



Australian Government

Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT VIETNAM

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CONTENTS

ACRONYMS	3
1. PURPOSE AND SCOPE	4
2. BACKGROUND INFORMATION	5
Recent history	5
Demography	5
Economic overview	6
Political System	8
Human Rights Framework	9
Security situation	9
3. REFUGEE CONVENTION CLAIMS	11
Race/Nationality	11
Religion	11
Political Opinion (Actual or imputed)	14
Groups of Interest	16
4. COMPLEMENTARY PROTECTION CLAIMS	19
Arbitrary Deprivation of Life	19
Death Penalty	19
Torture	20
Cruel, Inhuman or Degrading Treatment or Punishment	20
5. OTHER CONSIDERATIONS	22
State Protection	22
Internal Relocation	24
Treatment of Returnees	24
Documentation	25

ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
ART	Antiretroviral Therapy
ASEAN	Association of Southeast Asian Nations
CEDAW	Convention on the Elimination of Discrimination against Women
CPA	Committee for Religious Affairs
CPI	Corruption Perceptions Index
CPJ	Committee to Protect Journalists
CPV	Communist Party of Vietnam
FIDH	International Federation for Human Rights
HDI	Human Development Index
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labour Organization
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex
MIC	Ministry of Information and Communications
MOF	Ministry of Finance
MOJ	Ministry of Justice
MOLISA	Ministry of Labor, Invalids, and Social Affairs
MPS	Ministry
NGO	Non-Government Organisation
PLWHIV	People Living With HIV
PWID	People Who Inject Drugs
SPC	Supreme People's Court
SPP	Supreme People's Procuracy
UNAIDS	United Nations Programme on HIV/AIDS
UNODC	UN Office on Drugs and Crime

1. PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to Vietnam.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:
Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources in Vietnam. It takes into account relevant and credible open source reports, including those produced by various United Nations departments, US Department of State, UK Border Agency, the European Commission, the World Bank and the International Organization for Migration. DFAT consulted recognised human rights organisations such as Human Rights Watch, and international non-governmental organisations such as Transparency International and International Crisis Group, as well as Vietnamese non-governmental organisations and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report released on Vietnam published on 31 August 2015.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Vietnam officially gained independence from French rule in 1956 when The French High Command for Indochina was dissolved. The French forces had begun the process of withdrawal from the country two years earlier after losing a significant battle against The League for the Independence of Vietnam (Việt Minh), the organisation that led the struggle for Vietnamese independence. The 1954 Geneva Accords divided the country into two separate republics; the Republic of Vietnam (South) and the Democratic Republic of Vietnam (North). Decades of conflict between the republics followed, gradually intensifying and resulting in what is commonly referred to as the Vietnam War (also referred to as the American War or the Second Indochina War). The war ended in April 1975 when Communist forces captured the presidential palace in Saigon, now officially named Ho Chi Minh City. The Third Indochina War began in 1978 when Vietnam forces invaded Cambodia to oppose the Khmer Rouge leadership. China launched attacks on several Northern provinces of Vietnam the following year, which resulted in mass departures of ethnic Chinese ‘boat people’ from Vietnam in the 1980s.

2.2 In 1986, following a period of economic stagnation, Vietnam undertook a series of reforms (known as Đổi Mới) with the aim of increasing economic growth, which opened up the country to foreign investment. The US lifted its 30-year trade embargo in 1994 and the following year Vietnam became a full member of the Association of Southeast Asian Nations (ASEAN).

2.3 An increasingly vocal and organised civil society began to develop from 2007 onwards, primarily using social media and internet forums to foster and discuss political issues. In response to this, the Government increased its suppression of media in 2008, resulting in arrests and prosecutions of several journalists, bloggers and pro-democracy activists. Decree 72 was introduced in 2013 to manage the provision and use of Internet services and online information, making it an offence to discuss and share any political dissent.

2.4 The South China Sea dispute continues to be a sensitive issue in 2017 between Vietnam and China, as well as (to varying extents) the Philippines, Malaysia, Taiwan and Brunei; all claiming sovereignty over various overlapping parts of the area, including rights to fishing areas; exploration of crude oil and natural gas, and potentially the control of significant shipping lanes. Major protests occurred in 2014, in response to China’s placement of an oil rig in Vietnamese-claimed waters, and more sporadically in 2015 and 2016. The protests are primarily targeted at China, but in some cases may include underlying messages aimed at the Government’s action, or perceived inaction, with regard to South China Sea disputes.

DEMOGRAPHY

2.5 The UN Department of Economic and Social Affairs estimates Vietnam’s population to be 93.4 million (47.2 million females and 46.2 million males). Around 29 million people (approximately 30 per cent of the population) live in urban areas. The population is increasing by around 1 per cent per year, although there is a marked difference between urban and rural areas: the urban population is growing at around 3.1

per cent per year, while the rural population is stagnant at around 60 million people. Hanoi has an estimated population of 6.9 million and Ho Chi Minh City is estimated at 7.8 million people.

2.6 Vietnam has a total of 54 ethnic groups, of which the majority 'Viet' or 'Kinh' make up approximately 86 per cent of the population. Vietnamese is the official language and is spoken by around 90 per cent of the population. Minority groups are distinguished by more than a dozen distinct languages including, but not limited to, Tay, Hmong, Thai, and Khmer in more remote rural areas. Eleven of the minority groups – Tay, Thai, Nung, Hmong, Muong, Cham, Khmer, Kohor, Ede, Bahnar, and Jarai – have their own writing systems. Many minority communities in remote locations have little interaction with Kinh people outside the administration of public services and often do not speak Vietnamese. A younger generation of ethnic minorities are increasingly speaking Vietnamese through their education in the public school system.

2.7 According to official statistics, 27 per cent of the population, or approximately 24 million people, follow a particular religion or belief in Vietnam, but this does not include those that do not officially declare their faith. Vietnam's Committee for Religious Affairs (CRA) states that more than half the population follow Mahayana Buddhism, though not strictly practised. Other religions practised include Theravada Buddhism, within the ethnic Khmer group (1.2 per cent of the total population), Roman Catholicism (7 per cent), Cao Dai (2.5 to 4 per cent), Hoa Hao (1.5 to 3 per cent) and Protestantism (1 to 2 per cent). Followers of Islam, Bahai, Hinduism and Church of Jesus Christ of Latter Day Saints (Mormons) comprise less than 2 per cent of the population. Vietnamese public servants must not claim any religious affiliation.

ECONOMIC OVERVIEW

2.8 The World Bank describes Vietnam as 'a development success story'. Economic reforms (known as Đổi Mới or 'Renovation' reforms) launched in 1986 transformed the country from one of the poorest in the world at that time to 'low middle income status' over a period of 25 years. Its per capita GDP growth is recognised as one of the fastest in the world, with per capita income moving from USD100 in the early 1990s to around USD2,100 by the end of 2015.

2.9 While the national poverty rate has declined significantly, from 58 per cent in the early 1990s to 13.5 percent in 2014, it is still above 50 per cent in ethnic minority areas. Rural populations are susceptible for falling back into poverty due to declining productivity growth and economic vulnerabilities. Recurring environmental effects and Government decisions relating to land acquisition and manufacturing or mining production are more likely to affect rural populations.

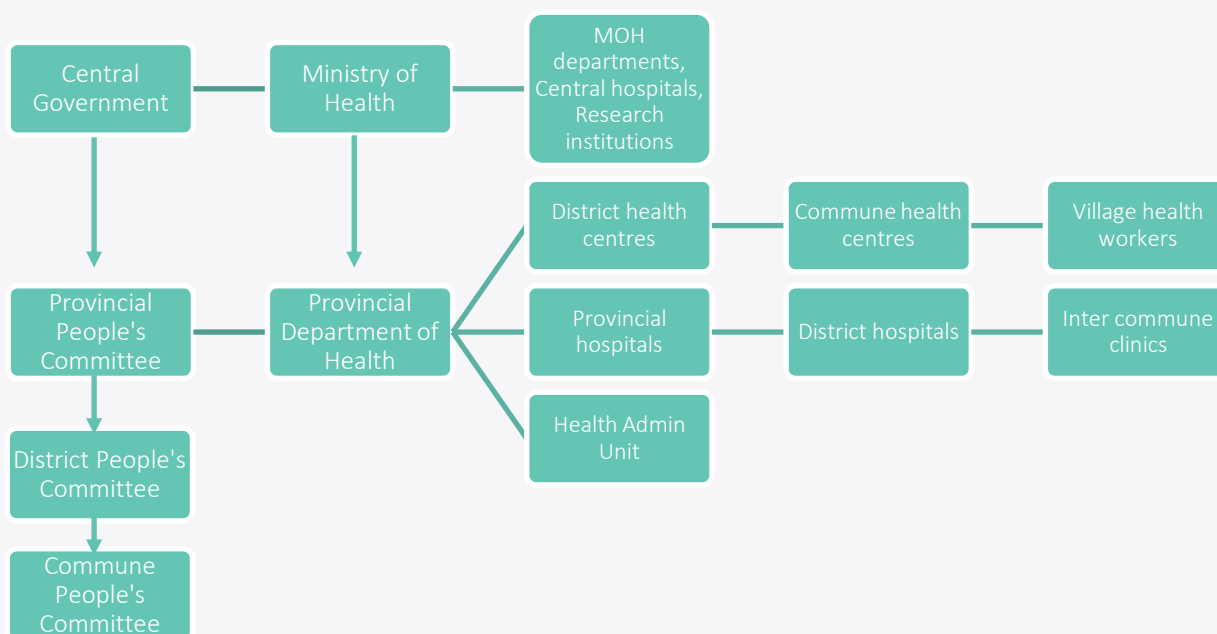
2.10 Vietnam is ranked 115 out of 188 countries in the latest United Nations Human Development Index (HDI). Transparency International's 2016 Corruption Perceptions Index (CPI) ranked Vietnam 113 out of 176 countries; compared with Cambodia at 156, Laos at 123, Thailand at 101 and China at 79.

Health

2.11 The Government provides access to basic health care for all citizens, in both urban and rural areas (see [Fig 1](#) below). Those in rural areas also have access to specialists in urban areas. Funding for health care facilities is based on the number of registered citizens in a particular area (see [Household Registration](#)). However, the Government has taken measures to increase relative healthcare expenditure in rural and remote communities in an effort to ensure more even development outcomes across the country. Overall life expectancy in Vietnam is around 71 years for males and 80 years for females. The infant mortality rate was 17.8 deaths per 1,000 live births in 2014, compared with a global rate of around 32 and a rate of around 6.5 for Australia.

2.12 HIV/AIDS remains highly stigmatised in Vietnam. The People Living with HIV Stigma Index, completed by the Vietnam Network of People Living with HIV (VNP+) with the support of UNAIDS, reported a slight decrease in discrimination amongst the 1,645 respondents in 2014 compared with their results in 2011. However, a high degree of societal discrimination towards people living with HIV (PLHIV) remains, especially towards female sex workers, other women with HIV, and people who inject drugs (PWID). Antiretroviral therapy (ART) is available in Vietnam, as well as treatment for opportunistic infections (OI). However, the free provision of ART is heavily subsidised by international donors and Vietnam does not have an ART provision under national health insurance.

Fig 1: Health System in Vietnam



Education

2.13 Education in Vietnam is compulsory, theoretically tuition-free (fees exist for textbooks, uniforms etc.) and universal through age 14. The education system comprises five levels: early childhood education (nursery schools and kindergartens, 3-5 year olds); general education (primary grades 1-5, lower secondary grades 6-9 and upper secondary grades 10-12); vocational training; university education; and continuing education. Vocational or technical training can also be offered as an alternative option to upper secondary education.

2.14 According to UNICEF, 95.5 percent of children now enrol in primary school at the appropriate age but only 88.2 percent complete primary education. Vietnam's General Statistics Office states that 15.5 percent of students aged 5-18 leave school early. Families are required to pay a variety of school fees for textbooks, uniforms and school maintenance services. As a consequence, school remains out of reach for many families who cannot afford such fees. Ethnic-minority students are exempt from paying school fees under a Government subsidy program, but authorities did not always enforce the fee-waiver. Access to facilities is also a major problem for ethnic minority children; many students are required to walk more than 10km to reach the closest school.

Employment

2.15 The law prohibits discrimination with respect to employment and occupation based on sex, race, disability, social class, marital status, religion, and HIV/AIDS-positive status. The law promotes and encourages the employment of persons with disabilities; however, in practice social and attitudinal barriers exist to varying degrees.

2.16 Agriculture employs around 44 per cent of all workers in Vietnam, although this share has been declining steadily and is down from around 70 per cent in 1996. The share of employment in the industrial sector, including manufacturing, has approximately doubled since 1996, to around 21 per cent.

2.17 Vietnam introduced new minimum wage standards effective 1 January 2017. There are four regional minimum wages currently ranging from VND2.58 million to VND3.76 million (AUD153 – 224) per month. It is unclear at time of writing how widely they have been implemented. Fines exist for labour violations, but are not always enforced due to shortage of training inspectors and low funding. The International Labour Organization (ILO) estimates that around 82 per cent of total employment is informal (or unprotected) labour. Vietnam does not have independent labour unions.

POLITICAL SYSTEM

2.18 Vietnam is one of the world's few remaining one-party communist states. Under Article 4 of the Constitution, the Communist Party of Vietnam (CPV) remains the country's only legal political party. The CPV's Central Committee currently comprises 180 full and 25 alternate members elected at the National Party Congress every five years. The 12th Party Congress was held in January 2016, with the incumbent General Secretary Dr Nguyen Phu Trong re-elected for a second term.

2.19 The three most senior political appointments are General Secretary of the CPV (currently Dr Nguyen Phu Trong), the President (currently Mr Tran Dai Quang), who is Head of State, and the Prime Minister (currently Mr Nguyen Xuan Phuc), who leads the Government. Administration and policy implementation are the responsibility of government ministries and agencies.

2.20 The Central Committee usually meets twice a year and acts as the CPV's supreme decision-making body. The Committee in turn elects Vietnam's most powerful political body, the Politburo (18 current members). The Politburo is led by the General Secretary of the CPV and comprises Vietnam's most senior party members.

2.21 The National Assembly (NA) is Vietnam's legislature and enacts laws for the Government's implementation, under close guidance of the Party. In March 2016, Ms Nguyen Thi Kim Ngan was elected as the National Assembly President, the first woman to hold this role. The National Assembly's 500 deputies (currently 496 members in positions) are elected by the general population every five years. The NA was previously considered a 'rubber stamp' for Central Committee decisions; however, in recent years it has exercised a greater level of scrutiny in development and amendment of legislation and held ministers accountable.

2.22 The 14th National Assembly elections were held on 22 May 2016. An extensive vetting process took place for all candidates, which was led by a CPV-sponsored organisation, the Vietnamese Fatherland Front. 870 candidates were approved to run; of whom 97 were non-Party members and 11 were self-nominees (162 self-nominees sought approval, an increase on previous elections). Of the 496 elected deputies, 475 are Party members and only two independent candidates were elected.

2.23 State-run media reported that 99.35 per cent of the eligible population cast ballots and the CPV concluded the process was successfully conducted. However, the vetting process for candidates, tight

security and propaganda throughout the process were heavily criticised by some observers. The two self-nominated candidates elected are not considered to be genuinely independent by some critics.

HUMAN RIGHTS FRAMEWORK

2.24 Vietnam has signed and ratified the following UN treaties: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights; the International Covenant on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child; and the Convention on Elimination of Discrimination of Women. Vietnam ratified the Convention Against Torture and Other Cruel or Degrading Treatment or Punishment and the Convention on the Rights of Persons with Disabilities on 5 February 2015.

2.25 In November 2013, following a lengthy consultation process, the National Assembly adopted a new Constitution which included an expanded chapter on human rights, recognising human rights and guaranteeing their protection. However, several restrictions on human rights are specifically mentioned in the new Constitution. Article 15 says the exercise of human rights cannot infringe upon the interests of the state and the people (see [Political activists](#) for further information).

2.26 Vietnam was elected to the Human Rights Council in November 2013 for a three-year term, which concluded at the end of 2016. Its second Universal Periodic Review (UPR) was conducted in 2014, during which around 80 per cent of recommendations were accepted, including the recommendations from Australia that Vietnam give more freedom to independent media and for greater freedom of assembly. Recommendations that were not accepted by Vietnam included those concerned with the abolition of or a moratorium on the use of the death penalty, arbitrary detention and the prosecution of political activists, transparency and the establishment of an independent human rights institution on Paris Principles.

2.27 There are no dedicated independent human rights institutions (ombudsmen, human rights commissions or legislative committees dedicated to human rights issues) in Vietnam, although this has been under active consideration by the Government for a number of years.

SECURITY SITUATION

2.28 Security and law enforcement personnel are highly visible throughout Vietnam, particularly during politically sensitive occasions or potential demonstrations. Organised crime groups exist and engage in prostitution, extortion, gambling, illicit drugs and people trafficking/smuggling operations.

2.29 Petty crime, including bag-snatches and theft, occur regularly in larger cities and towns. Violent crimes (murder, armed robbery, kidnapping) remain rare.

2.30 Protest activity does occur, often linked to land use and compulsory acquisition of land by the Government. All land is formally owned by the Government, which issues land use rights to individuals or organisations, but retains the right to acquire the land for a broad range of purposes at any time. Disputes over land use rights can lead to protests and occasional violence (see [Political Activists](#) for further information).

Human Trafficking

2.31 Article 119 of Vietnam's Penal Code covers all forms of trafficking listed in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. Authorities also use Article 120 (fraudulently exchanging

or appropriating children) to prosecute cases involving the trafficking of children. These offences will become Articles 150 and 151 under the new Penal Code, estimated to be finalised in late 2017 with the law to take effect soon after.

2.32 Vietnam has made some progress and efforts to prosecute trafficking offenders; however, the Government made fewer convictions in 2015 than the previous two years. The US Department of State's 2016 Trafficking in Persons Report states that the Vietnamese government arrested 544 suspected traffickers in 2015, prosecuted 442 suspects and convicted 217 trafficking offenders.

2.33 The UN Office on Drugs and Crime (UNODC) 2016 report on trafficking in persons highlights that 449 victims of trafficking were detected by authorities between January and June 2015. Victims included men, women and children, trafficked domestically and overseas, most often to China, Malaysia and other East Asian countries. Female victims are often lured in to false labour opportunities overseas and subsequently sold to brothel operators.

2.34 DFAT is aware of some assistance provided to victims of sex trafficking by the Government in the form of a one-off cash payment of up to VND1.5 million (AUD90), healthcare, training, legal aid and counselling. However, staffing levels and effectiveness of assistance reportedly varies by location and many victims are reluctant to return and accept assistance for fear of being stigmatised by authorities, their family and community. The Ministry of Labor, Invalids, and Social Affairs (MOLISA) is responsible for operating approximately 400 social protection shelters that provide assistance to vulnerable groups, including victims of trafficking. The shelters are run by local authorities and the level of training and skill level varies depending on location. The Vietnam Women's Union, in partnership with foreign donors, operates one shelter in Hanoi that is devoted to female trafficking victims.

2.35 Trafficking of people within Vietnam occurs frequently from poor rural areas to urban centres. In some cases, people relocate willingly and subsequently sold into forced labour or sexual exploitation. Most of the victims have little recourse due to lack of means and legal awareness.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Article 5 of the Constitution enshrines Vietnam's commitment to the equality, solidarity and support of ethnic minorities; the rights of minorities to use their own language and script; and the rights of minorities to preserve their cultural identity, traditions and cultures. It also commits the Government to gradually improve the 'material and spiritual conditions' of ethnic groups in Vietnam.

3.2 Vietnam has identified promoting development for ethnic minority groups in its Socio-Economic Development Plan and has welcomed engagement with development partners on this issue, including Australia's own development assistance program targeting empowerment of ethnic minority women in the north west of the country.

3.3 There is no single, comprehensive anti-discrimination law in Vietnam, although anti-discrimination clauses exist in a number of national laws. Local officials often act in contravention of national laws and discriminate against members of ethnic and religious minority groups. Societal discrimination against ethnic minorities continues and is persistent; ethnic minorities are often viewed as backward and uneducated by the Kinh majority.

3.4 The National Assembly's Ethnic Minority Council, along with provincial ethnic minority steering committees, continue to support infrastructure development and address some problems related to poverty reduction and low literacy rates amongst ethnic minority groups. Nonetheless, the poverty rate is still above 50 per cent in ethnic minority areas, mostly in the central and northern highlands.

3.5 DFAT assesses that Hoa (Chinese), Hmong, Khmer and other smaller ethnic groups face a low level of official and societal discrimination. DFAT assesses that Montagnards (a collective term, also known as Degar) face a moderate risk of official discrimination and harassment due to their religious practice with unregistered Protestant house churches (see [Protestants](#) for further information) and political activism, whether real or imputed. There are reports of official government media publishing articles discouraging citizens from affiliating with Degar Protestantism, as well as increased reports of official harassment and intimidation by local authorities in the Central Highlands area. Montagnards have historically crossed into Cambodia or Thailand.

RELIGION

3.6 Article 24 of the Constitution states that all people have the right to freedom of belief and religion, and have the right to follow any religion or to follow no religion. In addition, all religions are equal before the law; the State respects and protects freedom of belief; and 'no one has the right to infringe on the freedom of belief and religion or to take advantage of belief and religion to violate the laws'. However, as with political opinion, these rights are conditional. The *Penal Code 1999* establishes penalties for practices that, in the Government's view, undermine peace, national independence and unity. The Government's routine

application of these laws in practice leads to limits on religious freedom, particularly with regard to unregistered organisations.

3.7 A new *Law on Belief and Religion* was passed by the 14th National Assembly (November 2016), providing modest improvements to the restrictive regulatory environment for religious practice. This law replaces the 2004 Ordinance on Religion and Belief (Ordinance 21) and the revised Implementation Decree 92 (promulgated in January 2013). The new law shifts the regulation process in multiple areas (e.g. attendance at seminary, ordination, hiring of clergy) from an approval system to a less burdensome notification system, allowing it to move forward with such activities, without explicit government approval. The amount of time a religious organisation must carry out religious activities as a condition for national-level recognition has been reduced from 23 years to five years.

3.8 The treatment of religious groups varies widely across different areas of the country and is further dependent upon their relationship with the Government. The CPV maintains a strong atheistic stance against religion; however, Vietnam is traditionally a Buddhist country, with more than half of the current population (majority Kinh ethnicity) considering themselves to be adherents of Mahayana Buddhism. According to the US Department of State's 2016 report on religious freedom, the Government continued to monitor the activities of some religious groups, mainly unregistered church groups in ethnic minority communities, due to their real or perceived political activism. Local authorities regularly blocked religious gatherings and temporarily detained members of some unregistered groups, especially in ethnic minority regions. DFAT is also aware of credible reports of local authorities either delaying or denying applications for approval and recognition of religious groups with no reason provided.

Catholics

3.9 Roman Catholics constitute seven percent of Vietnam's total population (approximately 6.7 million) and is one of 14 distinct religions that hold full government recognition and registration. Catholics are present across most districts, provinces and cities, with a strong presence in central Vietnam: Nghe An, Ha Tinh and Quang Binh, which have approximately 500,000 followers according to the Catholic Church in Vietnam. The situation for Catholics has continued to improve in recent years, especially in Hanoi and Ho Chi Minh city; however, there are still constraints relating to registration of new churches. In August 2015, the Government approved the establishment of the Vietnamese Catholic Institute, the first faith-based educational institution in Vietnam able to grant Bachelor and Masters degrees. The Institute officially opened in September 2016 initially offering a Masters theological course to 23 selected priests from dioceses within the country.

3.10 DFAT has observed that Catholics are able to practise freely at registered churches and that bibles and other religious texts are readily available in cities and towns. DFAT assesses that religious observance and practice only becomes an issue when it is perceived to challenge the authority or interests of the CPV and its policies.

Unregistered churches

3.11 Credible in-country contacts and human rights advocates reported that several parishes in remote areas with majority ethnic minority congregations faced difficulty registering churches. Local authorities often ignored, or were unaware of, national laws with respect to church registration. The US Department of State's international religious freedom report for 2015 reported the case of 22 unregistered Catholic house churches scheduled for demolition in the Central Highlands province of Kon Tum in 2015. The demolition was halted following involvement by the church leadership, after which authorities and the church entered into dialogue regarding construction of new worship facilities.

3.12 In Nghe An province, which is one of three provinces that constitutes the Diocese of Vinh, credible contacts reported a slight improvement compared to previous years due to the increasing strength of the Catholic community and leadership. Local and provincial authorities reportedly continued to harass and forcibly close known house churches; however, in-country contacts reported an increase in registered churches with the exception of a few in ethnic minority dominated areas.

3.13 DFAT assess that Catholics in remote areas who practise at unregistered churches can be subject to periodic incidents of harassment and intimidation. DFAT is aware of more serious incidents of violence, such as local authorities beating citizens; however, this generally appears to be related to other activities such as protesting against land confiscation and anti-government activities rather than merely due to a person's religion (see [Political Activists](#) for further information).

Protestants

3.14 Protestants in Vietnam constitute an estimated 1-2 percent of the total population (approximately 900,000 to 1.8 million), and predominantly reside in the northern and central highlands of the country. Protestantism is one of the 14 distinct religions that hold full government recognition and registration; however, similar to Catholicism, there are unregistered groups and churches in more remote areas that encounter barriers to freely practice and register places of worship. According to estimates by adherents and published by the US Department of State, two-thirds of Protestants are members of ethnic minorities; most notably the Montagnards in the central highlands and the H'mong, Thai and others in the north-west highlands.

3.15 The US Department of State reported that some registered and unregistered Protestant groups experienced difficulties with local authorities in 2016. Authorities regularly pressured new and smaller congregations to affiliate with larger established congregations. Many adherents refused due to the language barriers and the challenges associated with travel to larger congregations, due to the poor road conditions of the mountainous areas. In-country contacts have provided similar reports. DFAT assesses these reports to be credible.

3.16 DFAT assesses that Protestants are able to practise their faith more freely than in 2014 and 2015, continue to face a moderate level of harassment in remote areas due to the authorities' reluctance to register house churches. DFAT notes that authorities' actions appear to be motivated by the perceived political views or activities of these groups, rather than religious beliefs. The Government continues to scrutinise some groups more than others, due to a perceived involvement with separatist political organisations. Given that a high percentage of Protestants belong to ethnic minorities, especially the Montagnards, the Government remains suspicious of ethnic minorities establishing religious groups within the sensitive mountainous regions.

Hoa Hao Buddhists

3.17 Hoa Hao Buddhists constitute 1.5-3 percent of the total population (approximately 1.3 to 2.8 million) and is one of 14 distinct religions that hold full government recognition and registration. However, some adherents do not participate in government-recognised groups. The government-sanctioned Central Committee of Hoa Hao Buddhism is located in An Giang province in the Mekong Delta area, the birthplace of the religion's founder, Prophet Huynh Phu So. His birth date is a significant celebration day for followers each year on 25 November. An important aspect of the faith is the emphasis of practising at home or while tending your land, given most followers are farmers. The religion favours grassroots aid work over temple worship or elaborate ceremonies.

3.18 Many followers refuse to join the government-sanctioned Hoa Hao Buddhist organisation due to authorities' tight control over the central committee. Human rights defenders reported that plain-clothes police continue to monitor and harass leaders of unregistered Hoa Hao groups. In August 2016, a member of the unregistered Hoa Hao group that operates outside government control was released from prison after serving a two-and-a-half-year sentence. He was arrested in 2014 and charged with creating a 'serious obstruction to traffic' while he and a colleague were on their way to visit a former political prisoner.

3.19 DFAT assess that individuals who engage in open criticism of the government-sanctioned Central Committee of Hoa Hao Buddhism or the authorities in An Giang province have a high risk of harassment, destruction of property and pressure to join the government-sanctioned groups. Followers who practise their faith at home and within government-sanctioned boundaries are unlikely to attract adverse attention from authorities.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.20 Article 4 of Vietnam's Constitution establishes the CPV as the only legal political party in the country. The CPV tightly controls political discourse, with very few formal avenues for political participation. Only two self-nominated candidates in the National Assembly Elections of 22 May 2016 were elected out of a total of 496 elected candidates.

3.21 Vietnam's Constitution enshrines rights with regard to freedom of speech, assembly, association and demonstration; however, these are restricted by a number of 'national security' provisions within Vietnamese law. In practice, the Government does not tolerate political expression against the CPV, the Government or its policies. On 9 June 2016 the European Parliament adopted resolution 2016/2755(RSP) on Vietnam that called upon the Government to put an immediate stop to all harassment, intimidation, and persecution of human rights, social and environmental activists. It insisted that 'the government respect these activists' right to peaceful protest and release anyone still wrongfully held'.

Political Activists

3.22 The Government has used specific laws to curb dissent, such as Article 79 of the Penal Code ('overthrowing the State'), Article 88 ('conducting propaganda against the State') and Article 258 ('abusing rights to democracy and freedom to infringe upon the interests of the State'), all of which in practice take precedence over constitutionally enshrined rights. These offences carry penalties ranging from prison sentences of between six months and 20 years; to life imprisonment or capital punishment. DFAT is not aware of any recent cases of the death penalty being applied for political activities.

3.23 DFAT is aware of at least 19 reported convictions of political/human rights activists in 2016. The convictions resulted in a total of more than 70 years in prison for the abovementioned offences, as well as the use of Article 245 of the Penal Code ('causing public disorder') and Article 87 ('undermining national unity')

3.24 Increased suppression of political activism generally coincides with high-level events, such as the lead up to the National Party Congress, National Assembly Elections, and with other significant issues affecting the country, such as the South China Sea disputed territories and the mass fish death crisis in April 2016.

Leaders and Organisers

3.25 Political and human rights activists who openly criticise the Government, the CPV and its policies are at high risk of attracting adverse attention from authorities; however, the treatment from authorities generally depends on the individual's level of involvement. The US Department of State's Country Report on Human Rights Practices for 2015 highlighted the arrest and detention of former prisoner of conscience and democracy activist Tran Anh Kim, formally charged in October 2015 under Article 79 of the Penal Code (seeking to overthrow the government). Police in Thai Binh Province reportedly detained Kim and his associate Le Thanh Tung on 21 September, 'the day he had planned to inaugurate a new political organization, National Forces Raising the Democratic Flag.' On 16 December 2016, Mr Kim and Mr Tung were sentenced at trial to 13 and 12 years in prison respectively. The court also ordered that both men serve four years of house arrest once released from prison.

3.26 A number of incidents involving the prosecution of prominent activists for political dissent were reported in 2016, including:

- On 23 March 2016, prominent blogger, Party member and former public security official Nguyen Huu Vinh (also known as Anh Ba Sam) was sentenced to five years in prison, accused of publishing anti-state information and charged under Article 258. Vinh was arrested in May 2014, together with a colleague, Nguyen Thi Minh Thuy, and has been in custody since his arrest. Ms Thuy was sentenced to three years in prison at the same trial in March 2016. Their appeal was rejected by a panel of judges at the People's High Court in Hanoi on 22 September 2016.
- On 23 August a court in the central province of Khanh Hoa sentenced two men to up to three years in prison for spreading anti-state propaganda (Article 88) through one of the men's Facebook accounts. The case has been reported by human rights organisations as a reminder of the CPV's strong desire to control all political discourse. Nguyen Huu Quoc Duy and his cousin, Nguyen Huu Thien An, were given sentences of three and two years respectively, in a one-day closed trial. According to *Radio Free Asia*, the court statement said the men 'deliberately distorted the Government's policies and that they explicitly called for the overthrow of the state' in 12 articles posted on Facebook.
- On 20 September 2016 a leading land rights activist, Ms Can Thi Theu, was convicted under Article 245 (causing public disorder) and sentenced to 20 months in prison. Police forcibly removed more than 50 supporters from outside the courthouse during her trial. Ms Theu was arrested in June 2016 for protesting government-ordered land evictions from Duong Noi village near Hanoi. The Government reportedly plans to use the village for a commercial development. On 30 November 2016 an appeals court in Hanoi upheld her conviction of 20 months in prison.
- On 10 October 2016 prominent blogger, Ms Nguyen Ngoc Nhu Quynh (alias Mother Mushroom), was arrested and charged under Article 88 of the Penal Code (propaganda against the state), facing up to 20 years in prison. This was the first arrest under a national security provision for 2016. Mother Mushroom regularly wrote about political reform, land confiscation and police brutality, voiced her support for fellow dissidents and publicly campaigned for the release of many political prisoners. She had been subject to regular police surveillance and interrogation, and prevented from attending numerous events and meetings with foreign embassies and organisations.

3.27 DFAT assesses that individuals who are known to authorities as active organisers or leaders of political opposition are at high risk of being subject to intrusive surveillance, detention, arrest and prosecution. DFAT is aware of large numbers of credible reports of prominent political and human rights activists, as well as former political prisoners of conscience, being monitored, prevented from leaving their homes and/or attending meetings and events. They have also reportedly been subjected to widespread

physical and psychological harassment, which in most cases has not been the subject of credible police investigations.

Supporters and protesters

3.28 Individuals and groups who protest against the Government or openly criticise the CPV are likely to attract adverse attention from authorities. Credible in-country contacts stated that actively protesting against land confiscation, human rights issues or the government's handling of issues will result in protests being shut down, police intimidation and harassment.

3.29 DFAT assesses low-level protesters and supporters often feel intimidated by police presence, and are sometimes detained and released the same day by authorities. There have been a few reported cases of uniformed and plain-clothes officers using violence to break up protests in 2016, such as beating protesters with batons to disperse crowds.

GROUPS OF INTEREST

Media

3.30 The Constitution states that citizens have the right to freedom of the press 'in accordance with the provisions of the law'. The Government however continues to prevent the public broadcasting of any dissenting views through its ownership and control of all print, broadcast and electronic media. The Ministry of Information and Communications (MIC) is responsible for exercising control and legal authority of media outlets under the ongoing guidance of the CPV Propaganda and Education Commission. Reporters Without Borders ranked Vietnam 175 out of 180 countries on its 2016 Press Freedom Index. The Committee to Protect Journalists (CPJ) reported that eight journalists had been imprisoned in Vietnam as of 1 December 2016, compared to six in 2015.

Internet and Social Media

3.31 Vietnam gained new powers to limit the use of the internet in July 2013, following the introduction of Decree 72 on the 'supervision, provision and use of internet services and online data'. The decree, which came into effect on 1 September 2014, prohibits a broad range of activities, including 'opposing the Socialist Republic of Vietnam' and 'disturbing national unity'. It also requires operators of social networks to cooperate with authorities in tracking down people who violate the decree. Freedom House's Freedom on the Net 2016 reported that 'at least 15 bloggers and activists were still jailed at the end of 2015'. Blogs and social media platforms are widely available in Vietnam; Facebook and Instagram are popular amongst citizens as a means of sharing information and organising public events. Facebook was sporadically blocked in 2016, most notably during the protests over the mass fish death crisis relating to the Formosa steel plant toxic spill. Individual accounts of high profile activists have reportedly been disabled at various times (see [Political Activists](#) for further information).

Women

3.32 Article 26 of the Constitution guarantees male and female citizens equal rights in all fields, explicitly bans all forms of discrimination against women, and states that 'men and women shall receive equal pay for equal work'. The National Assembly has also passed a range of domestic legislation including the *Law on*

Gender Equality (2006) and amendments to the 2014 *Law on Land* (effective 1 July 2014) and the 2014 *Law on Marriage and Family* (effective 1 January 2015) that improve the property rights of women in families.

3.33 Gender equality is identified as a priority in Vietnam's Socio-Economic Development Plan and the Government has welcomed cooperation with development partners, including Australia, to advance gender equality and women's empowerment.

3.34 Women make up almost half of Vietnam's labour force. However, some differences remain in the treatment of men and women in the workplace. Workplace laws surrounding pregnant and nursing mothers prevent women in those circumstances working the same hours as men or women without children. Women are expected to retire at 55 and men at 60. There are extensions provided for both men and women, though the age discrimination persists. Anecdotal reporting also suggests wages and promotion rates for women are much lower than men.

3.35 In July 2015, a UN committee reviewed Vietnam's implementation of the UN Convention on the Elimination of Discrimination against Women (CEDAW). The committee found that Vietnam 'has made extensive legal commitments to guarantee women's rights on paper but has taken no steps to enforce or protect them in practice'. The committee also expressed concern over the high prevalence of violence against women and girls; recommending that the country's leaders amend legislation 'with a clear resolve to criminalize all forms of violence against women, including marital rape and sexual harassment.'

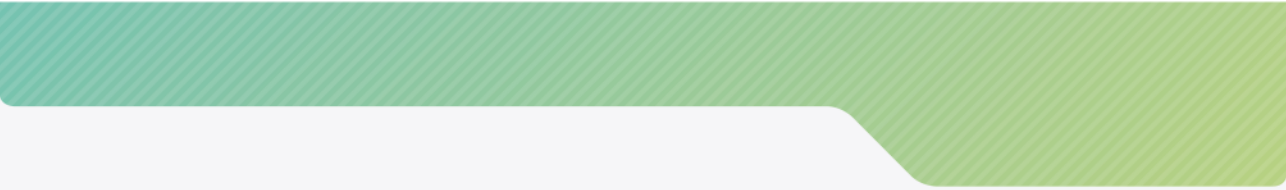
3.36 The Government has initiated programs aimed at reducing domestic violence, such as training for police officers, lawyers and legal system officials in the legal framework and rights of victims of domestic violence. Nonetheless, domestic violence against women remains a serious problem in Vietnam. Exact figures and statistics are difficult to obtain due to victims' reluctance by victims to approach authorities for fear of shaming their family, together with patriarchal attitudes and gender stereotypes regarding the roles and responsibilities of women in Vietnamese society. Credible reports by the UN and International Federation for Human Rights (FIDH) conclude that the frequent use of reconciliation methods favours men over women and the victim is often left with no access to justice and legal remedies. Domestic violence incidents that are reported are treated as civil cases by authorities, unless the victim suffers injuries to more than 11 percent of the body.

Sexual Orientation and Gender Identity

3.37 The law does not address discrimination based on sexual orientation or gender identity. Same-sex sexual activity is legal in Vietnam provided it complies with other legislation also applicable to heterosexual activity, consensual between adults. The revised 2014 Law on Marriage and Family (effective 1 January 2015) removed a ban on same sex marriage. However, under the new law the Government does not formally recognise same sex marriages, meaning that same-sex couples are not afforded the legal protections that heterosexual married couples enjoy.

3.38 The revised Civil Code, passed by the National Assembly in November 2015, allows transgender individuals the right to change their sex, access health care, and change their gender identity on official documents if they have undergone sex re-assignment surgery. Article 36: Redefine sex, applies to intersex individuals; Article 37: Sex change, applies to individuals who want to change their sex assigned at birth. The prerequisite of sex reassignment surgery in order to access the rights has been criticised by some international NGOs; however overall the revisions are seen as a small but significant step towards recognition and acceptance.

3.39 There has been a growing official acceptance of the rights of lesbian, gay, bisexual, transgender/transsexual and intersex (LGBTI) people Vietnam. Vietnam's first gay pride rally, Viet Pride, took



place in 2012. It has since become an annual event each August; celebrated in 30 provinces in 2016, with the largest turnout in Hanoi. However, societal discrimination remains high, especially within families. Unlike other South-East Asian countries, Vietnam does not have a 'gay scene' in major cities, with only one known gay club in Hanoi, almost solely frequented by gay men. Young LGBTI persons frequently connect through online social platforms, such as Facebook groups and blogs.

3.40 DFAT assesses that the risk of official discrimination against LGBTI people in Vietnam is low. Although Vietnam's legislative framework is relatively progressive, there is little awareness and understanding of alternate sexual orientations and gender identities. DFAT assesses that the risk of societal discrimination against LGBTI people in Vietnam is moderate, given the traditional and patriarchal attitudes amongst Vietnamese families and society. DFAT has been advised by credible in-country contacts of cases involving parents seeking medical treatment for their child's homosexuality, in the form of psychiatry and prescription drugs.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

Extra-Judicial Killings

4.1 While independently verifiable details are limited, there are reports that government officials or their agents have been involved in perpetrating unlawful killings of people who were in police custody at the time (see [Deaths in Custody](#) below).

Enforced or Involuntary Disappearances

4.2 There were no reports of enforced or involuntary disappearances in 2015 nor 2016.

Deaths in Custody

4.3 In February 2017, the Ministry of Justice (MoJ) published a report on its website entitled 'Five year review of the implementation of the Law on Execution of Criminal Judgements within the police force'. The report, authored by the Ministry of Public Security (MPS), provides unprecedented information on deaths in custody and executions (see [Death Penalty](#) below). According to the report, there were at least 2,812 deaths of people in custody between 1 July 2011 and 30 June 2016. This figure represents the number of families that received the remains of their imprisoned relative. MPS generally provides little or no information to families of the deceased, or states that the deaths were the result of medical issues or suicide. Infectious disease rates likely play a significant role in the high number of deaths. Police officials have been charged and convicted in a few cases; however, the charges have been less than murder and sentences lenient.

4.4 The US Department of State reported at least nine incidents of suspicious deaths in custody for 2016; however, this was prior to the release of the MPS report. According to the US report, victims' injuries led to the conclusion that they were inflicted by police officials while in custody. In most cases, the victims were arrested for low-level crimes such as theft and gambling.

DEATH PENALTY

4.5 Article 35 of the *Penal Code 1999 (No. 15/1999/QH10)* provides that the death penalty is a 'special penalty only applied to persons committing particularly serious crimes'. There are 22 crimes under the current Penal Code where the death penalty can be applied including murder, drug-related offences, rape of minors, manufacturing fake medicine, receiving bribes, and embezzling property. No offences carry a mandatory death penalty. The death penalty does not apply to juvenile offenders (persons under 18),

pregnant women and women with children under three years old at the time of committing the crime or being sentenced. The sentence is converted to life imprisonment for those cases.

4.6 On 27 November 2015, the National Assembly approved amendments to the Penal Code that reduced the number of offences punishable by death from 22 to 18; however, on 30 June 2016 the National Assembly issued a resolution delaying the implementation in order to amend a number of errors detected. It is likely the amendments will be finalised in 2017 with the law to take effect soon after.

4.7 According to the MoJ, the principle of double jeopardy applies in Vietnam. Persons convicted overseas of serious crimes who have completed their sentences and returned to Vietnam cannot be subject to further trial in Vietnam for the same crimes. Article 6 of the Penal Code provides that people who have committed offences overseas, where the sentence has not been served, may be 'examined for penal liability in Vietnam'. MoJ stated that there is no specific list of offences; however, if the offence committed overseas is considered an offence in Vietnam and the person had not served their sentence, they could be 'examined' for penal liability on return to Vietnam.

Death penalty in Vietnam – Key facts

Status	Method of execution	Death row inmates	Executions 2013-2016	Mandatory death penalty	ICCPR ratification	ICCPR-OP2 ratification	CAT ratification
Retentionist	Lethal injection	Approx. 680	429 reported cases	No	Yes	No	Yes

TORTURE

4.8 Vietnam signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 7 November 2013 and ratified it on 5 February 2015. Article 20 of the Constitution also states that 'no one shall be subjected to torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health or offending his or her honour and dignity'. Article 298 of the Penal Code 1999 bans the application of corporal punishment 'in investigating, prosecuting, adjudicating and/or judgement-executing activities'. Penalties range from six months to twelve years in prison, depending on the seriousness of the crime.


4.9 In practice, there are reports of mistreatment of suspects during arrest and detention. An Amnesty International report published in July 2016 documented several cases of torture and physical abuse of prisoners of conscience by police and prison officials.

4.10 There were reported cases of individuals beaten to extract a confession, although specific numbers are difficult to ascertain due to a lack of transparency.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.11 Vietnamese law allows the Government to detain people without charge under 'national security' provisions. There are credible reports of the Government arresting and detaining individuals indefinitely, with activists across the country also being subject to administrative detention or house arrest. Access to



legal representation is granted inconsistently, with people held on national security charges reporting irregular access to legal counsel, or denied altogether.

4.12 Around 35,000 drug users are detained in administrative centres, referred to as ‘Treatment, Education and Social Labour Centres’ (also known as ‘06 Centres’), without charge and with limited judicial involvement. Drug users reportedly spend an average of one to two years in these centres; however, detention is no longer compulsory if an individual is registered on a methadone program. Credible reports indicate harsh conditions and mistreatment of detainees at these centres, including forced labour and physical abuse. The centres are often reported to be profitable for those managing them due to the forced labour practices.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 The revised version of the Vietnamese Constitution adopted in 2013 includes an extended chapter on human rights, but also provides for specific restrictions on the way these rights can be exercised. For example, Article 15 says the exercise of human rights cannot infringe upon the interests of the state and the people.

5.2 A number of basic rights are not implemented or enforced in practice. The absence of a separation between the executive and the judiciary also places limits on the ability of judicial authorities to act with independence.

Military

5.3 The Vietnam People's Army (Quân đội nhân dân) includes a large ground force component (estimated at 412,000 personnel). In practice, the other services are subordinate to the army, which include the People's Navy and Naval Infantry (estimated at 40,000), the People's Air Force and Air Defence Force (estimated at 30,000) and the Border Defence Command (estimated at 40,000). Military service of 18-24 months is compulsory for males aged 18-25 years, and females can volunteer for service. In practice, however, DFAT understands that all males must register with the military, but very few are called up to serve for the full military service period. There are exemptions granted on several grounds, including for university students and people employed in certain professions.

Police

5.4 Internal security is the responsibility of the Ministry of Public Security, although the military maintains public order in the event of civil unrest in some remote areas. Police organisations exist at the national, provincial, district and local levels, and are subject to the authority of people's committees at each level. The police are generally effective at maintaining public order. The Ministry controls the police, a special national security investigative agency, immigration and other internal security units. Credible sources report that local police also use contract 'thugs' and 'citizen brigades' to harass and beat political activists and others, including religious worshippers, who are perceived as undesirable or a threat to public security.

5.5 The Supreme People's Procuracy has authority to investigate security force abuse, but in practice police organisations operate with significant discretion and little transparency. The Vietnamese law enforcement agencies are highly efficient in controlling public disturbances and communal violence. However, other police capabilities, including many investigative capabilities, remain limited and training and resources are inadequate to meet current and emerging transnational crime issues facing Vietnam and the broader region.

Judiciary

5.6 The Vietnamese judiciary consists of: Supreme People's Court (SPC), which is the highest court of appeal and review; Provincial People's Courts, which serve as the appellate courts for district cases and the courts of first instance for more high profile cases; local people's courts; and other tribunals established by law to adjudicate on specific issues. Each district throughout the country has a district people's court, which serves as the court of first instance for most domestic, civil, and criminal cases.

5.7 Prosecutions are managed by the Supreme People's Procuracy (SPP). The SPP has broad ranging power to bring charges against suspects and serves as prosecutor during trials. A judging council, made up of a judge and one or more people's jurors, determines guilt or innocence and also passes sentence on the convicted. The relevant people's council appoints people's jurors.

5.8 Courts at all levels are effectively controlled by the CPV, which has power over appointments. Judges tend to be CPV members chosen in part for their political views and affiliations. Varying quality of court processes lead to inconsistent interpretation and implementation, police investigations are opaque and abuse of process is reportedly widespread. Citizens can spend years in pre-trial detention. There are reports from credible sources that only 20-30 per cent of defendants had access to legal counsel, including in cases involving the death penalty or juveniles where the law theoretically required authorities to appoint a lawyer.

Detention and Prison

5.9 The prison population in Vietnam is approximately 136,759 as at 1 July 2016, approximately 121,625 males and 15,134 females. This is a similar prison population rate as Australia. Around 12 per cent of the Vietnamese prison population are pre-trial detainees, around half the rate for Australia. According to the Ministry for Public Security, 427 inmates are foreigners most commonly incarcerated for drug offences.

5.10 Prison conditions in Vietnam are considered harsh but generally not life-threatening. There are reports of a lack of quality food and water, and of poor sanitation. Information on prison conditions is limited due to a lack of transparency. Deaths in custody are predominantly caused by serious health conditions that can be exacerbated by insufficient or delayed medical care, poor sanitation, and malnutrition. Between 1 July 2011 and 30 June 2016, MPS reported 12,246 cases of tuberculosis and 71,036 cases of HIV within the prison population. There are credible reports of deaths caused by lethal force by authorities. Prisoners held on politically-related crimes are generally kept separate from other inmates, and there are credible reports that these prisoners are housed with dangerous criminals as a punitive measure and an effort to discourage further activism. Political prisoners are also reportedly routinely denied access to medical care.

Probationary Restrictions (including House Arrest)

5.11 Probationary detention under Article 30 of the Penal Code 1999 can be imposed upon 'national security' offenders released from prison for a period of one to five years after their release. During this period, offenders are forbidden to leave their homes and are kept under constant police surveillance. There are reports that human rights activists serving sentences of house arrest can expect to have their homes and surrounding area patrolled by uniformed and plain clothes police. Visitors may also be questioned or prevented from entering the property. There are also other forms of probation that allow movement within a tightly restricted area only (e.g. within the local ward).

INTERNAL RELOCATION

5.12 Internal relocation is common, with large scale urbanisation occurring in recent decades alongside other migration for economic purposes. Younger members of ethnic groups schooled in the Vietnamese language are significantly more likely to overcome linguistic and cultural barriers to successfully relocate.

5.13 Police require citizens and foreigners to register when staying overnight in a location outside of their own homes. This is enforced more strictly in some areas, such as Central and Northern Highlands districts. Moving without formal approval from the authorities can restrict access to legal residence permits, public education and healthcare benefits (see [Household Registration](#)).

5.14 The strong and effective Vietnamese public security network means that there are few options for internal relocation to seek protection from state authorities.

TREATMENT OF RETURNEES

5.15 Article 91 of the *Penal Code 1999* states that ‘Fleeing abroad or defecting to stay overseas with a view to opposing the people’s administration’ is an offence. However, DFAT is unaware of any cases where this provision has been used against failed asylum seekers. Returns to Vietnam are usually done on the understanding that they will not face charges as a result of their having made asylum applications. In December 2016, a new Memorandum of Understanding (MOU) was signed between the Australian Department of Immigration and Border Protection and Vietnam’s Ministry of Public Security, which provides a formal framework for the return of Vietnamese nationals ‘with no legal right to enter or remain in Australia, including those intercepted at sea’.

5.16 Vietnamese nationals who depart the country unlawfully, including without travel documents, may be subject to a fine upon return under Article 21 (regarding ‘Violations of the regulations on exit, entry and transit’) of the Decree on Sanctions against Administrative Violations in the Sector of Security and Social Order. A fine of between VND2 million and VND10 million (approximately AUD120-600) is specified for leaving Vietnam without a passport or equivalent, departing without undergoing official exit procedures, or departing using another person’s documents. A fine of between VND20 million and VND50 million (AUD1,200-3,000) is specified for leaving Vietnam using a false passport or equivalent.

5.17 DFAT assesses that persons who paid money to organisers of people smuggling operations are viewed by the Government as victims of criminal activity (people smuggling), rather than as criminals facing the penalties allowed in the law for illegally departing Vietnam. While some returnees can be briefly detained and interviewed, DFAT assesses that long-term detention, investigation and arrest is conducted only in relation to those suspected of involvement in organising people-smuggling operations. DFAT understands this to be the case in relation to several individuals who were on board vessels returned to Vietnam in 2016.

Exit and Entry Procedures

5.18 The Vietnamese Constitution provides for citizens to ‘freely travel abroad and return home from abroad in accordance with the provisions of the law’ (Article 23). In practice, the Government imposes limits on the movement of some individuals, particularly foreign travel by high profile political activists. Authorities often confiscate passports or deny issuance of passports for people the Government deems a threat to national interests. The Department of Immigration, part of the Ministry of Public security, is responsible for the issuance of passports and visas, as well as monitoring citizens migration to and from Vietnam.

5.19 The General Department of Customs, under the Ministry of Finance (MoF), is responsible for controlling the entry and exit of citizens and foreigners at airports. Airport control generally operates smoothly in all major cities and towns, however, corruption reportedly remains a problem. In 2015, a corruption hotline was established in Ho Chi Minh City in an attempt to reduce bribery at customs control points.

5.20 Internal and external relocation continues today due to decreasing sources of livelihood, as a result of environmental factors such as land degradation and non-natural disasters such as the mass fish deaths in April 2016 caused by a toxic waste spill at Taiwanese-owned steel company, Formosa Ha Tinh Steel Corp, in Ha Tinh province.

Conditions for Returnees

5.21 DFAT has no information to suggest that people known or believed to have sought asylum in other countries are mistreated on return by the Government. Vietnamese nationals who depart the country unlawfully may be subject to a fine upon return. Notwithstanding these fines, DFAT understands that people who have paid money to organisers of people smuggling operations are not subject to such fines. DFAT is aware of recent returnees receiving assistance from Vietnamese provincial authorities and IOM to reintegrate to their communities. There are credible reports of some returnees held for a brief period upon return for the purpose of interview by MPS officials, to confirm their identity where no documentation exists. Other cases involve individuals detained by authorities in order to obtain information relevant to the investigation of people smuggling operations.

5.22 DFAT assesses that, in general, persons detained upon return to Vietnam are those suspected of organising/assisting with people smuggling activities.

DOCUMENTATION

Ho Khau (household registration)

5.23 The 2006 Law on Residence establishes the household registration system and policies. There are two categories of registration: temporary and permanent (reduced from four under the previous law). In 2013, revisions were made to the law in response to concerns raised by the MPS over rapid urbanisation in major cities and more people changing their status to permanent after one year of residence (previously three years). The revisions tightened the requirements for permanent residence from one year to two years of continuous residence. The 2012 Capital City Law further tightened requirements for permanent residence in Hanoi to three continuous years of residence before status can be changed to permanent.

5.24 Ho Khau registration is initially obtained through the registration of a person's birth with the village or provincial administrators. Officials use the registration system to determine the levels of services provided to villages and provinces, linking a person's right to access government healthcare, education and other services to their place of residence. Ho Khau registration is also essential for obtaining employment with the government or in state-owned enterprises. Although health care facilities can be accessed anywhere in Vietnam in emergency cases, public facilities may turn away non-life-threatening cases where the person is not properly registered. Access to schools is determined by Ho Khau registration and administration fees may apply to children not registered in an area zoned for a particular school. For members of minority groups, Ho Khau registration is essential to access development-related entitlements in rural and regional centres. This may include additional language training or employment related training.

Birth and Death Certificates

5.25 Birth certificates are issued by medical practitioners at the time of birth, or on application immediately afterward. Details of the birth are also provided to local administrators who update the state register and Ho Khau entries related to that person.

5.26 Death Certificates can be issued by the People's Committee of the village, a hospital or the police if involved in an investigation. A death should be reported within 24 hours to the local People's Committee of the village, district capital or ward where the deceased lived.

National Identity Cards

5.27 In addition to the Ho Khau registration system, Vietnamese citizens over the age of 14 are required to hold a national identity (ID) card. A new identity card was made available in 2016, which includes the card holder's ethnicity but not religion. Many citizens however still hold the older style of card.

5.28 There are media reports that national ID cards and the Ho Khau system may be replaced by a comprehensive ID system, under which all citizens would be provided with an ID number at birth. At age 15 they would be provided with a national ID card with this number, along with several other personal details such as name, gender, date and place of birth, ethnic group, place of residence, and information on the cardholder's parents, siblings and children. At the time of writing, implementation of this proposed policy change had not yet occurred.

Passports

5.29 Passports are obtained by application to the Immigration Control Department of the Ministry of Public Security (MPS), at either the Central level (Hanoi) or the Central-City level (Hanoi, Danang, Ho Chi Minh City). Applicants outside these three cities can apply by post. Applicants usually provide their household registration book and one other form of identification (usually their identity card or birth certificate), an application form and two recent passport photos. MPS reviews the application in consultation with the province of residence of the applicant who verifies their identity. The process officially takes five working days at the Central level and eight working days at the Central-City level. Passports are valid for ten years. They do not include information about religion.

Prevalence of Fraud

5.30 Document fraud is common in Vietnam but is not necessarily linked to criminality or attempts to avoid entry and exit requirements. Applicants may resort to fraudulent documents—or to obtain them unofficially—to avoid corruption and inefficiency in the responsible government agencies. Documents can normally be verified through referral to the source, but this may result in penalties for the person concerned.

5.31 Passport fraud is one of the most difficult types of document fraud to detect in Vietnam, since it is normally undertaken by using false documents to obtain a genuine passport. If a suspicious passport is referred to the Investigations Unit of the Immigration Department, it is possible to trace the document trail behind the genuine passport and detect fraud where present.

5.32 DFAT is aware of a number of scams involving Australian visa fraud, but the products of these scams are of relatively poor quality.