

2009 Human Rights Reports: Vietnam

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BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

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The Socialist Republic of Vietnam, with a population of approximately 87 million, is an authoritarian state ruled by the Communist Party of Vietnam (CPV). The most recent National Assembly elections, held in 2007, were neither free nor fair, since all candidates were vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's mass organizations. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained a problem. Citizens could not change their government, and political opposition movements were prohibited. During the year the government increased its suppression of dissent, arresting several political activists and convicting others arrested in 2008. Several editors and reporters from prominent newspapers were fired for reporting on official corruption and outside blogging on political topics, and bloggers were detained and arrested for criticizing the government. Police commonly mistreated suspects during arrest or detention. Prison conditions were often austere. Although professionalism in the police force improved, corruption remained a significant problem, and members of the police sometimes acted with impunity. Individuals were arbitrarily detained for political activities and denied the right to fair and expeditious trials. The government continued to limit citizens' privacy rights and tightened controls over the press and freedom of speech, assembly, movement, and association. The government maintained its prohibition of independent human rights organizations. Violence and discrimination against women as well as trafficking in persons continued to be significant problems, despite laws and government efforts to combat such practice. Some ethnic minority groups suffered societal discrimination. The government limited workers' rights to form and join independent unions.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings. Unlike in previous years, there were no reports of deaths in custody.

There were no developments in the case of Y Ben Hdok, a Montagnard from Dak Lak who died while in detention in May 2008.

b. Disappearance

There were no reports of politically motivated disappearances.

There were no developments in the case of Thich Tri Khai, a monk from the unregistered Unified Buddhist Church of Vietnam, whom police arrested in 2008.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits physical abuse; however, police commonly mistreated suspects physically during arrest or detention. Incidents of police harassment were reported in the provinces of Dak Lak, Dien Bien, Gia Lai, Ha Giang, Lai Chau, Nghe An, Son La, Thai Binh, Thanh Hoa, and Tra Vinh. Some incidents were related to unrecognized Protestant churches that were seeking to hold services in these provinces. Land-rights protesters in Ho Chi Minh City and several Mekong Delta provinces also reported harassment from local authorities. Most incidents between ethnic minorities and local authorities involved land, money, or domestic disputes.

In contrast with 2008, there were no reports that the government committed activists involuntarily to mental hospitals as a tactic to quell dissent.

The Open Society Institute reported that more than 50,000 drug users were being held in forced detoxification drug treatment camps.

Prison and Detention Center Conditions

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

Prisoners had access to basic health care, with additional medical services available at district or provincial hospitals. However, in many cases officials obstructed family members from providing medication to prisoners. Family members of one activist who experienced eye problems while in a prison in Thanh Hoa Province and family members of another activist who had a stroke while in prison in Ha Nam Province both claimed that medical treatment was inadequate, resulting in greater long-term health complications.

Prison authorities returned Father Nguyen Van Ly's Bible to him and allowed him to read party-sanctioned newspapers and watch television. However, he was in poor health after suffering two strokes in prison in July and November. After the second and more severe stroke, he was moved to a hospital administered by the Ministry of Public

Security (MPS) near Hanoi. Following treatment, he was returned to the prison facility in Ha Nam, where he remained at year's end.

The total number of prisoners and detainees was not publicly available. Pretrial detainees were held separately from convicted prisoners. By regulation and practice, juveniles were held separately from adults in prison, but on rare occasions they were held with adults in detention for short periods of time due to availability of space in detention facilities. By regulation men and women were held separately. Political prisoners were typically sent to specially designated prisons that also held other convicts, and in most cases most political prisoners were kept separate from nonpolitical prisoners. Some high-profile political prisoners were kept in complete isolation from all other prisoners.

Authorities allowed foreign diplomats and a foreign delegation to make limited prison visits and meet with prisoners in various prisons.

d. Arbitrary Arrest or Detention

The criminal code allows the government to detain persons without charges indefinitely under vague "national security" provisions such as articles 84, 88, and 258. The government also arrested and detained indefinitely individuals under other legal provisions. Authorities subjected several dissidents throughout the country to administrative detention or house arrest.

Role of the Police and Security Apparatus

Internal security is the responsibility of the MPS; however, in some remote areas, the military is the primary government agency and provides public safety functions, including maintaining public order in the event of civil unrest. The MPS controls the police, a special national security investigative agency, and other internal security units. It also maintains a system of household registration and block wardens to monitor the population. While this system has generally become less intrusive, it continued to be used to monitor those suspected of engaging, or likely to engage, in unauthorized political activities. Credible reports suggested that local police forces used "contract thugs" and "citizen brigades" to harass and beat political activists and others, including religious worshippers, perceived as "undesirable" or a "threat" to public security.

Police organizations exist at the provincial, district, and local levels and are subject to the authority of people's committees at each level. The police were generally effective at maintaining political stability and public order, but police capabilities, especially investigative, were generally very low. Police training and resources were inadequate.

Corruption among police remained a significant problem at all levels, and members of the police sometimes acted with impunity. Internal police oversight structures existed but were subject to political influence. The government cooperated with several foreign governments in a program for provincial police and prison management officials to improve the professionalism of security forces.

Arrest Procedures and Treatment While in Detention

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

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

By law detainees are permitted access to lawyers from the time of their detention; however, authorities used bureaucratic delays to deny access to legal counsel. In cases investigated under broad national security laws, authorities often delayed defense lawyers' access to clients until an investigation had ended and the suspect had been formally charged with a crime. Under the regulations, investigations can be continued and access to counsel denied for more than two years. In addition, a scarcity of trained lawyers and insufficient protection of defendant rights made prompt detainee access to an attorney rare. In practice only juveniles and persons formally charged with capital crimes were assigned lawyers.

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

Police generally informed families of detainees' whereabouts, but family members could visit a detainee only with the permission of the investigator, and this permission was not regularly granted. During the investigative period, authorities frequently did not allow detainees access to family members, especially in national security cases. Prior to a formal indictment, detainees also have the right to notify family members. However, a number of detainees suspected of national security violations were held incommunicado. At year's end some persons arrested for more than a year had not

been seen by family members or a lawyer, nor had they been formally charged with crimes.

There is no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing. Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. Authorities continued to punish some individuals using vaguely worded national security provisions in the criminal code.

Arbitrary detentions, particularly for political activists, remained a problem. The government used decrees, ordinances, and other measures to detain activists for the peaceful expression of opposing political views. During the year authorities arrested several individuals for violating article 88, which prohibits the "distribution of propaganda against the state." Those charged with violating article 88 typically received sentences of up to five years in prison. While several activists received reduced prison sentences after they appealed, others had their original sentences reaffirmed during appeals. There were continued reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad during the year.

As in 2008, peaceful land rights protests in Ho Chi Minh City and Hanoi resulted in the temporary detention and surveillance of several organizers, although the government handled the dispersal of these protests without significant violence.

Religious and political activists also were subject to varying degrees of informal detention in their residences. In Ho Chi Minh City, prominent activists Nguyen Dan Que and Do Nam Hai remained under house arrest.

Amnesty

In advance of the Tet holiday and in honor of National Day, the central government amnestied approximately 20,000 prisoners, the overwhelming majority of whom had ordinary criminal convictions.

The Tet amnesty included well-known journalist Nguyen Viet Chien, People's Democratic Party activist Tran Thi Le Hang, and land rights protester Dang Tien Thong, as well as four Khmer Krom Buddhist monks (Kim Moeun, Danh Tol, Thach Thuong,

and Ly Hoang) convicted for their involvement in land protests in 2007. The National Day amnesty included Nguyen Huu Hai and Nguyen Hong Son, both affiliated with an unrecognized branch of Cao Daiism. Cambodian police arrested Hai and Son in 2004 for protesting the Vietnamese delegation at an Association of Southeast Asian Nations Inter-Parliamentary Organization meeting in Phnom Penh. They were expelled to Vietnam later in 2004 and convicted of "fleeing abroad to oppose the government" and "propagating documents against the Vietnamese Government to incite demonstrations and riots."

More than 100 Montagnards from the Central Highlands convicted for violating national security laws in 2001 and 2004 were reportedly released during the year, including 11 during the September National Day amnesty.

e. Denial of Fair Public Trial

The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels through its effective control over judicial appointments and other mechanisms. In many cases the CPV determined verdicts. Most, if not all, judges were members of the CPV and were chosen at least in part for their political views. As in past years, the judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high-profile cases and other instances in which a person was charged with challenging or harming the CPV or the state. In July and August, national television showed videotaped police confessions of several political activists arrested earlier in the year, including attorney Le Cong Dinh. The confessions were shown before their trials and in some cases before they were formally charged.

The judiciary consists of the Supreme People's Court (SPC); provincial and district people's courts; military tribunals; administrative, economic, and labor courts; and other tribunals established by law. Each district has a people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province also has a people's court, which serves as the appellate forum for district court cases. The SPC, which reports to the National Assembly, is the highest court of appeal and review. Administrative courts adjudicate complaints by citizens about official abuse and corruption. There are also special committees to help resolve local disputes.

Military tribunals, although funded by the Ministry of Defense, operate under the same rules as other courts. The head of the military tribunal system is the deputy head of the SPC. Military tribunal judges and assessors are military personnel chosen jointly by the SPC and the ministry but supervised by the SPC. The law gives military courts jurisdiction over all criminal cases involving military entities, including military-owned enterprises. The military has the option of using the administrative, economic, or labor courts for civil cases.

Courts of first instance at district and provincial levels include judges and lay assessors, but provincial appeals courts and the SPC are composed of judges only. People's councils appoint lay assessors from a pool of candidates suggested by the VFF. Lay assessors are required to have "high moral standards," but legal training is not required, and their role is largely symbolic.

There was a shortage of trained lawyers and judges. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad only in countries with communist legal traditions. The government continued to participate in training programs to address the problem of inadequately trained judges and other court officials.

In May the Vietnam Bar Federation (VBF), a national professional association representing practicing attorneys, was formed pursuant to a prime ministerial decision in January 2008 to implement the 2005 Law on Lawyers. The VBF falls under the VFF and closely coordinated with the Ministry of Justice and the Vietnam Lawyers Association. The VBF acted as an umbrella association overseeing the functions of local bar associations, and it began developing a professional code of conduct for lawyers.

Trial Procedures

The constitution provides that citizens are innocent until proven guilty; however, many lawyers complained that judges generally presumed guilt. Trials generally were open to the public, but in sensitive cases judges closed trials or strictly limited attendance. Juries are not used. Defendants have the right to be present and have a lawyer at trial, although not necessarily the lawyer of their choice, and this right was generally upheld in practice. Defendants unable to afford a lawyer generally were provided one only in cases of involvement of a juvenile offender or of possible sentences of life imprisonment or capital punishment. The defendant or the defense lawyer has the right to cross-examine witnesses; however, there were cases in which neither defendants nor their lawyers were allowed to have access to government evidence in advance of the trial, cross-examine witnesses, or challenge statements. Defense lawyers commonly had little time before trials to examine evidence against their clients. Convicted persons have the right to appeal. District and provincial courts did not publish their proceedings. The SPC continued to publish the proceedings of all cases it reviewed.

There continued to be credible reports that authorities pressured defense lawyers not to take as clients any religious or democracy activists facing trial, and several lawyers who took these cases faced harassment and arrest, such as attorneys Le Cong Dinh and Le Tran Luat. MPS spokesmen partially attributed Dinh's arrest to his defense of political dissidents in court.

The public prosecutor brings charges against an accused person and serves as prosecutor during trials. Earlier reforms to the criminal procedures code were intended

to move courtroom procedures towards an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. Implementation differed from one province to another.

In March government officials allowed several foreign diplomats to attend the joint appellate trial of eight Thai Ha defendants (see Political Prisoners and Detainees).

Political Prisoners and Detainees

There were no precise estimates of the number of political prisoners. The government held at least 60 political detainees at year's end, although some international observers claimed the number ranged into the hundreds. The government claimed it held no political prisoners, only lawbreakers.

On January 15, Mennonite pastor Nguyen Thi Hong was sentenced to three years in prison for "abusing trust to appropriate property" related to unpaid debts owed by her deceased husband, even though the debt had been paid and the plaintiff's family withdrew their complaint.

In May two foreigners were arrested and later deported for their alleged connections with the Viet Tan Party, and in July another foreigner was arrested and later deported for his alleged connections with the Democratic Party of Vietnam (DPV).

In June prominent attorney Le Cong Dinh was arrested for posting editorials on the BBC in Vietnamese and elsewhere that were critical of the government and for defending prominent human rights defenders, such as Le Thi Cong Nhan, Nguyen Van Dai, and blogger Dieu Cay. Later the government claimed that Dinh and Tran Huynh Duy Thuc were involved in a complex plot with overseas elements to overthrow the government. Dinh and Thuc were originally accused of "propagandizing against the state" under article 88, but on December 22, state-run media reported that they would be tried under article 79, a national security provision reserved for "organizers, instigators, and active participants" of antistate activities that typically carries more severe penalties, ranging from 12 to 20 years in prison to the death sentence. An associate of Thuc, Le Thang Long, also faced charges under article 79. Other associates, including Tran Thi Thu and Le Thi Thu Thu, were reportedly detained in June, but according to media reports they would not face trial.

On December 28, Tran Anh Kim, a former army colonel turned dissident blogger who worked as the North Vietnam representative for the banned political movement Bloc 8406 and was a DPV leader, was sentenced under article 79 to five years and six months in prison, followed by three years' probation. Kim and Nguyen Tien Trung, a DPV leader and cofounder of the Viet Youth for Democracy, were arrested in July for violating article 88; their charges also were elevated to the more serious article 79. In August state-run media broadcast "confessions" from Dinh, Thuc, Trung, and Kim

claiming that they had jointly conspired to overthrow the government. They were awaiting trial at year's end.

Phung Quang Quyen, a member of the For the People Party (FPP) and the DPV, was released from prison in January but rearrested in September for the third time for violating his administrative probation by covertly traveling to Cambodia to meet with FPP leadership. Three other individuals affiliated with the DPV were also arrested: Truong Van Kim, Duong Au, and Truong Thi Tam. They were charged with violating article 91 of the penal code (fleeing to a foreign country to oppose the government) and were awaiting trial at year's end.

Le Thi Kim Thu, a land-rights activist arrested in August 2008 and later convicted and sentenced to 18 months' imprisonment under article 88 in November 2008, was released three months early in November for good behavior.

Authorities also detained and imprisoned persons who used the Internet to publish ideas on human rights, government policies, and political pluralism (see section 2.a., Internet Freedom).

In January People's Democratic Party member Huyen Nguyen Dao was released after completing his full sentence.

In February Trinh Quoc Thao, a member of the Group of Vietnamese Patriots, was released after completing his two-year sentence for "propagandizing against the government."

In April land rights activist and Bloc 8406 member Ho Thi Bich Khuong was released after completing her full sentence.

There were reports that during the year more than 100 Montagnards from the Central Highlands convicted of violating national security laws relating to protests in the Central Highlands in 2001 and 2004 were released.

In September Bloc 8406 and Bach Dang Giang member Nguyen Ngoc Quang was released after having served his three-year prison term for distributing prodemocracy articles and documents on the Internet.

In September land rights activists Luong Van Sinh and Luu Quoc Quan were released from prison after having served their full sentences for demonstrating without a permit and propagandizing against the government.

At the end of November, Tran Cong Minh, a member of the People's Action Party, was released from prison after completing his 13-year sentence. Minh was arrested in 1996 when he and 18 others attempted to cross from Cambodia to Thailand to meet with

leaders of the People's Action Party. Minh was transferred to Vietnam and put on trial in 1999.

Nguyen Khac Toan's administrative probation ended in January and Pham Hong Son's in August.

There were no developments reported in the case of the April 2008 detention and arrest of individuals suspected of organizing demonstrations by ethnic minority groups protesting local land use policies in the Central Highlands.

In February Nguyen Thi Cam Hong, a land rights protester from Long An Province arrested in 2008, was convicted and sentenced to 18 months' imprisonment for violating article 88.

In March eight participants arrested in the prayer vigils in Thai Ha parish lost an appeal contesting their December 2008 convictions of disturbing public order and destroying public property.

In four separate trials on October 6-9, nine dissidents affiliated with Bloc 8406 and detained in August-September 2008, were sentenced to jail terms ranging from two to six years for violating article 88. Seven of the nine had displayed banners in Hanoi, Haiphong, and Hai Duong that criticized the Communist Party and advocated multiparty democracy. The remaining two were convicted for their blogging, which the prosecution claimed slandered the government and the CPV. All but one was represented by counsel, but most family members were barred from attending the trials. Vu Van Hung and Tran Duc Thach were tried separately in Hanoi and sentenced to three years in prison with an additional three years of administrative probation. Pham Van Troi, also tried in Hanoi, was sentenced to four years' imprisonment and an additional four years of administrative probation. The remaining six dissidents were tried jointly in Haiphong. Nguyen Xuan Nghia received a six-year sentence plus three years of administrative probation. Nguyen Van Tuc was sentenced to four years in prison followed by three years' administrative probation. Nguyen Van Tinh and former party member Nguyen Manh Son were both sentenced to three years and six months in prison followed by three years' administrative probation. College student Ngo Quynh was given a three-year prison sentence followed by three years' administrative probation. Nguyen Kim Nhan was sentenced to two years' imprisonment and two years' administrative probation. Several foreign diplomats and media were permitted to attend three of the four trials. At year's end Pham Thanh Nghien, affiliated with the nine that were convicted, remained in detention without being charged.

Dissident author Tran Khai Thanh Thuy remained in detention in Hanoi pending trial on assault charges stemming from an October 8 incident in which she and her husband, Do Ba Tan, were attacked by unidentified individuals. Thuy was struck in the head with a brick but was herself charged with assault. Earlier on the same day, authorities

stopped Thuy from travelling to Haiphong to attend the trial of the six Bloc 8406 activists. Police forcibly took Thuy back to Hanoi and ordered her to stay home indefinitely. On the previous day, October 7, police harassed Thuy after she joined the family of Vu Van Hung outside the site of his trial. In 2007 Thuy was jailed for nine months but was released in January 2008 after she was convicted of "disturbing the public order" and sentenced to time served.

Several high-profile dissidents remained in prison, including Catholic priest Nguyen Van Ly and human rights attorneys Nguyen Van Dai and Le Thi Cong Nhan.

Several of approximately 30 activists arrested in 2006-07 remained under investigation and under administrative detention without being formally charged.

Several political dissidents affiliated with outlawed political organizations, including Bloc 8406, the People's Democratic Party, People's Action Party, Free Vietnam Organization, DPV, the United Workers and Farmers Organization (UWFO), and others, remained in prison or under house arrest in various locations.

International nongovernmental organizations (NGOs) estimated that several hundred ethnic minority demonstrators associated with the 2004 Central Highlands protests remained in prison.

Civil Judicial Procedures and Remedies

There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses committed by authorities. Civil suits are heard by administrative courts, civil courts, and criminal courts, all of which follow the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience.

By law a citizen seeking to press a complaint regarding a human rights violation by a civil servant is required first to petition the officer accused of committing the violation for permission to refer the complaint to the administrative courts. If a petition is refused, the citizen may refer it to the officer's superior. If the officer or his superior agrees to allow the complaint to be heard, the matter is taken up by the administrative courts. If the administrative courts agree that the case should be pursued, it is referred either to the civil courts for suits involving physical injury seeking redress of less than 20 percent of health-care costs resulting from the alleged abuse, or to the criminal courts for redress of more than 20 percent of such costs. In practice this elaborate system of referral and permission ensured that citizens had little effective recourse to civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system.

Property Restitution

In August the prime minister issued a decree that offers compensation, housing, and job training for individuals displaced by development projects. Nevertheless, there were widespread reports of official corruption and a general lack of transparency in the government's process of confiscating land and moving citizens to make way for infrastructure projects. By law citizens must be compensated when they are resettled to make way for infrastructure projects, but there were complaints, including from the National Assembly, that compensation was inadequate or delayed.

In July and August, Catholic parishioners in Quang Binh Province conducted several large-scale prayer vigils as a result of a property dispute with provincial authorities regarding the ruins of the Tam Toa Church in the city of Dong Hoi.

Some members of ethnic minority groups in the Central and Northwest Highlands continued to complain that they had not received proper compensation for land confiscated to develop large-scale state-owned coffee and rubber plantations. During the year authorities forcibly relocated 20,000 households due to the construction of a large hydropower project in Son La Province. Many of those resettled said that their loss was much greater than the state's compensation. Several residents attributed the cause of the earlier demonstrations in the Central Highlands to ethnic minority frustration and discontent over policies regarding state land use.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions; however, the government did not respect these prohibitions in practice. Household registration and block warden systems existed for the surveillance of all citizens, although these systems were generally less intrusive than in the past. Authorities focused particular attention on persons suspected of being involved in unauthorized political or religious activities.

Forced entry into homes is not permitted without orders from the public prosecutor; however, security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat of repercussions for failure to cooperate. Police forcibly entered homes of a number of prominent dissidents, such as Nguyen Khac Toan, Nguyen Thanh Giang, Le Tran Luat, Nguyen Cong Chinh, and Do Nam Hai, and removed personal computers, cell phones, and other material.

Government authorities opened and censored targeted persons' mail; confiscated packages and letters; and monitored telephone conversations, e-mail, text messages, and fax transmissions. The government cut the telephone lines and interrupted the cell phone and Internet service of a number of political activists and their family members.

Membership in the CPV remained a prerequisite to career advancement for all government and government-linked organizations and businesses. However, economic diversification made membership in the CPV and CPV-controlled mass organizations less essential to financial and social advancement.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press; however, the government continued to restrict these freedoms, particularly with respect to speech that criticized individual government leaders, promoted political pluralism or multiparty democracy, or questioned policies on sensitive matters such as human rights, religious freedom, or border disputes with China. The line between private and public speech continued to be arbitrary.

Both the constitution and the criminal code include broad national security and antidefamation provisions that the government used to restrict freedom of speech and of the press. The criminal code defines the crimes of "sabotaging the infrastructure of Socialism," "sowing divisions between religious and nonreligious people," and "conducting propaganda against the Socialist Republic of Vietnam" as serious offenses against national security. The criminal code also expressly forbids "taking advantage of democratic freedoms and rights to violate the interests of the State and social organizations."

Political activists and family members of prisoners were regularly and physically prevented from meeting with foreign diplomatic representatives. Tactics included setting up barriers or guards outside their residences or calling them into the local police station for random and repetitive questioning. One political activist reported that her home was defiled by animal excrement and motor oil to intimidate her from speaking out against the government.

The CPV, government, and party-controlled mass organizations controlled all print, broadcast, and electronic media. The government exercised oversight through the Ministry of Information and Communication (MIC), under the overall guidance of the Communist Party Propaganda and Education Commission. These two bodies occasionally intervened directly to dictate or censor a story. In January, for example, censors removed mention of the battle of Khe San and the word "communism" from the official translation of a foreign leader's speech. More often, however, control over media content was ensured through pervasive self-censorship, backed by the threat of dismissal and possible arrest.

Despite the continued growth of Internet blogs, the party and the government increased efforts to suppress press freedom, continuing a "rectification" campaign begun in March 2008. Reinforcing the message, in June Prime Minister Dung stated that "the press must serve as the reliable vanguard for the party, state, and people on the political and ideological front." During the year several senior media editors and reporters were fired for their reporting on corruption and criticisms of government policies, and one

publication was suspended as a result of its reporting on the 30th anniversary of the brief border war with China.

On January 2, three editors of leading newspapers *Thanh Nien*, *Tuoi Tre*, and *Phap Luat* were dismissed from their jobs as retribution for reporting related to a large-scale corruption scandal involving the Ministry of Transportation's Project Management Unit Number 18 (PMU-18). These actions followed the October 2008 conviction of the two reporters who broke the story, Nguyen Viet Chien of *Thanh Nien* and Nguyen Van Hai of *Tuoi Tre*. Chien was sentenced to two years in prison but released during the January Tet amnesty. Hai received a two-year noncustodial "reeducation" sentence. Shortly after the arrests of Chien and Hai, the two newspapers replaced their senior editors. In August the government revoked the press cards of seven journalists from state-controlled newspapers for "lack of responsibility" in connection with their reports on the PMU-18 scandal.

In February the MPS shut down the online news portal www.timnhanh.com for disseminating political content critical of the CPV and for violating copyright laws. In April the biweekly newspaper *Du Lich* was suspended for three months for publishing an article on the 30th anniversary of the border war with China. In August two reporters with *Tuoi Tre* newspaper had their press cards revoked for "inaccuracies" in their reporting relating to corruption in 2005. Another journalist and blogger was fired in August from the *Saigon Tiep Thi* newspaper for his commentary and criticism of government policies.

The government continued to place tight restrictions on press stories involving disputes with China over contested territory in the South China Sea. In September **Dao Duy Quat**, editor in chief of the CPV Web site www.dangcongsan.vn, was fined 30 million VND (approximately \$1,670) and formally reprimanded by the propaganda office for reprinting an article that originally appeared in a Chinese newspaper on China's military exercises in the South China Sea. The article appeared to endorse China's land claims to the Spratly and Paracel Islands.

The law requires journalists to pay monetary damages to individuals or organizations whose reputations were harmed as a result of journalists' reporting, even if the reports were true. Independent observers noted that the law severely limited investigative reporting. There were press reports on topics that generally were considered sensitive, such as the prosecution on corruption charges of high-ranking CPV and government officials, as well as occasional criticism of officials and official associations. Nonetheless, the freedom to criticize the CPV and its senior leadership remained restricted.

Foreign journalists must be approved by the Foreign Ministry's press center, and they must be based in Hanoi, with the exception of one correspondent reporting solely on

economic matters who lived and maintained an office in Ho Chi Minh City while officially accredited to Hanoi. Foreign journalists are required to renew their visas every three to six months, although the process was routine; there were no reports of any visa renewals being refused. The number of foreign media employees allowed was limited, and local employees who worked for foreign media also were required to register with the Foreign Ministry.

The procedure for foreign media outlets to hire local reporters and photographers and receive approval for their accreditation continued to be cumbersome. The press center nominally monitored journalists' activities and approved, on a case-by-case basis, requests for interviews, photographs, filming, or travel, which must be submitted at least five days in advance. By law foreign journalists are required to address all questions to government agencies through the Foreign Ministry, although this procedure often was ignored in practice. Foreign journalists noted that they generally did not notify the government about their travel outside of Hanoi unless it involved a story that the government would consider sensitive or they were traveling to an area considered sensitive, such as the Central Highlands.

In February the MIC tightened control over the import of foreign publications and operation of foreign publishers. Under new regulations the MIC has the authority to revoke licenses for foreign publishers, and each foreign publisher must reapply annually to maintain its license. Foreign-language editions of some banned books were sold openly by street peddlers and in shops oriented to tourists. Foreign-language periodicals were widely available in cities. Occasionally, the government censored articles.

The law limits satellite television access to top officials, foreigners, luxury hotels, and the press, but in practice persons throughout the country were able to access foreign programming via home satellite equipment or cable. Cable television, including foreign-origin channels, was widely available to subscribers living in urban areas.

Internet Freedom

The government allows access to the Internet through a limited number of Internet service providers (ISPs), all of which were state-owned joint stock companies. Internet usage continued to grow throughout the year. According to the MIC, more than 25 percent of the population had access to the Internet, and according to a study by Yahoo, in large population centers close to 50 percent had access.

Blogging continued to increase rapidly. The MIC estimated that there were more than one million bloggers. In addition a number of prominent print and online news journalists maintained their own professional blogs. In several cases their blogs were considered far more controversial than their mainstream writing. In a few cases, the government fined or punished these individuals for the content of their blogs.

The number of persons who used social networking sites such as Facebook increased to well over one million, as did the number of domestic social networking sites. Early in the year, the media began reporting on the emergence of "microblogs" (e.g. Facebook's status function and Twitter) as the replacement for traditional blogs; however, the number of users was very small. In November the government ordered ISPs to block Facebook. Although the government denied it had ordered the site blocked, employees at ISPs informed the media that they had received government orders to block the site. At year's end most persons could not access Facebook.

The government forbids direct access to the Internet through foreign ISPs, requires domestic ISPs to store information transmitted on the Internet for at least 15 days, and also requires ISPs to provide technical assistance and workspace to public security agents to allow them to monitor Internet activities.

The government requires firms such as cybercafes to register the personal information of their customers and store records of Internet sites visited by customers. However, many cybercafe owners did not maintain these records. Similarly, it was not clear to what extent major ISPs complied with the many government regulations.

While citizens enjoyed increasing access to the Internet, the government monitored e-mail, searched for sensitive key words, and regulated Internet content. They claimed that censorship of the Internet was necessary to protect citizens from pornography and other "antisocial" or "bad elements." They also claimed that efforts to limit Internet access by school-age users was intended to keep them from gaming at the expense of doing their schoolwork.

Government regulations prohibit bloggers from posting material that the government believes undermines national security or discloses state secrets, incites violence or crimes, or includes inaccurate information harming the reputation of individuals and organizations. The regulations also require global Internet companies with blogging platforms operating in the country to report to the government every six months and, if requested, to provide information about individual bloggers.

Officials construed article 88 of the criminal code, which bans "distributing propaganda against the state," to prohibit individuals from downloading and disseminating documents that the government deemed offensive. Authorities continued to detain and imprison dissidents who used the Internet to publish ideas on human rights and political pluralism.

In May Tran Huynh Duy Thuc, the blogger known as Change We Need who regularly reported on corruption in the prime minister's family, was arrested for running an illegal telephone business. Thuc was awaiting trial at year's end.

In August political bloggers Bui Thanh Hieu (also known as Wind Trader) and Me Nam (also known as Momma Mushroom) were arrested in connection with their writings and political activism. Hieu was released 10 days after his initial arrest, while Nam was detained for 12 days. She announced on her Web site that she agreed to stop blogging as a condition of her release. VietnamNet journalist Pham Doan Trang was also detained for 10 days due to her connections with Hieu and Nam. Also in August well-known journalist and prolific blogger Huy Duc was dismissed from his job with the *Saigon Thiep Thi* newspaper for his politically sensitive blog postings.

In October the government also closed down the *Tia Sang* (Ray of Light) online magazine registered under the Ministry of Science and Technology, reportedly for its previous reporting critical of the education system and on bauxite mining in the Central Highlands.

Prominent blogger and Free Journalist Club head Nguyen Hoang Hai (also known as Dieu Cay) remained in prison at year's end. His former wife was denied permission several times to meet with him, while his son was allowed one short meeting. At year's end he was reportedly being held in isolation. In September the UN Working Group on Arbitrary Detention highlighted his case, as well as the "illegal arrests" and continued persecution of a number of other Internet bloggers, including Truong Minh Duc, Pham Van Troi, Nguyen Xuan Nghia, Vu Hung, Ngo Quynh, and Pham Thanh Nghien. Tran Khai Thanh Thuy, a writer and journalist arrested in January 2008 under article 88 and subsequently released for medical treatment, was harassed several times throughout the year.

The government continued to use firewalls to block some Web sites that it deemed politically or culturally inappropriate, including sites affiliated with the Catholic Church, such as Vietcatholic.net and others operated by overseas Vietnamese political groups. The government appeared to have lifted most of its restrictions on access to the Voice of America Web site, although it continued to block Radio Free Asia (RFA) most of the time. Nevertheless, the local press occasionally wrote stories based on RFA broadcasts.

The MIC requires owners of domestic Web sites, including those operated by foreign entities, to register their sites with the government and submit their planned content and scope to the government for approval; however, enforcement remained selective.

Academic Freedom and Cultural Events

The government asserts the right to restrict academic freedom, and authorities sometimes questioned and monitored foreign field researchers. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed

to discuss nonpolitical topics widely and freely in classes, but government observers regularly attended classes taught by both foreigners and nationals. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the government.

Members of the academic community expressed concern over a prime ministerial decree issued in July (Decision 97) that prohibits independent scientific and technical organizations from publicly criticizing party and state policy as a potentially severe restriction on academic freedom. One prominent research institution, the Institute for Development Studies, chose to disband, arguing that it could not properly function under the restrictions.

The government controlled art exhibits, music, and other cultural activities; however, it generally allowed artists broader latitude than in past years to choose the themes for their works. The government also allowed universities more autonomy over international exchanges and cooperation programs.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The freedom of assembly is limited by law, and the government restricted and monitored all forms of public protest or gathering. Persons wishing to gather in a group are required by law and regulation to apply for a permit, which local authorities can issue or deny arbitrarily. In practice only those arranging publicized gatherings to discuss sensitive matters appeared to require permits, and persons routinely gathered in informal groups without government interference. The government generally did not permit demonstrations that could be seen as having a political purpose. The government also restricted the right of several unregistered religious groups to gather in worship (see section 2.c.).

In July and August, large-scale prayer vigils occurred relating to a land dispute regarding the Tam Toa church ruins in Quang Binh Province. In July local authorities arrested eight parishioners in connection with the demonstrations; all had been released by September. A small mob attacked and beat two Catholic priests near the disputed site. One of the priests was pushed from a second-story window and was hospitalized. The Tam Toa prayer vigils followed similarly large demonstrations and prayer vigils that took place in January, April, August, and September 2008 at disputed Catholic properties at the former papal nuncio's residence and at the Thai Ha parish in Hanoi. Smaller demonstrations by citizens demanding redress for land rights claims frequently took place in Ho Chi Minh City and occasionally in Hanoi. Police monitored these protests but generally did not disrupt them.

Freedom of Association

The government severely restricted freedom of association. Opposition political parties were neither permitted nor tolerated. The government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled mass organizations, usually under the aegis of the VFF. However, some entities, including unregistered religious groups, were able to operate outside of this framework with little or no government interference.

Officials unevenly implemented the 2007 Ordinance on Grassroots Democracy, which allows villagers, with the participation of local VFF representatives, to convene meetings to discuss and propose solutions to local problems and nominate candidates for local leadership. The ordinance also requires commune governments to publicize how they raise and spend funds for local economic development.

Members of Bloc 8406, a political activist group that calls for the creation of a multiparty state, continued to face harassment and imprisonment. At least 25 members of the group were in detention at year's end.

Numerous members of several other activist groups, including the DPV, the People's Democratic Party of Vietnam, and a related group, the UWFO, remained in prison at year's end. In July several DPV leaders, including Tran Anh Kim and Nguyen Tien Trung, were arrested for their political activities.

c. Freedom of Religion

The constitution and government decrees provide for freedom of worship, and improvements made in past years in overall respect for religious freedom continued during the year. The government persisted in placing restrictions on the organized activities of religious groups; however, in general restrictions were enforced less strictly than in previous years. Overall participation in religious activities continued to grow significantly.

Problems remained in the implementation of the Legal Framework on Religion. The problems occurred primarily at the local level, but in some instances the central government also delayed enforcement.

Religious groups encountered the greatest restrictions when they engaged in activities that the government perceived as political activism or a challenge to its rule. The government continued to discourage participation in an unrecognized faction of the Hoa Hao Buddhist Church. The government also restricted the activities and movement of the leadership of the unrecognized Unified Buddhist Church of Vietnam (UBCV) and maintained that it would not recognize the organization under its existing leadership. The government remained concerned that some ethnic minority groups active in the

Central Highlands were operating a self-styled "Dega Church," which reportedly mixes religious practice with political activism and calls for ethnic minority separatism.

The government maintained a prominent role overseeing recognized religions. By law religious groups must be officially recognized or registered, and the activities and leadership of individual religious congregations must be approved by the appropriate authorities. The law mandates that the government act in a timely and transparent fashion, but the approval process for registration and recognition of religious organizations was sometimes slow and nontransparent. Nevertheless, dozens of Protestant congregations were newly registered throughout the country during the year, and one religious denomination received national registration. However, in the northern region and the Northwest Highlands, local authorities had not acted on most registration applications submitted since 2006 by more than 1,000 Protestant congregations among predominantly ethnic minority groups.

Some local authorities continued to demand that recognized religious organizations provide lists of all members of subcongregations as a precondition to registration, although this requirement is not specifically codified in the Legal Framework on Religion. Some registered congregations in the northern region and the Northwest Highlands complained that officials used such lists to keep unlisted members from participating in services or for harassment by local authorities or their agents. Annual activities by congregations also must be registered with authorities, and activities not on the accepted annual calendar require separate government approval.

Official oversight of religious groups varied widely between localities, often as a result of ignorance of national policy or varying local interpretations of the policy's intent. In general, central-level efforts to coordinate proper implementation of the government's religious framework reduced the frequency and intensity of religious freedom violations. Nevertheless, activities of nonrecognized and unregistered religious groups remained technically illegal, and these groups occasionally experienced harassment. However, several large-scale Christmas celebrations were approved even though the organizers were largely unregistered Protestant house churches. The largest celebration was held in Ho Chi Minh City, where a reported 40,000 Christians participated, while celebrations in Hanoi, Danang, and northern Nam Dinh Province had 14,000, 4,500, and 2,500 participants, respectively.

Several "unregistered" religious gatherings were broken up or obstructed in the Northwest Highlands, amid accusations by religious practitioners that local authorities sometimes used "contract thugs" to harass or beat them. In Dien Bien there were reports that local officials encouraged Protestants to recant their faith. In Tra Vinh there were reports of repeated harassment and beatings by plainclothes "citizen brigades" at several house churches, including the Full Gospel Church. Authorities took no disciplinary action against the offenders. However, the level of harassment declined in

comparison with previous years, and the vast majority of unregistered churches and temples were allowed to operate without interference.

The government actively discouraged contacts between the UBCV and its foreign supporters, although such contacts continued. Police routinely questioned some persons who were outspoken in their antigovernment political views, such as UBCV monks and certain Catholic priests. Police continued to monitor the movement of UBCV monks.

There were few credible allegations of forced renunciations in the Central and Northwest Highlands during the year.

The vast majority of Buddhists practiced their religion under the Vietnam Buddhist Sangha (VBS) Executive Council, the officially sanctioned Buddhist governing council, and generally were able to worship freely. Theravada Buddhists, who are also part of VBS and commonly members of the Khmer Krom ethnic minority, were also generally able to worship freely. The government continued to harass UBCV leadership and prevented them from conducting independent charitable activities outside their pagodas. On June 29, a group of vigilantes attacked the meditation center and dormitories of a group of Lang Mai (Plum Village) Buddhists, who are followers of internationally renowned Zen Master Thich Nhat Hanh, inside the Bat Nha monastery compound in Lam Dong Province. The attack occurred in the presence of uniformed and plainclothes police, who did nothing to prevent it. Resident Bat Nha monks, opposed to the Lang Mai group's presence in the pagoda, isolated the group and cut off their water and electricity from June until the end of September. The National Committee for Religious Affairs (CRA) instructed local authorities to evict the Lang Mai community from the pagoda, failed to prevent the attacks and punish those involved, and appeared to favor one side in the dispute. On September 27, a large mob in coordination with plainclothes police beat and forcibly evicted approximately 150 Lang Mai monks from the Bat Nha pagoda. The monks then sought refuge at the nearby Phuoc Hue pagoda. On September 28, the remaining 200 Lang Mai nuns were also forcibly evicted and joined the monks at Phuoc Hue. In November two pagodas in Dong Nai and Lam Dong provinces petitioned the central VBS and CRA to allow them to sponsor the Plum Village monks and nuns. The CRA rejected these petitions, claiming that the Plum Village Community "failed to obey the law" and "caused disunity" among Buddhists, and it ordered the Lam Dong provincial VBS to force the monks and nuns to disband and return to their home provinces by December 31. Another group of 21 Lang Mai monks and nuns were forcibly evicted from a pagoda in Khanh Hoa Province on November 29. One senior monk was under house arrest in Khanh Hoa, and another was reported to be in hiding. The provincial VBS had not taken action by the end of the year, and the Plum Village Community continued to seek refuge at the Phuoc Hue pagoda.

Senior UBCV leaders remained under police surveillance at their pagodas and reported limited ability to travel within the country. Thich Quang Do and Thich Khong Thanh were able to attend the funeral of the UBCV patriarch in July 2008, and other UBCV leaders were allowed to attend a ceremony marking the one-year anniversary of the passing of the patriarch without incident.

Hoa Hao monks and believers following the government-approved Hoa Hao Administrative Council were allowed to practice their faith. Monks and followers who belonged to dissident groups or declined to recognize the authority of the council suffered restrictions.

The Catholic Church reported that the government continued to ease restrictions on assignment of new clergy and did not object to the installation of three new bishops during the year. The Church discussed establishing additional seminaries with the government and expanded its pastoral works program. On February 16-17, the government and the Vatican held their first round of discussions in Hanoi under a newly created "Joint Vietnam-Holy See Working Group" on reestablishing diplomatic relations. On December 11, State President Nguyen Minh Triet met with Pope Benedict XVI in the Vatican for a meeting that the Vatican characterized as "a significant stage in the progress of bilateral relations with Vietnam."

A number of Catholic clergy reported a continued easing of government control over activities in certain dioceses outside of Hanoi. In many places local government officials allowed the Catholic Church to conduct religious education classes (outside regular school hours) and charitable activities. The Ho Chi Minh City government continued to facilitate certain charitable activities of the Church in combating HIV/AIDS; however, educational activities and legal permits for some Catholic charities to operate as NGOs remained suspended.

Local officials informally discouraged some clergy from traveling domestically, even within their own provinces, especially when travel to ethnic minority areas was involved. The Catholic archbishop of Hanoi was restricted in his official travels to ethnic minority areas in the north.

Despite some reports of discrimination against Catholic students, authorities denied that the government has a policy of limiting access to education based on religious belief. Religious organizations were not allowed to operate schools independently. Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval and met with registered congregations.

The government generally required religious publishing to be done through a government-owned religious publishing house; however, some religious groups were

able to copy their own materials or import them, subject to government approval. The government allowed the printing and importation of some religious texts, including in ethnic minority languages.

Societal Abuses and Discrimination

There were few instances of societal violence based on religious affiliation, belief, or practice during the year. Members of minority religious groups experienced little or no societal discrimination. There are small Jewish expatriate communities in Hanoi and Ho Chi Minh City, with a permanent Chabad-Lubavitch center in Ho Chi Minh City. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government imposed some limits on freedom of movement for certain individuals. The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements, but police allowed them to venture from their homes under surveillance. Although their probation ended during the year, authorities prohibited dissidents Nguyen Khac Toan and Tran Khai Thanh Thuy from receiving a passport and traveling overseas. Attorney Le Quoc Quan and journalist Nguyen Vu Binh were allowed to travel within the country but continued to face restrictions on their ability to travel overseas. In July authorities prevented a member of the Democracy Writers of Dalat from leaving the country due to national security provisions.

A government restriction regarding travel to certain areas remained in effect. It requires citizens and resident foreigners to obtain a permit to visit border areas, defense facilities, industrial zones involved in national defense, areas of "national strategic storage," and "works of extreme importance for political, economic, cultural, and social purposes."

The 2007 Law on Residence was not broadly implemented, and migration from rural areas to cities continued unabated. However, moving without permission hampered persons seeking legal residence permits, public education, and health-care benefits. Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens were also required to register with local police when staying overnight in any location outside of their own homes; the government appeared to enforce these requirements more strictly in some districts of the Central and Northern Highlands. Officials occasionally delayed citizens' access to passports in order to extort bribes, but prospective emigrants rarely encountered difficulties obtaining a passport. The law does not provide for forced internal or external exile, and the government did not use it.

The government generally permitted citizens who had emigrated abroad to return to visit. However, the government refused to allow certain activists living abroad to return. Known overseas Vietnamese political activists were denied entrance visas or were detained and deported after entering the country.

By law the government considers anyone born to at least one Vietnamese citizen parent to be a citizen; there are also provisions for persons who do not have a Vietnamese-citizen parent to acquire Vietnamese citizenship under certain conditions. Emigrants who acquire another country's citizenship are generally considered Vietnamese citizens unless they formally renounce their Vietnamese citizenship. However, in practice the government treated overseas Vietnamese as citizens of their adopted country and did not permit them to use Vietnamese passports after they acquired other citizenship. Legislation passed in 2008 sought to clarify this apparent discrepancy by allowing for dual citizenship. The government generally encouraged visits and investment by such persons but sometimes monitored them carefully. During the year the government continued to liberalize travel restrictions for overseas Vietnamese.

The government continued to honor a tripartite memorandum of understanding signed with the government of Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic Vietnamese who did not qualify for third-country resettlement. Local government authorities observed but did not hinder fact-finding and monitoring visits by UNHCR and foreign diplomatic representatives to the Central Highlands. The UNHCR reported that it was able to meet with returnees in private. Foreign diplomats experienced some resistance from lower-level officials in permitting private interviews of returnees. As in previous years, local police officials sometimes were present during foreign diplomat interviews with returnees but left when asked. Provincial governments generally continued to honor their obligations to reintegrate peacefully ethnic minority returnees from Cambodia.

The UNHCR, which conducted several monitoring trips throughout the year, reported that conditions for ethnic minorities in the Central Highlands had improved markedly since the 2001 and 2004 crackdowns, stating that there was "no perceptible evidence of mistreatment" of any of the ethnic minority individuals it monitored in the Central Highlands.

Protection of Refugees

The country is not a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 protocol, and the law does not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees and did not grant refugee status or asylum. Government regulations and policy do not explicitly provide protection against the expulsion or return of persons where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, there were no such reported cases during the year.

Stateless Persons

The country's largest stateless group consisted of approximately 9,500 Cambodian residents who sought refuge in Vietnam in the 1970s and were denied the right to return by the government of Cambodia, which asserted that no proof existed that these individuals had ever possessed Cambodian citizenship. Almost all were ethnic Chinese or Vietnamese who were initially settled in four refugee camps in and around Ho Chi Minh City. When humanitarian assistance in these camps ceased in 1994, an estimated 7,000 refugees left the camps in search of work and opportunities in Ho Chi Minh City and the surrounding area. A further 2,300 remained in four villages in which the camps once operated. Many had children and grandchildren born in Vietnam, but neither the original refugees nor their children enjoyed the same rights as Vietnamese citizens, including the right to own property, comparable access to education, and public medical care. Citizenship of children is derived from their parents. In 2007 the UNHCR and the government of Vietnam developed a plan calling for a full survey and Vietnamese naturalization of these stateless individuals; the survey and naturalization continued and were expected to be completed before the end of 2010. By year's end 1,800 applications for naturalization had been submitted to the Office of the President for final approval.

The government resolved earlier problems of statelessness due to involuntary denationalization of its citizens, such as women who married foreigners, by implementing new legislation passed in November 2008 allowing dual citizenship. This group typically consisted of women who married Chinese, Korean, or Taiwanese men. Previously the women had to renounce their Vietnamese citizenship to apply for foreign citizenship, but before gaining foreign citizenship, they divorced their husbands and returned to Vietnam without possessing any citizenship or supporting documentation.

The UNHCR worked with the government and the international community to address other aspects of this problem.

The Vietnam Women's Union continued to work with the government of South Korea to address international marriage brokering and premarriage counseling, including education on immigration and citizenship regulations. Some domestic and international NGOs provided assistance.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution does not provide for the right of citizens to change their government peacefully, and citizens could not freely choose and change the laws and officials that govern them.

Elections and Political Participation

The most recent elections to select members of the National Assembly were held in 2007. The elections were neither free nor fair, since all candidates were chosen and vetted by the VFF. Despite the CPV's early announcement that a greater number of "independent" candidates (those not linked to a certain organization or group) would run in the elections, the ratio of independents was only slightly higher than that of the 2002 election. The CPV approved 30 "self-nominated" candidates, who did not have official government backing but were given the opportunity to run for office. There were credible reports that party officials pressured many self-nominated candidates to withdraw or found such candidates "ineligible" to run.

According to the government, more than 99 percent of the 56 million eligible voters cast ballots in the election, a figure that international observers considered improbably high. Voters were permitted to cast ballots by proxy, and local authorities were charged with ensuring that all eligible voters cast ballots by organizing group voting and that all voters within their jurisdiction were recorded as having voted. This practice was seen as having greatly detracted from the transparency and fairness of the process.

In the 2007 election, CPV leaders--Prime Minister Nguyen Tan Dung, Party Chief Nong Duc Manh, President Nguyen Minh Triet, and National Assembly Chairman Nguyen Phu Trong--retained their seats. CPV candidates took 450 of 493 seats. Only one of the 30 self-nominated candidates won.

The National Assembly, although subject to the control of the CPV (all of its senior leaders and more than 90 percent of its members were party members), continued to take incremental steps to assert itself as a legislative body. The National Assembly publicly criticized socioeconomic policies, corruption, the government's handling of inflation, and the plan to mine bauxite in the Central Highlands. Assembly sessions

were televised live countrywide. Some legislators also indirectly criticized the CPV's preeminent position in society.

All authority and political power is vested in the CPV, and the constitution recognizes the leadership of the CPV. Political opposition movements and other political parties are illegal. The CPV Politburo functioned as the supreme decision-making body in the country, although technically it reports to the CPV Central Committee.

The government continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one-party state was permitted; however, there were instances of unsanctioned letters critical of government policy from private citizens, including some former senior party members. The most prominent of these involved widely publicized letters from General Vo Nguyen Giap criticizing the government's decision to allow substantial foreign investment in bauxite-mining projects in the Central Highlands. The government continued to crack down on the small opposition political groupings established in 2006, and members of these groups faced arrests and arbitrary detentions.

The law provides the opportunity for equal participation in politics by women and minority groups. There were 127 women in the National Assembly, or 26 percent, a slightly lower percentage than in the previous assembly.

Ethnic minorities held 87 seats, or 18 percent, in the National Assembly, exceeding their proportion of the population, estimated at 13 percent.

Section 4 Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not always implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Corruption continued to be a major problem. The government persisted in efforts to fight corruption, including publicizing budgets of different levels of government, refining a 2007 asset declaration decree, and continuing to streamline government inspection measures. Cases of government officials accused of corruption sometimes were widely publicized.

The anticorruption law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. In regular Internet chats with high-level government leaders, citizens asked pointed questions about anticorruption efforts. However, the government continued to consider public political criticism a crime unless the criticism was controlled by authorities. Attempts to organize those with complaints to facilitate action are considered proscribed political activities and subject to arrest. Senior government and party leaders traveled to many provinces, reportedly to try to resolve citizen complaints. Corruption related to land use was widely

publicized in the press, apparently in an officially orchestrated effort to bring pressure on local officials to reduce abuses.

According to the asset declaration decree, government officials must annually report by November 30 the real estate, precious metals, and "valuable papers" they own; money they hold in overseas and domestic bank accounts; and their taxable income. The government must publicize asset declaration results only if a government employee is found "unusually wealthy" and more investigation or legal proceedings are needed. In addition to senior government and party officials, the decree applies to prosecutors, judges, and those at and above the rank of deputy provincial party chief, deputy provincial party chairperson, deputy faculty head at public hospitals, and deputy battalion chief. Due to a lack of transparency, it was not known how widely the decree was enforced.

In January Vu Chi Thanh, a former vice chairman of Haiphong People's Committee, and eight other officials and civil servants from Haiphong were prosecuted for having inappropriately allocated hundreds of land lots from an "urban housing project for the poor" to family members and officials from various offices in Haiphong.

In February police in Ho Chi Minh City arrested the deputy director of the municipal transport service, Huynh Ngoc Si, and his associate Le Qua on charges of "abusing power while on official duty" connected with allegations that they had received a bribe of 90 million yen (approximately \$820,000) from officials of Pacific Consultants International (PCI), a foreign consulting firm. On September 24, the case against Si and his deputy went to trial. The court case focused on the much narrower question of whether Si and Qua accepted 52 million VND (\$2,900) and 54 million VND (\$3,000), respectively, in kickbacks from office rent from PCI. On September 25, Si and Qua were convicted and sentenced to three and two years' imprisonment, respectively, although legal guidelines recommended sentences of at least 15 years.

In June a foreign government initiated a comprehensive bribery investigation related to the supply of polymer bank notes to Vietnam. The foreign company that won a contract for supplying polymer notes to the State Bank of Vietnam in 2002 was accused of paying more than \$12 million as commission to its Vietnamese partner Luong Ngoc Anh and his firm, Company For Technology and Development, which employed Le Duc Minh, son of former State Bank of Vietnam governor Le Duc Thuy.

Also in June former PMU-18 director Bui Tien Dung was charged with "intentionally violating state economic regulations causing serious consequences," and four of Dung's colleagues were charged with embezzlement. At year's end eight key corruption cases originating in 2007 remained unfinished, including the PMU-18 and the Bai Chay bridge project scandals. While the 2007 trial and conviction of officials involved in the PMU-18 scandal were initially hailed as a positive step, the subsequent prosecution and

dismissal of journalists and editors who reported the story had a chilling effect on investigative reporting of official corruption.

The law does not provide for public access to government information, and the government did not usually grant access for citizens and noncitizens, including foreign media. In accordance with the Law on Promulgation of Legal Normative Documents, the *Official Gazette* published most legal documents in its daily edition. The government maintained a Web site in both Vietnamese and English, as did the National Assembly. In addition, decisions made by the Supreme People's Court Council of Judges were accessible through the SPC Web site. Party documents such as politburo decrees were not published in the *Gazette*.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government does not permit private, local human rights organizations to form or operate. The government did not tolerate attempts by organizations or individuals to comment publicly on its human rights practices, and it used a wide variety of methods to suppress domestic criticism of its human rights policies, including surveillance, limits on freedom of the press and assembly, interference with personal communications, and detention.

The government generally prohibited private citizens from contacting international human rights organizations, although several activists did so. The government usually did not permit visits by international NGO human rights monitors; however, it allowed representatives from the press, the UNHCR, foreign governments, and international development and relief NGOs to visit the Central Highlands. The government criticized almost all public statements on human rights and religious matters by international NGOs and foreign governments.

During the year the government invited five UN special rapporteurs/independent experts, including rapporteurs on education; physical and mental health; and the right to food, and the independent experts on extreme poverty and the effects of foreign debt on human rights. Three other special rapporteurs--on the right to freedom of opinion and expression; on extrajudicial, summary, or arbitrary executions; and on freedom of religion or belief--requested to visit but were denied.

In October an overseas university and the CPV hosted an international conference on "Realizing the Rights to Health and Development for All." Several international human rights NGOs attended and presented papers, although at least one NGO was prohibited from attending. The forum focused on HIV/AIDS and other public health threats, maternal and child health, climate change, and economic globalization.

The government was willing to discuss human rights problems bilaterally with some foreign governments, and several foreign governments continued official talks with the government concerning human rights, typically through annual human rights dialogues. In March a foreign embassy funded the creation of the Center for Human Rights Research in Ho Chi Minh City. The center, similar to one in Hanoi, is affiliated with the Ho Chi Minh City national law school and focused on supporting human rights training and research at law schools.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, enforcement of these prohibitions was uneven.

Women

The law prohibits using or threatening violence, taking advantage of a person who cannot act in self-defense, or resorting to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and in some instances sexual harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment. Other rape cases were prosecuted to the full extent of the law. No reliable data were available on the extent of the problem. Domestic violence against women was considered common, although there were no firm statistics measuring the extent of the problem. Officials increasingly acknowledged it as a significant social concern, and it was discussed more openly in the media. The law prescribes punishment ranging from warnings to a maximum of two years' imprisonment for "those who cruelly treat persons dependent on them." The Law on Domestic Violence Prevention and Control specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and stipulates punishments for perpetrators of domestic violence; however, NGO and victim advocates considered many of the provisions to be weak. While the police and legal system generally remained unequipped to deal with cases of domestic violence, the government, with the help of international and domestic NGOs, continued to train police, lawyers, and legal system officials in the law.

Several domestic and international NGOs worked on the problem of domestic violence. Hotlines for victims operated by domestic NGOs existed in major cities. The Center for Women and Development, supported by the Vietnam Women's Union, also operated a nationwide hotline, although it was not widely advertised in rural areas. While rural areas often lacked the financial resources to provide crisis centers and domestic hotlines, the 2007 law established "reliable residences" allowing women to turn to another family while local authorities and community leaders attempt to confront the abuser and resolve complaints. Government statistics reported that approximately half of all divorces were due in part to domestic violence. The divorce rate continued to rise, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty.

The government, with the help of international NGOs, supported workshops and seminars aimed at educating women and men about domestic violence and women's rights in general and also highlighted the problem through public awareness campaigns. Domestic NGOs were increasingly engaged in women's issues, particularly violence against women and trafficking of women and children. A foreign government, in coordination with the UN, sponsored production of a film entitled *Breaking the Silence*. The film was shown nationally by the government to raise public awareness on domestic violence.

Prostitution is illegal, but enforcement was uneven. Estimates varied widely; the government reported more than 30,000 prostitutes, but some NGOs estimated that there were more, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced into prostitution, often victimized by false promises of lucrative employment. Many more felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were fewer reports that parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution. The Women's Union as well as international and domestic NGOs engaged in education and rehabilitation programs to combat these abuses.

The act of sexual harassment and its punishment is clearly defined in the law; however, its prevention is not specified in legal documents. Publications and training on ethical regulations for government and other public servants do not mention the problem, although it existed.

Victims of sexual harassment may contact social associations such as the Women's Union to request their involvement. In serious cases victims may sue offenders under article 121 of the penal code, which deals with "humiliating other persons" and specifies punishments that include a warning, noncustodial reform for up to two years, or a prison term ranging from three months to two years. However, in reality sexual harassment lawsuits were unheard of, and most victims were unwilling to denounce the offenders publicly.

The law restricts the number of children per couple to two. The government primarily implemented the policy through media campaigns that strongly encouraged individuals to practice family planning. However, the government also enforced the policy by denying promotions and salary increases to public sector employees with more than two children, albeit in an inconsistent manner.

The law affirms an individual's right to choose contraceptive methods as well as access to gynecological diagnosis, treatment, and health check-ups during pregnancies. It also provides for medical services when giving birth at health facilities, and officials generally

enforced the law. However, unmarried women in reproductive ages had limited or no access to subsidized contraceptives, due to government policy and lack of access in rural areas. Women were equally diagnosed and treated for sexually transmitted diseases, including HIV.

Women continued to face societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage and in the workplace, as well as labor code provisions that call for preferential treatment of women, women did not always receive equal treatment.

Societal bias in favor of male progeny has led to gender imbalance among newborns and children, although with great variability among provinces.

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

Children

Citizenship is derived from one's parents (*jus sanguinis*), although persons born to non-Vietnamese parents can also acquire citizenship under certain circumstances. Not all births were registered immediately, but this was sometimes the result of an uneducated populace. A birth certificate is required for public services, such as education and health care, and the choice by some parents, especially ethnic minorities, to not register their children affected the ability to enroll them in school and receive government-sponsored care.

Education is compulsory, free, and universal through the age of 14; however, authorities did not always enforce the requirement, especially in rural areas, where government and family budgets for education were strained and children's contribution as agricultural laborers was valued.

Anecdotal evidence suggested that child abuse occurred, but there was no information on the extent of such abuse.

Child prostitution, particularly of girls but also of boys, existed in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some minors entered into prostitution for economic reasons. The penal code, issued in 1999 and updated during the year, criminalizes all acts of sale, fraudulent exchange, or control of children as well

as all acts related to child prostitution and forced child labor. These articles carry sentences ranging from three years' to life imprisonment and fines from 5 million VND to 50 million VND (\$280 to \$2,800). Articles 254, 255, and 256 describe acts related to child prostitution, including harboring prostitution (sentences of imprisonment ranging from 12 to 20 years), brokering prostitution (sentences of imprisonment ranging from seven to 15 years), and buying sex with minors (sentences ranging from three to 15 years). Similarly, the 1991 Law on Protection, Care, and Education of Children prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development. The 2004 revised version has an additional chapter on protection and care of disadvantaged children.

Statutory rape is illegal under article 111 of the criminal code. Statutory rape can result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18, dependent upon the circumstances, vary from five to 10 years in prison. The minimum age of consensual sex is 18. The production, distribution, dissemination, or selling of child pornography is illegal under article 253 of the criminal code and carries a sentence of three to 10 years' imprisonment.

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

According to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), there were an estimated 23,000 street children, who were sometimes abused or harassed by police. MOLISA managed two centers to provide support for children in needy situations. Youth unions also launched awareness campaigns.

Trafficking in Persons

The law prohibits most forms of trafficking in persons; however, labor and the recruiting and harboring of trafficking victims is not adequately covered. Trafficking, particularly for sexual exploitation but also for forced labor overseas, remained a significant problem. Reliable statistics on the number of citizens who were victims of sex-related trafficking

were not available; nevertheless, there was evidence that the number was growing. Documentation of known trafficking cases as well as the level of case adjudications and prosecutions increased, although government statistics also included other crimes, such as the selling of infants. The government was generally increasingly open in identifying and prosecuting trafficking cases, and public awareness increased. As the country's economy continued to grow, international and domestic criminal organizations involved in human trafficking sought to take advantage of increased exposure to international markets, expanded use of the Internet, and a growing gap between rich and poor to exploit persons at risk and develop trafficking networks.

The country remained a significant source for trafficking in persons. To a much lesser degree, it was a destination country for men, women, and children trafficked for the purposes of sexual exploitation or forced labor. Women were trafficked primarily to Cambodia, Malaysia, China, Taiwan, and South Korea for sexual exploitation. Women also were trafficked to Hong Kong, Macau, Thailand, Indonesia, the United Kingdom, Eastern Europe, and the United States. There were reports that some women going to Taiwan, Hong Kong, Macau, South Korea, and China for arranged marriages became victims of trafficking. Women and children also were trafficked within the country, usually from rural to urban areas. Victims of labor trafficking (primarily men but also women and children) were trafficked to work in construction, agriculture, fishing, manufacturing, and other commercial enterprises.

There were continued reports of women from Ho Chi Minh City and the Mekong Delta forced into prostitution after marrying abroad, primarily in other Asian countries. After their arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution.

Children were trafficked for the purpose of prostitution, both within the country and to foreign destinations. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17. Some reports indicated that the ages of girls trafficked to Cambodia typically were lower.

There were documented cases of trafficking in adults for labor. These included men trafficked to Malaysia and Thailand to support construction industry projects, women who went to work as domestic employees in Malaysia and suffered conditions akin to involuntary servitude, fishermen taken to work in Taiwan, and men and boys trafficked to work in brick factories in China. Deceitful and fraudulent overseas labor contracts and recruiting remained problems, although the government began to take steps to regulate labor export, including conducting inspections, issuing fines, and revoking the licenses of at least two companies who were found to be violating labor laws. Pursuant to a government circular issued in 2007, the government also began to cap some recruitment fees. The government signed agreements with governments of labor-demand countries; however, these did not appear to have adequate provisions to

prevent human trafficking and protect victims of trafficking from conditions of forced labor and debt bondage. MOLISA reported that some workers of state-owned labor companies who went abroad to work suffered conditions akin to involuntary servitude or forced labor. Some workers also had their travel documents illegally withheld. Methods for resolving disputes between workers and their Vietnam-based export labor recruiting companies or the employing companies overseas were typically set forth in the initial contracts signed between the workers and the export labor recruiting companies and typically favored management. By law workers are entitled to bring their cases to court if they believe they have been unjustly treated by the labor export-recruiting company, although in practice few had the resources to do so.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. Research by the MPS and the UN Children's Fund indicated that trafficking victims could come from any part of the country but were concentrated in certain northern and southern border provinces, especially in the Mekong Delta. Some were sold by their families as domestic workers or for sexual exploitation. In some cases traffickers paid families several hundred dollars in exchange for allowing their daughters to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income; others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, family members, and employers.

Individual opportunists, informal networks, and some organized groups lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes. Relatives were often involved in trafficking cases. The government stated that in some cases organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

The majority of traffickers were prosecuted under articles 119 and 120 of the penal code, which provides for prison sentences of two to 20 years for persons found guilty of trafficking women, and between three years and life in prison for persons found guilty of trafficking children. These provisions can be used against some forms of trafficking for sexual and labor exploitation and also a variety of related crimes, including the selling of infants. Labor laws do not provide criminal penalties for labor trafficking, and the government did not report any investigations, prosecutions, or convictions of offenders of labor trafficking under other statutes.

The government continued to increase efforts to prosecute traffickers. As in previous cases, in Ho Chi Minh City the courts imposed heavy sentences on convicted sex traffickers, including two individuals sentenced on July 3 to 10 and 12 years in prison for operating a fake marriage brokering service that sent 28 women to Malaysia and forced them into prostitution.

A national steering committee, led by the MPS, coordinated government efforts in the identification and prosecution of trafficking cases and assisted in prevention and training activities. The Criminal Police Department of the MPS, the Ministry of Justice, the Border Guard Command, and the Social Evils Department of MOLISA were the main government agencies involved in combating trafficking, with significant collaboration from the Women's Union. The committee continued to train national and local officials to combat trafficking. Police took an increasingly active role in investigating cross-border sex trafficking cases during the year, including continued development of the dedicated antitrafficking force.

While convictions were up, the 375 cases investigated during the year represented a slight decrease compared with 2008. However, since 2005 the level of investigations and prosecutions has grown, generally reflecting an overall increase in the government's capacity to identify cases as well as a dramatic improvement in the training of local officials.

The government continued to implement its 2004-10 National Program of Action on combating trafficking in women and children as well as its export labor law and directives on recruitment and contracting transparency. Throughout the year the MPS developed guidelines on protecting victims during investigation and prosecution in cooperation with the International Organization for Migration.

Mass organizations and NGOs operated programs to educate at-risk persons about the potential for sex trafficking and to reintegrate into society women and children who were the victims of sex trafficking. During the year programs continued to provide protection and reintegration assistance for sex trafficking victims through psychosocial support and vocational training as well as to supplement regional and national prevention efforts by targeting at-risk populations. Official institutions, including MOLISA and the Department of the Family, and mass organizations, such as the Women's Union and the Youth Union, continued programs aimed at the prevention of sex trafficking, public awareness, and victims' protection. Government agencies worked with the International Organization for Migration, Asia Foundation, Pacific Links Foundation, and other international NGOs to provide temporary shelter, medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. Security agencies with border control responsibility received training in investigative techniques to prevent trafficking.

The government worked with international NGOs to supplement and strengthen law enforcement measures and institutions and cooperated with foreign governments to prevent trafficking. It also cooperated closely with other countries within the frameworks of Interpol, its Asian counterpart, and the Association of Southeast Asian Nations. On January 7, the government signed a bilateral antitrafficking agreement with Thailand, upgrading the previous bilateral memorandum of understanding, and on March 9 held a

bilateral conference to discuss implementation. Between July 15 and September 15, the two countries conducted a joint public awareness campaign on preventing and combating sex trafficking in the areas along their shared border.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The protection of persons with disabilities is provided for in articles 59 and 67 of the constitution. The Law on Disabled Persons prohibits discrimination against or maltreatment of persons with disabilities. The law also encourages the employment of persons with disabilities.

The provision of services to such persons, although limited, improved during the year. The Ministry of Transportation continued to implement accessibility codes for public transportation facilities and trained transportation agency officials and students on use of the codes. Construction or major renovation of new government and large public buildings must include access for persons with disabilities. The Ministry of Construction maintained enforcement units in Hanoi, Ho Chi Minh City, Danang, Quang Nam, and Ninh Binh to enforce the barrier-free codes.

The law provides for preferential treatment for firms that recruit persons with disabilities and for fines on firms that do not meet minimum quotas that reserve 2 to 3 percent of their workforce for workers with disabilities; however, the government enforced these provisions unevenly. Firms that have 51 percent of their employees with disabilities can qualify for special government-subsidized loans.

The government respected the political and civil rights of persons with disabilities. Under the election law, ballot boxes may be brought to the homes of individuals unable to go to a polling station.

The government supported the establishment of organizations aiding persons with disabilities. Such persons were consulted in the development or review of national programs, such as the national poverty reduction program, vocational laws, and various educational policies. The National Coordination Committee on Disabilities and its ministry members worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The government operated a small network of rehabilitation centers to provide long-term, inpatient physical therapy. Several provinces, government agencies, and universities had specific programs for those with disabilities. In April the Ministry of Education and Training held a workshop with foreign-based NGOs and a foreign government to make recommendations for the Law on Disabled Persons regarding the education and training of the disabled.

National/Racial/Ethnic Minorities

Although the government officially prohibits discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities persisted. Despite the country's significant economic growth, some ethnic minority communities benefited little from improved economic conditions.

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

The government continued to impose security measures in the Central Highlands in response to concerns over possible ethnic minority separatist activity. There were reports that ethnic minority individuals telephoning the ethnic minority community abroad were a special target of police attention. There were a few reports that members of ethnic minorities seeking to enter Cambodia were returned by Vietnamese police operating on both sides of the border, sometimes followed by police beatings and detentions.

The government continued to address the causes of ethnic minority discontent through special programs to improve education and health facilities and expand road access and electrification of rural communities and villages. The government allocated land to ethnic minorities in the Central Highlands through a special program, but there were complaints that implementation of these special programs was uneven.

The government maintained a program to conduct classes in some local ethnic minority languages in elementary and secondary schools. The government worked with local officials to develop local language curricula, but it appeared to implement this program more comprehensively in the Central Highlands and the Mekong Delta than in the mountainous northern and northwestern provinces. Ethnic minorities were not required to pay regular school fees, and the government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the middle- and high-school levels. The government offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level. There were also a few government-subsidized technical and vocational schools for ethnic minorities. Nonetheless, there were credible cases of discrimination against Christian ethnic minorities, although the law provides for universal education for children regardless of religion or ethnicity.

The government broadcast radio and television programs in ethnic minority languages in some areas. The government also instructed ethnic-majority Kinh officials to learn the language of the locality in which they worked. Provincial governments continued

initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

The government granted preferential treatment to domestic and foreign companies that invested in highland areas, which are populated predominantly by ethnic minorities. The government also maintained infrastructure development programs that targeted poor, largely ethnic minority areas and established agricultural extension programs for remote rural areas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

A homosexual community existed but was largely underground. There are no laws that criminalize homosexual practices. There was no official discrimination in employment, housing, statelessness, or access to education or health care based on sexual orientation, but social stigma and discrimination was pervasive. Most homosexual persons chose not to tell family of their sexual orientation for fear of being disowned.

There was growing public awareness of homosexuality and little evidence of direct official discrimination based on sexual orientation. Despite Ministry of Culture regulations specifically limiting beauty contests to "female citizens ages 18 or over," the number of, and participation in, transvestite and transgender beauty contests in Ho Chi Minh City increased. Several annual competitions gained notoriety, and several transgender and transvestite beauty queens emerged as prominent celebrities.

Other Societal Violence or Discrimination

There was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed. Individuals who tested positive for HIV/AIDS reported latent social stigma and discrimination, although not in receiving medical treatment for their condition. The law states that employers cannot fire individuals for having HIV/AIDS and doctors cannot refuse to treat persons with HIV/AIDS. However, there were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. In a few cases, children of persons with HIV/AIDS were barred from schools. Some parents removed their children from a school in Ho Chi Minh City after the school allowed orphans with HIV/AIDS to attend, as required by law. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and decrease societal stigma and discrimination, but these measures were not consistently applied. Religious charities were sometimes permitted to provide services to persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law does not allow workers to organize and join independent unions of their choice. While workers may choose whether or not to join a union and the level (local, provincial, or national) at which they wish to participate, every union must be affiliated with the country's only trade union, the Vietnam General Confederation of Labor (VGCL).

The VGCL, a union umbrella organization controlled by the CPV, approves and manages a range of subsidiary labor unions organized according to location and industry. By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union.

According to VGCL statistics, in 2008 its total membership was more than 6.3 million, or an estimated 39 percent of the country's approximately 16 million wage earners. Of the VGCL members, 36.5 percent worked in the public sector, 33.1 percent in state-owned enterprises, and 30.4 percent in the private sector. The VGCL claimed that its membership represented 95 percent of public-sector workers and 90 percent of workers in state-owned enterprises. Approximately 1.7 million union members worked in the private sector, including in enterprises with foreign investment (more than 700,000 persons). In actuality 85 percent of state-owned enterprises, 60 percent of foreign-invested enterprises, and 30 percent of private enterprises were unionized.

While the law does not allow for independent unions, a 2007 revision states that the negotiation of disputes can be led and organized by "relevant entities," which may be composed of worker representatives when the enterprise in question does not have a union. While the law allows for "union activities," especially during emergency situations such as a strike, the VGCL is required to establish an official union within six months. There was little evidence that leaders or organizations active during this six-month window continued to be active or recognized afterwards.

There are mandatory union dues for union members of 1 percent of salary, and employers must contribute 2 percent of payroll. In foreign direct investment companies, employers are required to contribute 1 percent of payroll. While these dues are intended to support workers and union activities, there was little transparency regarding their use. The vast majority of the workforce was not unionized and did not pay union dues, as almost 34 million of the 45.3 million total laborers lived in rural areas and engaged in activities such as small-scale farming or worked in small companies and the informal private sector.

Union leaders influenced key decisions, such as amending labor legislation; developing social safety nets; and setting health, safety, and minimum wage standards. However,

the VGCL asserted that authorities did not always prosecute violations. MOLISA acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against violations.

Strikes are illegal if they do not arise from a collective labor dispute or if they concern problems that are outside of labor relations. Before a legal strike can be held, workers must take their claims through a process involving a conciliation council (or a district-level labor conciliator where no union is present); if no resolution is obtained, the claims must be submitted to a provincial arbitration council. Unions (or workers' representatives where no union is present) have the right either to appeal decisions of provincial arbitration councils to provincial people's courts or to go on strike. Individual workers may take cases directly to the people's court system, but in most cases they may do so only after conciliation has been attempted and has failed. The amendment also stipulates that workers on strike will not be paid wages while they are not at work.

The labor code prohibits strikes in 54 occupational sectors and businesses that serve the public or that the government considers essential to the national economy and defense. A decree defines these enterprises as those involved in electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the prime minister the right to suspend a strike considered detrimental to the national economy or public safety.

The vast majority of strikes typically did not follow the authorized conciliation and arbitration process and thus were considered illegal "wildcat" strikes. The number of such strikes markedly declined during the year, with only 309 occurring in the year. This followed a three-year upsurge, which saw the number of wildcat strikes increase from 387 in 2006 to 762 in 2008. Most economists attributed the spike in the number of strikes in 2008 to dramatic increases in the cost of living, with inflation peaking at 28 percent in August 2008, and the relative decline in the number of strikes during the year to the return to single-digit inflation and worker concern with the slowing economy.

More than 90 percent of "wildcat" strikes occurred in Ho Chi Minh City and surrounding provinces. While these strikes were illegal under the law, the government tolerated them and took no action against the strikers. The law prohibits retribution against strikers, and there were no reports of retribution. In some cases the government disciplined employers for the illegal practices that led to strikes, especially with foreign-owned companies. By law individuals participating in strikes declared illegal by a people's court and found to have caused damage to their employer are liable for damages.

b. The Right to Organize and Bargain Collectively

The law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers; the law was generally enforced, although VGCL-affiliated unions were not independent. Collective labor disputes over rights must be routed through a conciliation

council and, if the council cannot resolve the matter, to the chairperson of the district-level people's committee. Amendments made to the labor law in July 2008 divide such disputes into those over rights (compliance with the law) and those over interests (demands beyond what the law provides), setting out different procedures for both. The law stipulates an extensive and cumbersome process of mediation and arbitration that must be followed before a strike may take place.

There are no special laws or exemptions from regular labor laws in export processing zones and industrial zones. There was anecdotal evidence that the government enforced the laws more actively in the zones than outside them. However, there were credible reports that employers in the zones tended to ignore worker rights and to use short-term contracts to avoid the legal requirement to set up a union.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children; however, there were reports that such practices occurred.

Prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets, reportedly to purchase items for their personal use.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits most child labor but allows exceptions for certain types of work. However, child labor remained a problem, particularly in rural areas, where two-thirds of the population resided. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA. In 2006 MOLISA reported that approximately 30 percent of children between the ages of six and 17 participated in some economic activity, usually on family farms or in family businesses not within the scope of the law.

By law an employer must ensure that workers under 18 do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the law. The law permits children to register at trade training centers, a form of vocational training, from the age of 13. Children may work a maximum of seven hours per day and 42 hours per week and must receive special health care. A 2008 MOLISA survey reported that there were more than 25,000 children working in conditions considered hazardous.

In rural areas children worked primarily on family farms and in other agricultural activities and household responsibilities. In some cases they began work as young as age six and were expected to do the work of adults by the time they were 15. Especially during harvest and planting seasons, some parents did not permit children to attend school. Migration from rural to urban settings exacerbated the child labor problem,

because unauthorized migrants were unable to register their households in urban areas. Consequently, their children could not attend public schools, and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers, were commonly assigned work for "educational purposes."

In urban areas children worked in family-owned small businesses or on the street shining shoes or selling articles such as lottery tickets and newspapers. One shelter reported that children as young as nine years were lured into Ho Chi Minh City to sell lottery tickets. Child labor was also increasingly common in small urban factories. Labor officials in Ho Chi Minh City declared that during the year, 62 out of 173 production units they inspected used illegal child labor. Most were garment or mechanic workshops in Binh Tan, Tan Phu, and Binh Chanh districts. Government inspectors reported that more than 96 percent of child workers were employed by word of mouth without official documentation and 75 percent of these children were from the central coast and Mekong Delta provinces.

MOLISA is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal code violations, prosecute employers who violate child labor laws. While the government committed insufficient resources to enforce effectively laws providing for children's safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers.

The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

e. Acceptable Conditions of Work

The law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for unskilled laborers at foreign-investment joint ventures and foreign and international organizations was between 1.08 million VND (\$60) and 1.2 million VND (\$67) in urban areas and approximately 950,000 VND (\$53) in rural areas. The official monthly minimum wage for unskilled labor in the state sector was approximately 650,000 VND (\$36). For employees working for national companies, on farms, or in family households, the official minimum wage was between 650,000 VND (\$36) and 800,000 VND (\$45), based on region of the country. While this was above the poverty line set by the government, many considered this amount inadequate to provide a worker and family a decent standard of living.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to

reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

The law sets normal working hours at eight hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at one and one-half times the regular wage, two times the regular wage for weekdays off, and three times the regular wage for holidays and paid leave days. The law limits compulsory overtime to four hours per week and 200 hours per year but provides for an exception in special cases, where this maximum can be up to 300 overtime hours worked annually, subject to stipulation by the government after consulting with VGCL and employer representatives. The law also prescribes annual leave with full pay for various types of work. It was unclear how strictly the government enforced these provisions.

By law a female employee who is engaged to be married, pregnant, on maternity leave, or caring for a child under one year of age cannot be dismissed unless the enterprise closes. Female employees who are at least seven months' pregnant or are caring for a child under one year of age cannot be compelled to work overtime, at night, or in locations distant from their homes. It was not clear how well the law was enforced.

The law requires the government to promulgate rules and regulations that ensure worker safety. MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations, but enforcement was inadequate because of low funding and a shortage of trained enforcement personnel. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. The greatest number of occupational injuries was caused by machinery such as rolling mills and presses.

According to a July 2008 survey by MOLISA on working conditions in small and medium-sized enterprises, up to 80 percent did not meet minimal work safety requirements, 8 percent had working conditions described as considerably poor, and 90 percent used obsolete machines and equipment. Employees typically worked in hazardous working environments--31 percent worked in very hot conditions, 24 percent in excessively noisy conditions, and 17 percent in places with high levels of dust.

The law provides that workers may remove themselves from hazardous conditions without risking loss of employment; however, it was unclear how well this was enforced. MOLISA stated that there were no worker complaints of employers failing to abide by the law.

Courtesy The United States Department of State
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