

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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This response was prepared by the Research & Information Services Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum. This research response may not, under any circumstance, be cited in a decision or any other document. Anyone wishing to use this information may only cite the primary source material contained herein.

Questions

- 1. What would be the likely consequences for a former Republic of Vietnam army officer or police official who claims to have escaped from a re-education camp in Vietnam in the 1970s and to have lived illegally without registration following his escape, if he returned to Vietnam?**
- 2. Would he still be of interest to the Vietnamese authorities?**
- 3. Would he still face penalties under the law?**
- 4. If so, what sort of penalties?**
- 5. Are there organisations that could assist him to become a registered person in Vietnam?**
- 6. What is the likelihood that a person who escaped from a re-education camp in Vietnam in the 1970s would be able to remain unregistered?**
- 7. How vigorous would the Vietnamese authorities have been in pursuing a former Republic of Vietnam army officer or police official who escaped from a re-education camp in Vietnam in the 1970s?**

RESPONSE

- 1. What would be the likely consequences for a former Republic of Vietnam army officer or police official who claims to have escaped from a re-education camp in Vietnam in the 1970s and to have lived illegally without registration following his escape, if he returned to Vietnam?**
- 2. Would he still be of interest to the Vietnamese authorities?**
- 3. Would he still face penalties under the law?**
- 4. If so, what sort of penalties?**

A search of the sources consulted has found no specific information on the consequences for someone in this situation returning to Vietnam, nor on the applicable law. Information from a

range of sources, however, would seem to indicate that the consequences of return for such people are unlikely to be dire.

An article dated 24 January 2008 in the *Los Angeles Times* mentions a recent agreement to return to Vietnam about 1,500 Vietnamese nationals who arrived in the United States on or after 12 July, 1995, including those who have overstayed student or tourist visas and legal immigrants being deported for criminal convictions. The article characterizes the approach of US officials as “treating Vietnam like other nations”. It also reports the opposing view of a member of the Vietnamese community in the US that returnees would be discriminated against, denied household registration and identification papers, and experience difficulty finding jobs. According to the article:

To U.S. officials, a new pact announced this week with Vietnam, allowing the government to deport illegal immigrants, was almost routine – a straightforward matter of treating Vietnam like other nations.

But for many among the tens of thousands of immigrants in Orange County, the nation's largest Vietnamese population center, nothing about their homeland is routine. Tuesday's announcement of the long-negotiated pact has stirred sometimes-bitter debate within a community where loathing of Vietnam's communist government remains white hot.

...

Until now, most Vietnamese in the United States could not be deported back to Vietnam because many had left as refugees and Vietnam was unwilling to take them back. The repatriation pact, announced Tuesday after 10 years of negotiations, affects about 1,500 Vietnamese nationals – many of them described by the U.S. government as people who were convicted of crimes in this country – who arrived in the United States after July 12, 1995, when the two countries resumed diplomatic relations. The repatriations are scheduled to begin in two months.

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Lan Quoc Nguyen, an attorney who serves on the Garden Grove school board, said that after the agreement was announced he received frantic calls from members of the community who worried it might affect them.

“For those who go back to Mexico, they go back to their families and nothing happens to them,” Nguyen said. “But for people who go back to Vietnam, it’s a totally different ballgame. They will be discriminated against. They will be denied household registration and even identification papers because they cannot provide their background in the bureaucracy process. They will have a hard time finding jobs.”

But the reaction was neither unanimous nor one-dimensional (Tran, M.T. and Goffard, G. 2008, ‘A jolt in new Vietnam pact’, *Los Angeles Times*, 24 January <http://www.latimes.com/news/local/la-me-vietnamese24jan24,0,3793159.story> – Accessed 11 March 2008 – Attachment 1).

An RRT Research Response from July 2006 (RRT Country Research 2006, *Research Response VNM30333*, 11 July – Attachment 2) cites the opinion of Dr Ashley Carruthers, a Vietnamese specialist at the Australian National University, regarding the treatment of relatives of former Army of the Republic of Vietnam (ARVN) personnel. In the opinion provided to the Tribunal, Dr Carruthers states that he is “convinced ... there is no longer systematic discrimination against people connected with the old regime”:

Re treatment of children of old regime people, I'm not aware of any reports on current treatment – which is probably because it is no longer in reality an issue. While some politically motivated people will claim there is still discrimination, personally I am convinced from my hundreds of interviews with people in Vietnam and Australia (in which this has occasionally come up as a tangential issue) that there is no longer systematic discrimination against people connected with the old regime or their children. When people in Vietnam tell me about ongoing discrimination I interpret it to mean the ongoing social consequences of a past discrimination they or their families may have suffered. Thus if for instance a former army officer is now driving a cyclo, this is not because he is forced to by the authorities but rather because when the reforms came it was too late for him to re-train himself to take advantage of the new labour market. This downward social mobility of course has ongoing effects on later generations of such families (Carruthers, A. 2006, Email to RRT Country Research: 'Re the current treatment of relatives or children of former ARVN personnel', 10 July – Attachment 3).

Advice from the Department of Foreign Affairs and Trade in 1999 on the treatment of people formerly associated with the government or military of the Republic of Vietnam observed “no evidence of significant discrimination or harassment against supporters of the former regime”:

The situation regarding the treatment of supporters of the former South Vietnamese government is one that has changed significantly in the 24 years since the fall of that administration.

In the first years after the fall of the South Vietnamese government there were mass arrests of senior members of the south Vietnamese government and military, and tens of thousands more were forced to live in re-education camps for varying periods, in some cases for over ten years. The situation had changed significantly by 1996. An economic reform program (with direct social consequences) was adopted in 1986. The last re-education camps were closed in 1989.

Currently there are some people held in detention for activities which are political in nature, but considered crimes by the government of Vietnam. However the arrest, trial and detention of such people stems from prohibited political or religious activities, not allegiance to the former government of south Vietnam. In late 1998, a presidential amnesty was extended to a number of these people. Further amnesties have been foreshadowed for 1999 and also the year 2000.

The embassy has no evidence of significant discrimination or harassment against supporters of the former regime, or against people of particular provinces. More likely is positive discrimination in the bureaucracy in favour of those with links to families that were strong supporters of the former North Vietnamese government. In competing for jobs in the communist party or in senior levels of government ministries, having a “bad family background” could still be a handicap, but one that could be overcome.

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Treatment of people who left Vietnam as refugees

Not all Vietnamese who fled Vietnam after 1975 had links with the former South Vietnam government, but many did.

Many of those who fled were not accepted for resettlement. Vietnam agreed in 1996 to accept back people not resettled. Between 1996 and 1999, 110,000 people were returned to Vietnam by the UNHCR. The UNHCR then individually visited and monitored the situation of 40

percent of these returnees. UNHCR officials have confirmed with us that in no case monitored, did a returnee complain of arrest, persecution or discrimination because of their political background or decision to flee (Department of Foreign Affairs and Trade 1999, *DFAT Country Information Report No. 37/99 – Vietnam: Advice Concerning Family Background: Update*, 10 February – Attachment 4).

The US Committee for Refugees and Immigrants' report on Vietnam for 1999 similarly notes that:

UNHCR has monitored more than 40 percent of the returnee population of nearly 11,000 since 1989. The monitoring has indicated that most problems are related to economic reintegration and to obtaining household registration from local authorities; this has affected many returnees because according to Vietnamese law, one can be a legal resident only through registration of one's household, or family. UNHCR found no indications of persecution or other reprisals toward the returnees (US Committee for Refugees and Immigrants (undated), 'Country Reports – Vietnam – 1999', USCRI website <http://www.refugees.org/countryreports.aspx?VIEWSTATE=dDwxMTA1OTA4MTYwOztspENvdW50cnlERDpHb0JldHRvbjs%2BPrImhOOqDI29eBMz8b04PTi8xjW2&cid=672&subm=&ssm=&map=&ctl0%3ASearchInput=+KEYWORD+SEARCH&CountryDD%3ALocationList> – Accessed 11 March 2008 – Attachment 5).

The US Department of State's most recent report on human rights practices in Vietnam refers to the treatment of former re-education camp internees and those formerly associated with the government of the Republic of Vietnam only very briefly. The report states that:

While many persons formerly interned in reeducation camps on the basis of association with the pre-1975 government were well integrated into society, some continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. In the past some military veterans of the pre-1975 South Vietnamese government and their families faced economic hardship as a result of past employment restrictions and discrimination. Few of these prohibitions remained, and the declining percentage of war veterans belonging to the labor force also lessened the incidence of such discrimination (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Vietnam*, March – Attachment 6).

5. Are there organisations that could assist him to become a registered person in Vietnam?

A research response from May 2005 provides information on the administration of household registration in Vietnam (RRT Country Research 2005, *Research Response VNM17324*, 16 May – Attachment 7).

An article dated 3 July 2007 reports that a new Law on Residency came into effect in Vietnam on 1 July 2007 and would facilitate the obtaining of household registration books by internal migrants. The article cites opinion that the new law is "an important step in Vietnam's legislative effort to help citizens realise the right of freedom of residence, guaranteed in the constitution" and that "[t]he procedures of registering temporary and permanent residence would become simpler and more transparent". The article cites the example of a woman who had lived in Hanoi, without local registration, for more than a decade. According to the article:

Ta Lan Huong was very excited with the news that her family qualified for a Hanoi household registration book after more than a decade of living and working in the city.

Huong, 32, is among 130,000 migrants to the city who are eligible to become Hanoi citizens under the Law on Residency, which was passed by the National Assembly last November and which took effect on July 1.

Huong came to Hanoi from the northern province of Phu Tho to attend university and then stayed. She and her family were among an estimated 500,000 migrants in the city for whom a household registration book had become something of an obsession.

The book is a ticket to such basic rights as owning a home, finding a job in a State-run office, or sending children to school. Despite living in the city for dozens of years, finding a job, and otherwise working around the lack of official residence in the city, Huong and her family were treated as second-class citizens because they did not have a household registration book.

“Much of my property is in the name of others,” she pointed out. “For instance, my house is in my uncle’s name,” she said. “In my office, I worked only on short term contracts because I couldn’t provide a household registration book.”

Sending her eldest child to school was a major challenge. She had to fill out dozens of forms and eventually knock on friends’ doors to ask for help before her son was finally accepted to a primary school in Hanoi.

As of July 1, many migrants no longer face such troubles.

Clause 19 of the new Law on Residency provides that all citizens who maintain legal accommodation for at least a year in a province can register for residency in that location.

Registering permanent residence in the centrally-administered cities of Hanoi, Ho Chi Minh City, Hai Phong, Da Nang and Can Tho, in particular, become much easier than before.

About 2.2 million people nationwide would qualify to be granted a household registration book at the moment the new law takes effect, many in the leading cities of Hanoi and Ho Chi Minh City, said Lt Gen. Pham Van Duc, deputy general director of the Police Department under the Ministry of Public Security.

...
The Law on Residency is an important step in Vietnam’s legislative effort to help citizens realise the right of freedom of residence, guaranteed in the constitution.

During the process of drafting the law, many different opinions were expressed as to whether to maintain or eliminate the household registration book. Lawmakers, however, decided to retain the form as a useful tool to administer residency and focused on reforming administrative procedures and reducing inconvenience and hassles for the public.

The procedures of registering temporary and permanent residence would become simpler and more transparent, said Duc.

It would also help eliminate the ask-and-give system, he said, and would forbid actions by officials to prevent citizens from registering and using the book (or lack of a book) to limit citizens’ rights and legal interests. It would also forbid taking bribes or collecting unauthorised fees and other types of authoritarian behaviour (‘Migrants granted home registration books’ 2007, VietNamNet website, 3 July

<http://english.vietnamnet.vn/social/2007/07/713323/> – Accessed 11 March 2008 – Attachment 8).

According to the US Department of State report on human rights practices for 2007, the system of registration in Vietnam still “effectively served as a barrier” to moving and becoming a legal resident in the new location. According to the report:

During the year the National Assembly implemented a controversial new Law on Residence that allows the MPS to retain the system of residence registrations. Many citizens believed that this government practice effectively served as a barrier for individuals and families seeking to move within the country and become legal residents of a new province or city. By law the MPS restricts the number of residency registrations issued, for example, for Hanoi and Ho Chi Minh City.

Many persons continued to migrate without approval, especially laborers moving from rural areas to cities in search of work. Moving without permission hampered persons seeking legal residence permits, public education, and healthcare benefits (US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Vietnam*, March – Attachment 6).

An article entitled ‘Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform’, published in 2001, discusses adaptive behaviours to the restrictions of the household registration system since its introduction in the 1950s. In précis:

This article argues that the limited room for manoeuvre around the household registration system before reform has greatly expanded since the 1980s. The resources that ordinary people drew upon to negotiate the state’s attempts to control their place of residence have also undergone a transformation. While contacts were always necessary for any negotiation with officialdom before *doi moi*, these have become increasingly commercialized. The need for their use, however, has diminished as people find it convenient in many circumstances to ignore the rules (Hardy, A. 2001, ‘Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform’, *Sojourn*, vol. 16, no. 2, pp. 187-212 – Attachment 9).

6. What is the likelihood that a person who escaped from a re-education camp in Vietnam in the 1970s would be able to remain unregistered?

The sources consulted found no specific reference to the likelihood of someone who had escaped from re-education camp being able to remain without household registration.

The previously mentioned article regarding the Law on Residency, however, does mention that “[a]bout 2.2 million people nationwide would qualify to be granted a household registration book at the moment the new law takes effect [on 1 July 2007]”, indicating an estimate that more than 2 million people had been living in Vietnam without valid household registration prior to that date.

7. How vigorous would the Vietnamese authorities have been in pursuing a former Republic of Vietnam army officer or police official who escaped from a re-education camp in Vietnam in the 1970s?

A search of the sources consulted found no information regarding the level of pursuit of former ARVN or police personnel who escaped from re-education camps in the 1970s.

List of Sources Consulted

Internet Sources:

Government Information & Reports

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

Non-Government Organisations

Human Rights Watch <http://www.hrw.org/>

Amnesty International <http://www.amnesty.org>

International News & Politics

BBC News <http://news.bbc.co.uk>

Region Specific Links

Asian Centre for Human Rights website <http://www.achrweb.org/>

Search Engines

Copernic <http://www.copernic.com/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research database)

MRT-RRT Library catalogue

List of Attachments

1. Tran, M.T. and Goffard, G. 2008, 'A jolt in new Vietnam pact', *Los Angeles Times*, 24 January <http://www.latimes.com/news/local/la-me-vietnamese24jan24,0,3793159.story> – Accessed 11 March 2008.
2. RRT Country Research 2006, *Research Response VNM30333*, 11 July.
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4. Department of Foreign Affairs and Trade 1999, *DFAT Country Information Report No. 37/99 – Vietnam: Advice Concerning Family Background: Update*, 10 February. (CISNET India CX67252)
5. US Committee for Refugees and Immigrants (undated), 'Country Reports – Vietnam – 1999', USCRI website http://www.refugees.org/countryreports.aspx?_VIEWSTATE=dDwxMTA1OTA4MTYwOztsPENvdW50cnlERDpHb0JldHRvbjs%2BPrImhOOqDI29eBMz8b04PTi8xjW2&cid=672&subm=&ssm=&map=&_ctl0%3ASearchInput=+KEYWORD+SEARCH&CountryDD%3ALocationList – Accessed 11 March 2008.
6. US Department of State 2008, *Country Reports on Human Rights Practices for 2007 – Vietnam*, March.
7. RRT Country Research 2005, *Research Response VNM17324*, 16 May.

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9. Hardy, A. 2001, 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn*, vol. 16, no. 2, pp. 187-212.