



**Australian Government  
Refugee Review Tribunal**

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# Country Advice Vietnam

Vietnam – VNM39333 – Human Rights –  
Violence against Business Owners – Police  
Protection – Relocation

13 October 2011

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**1. Please provide background information on the protection of human rights in Vietnam, and in particular, the protection of business owners from violent practises or harm generally at the hands of business competitors.**

In April 2011, the UK Home Office noted the following as significant human rights challenges for Vietnam: freedom of expression; press freedom; the death penalty; freedom of assembly; freedom of religion; and corruption and impunity.<sup>1</sup> Amnesty International has also reported that freedom of expression and freedom of association are restricted in Vietnam, and that dissidents and human rights activists have received adverse attention from the authorities.<sup>2</sup> In 2009, Vietnam rejected 45 recommendations from member states of the UN Human Rights Council, relating to these areas of concern. The recommendations rejected included proposals that the government:

[L]ift internet and blogging controls and prohibitions on privately owned media; allow groups and individuals to promote human rights, express their opinions and publicly dissent; expedite local registration of religious organizations and equitable resolution of religious property disputes; take steps to abolish the death penalty; repeal or amend national security laws used to criminalize peaceful dissent, and release peaceful prisoners of conscience.<sup>3</sup>

The following reports support the above assessments:

- Regarding political dissidents, opposition political parties are not permitted in Vietnam.<sup>4</sup> For example, propaganda charges, and subversion charges related to pro-democracy publications, have been used against members of the opposition Viet Tan party.<sup>5</sup> Human Rights Watch reported that the government cracked down on political dissidents throughout 2010, ahead of a Communist Party congress scheduled for January 2011.<sup>6</sup> The US Department of State (USDOS) has reported that lawyers are pressured by authorities not to take on pro-democracy advocates facing trial. Several

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<sup>1</sup> UK Home Office 2011, *Country of Origin Information Report – Vietnam*, 20 April, p. 16-17

<sup>2</sup> Amnesty International 2011, *Amnesty International Annual Report 2011 - Vietnam*, 13 May

<sup>3</sup> Human Rights Watch 2009, 'Government rejects UN proposals to improve its rights record', 25 September, Human Rights Watch website <http://www.hrw.org/news/2009/09/25/vietnam-government-rejects-un-proposals-improve-its-rights-record>, accessed on 19 September, 2011

<sup>4</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section II (b)

<sup>5</sup> 'Vietnam blogger jailed for attempted subversion' 2011, *The Guardian*, 10 August

<http://www.guardian.co.uk/world/2011/aug/10/vietnam-blogger-jailed> – Accessed 11 August 2011

<sup>6</sup> Human Rights Watch 2011, *World Report 2011 – Vietnam*, 24 January

lawyers who took such cases in 2010 were harassed, arrested, and occasionally disbarred.<sup>7</sup>

- Vietnamese citizens are not free to post online articles which are critical of Vietnam's one-party government, as demonstrated by the government's increasing efforts to regulate the online sphere and regulate content it deems to be "harmful".<sup>8</sup> According to *BBC News*, Vietnam was one of the Committee to Protect Journalists' "10 worst countries to be a blogger" in 2009, and deemed an "Enemy of the Internet" by Reporters Without Borders in 2010.<sup>9</sup> Freedom of the press is generally restricted; journalists must pay monetary damages to those whose reputations their reporting harms, regardless of whether it has a factual basis. Journalists must seek advance permission to report on foreign news stories.<sup>10</sup>
- On 30 September 2011, Human Rights Watch reported that 15 religious activists, who were primarily Catholic Redemptorists, had been detained in the preceding two months.<sup>11</sup>
- Government observers reportedly attend classes, taught by both foreigners and Vietnamese academics, on a regular basis.<sup>12</sup>
- Vietnamese workers are not able to organise or join independent unions; unions are sanctioned by, and affiliated with, the state.<sup>13</sup>
- Regarding the treatment and protection of women in particular, the Immigration and Refugee Board of Canada stated in 2010 that domestic violence is reportedly present across all geographic areas and socioeconomic groups in Vietnam.<sup>14</sup>

Amnesty International reported that at least 34 people were sentenced to death in its most recent annual reporting period.<sup>15</sup> The National Assembly voted to change the method of execution from firing squad to lethal injection, effective July 2011.<sup>16 17</sup>

Regarding state protections for business owners in particular, it is noted that land is considered public property, and that the government is responsible for granting land-use rights to businesses.<sup>18 19</sup> However, Human Rights Watch has reported that public protests

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<sup>7</sup> US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Vietnam*, 8 April Section 1(e)

<sup>8</sup> Freedom House 2011, *Freedom on the Net 2011 – Vietnam*, 18 April, p. 5

<sup>9</sup> 'Vietnam country profile' 2011, *BBC News*, 7 February [http://news.bbc.co.uk/2/hi/asia-pacific/country\\_profiles/1243338.stm](http://news.bbc.co.uk/2/hi/asia-pacific/country_profiles/1243338.stm) – Accessed 10 August 2011

<sup>10</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section II (a)

<sup>11</sup> Human Rights Watch 2011, 'Vietnam – Free Religious Activists Immediately', 30 September, UNHCR Refworld website <http://www.unhcr.org/refworld/docid/4e8aa1442.html> – Accessed 10 October 2011

<sup>12</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section II (a)

<sup>13</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section 7

<sup>14</sup> Immigration and Refugee Board of Canada 2010, *VNM103322.E – Viet Nam: Domestic violence*, 8 January

<sup>15</sup> Amnesty International 2011, *Amnesty International Annual Report 2011 - Vietnam*, 13 May

<sup>16</sup> Amnesty International 2011, *Amnesty International Annual Report 2011 - Vietnam*, 13 May

<sup>17</sup> 'Vietnam to switch to lethal injection for death penalty' 2011, *Reuters News*, 24 June

<http://www.reuters.com/article/2011/06/25/us-vietnam-death-injection-idUSTRE75O0C220110625> – Accessed 10 October 2011

<sup>18</sup> 'Business: Hanoi Okays Sales of 634 State-Owned Villas' 2008, *Vietnam News Brief Service*, 12 December

against land confiscation by well-connected businessmen have sometimes been dispersed with excessive force on the part of the police.<sup>20</sup> Economic courts were established in 1993 specifically to consider business-related disputes.<sup>21</sup>

**2. Please provide general background information on the standard, extent, and effectiveness of police protection in Vietnam and any information on the denial of police protection to individuals or groups in Vietnam.**

Whilst the USDOS notes that, during 2010, there were no reports of the government committing arbitrary killings,<sup>22</sup> or of politically motivated disappearances,<sup>23</sup> there were nine reported deaths in custody for the same year. Police reportedly claimed that the detainees had committed suicide in nearly all cases.<sup>24</sup> The USDOS further reported that police “commonly” physically mistreated suspects,<sup>25</sup> and that authorities “used bureaucratic delays to deny access to legal counsel.”<sup>26</sup>

According to the USDOS, in some remote areas the military is responsible for public order. In other areas it is alleged that local police have contracted “thugs” and vigilante groups to harass and assault political activists and other groups including some religious worshippers.<sup>27</sup>

Political dissidents<sup>28</sup> and land rights protesters in cities and the Mekong Delta have reportedly been targeted for harassment and detention. Human Rights Watch has reported that officials in the highlands have temporarily detained members of some ethnic minorities for communicating with minority communities abroad.<sup>29</sup>

The judiciary also reportedly requires reform: there is a lack of judges with formal legal training, and the government has reportedly made some efforts to address this issue.<sup>30</sup>

**3. Please provide information on whether there are any significant obstacles to relocation within Vietnam.**

Freedom of movement and residence is protected under the Vietnamese constitution. As no one ministry in Vietnam explicitly has carriage of internal migration issues, the needs of internal migrants are arguably not adequately captured in current government policies.<sup>31</sup>

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<sup>19</sup> ‘Vietnam’s Land’ 2010, Vietnam Business News website, 27 January <http://vietnambusiness.asia/vietnams-land/> – Accessed 8 February 2011

<sup>20</sup> Human Rights Watch 2011, *World Report 2011 – Vietnam*, 24 January

<sup>21</sup> UK Home Office 2011, *Country of Origin Information Report – Vietnam*, 20 April, p. 20

<sup>22</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I(a)

<sup>23</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I(b)

<sup>24</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I(c)

<sup>25</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I (c)

<sup>26</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I (d)

<sup>27</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I(d)

<sup>28</sup> Human Rights Watch 2011, *World Report 2011 – Vietnam*, 24 January

<sup>29</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I (c)

<sup>30</sup> US Department of State 2011, *Country Reports on Human Rights for 2010 – Vietnam*, 8 April, Section I(e)

<sup>31</sup> Marx, V. & Fleischer, K. 2010, *Internal Migration: Opportunities and Challenges for Socio-economic Development in Viet Nam*, United Nations Viet Nam website, July

[http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html) – Accessed 15 February 2011

A census recorded that there were 6.6 million internal migrants in Vietnam during the 2004-2009 period.<sup>32</sup> Since the 1990s, state-sponsored migration programs have been in decline, meaning that the majority of migrants are now ‘spontaneous economic migrants’ who relocate independently.<sup>33</sup>

Sources indicate that whilst internal migration in Vietnam is a common occurrence, a migrant’s status under the household registration system, or *ho khai*, is an important factor in determining their practical ability to live in and access public services at their destination. *Ho khai* divides citizens into residential categories, with residents of each category having different rights to access government services at all levels. Prior to 2007, four residential categories existed (referred to as KT1, 2, 3 and 4 categories). In 2007, legislation was passed streamlining the system to comprise just two categories: permanent and temporary. Temporary residents require tenancy in a legal house, stable employment and continuous residence (for one year in centrally administered cities) before they may successfully apply for permanent status.<sup>34</sup>

Migrants without permanent *ho khai* status face institutional barriers in accessing government services. A resident’s ability to access public services at all levels depends on their *ho khai* status, effectively meaning that migrants with temporary status often need to outlay non-refundable sums of money in order to access services which are granted to residents with permanent status.<sup>35</sup> Furthermore, it is noted that temporary migrants are not eligible for state-sponsored poverty reduction measures, including loans.<sup>36</sup>

Migrants are reported to often face difficulties in accessing services even when not technically precluded. For example, children of internal migrants are able to attend schools in their new district of residence only if there is space after children with permanent residency status have enrolled. The UN advocacy paper states that there is evidence to suggest that this leads to some migrant children being unable to access education.<sup>37</sup> A United Nations

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<sup>32</sup> Marx, V. & Fleischer, K. 2010, *Internal Migration: Opportunities and Challenges for Socio-economic Development in Viet Nam*, United Nations Viet Nam website, July, p.6 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html) – Accessed 15 February 2011

<sup>33</sup> *Internal Migration and Socio-economic Development in Viet Nam: a Call to Action* 2010, United Nations Viet Nam website, July, p.5 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html) – Accessed 15 February 2011

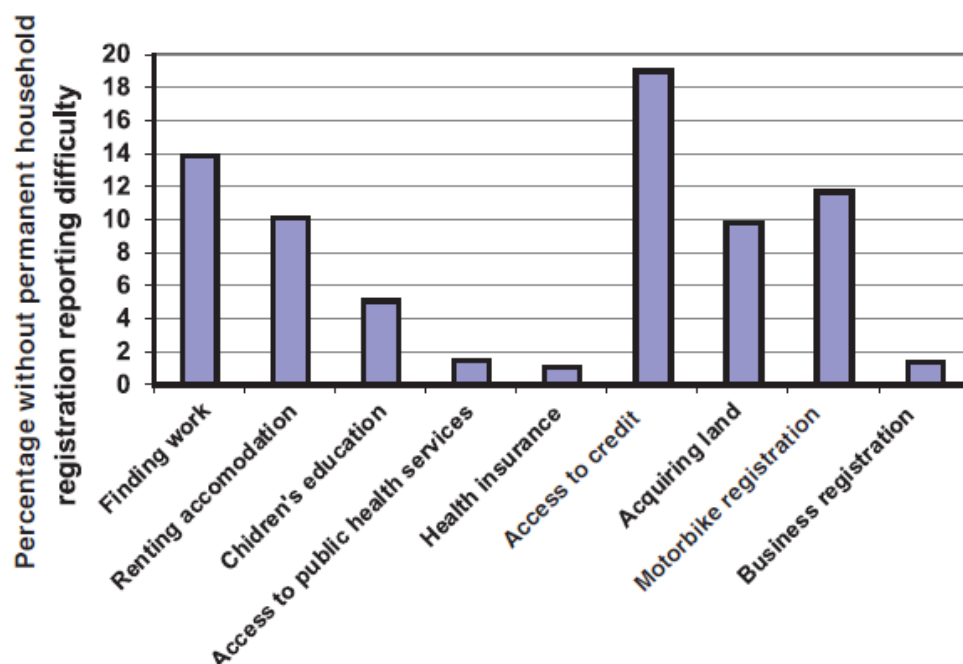
<sup>34</sup> Marx, V. & Fleischer, K. 2010, *Internal Migration: Opportunities and Challenges for Socio-economic Development in Viet Nam*, United Nations Viet Nam website, July, p.18-19 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html) – Accessed 15 February 2011

<sup>35</sup> Marx, V. & Fleischer, K. 2010, *Internal Migration: Opportunities and Challenges for Socio-economic Development in Viet Nam*, United Nations Viet Nam website, July, p.7 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html) – Accessed 15 February 2011

<sup>36</sup> *Internal Migration and Socio-economic Development in Viet Nam: a Call to Action* 2010, United Nations Viet Nam website, July, p.7-8 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html) – Accessed 15 February 2011

<sup>37</sup> *Internal Migration and Socio-economic Development in Viet Nam: a Call to Action* 2010, United Nations Viet Nam website, July, p.7-8 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html) – Accessed 15 February 2011

Population Fund report from 2007 contains the following graph, which charts various difficulties faced by migrants without permanent household registration.<sup>38</sup>



Applying for a different residency can be an administratively confusing and onerous process for migrants. Legislative reforms have reportedly not been uniformly implemented across the country, with some areas such as Ho Chi Minh City still allegedly working to the old four category system, with more onerous conditions for those applying for permanent status. The United Nations reports that this is likely to mean that some migrants who are eligible for permanent residency status are unable to access it in some areas.<sup>39</sup> The 2004 Vietnam Migration Survey showed that of migrants surveyed who did not re-register their temporary status at their destination (to extend temporary status), 48 per cent believed that they had no permission to re-register, while 22 per cent thought it was not necessary to register and 9 per cent did not know how to re-register.

Many migrants simply do not register at their destination at all, instead remaining on the *ho khai* book in their place of origin.<sup>40</sup> Human Rights watch states that *ho khai* documents are “essential for legally obtaining a job, collecting food rations, attending government schools, receiving health care, travelling, voting and contesting administrative abuses”. Moreover, children who do not have appropriate *ho khai* registration are more likely to experience negative interactions with the police.<sup>41</sup>

<sup>38</sup> United Nations Population Fund 2007, *Internal Migration in Vietnam: The Current Situation*, UNFPA Vietnam website, p.28 [http://vietnam.unfpa.org/documents/2008/Internal%20Migration\\_Current%20situation\\_e.pdf](http://vietnam.unfpa.org/documents/2008/Internal%20Migration_Current%20situation_e.pdf) – Accessed 19 June 2009

<sup>39</sup> Marx, V. & Fleischer, K. 2010, *Internal Migration: Opportunities and Challenges for Socio-economic Development in Viet Nam*, United Nations Viet Nam website, July, p. 19 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/173-internal-migration-opportunities-and-challenges-for-socio-economic-development-in-viet-nam.html) – Accessed 15 February 2011

<sup>40</sup> *Internal Migration and Socio-economic Development in Viet Nam: a Call to Action* 2010, United Nations Viet Nam website, July, p.7 [http://www.un.org.vn/en/publications/publications-by-agency/doc\\_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html](http://www.un.org.vn/en/publications/publications-by-agency/doc_details/151-internal-migration-and-socio-economic-development-in-viet-nam--a-call-to-action.html) – Accessed 15 February 2011

<sup>41</sup> UK Home Office 2010, *Country of Origin Information Report: Vietnam*, 19 May, p. 65

Migrants who have been absent from their place of permanent residence for more than 6 months without notifying authorities of their temporary absence and without explanation may have their names struck from the local *ho khau* registry. However, it is noted that practices relating to *ho khau* paperwork may in fact vary from province to province. Migrants who have had their permanent residency removed from the *ho khau* registry can apply to have their residency re-instated. According to a state-sponsored online news article, based on Article 2 of the Law on Residence, Vietnamese people who live in a foreign country for a period of time but still retain their Vietnamese citizenship can apply for a *ho khau* when returning to Vietnam.<sup>42</sup> The UK Home Office quotes a dated (2001) yet pertinent source in relation to this matter, specifically pertaining to Vietnamese emigrants:

For people who emigrate from Vietnam, the government considers them no longer part of their original household and they would lose their registration.” An individual could apply for restoration of his name to the household registry only after returning to Vietnam, but those considered undesirable by the government would not be eligible.<sup>43</sup>

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<sup>42</sup>Online Exchange between Police Leader and SGGP Readers about Residence Law Implementation’ 2007, *Saigon Giai Phong Daily*, 29 June <http://www.saigon-gpdaily.com.vn/Law/2007/6/56583/#> – Accessed 12 August 2008

<sup>43</sup> UK Home Office 2010, *Country of Origin Information Report: Vietnam*, 19 May, p.67



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