



## **Vietnam: Researched and compiled by the Refugee Documentation Centre of Ireland on 24 May 2010**

### **Information about corruption in Vietnam**

The introduction to the US Department of State Country Report states:

“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.” (US Department of State (11 March 2010) *2009 Country Reports on Human Rights Practices – Vietnam*)

This report states under the heading ‘Role of the Police and Security Apparatus’:

“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.” (Ibid)

This report states under the heading ‘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.” (Ibid)

This report states under the heading ‘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. (Ibid)

This report states under the heading ‘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.” (Ibid)

This report states under the heading ‘Freedom of speech and press’:

“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." (Ibid)

This report states under the heading 'Elections and political participation':

"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." (Ibid)

This report states under the heading '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." (Ibid)

This report states under the same heading:

"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." (Ibid)

Freedom House state in the introduction to their *Countries at the Crossroads 2010* report:

“The Vietnamese Communist Party (VCP) and its associated organizations have time and again proved adept at reinvigorating themselves and the country in the face of crisis and failing institutions, often to the benefit of Vietnamese citizens. Through a combination of control over the media, domination of the judiciary, and repression of political dissent, the VCP remains firmly in command. Opposition parties remain illegal and the party-dominated government incarcerates those it deems threatening to the VCP's monopoly on political power. As Vietnamese society faces key challenges, including rampant corruption and rising land grabs, it remains to be seen whether the current system will be able to effectively meet the needs of an increasingly demanding citizenry, or if more fundamental change will be needed.” (Freedom House (6 April 2010) *Countries at the Crossroads 2010 - Vietnam*)

This report also states under the same section:

“The provision of economic freedoms has not been accompanied by concomitant political reform. The upper echelons of the VCP have allowed a degree of enhanced openness in the face of new demands from society for accountable government and freedom of expression. However, this space remains within limited and sometimes arbitrary parameters defined by the party leadership, illustrating the contradictions and limitations on freedom in Vietnam. Thus, the government actively encourages the media to investigate and expose instances of corruption, but journalists may suffer retribution when their investigations are perceived to challenge the fabric of the VCP's power. (Ibid)

This report states under the heading ‘Accountability and Public Voice’:

“All media outlets are wholly or partially owned by the state, with the exception of a small number of underground publications. In recent years, the government has encouraged media to report on corruption and act as an avenue of "oversight over the implementation of policies and laws by State authorities." [19] In practice, however, this occurs within fairly strict limits. In a development widely perceived as a step backwards for media reporting on corruption, two journalists for Thanh Nien and Tuoi Tre, high-profile publications known for pushing the limits on permissible coverage, were arrested in May 2008 and sentenced to prison and re-education without detention for exposing a high-level scandal (see Anticorruption and Transparency).” (Ibid)

This report states under the heading ‘Rule of law’:

“Corruption in the judiciary remains widespread, partly due to the country's large number of ad hoc and inconsistent laws, which create opportunities for judicial corruption in their enforcement. Powerful actors, including high-ranking government officials, are generally above the law.” (Ibid)

This report states under the heading ‘Anticorruption and Transparency’:

“Corruption remains pervasive across Vietnamese society, despite the country's high economic growth rate. Indeed, Vietnam's fairly predictable patterns of

corruption have not served to deter foreign investors. Decentralization has further contributed to a rise in corruption over the past decade: local authorities have been granted greater authority over expenditures and development projects, enabling considerable discretion in demanding bribes in exchange for licenses and permits. The oft-used term 'ask-give mechanism' refers to a means of governing society by orders rather than the rule of law, such that actions by lower officials are contingent on receiving approval from superiors, with various 'favors' exchanged in return. Vietnam ranked 121st out of 180 countries in Transparency International's (TI) 2008 Corruption Perceptions Index.

Under international and domestic pressure to address the problem, the government has continued a high-profile anticorruption campaign. Recent years have seen the passage of groundbreaking legislation, establishment of new anticorruption bodies, and ratification of the UN Convention Against Corruption. Despite such positive steps, enforcement of higher standards has been hindered by a combination of factors, including inadequate checks and balances, the lack of an independent judiciary and free media, poor incentive structures for civil servants, widespread nepotism and secrecy, and practically nonexistent protection for whistleblowers. Under such conditions, the gap between legal standards and practical realities will remain problematic for years to come.

Bureaucratic red tape is substantial and payments to expedite administrative procedures are common. Bribes are most often solicited by traffic police, construction regulators, and land registration, customs, and tax administration officials. Nonetheless, a 2007 TI survey found that only 14 percent of respondents from average households reported paying a petty bribe over the past year, a relatively low figure compared to neighboring countries. Within the private sector, the government has taken steps to decrease the number of requirements for establishing and operating a business by eliminating nearly 200 unnecessary permits" (Ibid)

This report states under the same heading:

"A main plank of the government's anticorruption campaign was the passage of a 2005 Anti-Corruption Law, which took effect in 2006, and subsequent implementing decrees. International observers generally assess the law and surrounding legal framework as well developed, particularly as it emphasizes systemic measures to reduce opportunities for corruption as a complement to punitive measures. It includes requirements for assets declarations, the creation of anticorruption bodies, and mechanisms for citizens to lodge complaints, among other provisions. Not surprisingly, enforcement of the law has been uneven and incomplete, hampered by a lack of political will to enable significant oversight by non-VCP entities. According to one study, enforcement was initially strong in 2006 and 2007 but weakened as officials developed more sophisticated strategies to circumvent supervision. The Anti-Corruption Law requires that government officials and family members annually disclose assets, including money held in overseas and domestic accounts and taxable income. Although hundreds of candidates for the NA election in 2007 reportedly declared their assets, implementation as a whole has been incomplete, and oversight mechanisms are still in the development stage. Assets declarations are not made

available to the public unless a state official is found to be "unusually wealthy" and further investigations deemed necessary." (Ibid)

Bertelsmann's Transformation Index 2010 Country Profile for Vietnam states:

"Corruption and abuse of office remain the VCP's most serious problems. Citizens' complaints about official corruption, governmental inefficiency and opaque bureaucratic procedures have increased during the assessment period. Although senior party and government officials have publicly acknowledged growing public discontent, the government has responded primarily with a few high-profile prosecutions of officials and private individuals rather than comprehensive reforms. Whereas the government's attempts to punish corrupt officials indicate that the government takes graft seriously, they also underscore the pervasiveness of the problem. In the first six months of 2008, government auditors uncovered fraud worth VND 970 billion (\$61 million) and "misdeeds in economic management" of approximately VND 400 billion. By May, almost 400 people had been charged with corruption-related offences. In addition, the General Department of State Audit found that VND 2.8 trillion (\$170 million) in taxes were not paid in 2007, especially in the construction sector, and authorities have recovered less than 10% of these revenues. Vietnam was ranked 121 out of 180 countries surveyed in Transparency International's 2008 Corruption Perceptions Index (two positions higher than in the previous year)." (Bertelsmann Stiftung (2009) *BTI 2010 - Vietnam Country Report*, p. 8)

Global Integrity Report states:

"The blurry (and often non-existent) lines between ruling party and the state in Vietnam continue to pose structural challenges to the country's governance reform agenda. Vietnam unfortunately boasts some of the world's most explicit restrictions on freedom of speech and freedom of expression, and the arrests of bloggers have provided a chilling reminder to those who choose to speak out against the government that they put themselves at personal risk. Independent media is virtually non-existent, with all media outlets being state-run. To even register a new media outlet requires purchasing the right to obtain a license from an existing state-run organ, a dubious gray market few in Vietnam discuss. The courts offer little refuge for those seeking defense from government action, as 90% of judges are members of the ruling party while only 30% have a law degree. State-run enterprises represent a significant source of potential corruption, with strong ties to the party elite and financial records that are so hidden from the public as to be described 'state secrets.'" (Global Integrity Report (2009) *2009 Assessment - Vietnam*)

## References

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

#### **Sources consulted**

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