) There is a lack of specialized teams of police, prosecutors or judges to deal with criminal activities… " **[13a] (p4-5)**

Information on trafficking of children can be located in Section 23: Trafficking

23.18 An Inter Press Service (IPS) article from March 2010 reported on the violence and neglect towards children at day care centres. The article noted:

"Vietnamese parents think of day care centres and kindergartens as safe, happy places to leave their children in, given the pressures of work and harder times. But they are no longer so sure now, after a series of incidents about mistreatment of young children that has shocked the public. The latest wake-up call to parents and government officials alike was the death last month of 14-month-old Truong Thuy Vy, two days after he started going to the Mam Non (Young Buds) kindergarten in the southern province of Binh Duong. Left alone to use the toilet, he slipped on the slippery floor, fell into a basin

of water and drowned. The incident prompted Binh Duong's Office of Education and Training to close down the kindergarten, even as it promised to be more vigilant in monitoring school facilities. 'There are still many private day care centres and kindergartens that lack adequate facilities assuring hygiene and safety to children,' the office said in a statement." **[63a]**

23.19 In another reported incident in November 2010, a 52 year old woman, named Phung was arrested for allegedly mistreating a three-year-old girl at a nursery in Binh Duong's Thuan Giao Commune. The clip filming the abuse was posted on the online social networking website You Tube. The article stated: "… the woman was filmed gripping the child's hair while bathing her. She also kept splashing water over the child's face, stamping her, pinning her down to the floor and shouting at her… The woman told police that she had to pin Ngan down because she always struggles and splashes water everywhere during bath-time." **[32a]**

23.20 The article added:

"Thanh Nien reporters found that Phung took care of six children between one and three years old, including two boys at her nursery. A four-year-old boy had many bruises on his body and a long gash with stitches on his head. Some locals told Thanh Nien that they have heard cries and screams of children coming from Phung's house, but no one dared to say anything. Police documents show that the nursery has operated for ten years without a license. It had been fined two times - in August 2008 and January 2009. Although they were ordered to close the illegal nursery, Phung and her husband, Tran Van Do, didn't comply. Huynh Thi Sanh, chief of Thuan Giao Commune's Children Protection and Care Committee, said it was a 'pity' that the abuse took place without authorities being aware of it. Sanh said there were about 20 private nurseries operating across the commune without licenses, regardless of inspections and warnings issued by authorities." **[32a]**

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CHILDCARE AND PROTECTION

23.21 The Time article from July 2010 noted:

"Vietnam has launched a massive effort to overhaul its social-support system over the next 10 years. In May [2010], social work was officially recognized as a profession, a vital legal distinction in Vietnam's communist society, in which nothing can happen without the central government's assent. The country plans to offer counseling services, set up crisis hotlines, revamp its social-protection laws, educate the police and spend $123 million to train tens of thousands of social workers in dealing with problems ranging from domestic violence to drug addiction. 'Until now, the government didn't recognize social workers and didn't think they were necessary,' says Le Hong Loan, head of UNICEF Vietnam's child-protection department, which has been working with the government for more than a decade to develop a social-work system as well as write tougher laws and encourage their enforcement.

"It's not that Vietnam doesn't have existing social-welfare offices. There are hundreds of centers across the nation. But staff members have no formal training in counseling or providing intervention services, says Loan. Their skills are more focused on ensuring that poverty-alleviation programs are properly carried out or immunization quotas are

met. They would rarely get involved if a child dropped out of school or a woman was suspected of being a victim of domestic abuse." **[38a]**

23.22 The USSD Report 2010 reported:

"The government's National Program of Action for Children for 2001-10 aimed to create the best conditions to meet demands and rights of every child, prevent and eliminate child abuse, and implement programs to prevent child trafficking, child prostitution, and child pornography. The government also promulgated the Program on Prevention and Resolution of the Problems of Street Children, Sex-abused Children, and Children Being Overworked and Working in Poisonous and Dangerous Conditions for 2004-10. The program had separate projects for prevention of sexual child abuse; communication, advocacy, and capacity enhancement for program management; prevention of and support for street children; and prevention of hazardous and dangerous working conditions for children. Initial assessments indicated that these measures provided an important legal basis for children's matters and that most local governments, departments, and unions supported these efforts. A lack of funding and a clear understanding of responsibilities, along with unclear implementation guidance, hindered implementation in certain localities." **[2a] (Section 6)**

23.23 The UNICEF statistical information on Vietnam, accessed on 13 February 2012, shows that the orphan population aged 0-17 years was estimated to be at 1.4 million out of a total population of 25.9 million children under the age of 18. **[10b]**

23.24 The US State Department's Bureau of Consular Affairs, accessed on 19 March 2012 noted that:

"Documents relating to adoptions in Vietnam, such as birth certificates, abandonment reports, relinquishment agreements, and investigative reports are generally issued by orphanage directors, local People's Committees, Provincial Departments and the Department for International Adoptions (DIA). The facts asserted in these documents are not verified by the issuing officials. Attempts by U.S. officials to verify the accuracy of these documents have routinely uncovered evidence of fraudulent or inaccurate information." **[2d]**

See also Section 28: Forged and fraudulently obtained official documents

The US Embassy Hanoi, provides information on 'Adoption Legislation and Administrative Structure' in Vietnam (Country Fraud Profile), 25 April 2008 **[2e]**

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EDUCATION

23.25 According to Article 59 of the 1992 Constitution, amended in 2001:

"Education is a right and obligation of citizens. Primary education is to be compulsory and free of charge. Citizens have the right to general and vocational education in various forms. The State and society encourage gifted pupils and students in their studies with the view to develop their talents. The State is to adopt policies on tuition fees and scholarships. The State and society are to provide conditions for handicapped and other specially disadvantaged children to enjoy appropriate general and vocational education." **[17a]**

23.26 The USSD Report 2010 recorded, "Education is compulsory, free, and universal through the age of 14; however, authorities did not always enforce the requirement, especially in rural areas, where government and family budgets for education were strained and children's contribution as agricultural laborers was valued." **[2a] (Section 6)**

23.27 Europa World, a reference works, covering political and economic information in over 250 countries and territories, Country Profile: Vietnam, accessed on 20 March 2012 noted:

"Primary education, which is compulsory, begins at six years of age and lasts for five years. Secondary education, beginning at the age of 11, lasts for up to seven years, comprising a first cycle of four years and a second cycle of three years. In 2004/05 enrolment in primary schools included 87.7% of children in the relevant age-group, while enrolment in secondary schools included 69.3% of children in the relevant age-group. According to preliminary official figures in 2010/11 a total of 3.0m. pupils attended pre-primary institutions, at which 157,300 teachers were employed. In the same year, a total of 6.9m. pupils attended primary schools, at which 359,700 teachers were employed; and 7.8m. students were enrolled in secondary level institutions, at which 460,700 teachers were employed. In 1989 Viet Nam's first private college since 1954, Thang Long College, was opened in Hanoi to cater for university students. In 1999/2000 total enrolment at tertiary level was equivalent to 9.7% of students in the relevant age-group (males 11.2%; females 8.1%). In 2010/11, according to preliminary official figures, 2m. students were enrolled within a total of some 414 universities and colleges, at which 71,500 teachers were employed. Of total planned budgetary expenditure by the central Government in 2007, 38,100,000m. dông (11.9% of total expenditure) was allocated to education." **[1a]**

23.28 The World Bank data set on Vietnam, accessed on 10 February 2012, showed that the adult literacy rate (% of people ages 15 and above) was 93 per cent, compared with 90 per cent in 2000. **[12a]**

23.29 A July 2010 Media Release on the 2009 Population and Housing Census by the Statistics Documentation Centre - General Statistics Office of Vietnam noted that:

"Literacy rate for the population aged 15 years and over increased by 3.7 percentage points (from 90.3% in 1999 to 94.0% in 2009). The female literacy rate increased 4.9 percentage points while the male literacy rate increased 2.2 percentage points, significantly narrowing the literacy rate gap between men and women. Ha Noi, Hai Phong and Ho Chi Minh City have the highest literacy rate (97.9%) while Lai Chau has the lowest (59.4%). This data shows the literacy rate was not only increased quite rapidly but also express successes of Vietnam's gender equality work in the education sector.

"According to the 2009 Census results, there are only nearly four million people who have never attended school (5.0% of the total population aged 5 years and over) and as compared with the 1999 Census this number has decreased 5 percentage points (6.9 million people, account for 10.0% of population aged 5 and over). This shows the significant progress of the Vietnam's education sector in minimizing the number of people who never go to school." **[39a]**

23.30 IRIN news reported on December 2011 that, "With Vietnamese the official language for education, school remains inaccessible for many ethnic minorities, who comprise 13 percent of the population and are among the country's most impoverished." **[51b]**

Further background information on the education system in Vietnam can be located in the UNESCO report World data on Education, 7th edition, November 2010. **[20a]**

HEALTH AND WELFARE

23.31 The World Health Organization (Who) Representative Office in Vietnam in an undated background report on child health, accessed on 14 February 2012, observed that "Vietnamese children are healthier today than ever before." Adding:

"The under-five mortality rate in 2002 was reported to be between 30-40 per 1000 live births. This is about one-third of the death rate of 1960. Immunization, which protects Vietnamese children every year against diseases such as measles, polio, diphtheria and tetanus, has contributed significantly to this success. Disease control programmes have also addressed important illnesses such as diarrhoea, acute respiratory infection and malaria. Yet significant problems remain. Respiratory diseases, diarrheal diseases and neonatal conditions remain major killers of children in Viet Nam. Chronic malnutrition affects a third of children under five. There is also data indicating that mortality and morbidity from injuries, including drowning and traffic accidents are increasing. There are significant disparities in health outcomes between different socio-economic groups. Child mortality and morbidity rates are much higher in remote, mountainous and rural areas and among ethnic minorities. For example, children in rural areas are twice as likely to die before their fifth birthday than those in urban area. Children of ethnic groups are 1.4 times likely to die than those of Kinh groups." **[11c]**

23.32 The World Health Organisation's (WHO) Country Cooperation Strategy for Vietnam, 2007-2011, recorded:

"Despite the steep decline in the under-five and infant mortality rates, neonatal mortality has hardly changed, and Viet Nam remains one of the 42 countries in the world estimated to account for 90% of all under-five deaths. Every fourth child (25.2%) is undernourished and anaemia persists in women of child-bearing age and young children. There are also considerable variations throughout the country, depending on geographical area, ethnicity and overall socioeconomic status." **[11a] (p35)**

23.33 A UNAIDS document, The Fourth Country Report on Following up the Implementation to the Declaration of Commitment on HIV and Aids adopted at the 26th United Nations General Assembly Special Session in June 2001 (UNGASS), Reporting Period: January 2008 – December 2009, published March 2010, stated: "In Viet Nam, health insurance is free for children under six. This includes children living with HIV. In 2009, VAAC [Viet Nam Administration of AIDS Control] issued 803 health insurance cards to children aged 6-15 who were living with HIV which entitles them to free treatment and care." **[33a] (p7)**

See also Section 22: Women

See also Section 25: Medical issues

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24. TRAFFICKING

OVERVIEW

24.01 The US State Department's Trafficking in Persons Report 2011, published 27 June 2011 (USSD TiP Report 2011) placed Vietnam in the Tier 2 Watch List. The USSD TiP report defined Tier 2 Watch List as:

"Countries whose governments do not fully comply with the TVPA's [Trafficking Victims Protection Act] minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

"a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

"b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or

"c) The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year." **[2c] (Tier Placements)**

24.02 With regards to the law, the Vietnam Human Rights Network, Annual Report 2011, stated:

"In March 2011, after much international prodding and pressure, the Vietnamese National Assembly passed the Law on Prevention, Suppression Against Human Trafficking. At the same time, Premier Nguyen Tan Dung signed a decision in August 2011 for a 5-year anti-human trafficking program, to be carried out from 2011 to 2015, with an estimated funding of 270 billion dongs (roughly 13 million US dollars). Nonetheless, the human trafficking problem in Vietnam kept becoming increasingly serious, instead of being ameliorated." **[62a] (p28)**

24.03 The website of the United Nations Inter-Agency Project on Human Trafficking (UNIAP), accessed on 16 February 2012, stated, "Human trafficking affects women, men and children in Vietnam. Trafficked persons experience various difficulties ranging from physical and mental health issues, to economic and social reintegration issues." **[30a]**

24.04 The Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, noted:

"Human trafficking from Vietnam is a growing concern. The Child Exploitation and On-line Protection Centre's 2010 report 'Strategic Threat Assessment – Child Trafficking in the UK' identified Vietnam as the number-one source country for potential victims of child trafficking into the UK, and the trafficking of Vietnamese children into and within the UK as the largest and most significant trend during their reporting period. Vietnamese nationals, including children, are trafficked primarily for labour exploitation in cannabis-growing operations, but also for sexual exploitation and other crimes." **[8b] (p340)**

24.05 The USSD TiP Report 2011, stated:

"The Government of Vietnam does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. During the year, the government passed new anti-trafficking legislation and a new five-year national action plan on trafficking. Nevertheless, while a number of structural reforms were carried out during the year, there remained a lack of tangible progress in the prosecution of trafficking offenders and protection of trafficking victims during the

reporting period. In March 2011, the government passed an Anti-Trafficking Statute that provides a comprehensive list of prohibited acts, including some forms of trafficking not previously prohibited by other statutes, and also provides for trafficking prevention efforts. While the government states that most trafficking acts, including labor trafficking, are already covered under Vietnam's Criminal Code, other acts of trafficking require additional legislation and implementing regulations before Vietnam's laws have criminal penalties for all forms of trafficking. The government did not provide information to substantiate reports that authorities criminally prosecuted and criminally punished labor trafficking offenders during the year. Vietnam, therefore, is placed on Tier 2 Watch List for a second consecutive year. Vietnam continued to promote increased labor exports as a way of addressing unemployment and alleviating poverty through foreign exchange remittances, though further measures are required to protect the rights of Vietnamese migrant workers and to prevent new incidents of labor trafficking, such as the implementation of adequate laws to regulate labor recruitment companies. The government also did not take steps to increase its efforts to address the problem of internal trafficking in Vietnam." **[2c] (Vietnam)**

PREVENTION

24.06 The UNIAP website, accessed on 16 February 2012, reflected on the counter-trafficking work carried out in Vietnam and noted that:

"The main target groups are young people in rural areas, mostly in southern and northern Vietnam, but also authorities at various levels and the general public. Many stakeholders carry out this work, which involves awareness-raising campaigns, education and training, vocational and job opportunity provision, life-skills and technical training, and poverty alleviation projects through micro-credit schemes. The sending of Vietnamese laborers abroad is considered a pro-poor development strategy, however, the laws and regulations are also in place as part of the Government's strategy to prevent exploitation and protect migrant workers. In addition, the contribution of the tourism sector towards prevention of child sex tourism and counter trafficking has been emphasized." **[30b]**

24.07 The USSD TiP Report 2011, stated:

"With assistance and cooperation from international organizations, NGOs [Non-Governmental Organisations], and foreign donors, the Vietnamese government continued some efforts to prevent trafficking in persons. In April 2011, the government passed a new five-year National Plan of Action on Human Trafficking, which at the time of publication was awaiting final approval from the prime minister. However, as the government continued to support an increased number of laborers going overseas to work, including travel to countries where abuses of migrant workers are rife, the Vietnamese government has not made sufficient efforts to prevent labor trafficking by requiring destination governments to provide adequate safeguards against forced labor of its migrant workers. Government regulations of labor and marriage brokers remained in general weakly enforced. MOLISA [Ministry of Labour, Invalids and Social Affairs] reported that in 2010, the government investigated 34 labor recruitment companies, issued fines to nine companies for insufficient pre-departure trainings, charging excessive recruiting fees, failing to properly register work contracts, and sending abroad more workers than were officially reported to MOLISA, and suspended two companies' operations for six months for underreporting the number of workers sent abroad and failing to follow regulations governing employee contracts. These two firms were fined $1,250 and $4,750, respectively, but were not criminally prosecuted.

"The Vietnamese Women's Union and the Youth Union continued anti-trafficking education campaigns, including in border areas, on the dangers of sex trafficking, and the VWU began public awareness efforts on safe migration. The VWU [Vietnamese Women's Union] continued to cooperate with its South Korean counterpart in pre-marriage counseling to prevent trafficking of Vietnamese women through international marriage. The government distributed leaflets aimed at both foreign and domestic tourists to combat child sex tourism. Authorities did not report any other efforts to reduce the demand for commercial sex or forced labor. During the year, the government signed memoranda of understanding to cooperate on human trafficking with China and Laos. In July 2010, MOLISA promulgated an optional code of conduct for labor export companies, developed with the assistance of an international organization, and reported that 96 of 171 licensed labor recruiting companies have signed the agreement. During the year, authorities worked to evacuate over 10,000 Vietnamese workers, some of whom may have been trafficking victims, displaced by the conflict in Libya. Each returnee was provided with safe passage home and $95 towards short-term resettlement expenses, and the government is working to connect returnees with new employment opportunities in Vietnam and abroad. Nevertheless, the government has yet to reach adequate agreements with all destination governments on safeguards against forced labor. Vietnam is not a party to the 2000 UN TIP Protocol." **[2c] (Vietnam – Prevention)**

PROSECUTION

24.08 The UNIAP website, accessed on 16 February 2012, stated:

"Prosecution involves police investigations, the criminal justice system and other governmental institutions in Vietnam and abroad. There is a specialized counter-trafficking police unit under the Criminal Police Department (MPS) and selected provinces. In addition, UNODC [United Nations Office on Drugs and Crime], ARTIP [Asia Regional Trafficking in Persons], UNIAP [United Nations Inter-Agency Project on Human Trafficking], IOM [International Organization for Migration] and some other international agencies are involved in providing training and capacity-building of law enforcement agencies. During 2004-2006 Vietnam's legislation was assessed against the Palermo Protocol, the UN Convention on Transnational Organized Crime and the UN Protocol against Smuggling of Migrants. Recommendations included a revision of the Criminal Code and the enactment of a specific comprehensive anti-human trafficking law besides ratification of the UNTOC and the Palermo Protocol. During the years 2004 – 2009, there were 1586 human trafficking cases over the country with 2.888 criminals and 2.935 victims. (Of which there were 1.218 women trafficking cases, 191 children trafficking cases and 177 women and children trafficking cases).748 cases have gone to trial and 1367 criminals have been convicted of trafficking in women and children. The majority of traffickers are prosecuted under Articles 119, 120 and 275 of the Criminal Code, dealing with trafficking for commercial sexual exploitation." **[30b] (Prosecution)**

24.09 The USSD TiP Report 2011, stated:

"While the Vietnamese government demonstrated some efforts in addressing transnational sex trafficking, it demonstrated overall inadequate law enforcement efforts to combat all forms of human trafficking during the reporting period, including in particular labor trafficking. Authorities did not report any investigations or prosecutions of cases of internal trafficking and did not provide information to substantiate reports that it had prosecuted 14 cases of labor trafficking. In March 2011, the National

Assembly passed a new Anti-Trafficking Statute, which provided further definitions on trafficking in persons, as well as victim care and trafficking prevention, but did not assign criminal penalties to the additional prohibited trafficking offenses enumerated in the law. The government acknowledged that there must be further implementing regulations, agency guidelines, or amendments to the Criminal Code to ensure that perpetrators are held criminally accountable for all trafficking crimes. During the year, the government reported that the majority of traffickers were prosecuted under Articles 119 and 120 of the Penal Code, which can be used to prosecute a variety of trafficking and related crimes. Authorities reported that Article 119 can be used to prosecute some forms of trafficking, including labor trafficking, and prescribes punishments of two to seven years' imprisonment, which is sufficiently stringent and commensurate with penalties prescribed for other serious offenses, such as rape. It does not cover, however, all forms of trafficking, including some provisions enumerated in the new Anti-Trafficking Statute. Vietnamese law still does not include provisions that would specifically punish attempts to commit a trafficking offense. During the year, the government reported that it prosecuted most labor trafficking cases not under Article 119, but rather under criminal fraud statutes and under Vietnamese labor laws, the latter of which do not provide criminal penalties for labor trafficking.

"Contract disputes between Vietnamese workers and their Vietnam-based export labor recruitment companies or companies overseas – including for fraudulent recruitment and conditions that are indicative of forced labor – are left largely to the export labor recruiting company to resolve. Although workers have the legal right to take cases to court, in practice few have the resources to do so, and there is no known record of a Vietnamese labor trafficking victim successfully achieving compensation in court; thus in practice, workers are left without reasonable legal recourse. Vietnam's National Supreme Court reported that between January and December of 2010, authorities prosecuted 153 cases of sex trafficking and convicted 274 individuals for sex trafficking offenses; however, these statistics were based on Articles 119 and 120 of the Vietnamese Penal Code, which include crimes other than trafficking, such as human smuggling and child abduction for adoption, and thus cannot be disaggregated. Most individuals convicted were sentenced to prison terms ranging from seven to 15 years' imprisonment. The government did not report any prosecutions or convictions of internal trafficking in Vietnam. The government continued to work with international organizations during the year to train law enforcement officials, border guard officials, and social workers on trafficking.

"Many NGOs suggested trafficking-related corruption continued to occur at the local level, where officials at border crossings and checkpoints took bribes to look the other way. During the reporting period, police arrested a local official in Can Tho for accepting bribes to help register marriages between Vietnamese women and foreign men, though it is unclear whether these women had been trafficked. The government did not report any criminal prosecutions or convictions of officials for trafficking-related complicity during the year. Government and NGO sources report that lack of financial resources, inadequately trained personnel, cumbersome mechanisms for interagency cooperation, poorly coordinated enforcement of existing legal instruments across the country, and the current legal structure that is ill-suited to supporting the identification and prosecution of trafficking cases remain obstacles to greater progress in the country's anti-trafficking efforts." **[2c] (Vietnam – Prosecution)**

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PROTECTION

24.10 The UNIAP website, accessed on 16 February 2012, stated:

> "This work consists of identification, rescue, legal proceedings, repatriation, recovery, reception and reintegration of trafficked women and children particularly from abroad. The local-level sub-committee and international organizations provide medical care, counseling and initial support. As of May 2011, there are 9 shelters and reception centers which are located in Ha Noi, Quang Ninh, Lao Cai (2), Lang Son, An Giang (2), Can Tho and Ho Chi Minh City. These shelters and centers provide food, accommodation, medical care, counseling and vocational training. The victim protection agencies involved in the Reintegration Network to support returned victims of trafficking in Vietnam attempt to strengthen referral systems and capacity-building for social workers, police, hotline operators and others… 60% of VoT [Victims of Trafficking] were self-returnees, 19% were rescued and 21% were repatriated." **[30b] (Protection)**

24.11 The USSD TiP Report 2011, stated:

> "The Vietnamese government sustained some efforts to protect victims of transnational sex trafficking and outlined additional victim protection plans in its new anti-trafficking law, though it did not make sufficient efforts during the year to identify or protect victims of labor trafficking or internal trafficking. The government has yet to employ systematic procedures nationwide to proactively and effectively identify victims of trafficking among vulnerable populations, such as women arrested for prostitution and migrant workers returning from abroad, and victim identification efforts remained poor across all identified migration and trafficking streams. Border guards and police at the district and provincial levels received limited training about identification of trafficking victims and handling of cases, which in some cases improved some officers' ability to monitor and investigate trafficking cases, but the lack of adequate training reportedly led to poor investigations and techniques that were harmful to some victims. Vietnam's National Steering Committee on Trafficking in Persons reported that 250 Vietnamese trafficking victims were identified by Vietnamese and foreign police, and 500 victims were identified and repatriated by foreign governments, 100 of whom were trafficked to South Korea, Malaysia, and Singapore. Vietnamese statistics, however, include some cases in which children were abducted and sold for adoption; it is not clear if any of these cases constituted trafficking. While authorities have formal procedures for receiving victims and referring them to care, there is wide recognition that the referral system has significant deficiencies and remains inadequate, including because of challenges of identifying victims who do not return via official border crossings and victims who do not want to be identified by authorities due to social stigma and other reasons.
>
> "The government did not provide adequate legal protection or assistance in Vietnam or abroad from conditions of forced labor. During the year, more than 85,000 Vietnamese workers travelled abroad to work, and the total number of Vietnamese working overseas in 40 countries and territories is estimated to be around 500,000. Though no new agreements were signed during the reporting period, the government continued to seek agreements with countries to facilitate the employment of Vietnamese laborers abroad; it is unclear whether agreements signed with governments of demand countries had provisions to prevent human trafficking and protect trafficking victims. Vietnam maintains labor attaches in nine countries receiving the largest number of Vietnamese migrant workers, but it does not maintain embassies in some countries where there are reports of trafficking and in some cases responded weakly to protect migrant workers. Diplomats were reportedly unresponsive to complaints of exploitation, abuse, and

trafficking by migrant workers in some cases. One Vietnamese embassy abroad reportedly intervened in an identified labor trafficking case to support the Vietnamese labor export company involved in the trafficking of Vietnamese workers. Government regulations also do not prohibit labor export companies from withholding the passports of workers in destination countries and companies were known to withhold workers' travel documents, a known contributor to trafficking. The Ministry of Labor, War Invalids, and Social Affairs (MOLISA) and the Ministry of Foreign Affairs (MFA) announced increased efforts to monitor labor conditions for Vietnamese workers in destination countries and to look for signs of trafficking, though the government did not publish data about individual cases where it identified or assisted Vietnamese migrant workers subjected to forced labor. Vietnamese workers do not have adequate legal recourse to file complaints in court against labor recruitment companies in cases where they may have been the victim of trafficking. Although workers have the right in principle to sue labor export companies, the cost of pursuing legal action in civil cases remains in effect prohibitively expensive, and there has been no indication of victims receiving legal redress in Vietnamese courts.

"The government's Vietnamese Women's Union (VWU), in partnership with NGOs, continued to operate three trafficking shelters in Vietnam's largest urban areas, which provided counseling and vocational training to female sex trafficking victims. The VWU and border guards also operate smaller shelters that provide temporary assistance to migrants in need of assistance at some of the most heavily used crossing points. The government, however, lacks the resources and technical expertise to adequately support shelters, and as a result, in many areas shelters are rudimentary, underfunded, and lack appropriately trained personnel. Trafficking victims also are inappropriately housed at times in MOLISA shelters co-located with those of drug users' rehabilitation and reintegration of individuals leaving prostitution. There are no shelters or services specifically dedicated to assisting male victims of trafficking or victims of labor trafficking. The government reportedly encourages victims to assist in the prosecution of their traffickers, though Vietnam generally does not provide police-assisted witness protection to victims of crime. There were no data on the number of victims involved in prosecutions during the reporting period. Victims are often reluctant to participate in investigations or trials due to social stigma, particularly as it relates to prostitution, fear of retribution in their local communities, and lack of incentives for participation. Vietnamese law does have provisions to protect trafficking victims from facing criminal charges for actions taken as a direct consequence of being trafficked. There are no legal alternatives for the removal of foreign victims to countries where they face retribution or hardship." **[2c] (Vietnam – Protection)**

See also Section 22: Women – Trafficking of women

See also Section 23: Children

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25. MEDICAL ISSUES

OVERVIEW OF AVAILABILITY OF MEDICAL TREATMENT AND DRUGS

25.01 The World Bank Report, Vietnam Country gender assessment, published on 8 November 2011, stated:

"In terms of health care availability, VHLSS [Viet Nam Household Living Standards Survey] 2008 data suggests that the majority of those who reported an illness were able to visit a health care worker or centre, suggesting that health care provision is keeping up with the needs of the population. However, there has been an apparent decline in access since 2006. Among individuals reporting an illness, the percentages of men and women who visited a health provider declined from 77% and 78% respectively to 61% and 65%." **[12b] (p30)**

25.02 The World Health Organisation's (WHO) Country Cooperation Strategy for Vietnam, 2007-2011, recorded:

"Until the end of the 1980s, the Government of Viet Nam financed and provided free health care services to the population. The economic crisis of 1986 caused the launch the doi moi (reforms) in an attempt to transform the country from a state-controlled to a market economy. In the health sector, wide-ranging reforms were introduced in 1989. A number of market-oriented measures, including user charges, private sector provision and liberalization of the production and sale of pharmaceuticals, were implemented. The impacts of these reforms are still affecting the health system today. The doi moi renewal process is generally recognized as having helped to improve the well-being of Viet Nam's population by substantially reducing poverty and increasing per capita GDP growth to an average of more than 7% per annum in the past decade. Nonetheless, Viet Nam remains among Asia's low-income countries, with many inequalities, including growing health disparities between urban and rural, rich and poor, and different geographical areas… Viet Nam's health indices have improved substantially in recent years, although it has had to face a host of relatively new health problems, such as avian influenza, which remains a serious public health threat to the country. Other new challenges to the health sector include: rising incidences of noncommunicable and lifestyle-related diseases, such as tobacco-related diseases and road accidents; the escalating HIV/AIDS epidemic, coupled with the simultaneous rise in tuberculosis; and the emergence of diseases such as dengue and lymphatic filariasis. These new challenges require a less fragmented health system with better strategies and more resources that can be mobilized to cope effectively and efficiently with current demands." **[11a] (p6-7)**

25.03 The same source noted:

"Viet Nam's health system retains its socialist basis, with the state health system playing a key role in health service provision. Services are delivered by both private providers and an extensive public network of village health workers, commune health stations, intercommunal polyclinics, district hospitals, district preventive health centres, provincial hospitals, and regional, central and specialist hospitals. Planning and management of the public network involves the national Ministry of Health, provincial departments of health and district health offices, which are responsible for village health workers and commune health stations. The 1056 public hospitals provide 17.24 beds per 10 000 residents and deliver most inpatient care; the 49 private hospitals provide only 0.48 beds per 10 000 residents. Central-level public hospitals are overcrowded, with an occupancy rate of 116% in 2002, compared with 98% for provincial hospitals and 85% for district hospitals. This is largely due to patients bypassing lower levels of care (when they have the resources to do so) as there is a degree of distrust in the quality of services, particularly at district level. Evidence on quality standards is limited, but widely acknowledged to need improvement. In 2004, only 75% of cases referred to central hospitals by district and provincial clinics and only 59% of patients referred to clinics at the provincial level were diagnosed correctly.10 Inequities are evident in the inpatient

admission rate and the average length of hospital stay, both of which are nearly twice as high for the highest quintile compared with the lowest… A significant volume of outpatient services are provided by private hospitals and the 30 000 private general practitioner clinics. There is a serious imbalance in the distribution of private practitioners, with a higher concentration in areas with higher living standards." **[11a] (p14)**

25.04 An article on The Global Health Check website, posted by Anna Marriott, Health Policy Advisor for Oxfam GB, on 24 October 2011, reproduced with permission from an article published in the Oxford Analytica Daily Brief on September 27, 2011, observed that:

"The national health insurance scheme currently covers an estimated 60% of the population. Today, about 35 million Vietnamese are uninsured and at high risk of falling into poverty when encountering major medical expenses. The 53 million insured can in principle benefit from their health insurance. However, in reality, the poor and the exempted groups still find services unavailable without informal fees, known as 'envelope' payments, to doctors, nurses, midwives or other health staff. Indeed, a recent national survey shows that 65% of respondents experienced corruption at local health services and 70% of the medical staff interviewed admitted that they have asked patients to pay bribes. Due to this endemic corruption, the access of poorer Vietnamese to healthcare services remains limited." **[28a]**

See also Section 11: Arrest and detention – legal rights **for information regarding government detention centres where** those dependent on illegal drugs can be held.

See also Section 22: Women – Health and welfare

See also Section 23: Children – Health and welfare

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DRUG ADDICTION

25.05 The Human Rights Watch (HRW) report, The Rehab Archipelago, published on 7 September 2011, stated:

"Beginning in the mid-1990s, the intensification of a broad campaign against 'social evils' triggered frantic legislative activity. The government adopted detailed regulations in an effort to control an array of activities, ranging from sex work to vagrancy to the influence of foreign culture, going so far as to ensure karaoke rooms had transparent glass doors and that advertising signage had larger Vietnamese lettering than foreign language lettering.

"In January 1993, the Vietnamese government issued resolutions 05/CP and 06/CP on 'the prevention and control of prostitution' and 'strengthening the guidance in drug control' respectively. In resolution 06/CP, drug use was described as 'opposed to the moral tradition of the nation.' The resolution, in line with the 1989 health law and the 1992 Vietnamese constitution, stated that people dependent on drugs must be compulsorily treated for their dependency.

"The Vietnamese government put in place a complex set of laws formalizing the principle of forced treatment for drug dependency. For example:

- "Decree 53/CP of 1994 empowered the chairman of the People's Committees at the provincial and city levels to impose a range of administrative sanctions against people dependent on drugs, including the authority to 'issue a decision to take him or her to a medical treatment center or detoxification center for forcible labor.'

- "The 1995 Ordinance on the Handling of Violations of Administrative Regulations imposed compulsory treatment on people dependent on drugs in specific conditions. It established that, 'Frequent drug abusers and prostitutes who have been reprimanded by local authorities and people without showing any repentance shall be sent to medical treatment establishments for treatment, education and manual labor for from three months to one year.'

"At the end of 2000, the national Law on Preventing and Combating Narcotic Drugs (the Drugs Law) was adopted, incorporating many elements of the existing legal regime of compulsory drug treatment. The law is still in force.

"The Drugs Law establishes that a person dependent on drugs must report his or her dependency to his or her local administration or workplace. He or she has a legal obligation to register for detoxification. What the law calls 'opposing or obstructing drug detoxification' is strictly prohibited. Family members of a person dependent on drugs must report their relative's drug use to local authorities, monitor their relative's drug use, and 'prevent them from illicit drug use or any act that disturbs social order and safety.'

"Family members must either assist in home-based detoxification, or

"support the competent agency/agencies in sending such addicted family members to a compulsory detoxification institution and contribute funds to cover the cost of detoxification as stipulated by law.

"Compulsory detention is mandated for an individual over 18 'who still indulges in his/her drug-taking habit after being subjected to detoxification at home and/or in the local community or educated repeatedly in his/her own commune, urban ward or district township or who has no fixed place of residence.' The duration of 'detoxification' is stipulated as being between one and two years…

"In June 2009, criminal punishment for drug use was eliminated, reinforcing Vietnam's approach of administrative penalties. One consequence of this approach is that being held in drug detention centers in Vietnam, unlike detention under criminal procedure law, is not subject to due process and judicial oversight." **[5c] (p14-17)**

25.06 An Integrated Regional Information Networks (IRIN) news article of 9 May 2011 reported on the drug treatment centres in Vietnam, noting that:

"More than 90 percent of injecting drug users held at these centres relapse into drug addiction upon release, according to UNAIDS. Beneficiaries at the centres, which began opening in the mid-2000s, are supposed to receive counselling, health checks, and vocational training to assist recovery and prevent relapse. But according to health experts, employees are not trained to treat drug addiction, and the fear of being sent to the centres encourages drug users to go underground." Further adding: "When Vietnamese heroin addicts leave compulsory treatment centres, they face a 'palpable and substantial' societal stigma against drug use, said Robert Ali of the World Health Organization's (WHO) Collaborating Centre for Research into the Treatment of Drug

and Alcohol Problems. Vietnam has made significant drug policy reforms since the mid-1990s, but most Vietnamese citizens and officials still see drug addiction as a 'moral weakness' or 'social evil' rather than a medical disease with a social dimension, Ali said." **[51c]**

25.07 The same IRIN article noted:

"International health experts criticize Vietnam's estimated 70 compulsory drug treatment centres. The centres are part of a government strategy aimed at 'correcting the illegal behaviours of drug use and sex work', according to UNAIDS. They are believed to hold 20,000-70,000 drug addicts and/or former sex workers, said a Hanoi-based health expert familiar with Vietnam's drug treatment procedures. Vietnam's compulsory treatment centres 'are counterproductive on every single level,' said Simon Baldwin, a former senior technical officer for HIV and drugs, at the US NGO Family Health International, which is working on drug treatment in Vietnam." **[51c]**

25.08 Another IRIN article dated 7 September 2011 reported however, that the Human Rights Watch (HRW) had called for the immediate closure of more than 100 government-run drug detention centres, describing them as "little more than forced labour camps". Joe Amon, director of HRW's health and human rights division, told IRIN that "The reason Vietnam has expanded its drug detention system is profit, not treatment". **[51d]**

25.09 According to the HRW report The Rehab Archipelago, released on 7 September:

"Vietnam's system of forced labor centers for people who use drugs has expanded over the last decade. In 2000, there were 56 drug detention centers across Vietnam; by early 2011 that number had risen to 123 centers. Between 2000 and 2010, over 309,000 people across Vietnam passed through the centers.

"The length of time in detention has also grown. At the beginning of 2000, the law provided for a person dependent on drugs to be detained for treatment from three months to a year. In 2009 the National Assembly passed a law allowing for individuals to be held for up to four years for supposed drug treatment." **[5c] (p2)**

Drug detention centres

This section should be read in conjunction with Section 8: Security forces – Arbitrary arrest and detention and Section 11: Arrest and detention – Legal rights.

25.10 The Human Rights Watch (HRW) World Report 2012: Vietnam, covering events of 2011, published 22 January 2012, stated:

"People dependent on illegal drugs can be held in government detention centers where they are subjected to 'labor therapy,' the mainstay of Vietnam's approach to drug treatment. In early 2011 there were 123 centers across the country holding some 40,000 people, including children as young as 12. Their detention is not subject to any form of due process or judicial oversight and routinely lasts for as long as four years. Infringement of center rules - including the work requirement - is punished by beatings with truncheons, shocks with electrical batons, and being locked in disciplinary rooms where detainees are deprived of food and water. Former detainees report being forced to work in cashew processing and other forms of agricultural production, including potato or coffee farming; construction work; and garment manufacturing and other forms of manufacturing, such as making bamboo and rattan products. Under Vietnamese law, companies who source products from these centres are eligible for tax exemptions.

Some products produced as a result of this forced labor made their way into the supply chain of companies who sell goods abroad, including to the United States and Europe." **[5a] (p406-408)**

25.11 The Human Rights Watch (HRW) report, The Rehab Archipelago, published on 7 September 2011, described the detention centres in southern Vietnam where forced labour and other abuses had been reported:

"No two drug detention centers in Vietnam are exactly alike. Some are prison-like compounds in major cities, behind high walls topped with barbed wire. Others are sprawling clusters of barracks located in peri-urban industrial zones. Still more resemble expansive agricultural estates in remote border provinces. Regardless of location, all are surrounded by fences or walls and watched over by guards. None provide drug dependency treatment that is humane or effective.

"Some centers hold just a few dozen detainees, while some lock up over a thousand. Many hold several hundred detainees. A considerable number of drug detention centers also double as detention centers for sex workers. All rely upon forced labor as 'therapy.'

"In official government terminology, the centers are referred to as 'Centers for Social Education and Labor' (Trung Tam Giao Duc Lao Dong Xa Hoi), 'Centers for Post Rehabilitation Management' (Trung Tam Quan Ly Sau Cai Nghien), or 'Centers for Vocational Training and Job Placement' (Co So Day Nghe Va Giai Quyet Viec Lam). Each center is free to adopt a title with a similarly vague and benign meaning, such as 'Center for Receiving Social Subjects,' 'Center for Labor, Education and Social Sponsorship,' and 'School for Vocational Training, Education and Job Placement.'" **[5c] (p11)**

See also Section 8: Security forces - Arbitrary arrest and detention

See also Section 11: Arrest and detention – legal rights

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HIV/AIDS – ANTI-RETROVIRAL TREATMENT

25.12 The United Nations document, 'HIV transmission from men to women in intimate partner relationships in Vietnam: a discussion paper', published on 5 May 2011, stated:

"In 2009, it was estimated that 243,000 people in Viet Nam were living with HIV, with prevalence among adults (ages 15 to 49) at 0.43 per cent of the population. HIV infection is still heavily concentrated among men who use drugs or engage in other high-risk behaviours. In 2009, the number of male adults living with HIV was three times higher than the number of female adults living with HIV, and men still make up the majority of new infections. However, it is estimated that the male-female ratio will gradually decrease, reaching 2.6 by 2012, reflecting the risk of transmission from HIV positive injecting drug users (IDUs) and clients of sex workers to their spouses or regular sexual partners." **[52b] (p5, Executive Summary)**

25.13 A UNAIDS document, The Fourth Country Report on Following up the Implementation to the Declaration of Commitment on HIV and Aids adopted at the 26th United Nations General Assembly Special Session in June 2001 (UNGASS), Reporting Period: January 2008 – December 2009, published March 2010, stated:

"The HIV epidemic in Viet Nam is still in a concentrated stage, with the highest HIV prevalence found in specific populations – namely injecting drugs users (IDU), female sex workers (FSW) and men who have sex with men (MSM). The HIV epidemic may have begun to stabilize, as reflected by stable trends in HIV prevalence among IDUs and FSWs in many places while in other places, these trends are increasing such as in the northwest (Dien Bien and Son La). HIV prevalence among other sentinel groups, such as male military recruits and pregnant women, is low and also shows signs of stabilizing. According to the Viet Nam HIV/AIDS Estimates and Projections 2007-2012, adult HIV prevalence (aged 15-49) remains low at 0.43% in 2009. It is estimated there will be 254,000 people living with HIV (PLHIV) by 2010 and up to 280,000 by 2012.

"HIV cases have been reported nationwide in all 63 provinces/cities, 97.5 % of districts, and 70.5% of wards/communes. As of 31 December 2009, there were 160,019 reported HIV cases and 44,050 deaths due to AIDS-related illnesses. In 2009, there were 15,713 newly-reported HIV cases and 2,010 AIDS-related deaths.

"According to the available data, the majority of PLHIV are under 40. People aged 20-39 years account for more than 80% of all reported cases and the proportion of PLHIV aged 30-39 is showing signs of increasing. According to the available data, men accounted for 73.2% of all reported cases in 2009." **[33a] (p27)**

25.14 With regards to treatment the UNAIDS document observed:

"HIV treatment, care and support needs in Viet Nam are rapidly increasing. According to the Ministry of Health (MOH), the estimated number of adults in need of antiretroviral therapy (ART) treatment increased from 47,516 in 2007 to 67,047 in 2009…

"By 2009 there were fourteen 05/06 Centers providing ART under Global Fund Round 6 activities. These fourteen Centers, plus an additional Center, also provided voluntary testing and counseling (VCT) and information, education communication (IEC) services. Eighteen centers also received technical assistance to provide healthcare and counselling services to people living with HIV (PLHIV). Currently, ART is not available in any prisons and only a few are providing TB treatment." **[33a] (p27-28)**

25.15 The website of the US President's Emergency Plan for AIDS Relief (PEPFAR), accessed on 19 March 2012, listed the progress achieved in Vietnam, through direct PEPFAR support during 2010, as follows:

- 31,000 individuals receiving antiretroviral treatment
- 100,200 HIV-positive individuals who received care and support (including TB/HIV)
- 17,300 orphans and vulnerable children (OVCs) receiving support
- 403,500 pregnant women with known HIV status receiving services
- 1,200 HIV-positive pregnant women receiving antiretroviral prophylaxis for PMTCT
- 624,600 individuals receiving counseling and testing
- 228 estimated infant HIV infections averted. **[25]**

25.16 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, noted:

"There was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed. Individuals who tested positive for HIV reported latent social stigma and discrimination, although not in receiving medical treatment for their condition. The law states that employers cannot fire individuals for having HIV/AIDS and doctors cannot refuse to treat persons with HIV/AIDS. However, there were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. The government reported approximately 5,100 school age children with HIV/AIDS. In several cases HIV/AIDS-infected children or HIV/AIDS orphans were barred from schools due to pressure from other parents. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and thereby decrease societal stigma and discrimination, but these measures were not consistently applied. Faith-based charities were sometimes permitted to provide HIV prevention and home-based care services to persons with or affected by HIV/AIDS." **[2a] (Section 6)**

TUBERCULOSIS (TB)

25.17 Thanh Nien, the flagship publication of the Vietnam National Youth Federation, reported in an article on 13 March 2012 that:

"Vietnam ranks 12th among 22 countries with the world's highest numbers of tuberculosis patients, a representative of the National Tuberculosis Control program told the press Monday [12 March 2012]. Program director Dr. Dinh Ngoc Sy said at the moment there were at least 300,000 TB infections across the country. Every year some 200,000 new cases are reported and 30,000 die of the disease, he said. According to Sy, the number of TB patients in Vietnam is the fourth highest in Asia, after China, the Philippines and Cambodia. Vietnam also ranks 14 among 27 countries which are burdened by multi-drug-resistant TB with 2.7 percent of the current patients suffering from it, he noted." **[35a]**

The World Health Organisation (WHO) report Global tuberculosis control 2011 provides statistical information on the prevalence of Tuberculosis (TB) in Vietnam. **[11d]**

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KIDNEY DIALYSIS

25.18 A report, dated July 2007, on the website of Peritoneal Dialysis International, noted, "According to a preliminary study, the prevalence of treated end-stage renal disease (ESRD) in Vietnam is about 120 per million population; the most common causes of ESRD are glomerulonephritis, hypertension, and diabetes mellitus. Hemodialysis (HD), peritoneal dialysis (PD), and transplantation are now all available in Vietnam." **[43a]**

MENTAL HEALTH

25.19 The World Health Organisation's (WHO) Country Cooperation Strategy for Vietnam, 2007-2011, recorded that "there are still services, such as mental health, that are poorly resourced and have a serious shortage of trained personnel." **[11a] (p14)** The WHO's

Mental Health Atlas 2005 Country Profile for Vietnam noted that a mental health programme was one of the ten objectives listed in the National Health Programme of 1999, but there is no mental health legislation. As recorded by the same source, "Medications approved by the Ministry of Health for people with schizophrenia and epilepsy are routinely available and are free. Medications for other conditions may or may not be available and would not be free." **[11b]**

25.20 The same source stated further:

"The country has disability benefits for persons with mental disorders… Primary care is provided for maintenance and rehabilitation. Traditional medicines are routinely used for treatment… Community based mental health care is integrated in the primary care system. Effective psychosocial rehabilitation is still to develop. Proper integration of different facilities is lacking… Out of the 64 provinces and cities in the country, 47 have a psychiatric department in a general hospital and 29 have a psychiatric hospital. However, the level of services and access fall as one moves from province to district to community." **[11b]**

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26. FREEDOM OF MOVEMENT

26.01 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, noted, "The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government imposed some limits on freedom of movement for certain individuals." The report stated further:

"The 2007 Law on Residence was not broadly implemented, and migration from rural areas to cities continued unabated. However, moving without permission hampered persons seeking legal residence permits, public education, and health-care benefits. Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens also were required to register with local police when staying overnight in any location outside of their own homes; the government appeared to enforce these requirements more strictly in some districts of the Central and Northern Highlands." **[2a] (Section 2d)**

26.02 As recorded by the website of the US State Department's Bureau of Consular Affairs, accessed on 19 March 2012, "Every person residing in Vietnam must be listed on a household registry (Ho Khau), maintained by the Public Security Bureau." **[2d]** The USSD Report 2010 noted, "Household registration and block warden systems existed for the surveillance of all citizens, although these systems were less intrusive than in the past. Authorities focused particular attention on persons suspected of being involved in unauthorized political or religious activities." **[2a] (Section 1f)**

See also Section 27: Citizenship and nationality - Passports

26.03 A report by the Immigration and Refugee Board (IRB) of Canada, dated 27 February 2009, noted:

"In 18 February 2009 correspondence, an international human rights lawyer specializing in Southeast Asia stated the following:

"The Household Registry [ho khau] is the major form of proof that a person has an established address and is officially associated by blood or marital relationship to the other family members listed on the Registry. In demonstrating identity and residence for the purpose of obtaining any benefits or official documents (i.e. passports or exit documents) the Registry functions as the primary proof without which local officials will more likely than not deny benefits to anyone not part of the Registry. According to a 2006 Human Rights Watch (HRW) report, household registration documentation in Vietnam is essential for legally obtaining a job, collecting food rations, attending government schools, receiving health care, travelling, voting and contesting administrative abuses... The report also indicates that children who do not have household registration documentation are more likely to be arrested or harassed by the police and may not be eligible to receive basic social services... In an April 2006 Viet Nam News article, the Chairman of Vietnam's National Assembly Committee on External Affairs is quoted as saying that the household registration book is an important document to have in order to obtain a birth certificate, to access education and to vote… Additionally, the Vice Chairman of the National Assembly's Legal Committee stated that household registration is linked to the government's 'preferential policies and [is] essential for people living in disadvantaged, mountainous and remote regions'… A June 2006 Viet Nam News article quotes Deputy Ma Dien Cu from Binh Thuan province [southeast Vietnam] as saying that 'there's nothing wrong with the [household registration] books,' but that 'it's those who manage them who cause trouble for people and infringe on the rights of many citizens'… According to the same article, Deputy Tran Van Nam from Binh Duong province [southern Vietnam] commented on the 'overuse' of the household registration books in order to deliver services… Deputy Le Thi Nga from Thanh Hoa province [northern Vietnam] cited a Ministry of Public Security report when stating that there are 380 regulations governing household registration that 'limit citizen rights'... Further information on these regulations could not be found among the sources consulted by the Research Directorate… According to an October 2008 Viet Nam News article, the Deputy Head of the Hanoi Police Office for Administrative Management and Social Order indicated that the Hanoi police expected to spend 20 days checking household registration books searching for 'suspected people' and 'unusual relationship[s]'... The article reported that those not registered with local police or who haven't informed the police of an address change 'would be punished'." **[6d]**

26.04 On 24 February 2009 the Canadian IRB recorded:

"In 18 February 2009 correspondence, an official at the Consulate General of Canada in Ho Chi Minh City, Vietnam stated that individual's names are removed from the household registration (ho khau) under the following circumstances:
1) [B]eing declared disappeared or dead by the Court;
2) Being recruited by the Army, Police and living in barracks;
3) Having immigrated abroad;
4) Being registered at a new residence; in this case, the local authority that processes the new permanent residence of the citizen has the responsibility of informing the delegated authority for issuing the certificate of household move to remove the permanent residence of that individual at the previous residence.
The Official also indicated that Persons who have been absent from their permanent place of residence for more than 6 months without registering their temporary absence and without plausible reasons shall have their names crossed out from the household

registration book. When they return, they must re-apply for registration of their permanent residence as stipulated.
With regard to those persons who have registered their permanent residence but who in fact do not live in their permanent residence address without any plausible reasons, or cannot live there, the household management agency must cross out their names in the household registration book...
The Official stated that household registration procedures and paperwork may vary slightly from province to province… The information provided by the Official is based on government Decree/Circular, government websites and local knowledge... When asked about whether individuals are removed from their household registration as a form of punishment, an international human rights lawyer specializing in Southeast Asia stated the following: 'I know of no situation where a person is removed from their own [household] Registry, but cannot state that it is not done in cases where some doubts exist as to a family relationship'... No further information relating to the removal of individuals from their household registration as a form of punishment could be found among the sources consulted by the Research Directorate." **[6c]**

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27. CITIZENSHIP AND NATIONALITY

27.01 On the Australian Embassy in Vietnam's website, accessed on 19 March 2012, it stated that:

"According to the new Citizenship Law of the Socialist Republic of Vietnam which came into effect on 1 January 1999, the Vietnamese Government still does not recognise dual nationality - any person with Vietnamese citizenship (whether or not the person also possesses the citizenship of another country e.g. Australia) is regarded by the Vietnamese government firstly as a Vietnamese national. The only exception to this is where a person has formally renounced their Vietnamese citizenship...

"Vietnamese citizenship can be acquired by birth or by application to the Vietnamese authorities. Any person born with at least one parent who is a Vietnamese citizen, whether the person was born in or outside Vietnam, is generally considered by Vietnamese law to be a Vietnamese citizen. Children of non-Vietnamese parents born in Vietnam are also eligible for Vietnamese nationality unless the parents choose otherwise. It is possible to relinquish Vietnamese citizenship but experience has shown this can take some time to finalise as it requires approval by the President…" **[16a]**

PASSPORTS

27.02 The US State Department's Bureau of Consular Affairs, accessed on 19 March 2012 noted that:

"The following are considered to meet the requirements of INA 101(a)(30) [Related Statutory Provisions]

- "A Socialist Republic of Vietnam (SRV) passport (ho chieu, or giay ho chieu). SRV regulations effective November 26, 1997, abolished exit and entry permits in Vietnamese passports.

- "A laissez-passer (giay thong hanh or giay xuat canh) permitting only exit from Vietnam.

"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." **[2d]**

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28. FORGED AND FRAUDULENTLY OBTAINED OFFICIAL DOCUMENTS

28.01 The US State Department's Bureau of Consular Affairs, accessed on 19 March 2012 noted that:

"Documents relating to adoptions in Vietnam, such as birth certificates, abandonment reports, relinquishment agreements, and investigative reports are generally issued by orphanage directors, local People's Committees, Provincial Departments and the Department for International Adoptions (DIA). The facts asserted in these documents are not verified by the issuing officials. Attempts by U.S. officials to verify the accuracy of these documents have routinely uncovered evidence of fraudulent or inaccurate information." **[2d]**

See also Section 17: Corruption

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29. EXIT AND RETURN

29.01 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011 recorded:

"Officials occasionally delayed citizens' access to passports in order to extort bribes, and prospective emigrants occasionally encountered difficulties obtaining a passport… The government generally permitted citizens who had emigrated to return to visit. However, the government refused to allow certain activists living abroad to return. Known overseas Vietnamese political activists were denied entrance visas or were detained and deported after entering the country." **[2a] (Section 2d)**

29.02 The report stated further:

"Emigrants who acquire another country's citizenship are generally considered Vietnamese citizens unless they formally renounce their Vietnamese citizenship. However, in practice the government treated overseas Vietnamese as citizens of their adopted country. Legislation passed in 2008 sought to clarify this apparent discrepancy by allowing for dual citizenship. The government generally encouraged visits and investment by such persons but sometimes monitored them carefully. The government continued to liberalize travel restrictions for overseas Vietnamese, including permitting

visa-free travel and permitting individuals to petition to receive Vietnamese passports." **[2a] (Section 2d)**

See also Section 14: Political affiliation - Opposition groups and political activists

See also Section 27: Citizenship and nationality - Passports

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30. EMPLOYMENT RIGHTS

30.01 The US State Department's 2010 Country Report on Human Rights Practices (USSD Report 2010), published on 8 April 2011, noted:

"The law does not allow workers to organize and join independent unions of their choice. While workers may chose whether or not to join a union and the level (local, provincial, or national) at which they wish to participate, every union must be affiliated with the country's only trade union, the Vietnam General Confederation of Labor (VGCL). The VGCL, a union umbrella organization controlled by the CPV, approves and manages a range of subsidiary labor unions organized according to location and industry. By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union." **[2a]**

30.02 In its World Report 2011 (Events of 2010), dated 24 January 2011, Human Rights Watch recorded, "The government bans independent trade unions and human rights organizations, as well as opposition political parties. Current labor law makes it almost impossible to declare a legal strike, and while illegal 'wild-cat' strikes do occur, workers found to be leading such work stoppages face retaliation from the authorities and their employers. Activists who promote workers' rights and independent unions are frequently harassed, arrested, or jailed." **[5a]**

30.03 On 4 May 2009 Human Rights Watch published a report entitled Not Yet a Workers' Paradise: Vietnam's Suppression of the Independent Workers' Movement, in which it documented the Vietnamese government's suppression of activists who have been prominent in trying to form independent labour unions and promote workers' rights. **[5q]**

Annex A

CHRONOLOGY OF MAJOR EVENTS

1945 The Viet Minh seizes power. Ho Chi Minh announces Vietnam's independence.

1946 French forces attack Viet Minh in Haiphong in November, sparking the war of resistance against the colonial power.

1950 Democratic Republic of Vietnam is recognised by China and USSR.

1954 Viet Minh forces attack an isolated French military outpost in the town of Dien Bien. The attempt to take the outpost lasts two months, during which time the French government agrees to peace talks in Geneva. At the Geneva conference, Vietnam is split into North and South at the 17th Parallel.

1956 South Vietnamese President Ngo Dinh Diem begins campaign against political dissidents.

1957 Beginning of communist insurgency in the South.

1959 Weapons and men from North Vietnam begin infiltrating the South.

1960 American aid to Diem increased.

1962 Number of US military advisors in South Vietnam rises to 12,000.

1963 Viet Cong, the communist guerrillas operating in South Vietnam, defeat units of the ARVN, the South Vietnamese Army. President Diem is overthrown.

1964 US destroyer allegedly attacked by North Vietnamese patrol boats. This triggers start of pre-planned American bombing raids on North Vietnam.

1965 200,000 American combat troops arrive in South Vietnam.

1966 US troop numbers in Vietnam rise to 400,000, then to 500,000 the following year.

1968 Tet Offensive – a combined assault by Viet Cong and the North Vietnamese army on US positions – begins. More than 500 civilians die in the massacre at My Lai.

1969 Ho Chi Minh dies. President Nixon begins to reduce US ground troops in Vietnam as domestic public opposition to the war grows.

1970 Nixon's national security advisor, Henry Kissinger, and Le Duc Tho, for the Hanoi government, start talks in Paris.

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1973	Ceasefire agreement in Paris, US troop pull-out completed by March.
1975	North Vietnamese troops invade South Vietnam and take control of the whole country after South Vietnamese President Duong Van Minh surrenders.
1976	Socialist Republic of Vietnam proclaimed. Saigon is re-named Ho Chi Minh City. Hundreds of thousands flee abroad, including many “boat people”.
1979	Vietnam invades Cambodia and ousts the Khmer Rouge regime of Pol Pot. In response, Chinese troops cross Vietnam’s northern border. They are pushed back by Vietnamese forces. The number of “boat people” trying to leave Vietnam causes international concern.
1986	Nguyen Van Linh becomes party leader. He introduces a more liberal economic policy.
1989	Vietnamese troops withdraw from Cambodia.
1992	New constitution adopted allowing certain economic freedoms. The Communist Party remains the leading force in Vietnamese society.
1994	US lifts its 30-year trade embargo.
1995	Vietnam and US restore full diplomatic relations. Vietnam becomes full member of Association of Southeast Asian Nations (Asean).
1997	Le Kha Phieu becomes party leader. Tran Duc Luong chosen as president, Phan Van Khai becomes prime minister.
1998	A senior party member, Pham The Duyet, faces charges of corruption. Economic growth slumps in the wake of the Asian financial crisis.
1999	A former high-ranking party member, Tran Do, is expelled after calling for more democracy and freedom of expression.
2000	US President Bill Clinton pays a three-day official visit. The US pledges more help to clear landmines left over from the Vietnam war. The Vietnamese government estimates nearly 40,000 people have been killed by unexploded munitions.
2001	
April	The Communist Party chooses Nong Duc Manh as its new leader.
December	US, Vietnam implement a trade agreement which normalises the trade status between them.

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2002

January	First sets of remains of Vietnamese soldiers killed in Cambodia are repatriated. More than 10,000 are estimated to have been killed in the wars against the French, the Americans and during Vietnam's 10-year occupation of the country.
May	Russia hands back the Cam Ranh Bay naval base, once the largest Soviet base outside the Warsaw Pact. National Assembly elections return a victory for the ruling Communist Party. No opposition parties contest the poll.
July	President Tran Duc Luong reappointed for second term by National Assembly, which also reappoints Prime Minister Phan Van Khai for second five-year term.

2003

June	Showcase trial of Ho Chi Minh City gangster Nam Cam and 154 others hands down six death sentences.
November	First US warship to visit since the Vietnam War sails into port near Ho Chi Minh City.

2004

January	Vietnam confirms the first human deaths from bird flu. Over the course of the year the virus claims more than 30 lives.
June	Nam Cam, Ho Chi Minh City gangster, is executed.
December	First US commercial flight since the end of the Vietnam War touches down in Ho Chi Minh City.

2005

June	Prime Minister Phan Van Khai makes the first visit to the US by a Vietnamese leader since the end of the Vietnam War.

2006

January	Senior officials are investigated over the alleged embezzlement of millions of dollars of state money in the transport ministry.
June	As part of an anticipated political shake-up, the prime minister, president and National Assembly chairman are replaced by younger leaders.

2007

January	After 12 years of talks Vietnam becomes the 150th member of the World Trade Organization.
February	Government approves a $33bn plan to build a high-speed rail link between Hanoi and Ho Chi Minh City in the south. US agrees for the first time to help fund a study into the removal of Agent Orange, the highly toxic defoliant used by US forces, from a former US base in Da Nang.

June	President Nguyen Minh Triet makes first visit to the US by a Vietnamese head of state since the Vietnam War ended in 1975.
July	Prime Minister Nguyen Tan Dung reappointed, promises to push through economic reforms.

2008

January	Vietnam takes up a two-year, non-permanent seat on the UN Security Council.
July	Monthly inflation rate of 27.04% marks largest on-year increase since 1991.
October	US and international media campaigners condemn guilty verdicts on two Vietnamese journalists Nguyen Viet Chien and Nguyen Van Hai, who had helped to expose a major corruption scandal. Latter not imprisoned after pleading guilty.
November	Vietnam says it plans to enforce a two-child policy in an attempt to control population growth.
December	China and Vietnam resolve border dispute 30 years after 1979 war which left tens of thousands dead. Government bans bloggers from raising "inappropriate" subjects.

2009

January	Nguyen Viet Chien is among more than 15,000 prisoners released before the end of their prison terms in Lunar New Year amnesty - one of Vietnam's largest. Government dismisses Nguyen Cong Khe and Le Hoang, the editors of the two largest pro-reform newspapers, over their coverage of the October corruption scandal trial.
June	Vietnam calls on China to stop preventing Vietnamese fishermen from working in what Hanoi says are its territorial waters amid growing tensions between the two countries over fishing waters.
September	Vietnam's only independent think tank, the Institute of Development Studies, disbands after a government decree restricts the right to conduct research on the ruling Communist Party.
October	Six democracy activists sentenced to up to six years in prison for "spreading propaganda" against the government by hanging pro-democracy banners on a road bridge. They were accused of being part of the banned pro-democracy Bloc 8406.
December	Pro-democracy activist Tran Anh Kim received a five-and-a-half-year jail sentence for subversion after allegedly publishing pro-democracy articles on the internet. The former army officer was a member of the Democratic Party of Vietnam and the pro-democracy Bloc 8406, both of which are banned.

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2010

January	Four activists including prominent human rights lawyer Le Cong Dinh jailed on charges of trying to overthrow the government. Internet entrepreneur Tran Huynh Duy Thuc received the longest sentence of 16 years. Rights groups abroad see it as a sign of an increasing clampdown on freedom of expression.
May	Human Rights Watch accused Vietnam government of intensifying its suppression of online dissent.
July/August	The government arrested the chairman of shipbuilding corporation Vinashin, one of the country's largest state-owned companies, for allegedly nearly bankrupting the enterprise.
November	PM Nguyen Tan Dung said he accepts responsibility for poor oversight that led to the near-bankruptcy of state shipbuilding company Vinashin.

2011

January	Five-yearly congress of the Communist Party reappointed Prime Minister Nguyen Tan Dung and elected the head of the national assembly, Nguyen Phu Trong, as party secretary-general.
June	Vietnam begins joint operation with the United States to clean up contamination from the toxic defoliant Agent Orange, which was used widely by the US military during the Vietnam war.
October	China and Vietnam sign an agreement to manage the South China Sea dispute. It includes a hotline to deal with emergencies and a provision for authorities from the two countries to meet twice a year.

(BBC Timeline, updated 15 January 2012, accessed 20 April 2012) **[14b]**

See also Section 3: History

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Annex B

PROMINENT PEOPLE

Main members of the Cabinet:

Prime minister	Nguyen Tan Dung
Deputy prime ministers	Nguyen Xuan Phuc
	Hoang Trung Hai
	Nguyen Thien Nhan
	Vu Van Ninh

Key Ministers:

Agriculture & rural development	Cao Duc Phat
Construction	Trinh Dinh Hue
Culture, sports & tourism	Hoang Tuan Anh
Education & training	Pham Vu Luan
Finance	Vuong Dinh Hue
Foreign affairs	Pham Binh Minh
Industry & trade	Vu Huy Hoang
Information & communications	Nguyen Bac Son
Justice	Ha Hung Cuong
Labour, war invalids & social affairs	Pham Thi Hai Chuyen
National defence	Phung Quang Thanh
Natural resources & environment	Nguyen Minh Quang
Planning & investment	Bui Quang Vinh
Public health	Nguyen Thi Kim Tien
Public security	Tran Dai Quang
Transport	Dinh La Thang

(Economist Intelligence Unit (EIU) Country Report, March 2012) **[15a]**

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Annex C

BANNED POLITICAL GROUPS

SEE ALSO SECTION 14: POLITICAL AFFILIATION - OPPOSITION GROUPS AND POLITICAL ACTIVISTS

BLOC 8406

A Human Rights Watch (HRW) article from May 2006 described how Bloc 8406 was formed, noting that in the run-up to the tenth National Congress held by the Vietnamese Communist Party, hundreds of people in Vietnam signed on to "…public appeals calling for respect of basic human rights, a multiparty political system, and freedom of religion and political association" **[5e]** Adding:

"A wide array of Catholic priests, Buddhist monks, former political prisoners, former Communist Party officials, veterans, academics, teachers, nurses, engineers, writers, businesspeople and many ordinary citizens have signed the two appeals: the 'Appeal for Freedom of Political Association' of April 6; and the '2006 Manifesto on Freedom and Democracy for Vietnam' of April 8 (also known as the '2006 Democracy Manifesto). **[5e]**

A further HRW article of 7 April 2011, stated:

"Named for its inception date of April 8, 2006, Block 8406 swelled into a movement of thousands through online petitions calling for respect for basic human rights, establishment of a multiparty political system, and guarantees of freedom of religion and political association. Vietnamese authorities respond with harassment and arrests to nonviolent appeals by Block 8406 and other groups advocating for democracy and human rights." **[5g]**

A 2009 report on 'Vietnam and the Challenge of Political Civil Society', by professor Carlyle A. Thayer, Professor of Politics, School of Humanities and Social Sciences, University College, University of New South Wales at the Australian Defence Force Academy in Canberra, stated:

"Bloc 8406 is predominately an urban-centred network, with over half the signatories residing in Hue (38 per cent) and Ho Chi Minh City (15 per cent), with additional concentrations in Hai Phong, Hanoi, Da Nang and Can Tho. These four nodes account equally for 30 per cent of the signatories. The remainder of Bloc 8406 members are geographically dispersed throughout Vietnam in six locations: Bac Ninh, Nha Trang, Phan Thiet, Quang Ngai, Vung Tau and Vinh Long." **[65a] (p15)**

DEMOCRATIC PARTY OF VIETNAM (DPV)

The 2009 report on 'Vietnam and the Challenge of Political Civil Society' stated:

"Democratic Party of Vietnam (DPV) was founded in June 2006 as a political discussion group by Hoang Minh Chinh. Also known as the Twenty-first Century Democracy Party (DP XI). The Democratic Party of Vietnam claims that it is the reactivated Vietnam Democratic Party (VDP) founded in 1944, which was one of two non-communist parties to be represented in the National Assembly until it was dissolved in 1985. Chinh was the Moscow-trained former head of the Institute of Philosophy. He was accused of being a pro-Soviet revisionist, imprisoned and then released in 1967. He continued to advocate political change and was jailed again in 1981 and 1995." **[65a] (p12)**

PEOPLE'S DEMOCRATIC PARTY OF VIETNAM (PDP-VN)

The 2009 report on 'Vietnam and the Challenge of Political Civil Society' also noted that the People's Democratic Party of Vietnam (PDP) "…was founded in 2004 after five-years of Internet networking by Cong Thanh Do, a Vietnamese-American living in California, with like-minded Vietnamese in Vietnam. Do used the pseudonym Tran Nam. The PDP's network included leaders of the United Workers-Farmers Association. Do was arrested on 14 August 2006 in Phan Thiet and charged with plotting to blow up the US Consulate in Ho Chi Minh City. This charge was later amended to disseminating anti-government leaflets. Do served one month in jail before he was deported. Shortly after Do's arrest, six Vietnamese-based PDP members were arrested. They were tried by the People's Court in Ho Chi Minh City. Party Chairman, Dr Le Nguyen Sang, journalist Huynh Nguyen Dao and lawyer Nguyen Bac Truyen, were sentenced to five, four and three years respectively." **[65a] (p11)**

VIETNAM ALLIANCE FOR DEMOCRACY AND HUMAN RIGHTS

The 2009 report on 'Vietnam and the Challenge of Political Civil Society' noted that the "Vietnam Alliance for Democracy and Human Rights was formed on 16 October 2006 between Bloc 8406 and the Unified Buddhist Church of Vietnam. The Alliance was modelled on Daw Aung San Suu Kyi's National League for Democracy in Myanmar. This was reputedly the biggest dissident movement seen in Vietnam since the unification of the country in 1975." **[65a] (p14)**

VIETNAM PROGRESSION PARTY (VPP)

"Vietnam Progression Party (VPP) was founded on 8 September 2006 by Le Thi Cong Nhan, Nguyen Phong, Nguyen Binh Thanh and Hoang Thi Anh Dao. Father Nguyen Van Ly was named adviser. Le Thi Cong Nhan is an English-speaking lawyer hired by the British Embassy to defend a Vietnamese-British woman accused of drug smuggling. Cong Nhan was a signatory of the Bloc 8406 appeal. The other founders of the VPP were all based in Hue. The VPP represented a younger generation of political dissidents who rejected Ho Chi Minh's legacy. The VPP issued an Interim Political Platform on 8 September 2006 that called for a multi-party democracy, religious freedom, general elections and protection of private property. In 2007, the VPP joined with the Vietnam Populist Party/For the People Party and formed the Lac Hong Group." **[65a] (p13)**

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Annex D

LIST OF ABBREVIATIONS

AI	Amnesty International
APEC	Asia-Pacific Economic Cooperation forum
ASEAN	Association of Southeast Asian Nations
CDW	Center for Women and Development
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CPV	Communist Party of Vietnam
CRA	Committee for Religious Affairs
CRC	UN Committee on the Rights of the Child
DIA	Department for International Adoptions
DPV	Democratic Party of Vietnam
FCO	Foreign and Commonwealth Office (UK)
FH	Freedom House
FULRO	United Front for the Liberation of Oppressed Races
FPP	For the People's Party
GDP	Gross Domestic Product
HHAC	Hoa Hao Administrative Committee
HHCBC	Hoa Hao Central Buddhist Church (Vietnam)
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
HRW	Human Rights Watch
ICRC	International Committee for Red Cross
IDP	Internally Displaced Person
IOM	International Organization for Migration
MPS	Ministry of Public Security (Vietnam)
NCFAW	National Committee for the Advancement of Women
NGO	Non Governmental Organization
PDP	People's Democratic Party
TB	Tuberculosis
TI	Transparency International
UBCV	Unified Buddhist Church of Vietnam
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNIFEM	**United Nations Development Fund for Women**
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
USSD	United States State Department
UWFO	United Workers and Farmers Organization
VFF	Vietnam Fatherland Front
VGCL	Vietnam General Confederation of Labour
VWU	Vietnamese Women's Union
WHO	World Health Organization
WTO	World Trade Organization

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Annex E

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