

## Refugee Review Tribunal

### AUSTRALIA

#### RRT RESEARCH RESPONSE

**Research Response Number:** VNM17306  
**Country:** Vietnam  
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Keywords: Vietnam – Household registration – People smuggling – Illegal departure

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

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#### Questions

- 1. Can you provide information on the significance of household registration in Vietnam and in particular the ramifications of not having household registration?**
- 2. What are the ways in which one may lose household registration?**
- 3. And how does one regain household registration?**
- 4. How do the authorities in Vietnam deal with persons suspected of or involved in people smuggling?**
- 5. How is illegal departure from the country viewed by the authorities?**

#### RESPONSE

- 1. Can you provide information on the significance of household registration in Vietnam and in particular the ramifications of not having household registration?**
- 2. What are the ways in which one may lose household registration?**
- 3. And how does one regain household registration?**

Information provided by the sources consulted suggests that the regulatory limitations imposed by the system of household registration (or *ho khau*) on the average Vietnamese citizen (which were once very strict as regards residency, movement and foodstuff allocation) have recently been relaxed (particularly for those living in urban areas). Nonetheless, these sources also indicate that the loss of household registration can have significant implications for a citizen of the Socialist Republic of Vietnam (SRV). With the loss of household registration an SRV citizen faces the full force of the laws that attend this otherwise quiescent mechanism. For while an urban citizen who possesses household registration can re-locate, seek employment and acquire foodstuffs with relatively little *ho khau* regulatory interference; a citizen without household registration can face significant restrictions in terms of his/her access to basic living requirements such as food, shelter, employment and social services like medical care. (For information on the significance of *ho khau* for SRV citizens, see: Dang,

A.N., Tacoli, C, Hoang, T.X. 2003, *Migration in Vietnam: A review of information on current trends and patterns, and their policy implications*, Livelihoods (UK DFID) website, 22–24 June [http://www.livelihoods.org/hot\\_topics/docs/Dhaka\\_CP\\_7.pdf](http://www.livelihoods.org/hot_topics/docs/Dhaka_CP_7.pdf) – Accessed 26 April 2005 – Attachment 1; see also: ‘Insight: The little residential book’ 2003, *Vietnam Investment Review*, 15 September <http://www.vir.com.vn/Client/VIR/index.asp?url=content.asp&doc=757> – Accessed 5 November 2004 – Attachment 2; and: Hardy, Andrew 2001, ‘Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform’, *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3.)

Information provided by the sources consulted suggests that a citizen can lose his/her household registration in a number of ways: as a consequence of re-locating from a rural to an urban locale; as a consequence of emigrating from Vietnam to another country; as a consequence of failing to maintain one’s residency over the course of a year; or as a consequence of being deemed guilty of dissident, or criminal, activity. The sources consulted indicate that an SRV citizen who has lost his/her *ho khau* as a consequence of a civil infraction can make application to have his/her household registration system restored under certain circumstances. The sources indicate that an SRV citizen who has lost his/her *ho khau* as a consequence of political or criminal activities *cannot* make application to have his/her household registration system restored. (For information on the manner in which an SRV citizen can lose his/her *ho khau* through illegal migration, see: Dang, A.N. 2003, ‘Internal Migration Policies in the ESCAP Region’, UNESCAP website, source: *Asia-Pacific Population Journal*, September, pp.31-3 <http://www.unescap.org/esid/psis/population/journal/2003/Jour18-3-p2.pdf> – Accessed 26 April 2005 – Attachment 4; for information which suggests that *ho khau* can be administered in such a way as to marginalize political dissidents, see: ‘Father Ly’s Testimony on Religious Persecution in Vietnam’ 2001, Committee for Religious Freedom in Viet Nam (CRFVN) website, 13 February <http://www.crfvn.org/humanrights/ThichThaiHoaTestimony.html><http://www.crfvn.org> – Accessed 26 April 2005 – Attachment 5; for information on the manner in which an SRV citizen may, or may not, make application to regain *ho khau*, see: Immigration and Refugee Board of Canada 2001, *VNM37802.E Vietnam: Whether Vietnamese citizens or residents are required to cancel their Household Registration (ho khau) when leaving Vietnam to live abroad; whether the registration can be restored upon returning to Vietnam after two or more years of absence; grounds for refusal to issue a household registration to a returnee*, 16 October – Attachment 6.)

An overview of the source material, which informs the above response, follows below. This information is presented in reverse chronological order.

The most recent Research Response to have addressed concerns related to the household registration system, *Research Response VNM17091*, was completed on 9 November 2004 and is supplied as Attachment 7. A number of the sources addressed in *Research Response VNM17091* appear below; discussed in the context of the issues broached by Questions 1, 2 and 3 (RRT Country Research 2004, *Research Response VNM17091*, 9 November – Attachment 7).

Advice on household registration was received from Professor Ben Kerkvliet (of the Australian National University; or ANU) on 11 April 2005. Professor Kerkvliet advised, at this time, that “[i]n the cities, many people manage without being properly registered” while “[h]aving proper registration documents seems to be more closely enforced in towns and

villages” (Kerkvliet, B. 2005, Email to RRT: ‘Vietnam – RRT Information Request VNM17238-VNM17306’, 11 April – Attachment 8).

The US Department of State’s most recent report on human rights practices in Vietnam suggests that the “system of household registration and block wardens” is employed by the Vietnamese authorities for monitoring persons “whom they [regard] as having dissenting views, or whom they [suspect] of involvement in unauthorized political or religious activities” (see Section 1.f.). Relevant extracts follow in detail:

Internal security primarily is the responsibility of the Ministry of Public Security (MPS); however, in some remote areas, the military is the primary government agency and provides infrastructure and all 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 maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities; however, this system has become less pervasive in its intrusion into most citizens’ daily lives. While the civilian authorities generally maintained effective control of the security forces, there were reports that elements of the security forces acted independent of government authority. Members of the public security forces committed numerous human rights abuses (Introduction).

...The Constitution provides for the right to privacy of home and correspondence; however, the Government restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens, but usually did not intrude on most citizens. The authorities focused on persons whom they regarded as having dissenting views, or whom they suspected of involvement in unauthorized political or religious activities (Section 1.f.).

...The Government opened and censored targeted persons’ mail, confiscated packages and letters, and monitored telephone conversations, electronic mail, and facsimile transmissions. The Government cut the telephone lines and interrupted the cellular phone service of a number of religious and political activists and some of their family members (Section 1.f.).

...Foreign passport holders by law must register to stay in private homes; and local authorities at times refused to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the Government appeared to have enforced these requirements more strictly in some districts of the Central and Northwest Highlands (Section 2.d.) (US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Vietnam*, 28 February – Attachment 9).

A 2004 study of internal migration in Vietnam, produced by Steffanie Scott (of the University of Waterloo, Ontario) and Truong Thi Kim Chuyen (of Ho Chi Minh City’s University of Social Sciences and Humanities), observes that Vietnam is currently in a “period of transformation” in which an emergent degree of “spatial mobility...has been attributed to three causes”, one of which is the relative relaxation of the household registration system. Scott and Truong note that a number of commentators have argued that Vietnam’s “abandoning [of] the system of subsidies and the associated strict household registration system (*ho khau*) [has] meant that residence in urban areas and access to essential goods and services [has become] possible for more of the non-urban population”. The relevant extract follows in detail:

In the current period of transformation, spatial mobility in Vietnam has been attributed to three causes (Anh Danh, Goldstein, and McNally 1997). The first factor is decollectivization, associated with productivity increases and labour surpluses. The 1993 Land Law which permitted land transfers accelerated landlessness at the same time as it boosted incentives for off-farm market opportunities. Second, abandoning the system of subsidies and the associated strict household registration system (*ho khau*) meant that residence in urban areas and access to essential goods and services became possible for more of the non-urban population. Third, the expansion of the private sector facilitated interprovincial trade and transportation. Thus, the integration of population in remote areas into regional and national (and sometimes international) links has been shaped by both state intervention and demands of the market economy, which in turn have affected the differential development among regions (Scott, S. & Truong, C.K.T., 2004. 'Behind the numbers: Social mobility, regional disparities and new trajectories of development in rural Vietnam', University of Waterloo, Faculty of Environmental Studies website, source: Philip Taylor (ed.), *Social Inequality in Vietnam : Challenges to Reform*, Institute of Southeast Asian Studies (ISEAS), Singapore, p.116-7. [http://www.fes.uwaterloo.ca/u/sdscott/03\\_ScottChuyen.pdf](http://www.fes.uwaterloo.ca/u/sdscott/03_ScottChuyen.pdf) – Accessed 26 April 2005 – Attachment 10).

An article published in the *Vietnam Investment Review*, on 15 September 2003, presents information which suggests that household registration remains a matter of great significance to most citizens of the SRV. While noting that regulatory mechanisms, such as “food ration coupons”, are no longer as crucial as they once were, this report indicates that the household registration book remains significant to SRV citizens insofar as “the small green book guarantees their economic and social rights to a large extent”. The relevant extract follows in detail:

During the heyday of Vietnam’s centrally planned economy, people often joked that there was no fear like the loss of your *so gao*, a person’s individual book of food ration coupons.

That fear no longer exists but there are new worries over another kind of book; the *so ho khau* or residential book that contains the rights of a citizen.

...If you are an expatriate in Vietnam, you know how important your passport is. A residential book is equally important to a Vietnamese national – more so when you consider that the small green book guarantees their economic and social rights to a large extent.

To buy a house or land, to get married, to be employed, to register for a training course, to borrow from a bank, to register your child’s birth, to get a motorbike licence, to go abroad, or to install a phone line if you are Vietnamese, you need a residential book ('Insight: The little residential book' 2003, *Vietnam Investment Review*, 15 September <http://www.vir.com.vn/Client/VIR/index.asp?url=content.asp&doc=757> – Accessed 5 November 2004 – Attachment 2).

The *Vietnam Investment Review* article also explores the complexities which may attend the administration of the household registration system from one locality to another. Underlining this initial and pervasive point – that household registration is administered in a highly localized and heterogenous fashion – it also offers the following information with regards to general administrative procedures: “[a] family’s residential book is the responsibility of the *chu ho* or head of the household”; “[t]he major legal documents that stipulate *ho khau* management are the governmental Decree 51/ND-CP issued in 1997 and Circular 06/TT/BNV issued the same year by the then Ministry of Internal Affairs, now the Ministry of Public Security”; and that *ho khau* applications are typically administered by the local or the district police authorities. The relative extracts follow in detail:

A family's residential book is the responsibility of the *chu ho* or head of the household. ... The *chu ho* is responsible for the upkeep of the residential book and for obeying regulations on registration and management of the *ho khau* for his or her family members.

In terms of residence, there are two kind of *ho khau*: temporary and permanent. Registering a permanent *ho khau* is great concern for those who want to live for a long time in cities such as Hanoi or Ho Chi Minh City.

In a city, there are four official types of *ho khau*: KT 1 for those permanently residing in the locality, KT 2 for those having a permanent *ho khau* that have moved in from another district in the city, KT 3 for those moving in from another province and KT4 for free and seasonal workers.

To register a permanent *ho khau*, a person needs a certified job, be living in a legal house and have been at that place for a suitable length of time.

The major legal documents that stipulate *ho khau* management are the governmental Decree 51/ND-CP issued in 1997 and Circular 06/TT/BNV issued the same year by the then Ministry of Internal Affairs, now the Ministry of Public Security.

Before 2000, the Hanoi police managed *ho khau* cases for those living in the city directly. District level police now look after that area, while city police retain the right to manage *ho khau* cases for those moving to the city from the provinces.

...[I]n Tay Ho district...the police have succeeded in halving the time for *ho khau* applications.

...The five types of *ho khau* that must be addressed within 10 days under state law are now tackled in one day at the Tay Ho police headquarters... .

...Documentation of *ho khau* issues is no easy task since there are a lot of phases from receiving applications, proposing solutions, referring to original books and data, correcting errors, and submission to the district police's leaders, to copying documents for storage and returning applications.

According to statistics from the *ho khau* police, the five types of *ho khau* that must be completed within 10 days by law, account for 55 per cent of applications.

...Sometimes, problems are a linguistic matter. The most frequent errors happen with the two letters x and s and the buffer name. In the past, most female Vietnamese used 'Thi' as a buffer name but now more and more reject it, saying it does not make a nice name. Lost *ho khau* are common cases policeman like Son must solve.

...Another issue is the absence of a policy on additional allowances while the maximum fees for a *ho khau* case is VND15,000 (\$1).

Despite large workloads and a big pile of books and materials concerning *ho khau*, there is no PC in sight that is capable of providing a modern solution.

"There are many reasons why we have yet to use computers," Son explained. "As far as I know, the police of Yen Phu ward, Tay Ho district, are considering a project to use information technology in administrative management in coordination with the Ministry of Public Security to help with certification *ho khau* information for local residents."

Tay Ho district was officially established in 1996. It has eight wards surrounding West Lake. The population residing in the district is around 200,000, lower than in downtown districts of Hoan Kiem, Ba Dinh, Hai Ba Trung and Dong Da.

It was also the first district in the city to deploy public administrative services on a pilot basis. However, Son said in the near future services concerning the granting and managing of residential books could not be in the hands of civil agencies because of security reasons ('Insight: The little residential book' 2003, *Vietnam Investment Review*, 15 September <http://www.vir.com.vn/Client/VIR/index.asp?url=content.asp&doc=757> – Accessed 5 November 2004 – Attachment 2).

A September 2003 study of internal migration in Vietnam, produced by Dang Nguyen Anh (Head of the Department for Population Studies, Institute of Sociology, Hanoi) for the UN Economic and Social Commission for Asia and the Pacific (UNESCAP), provides an overview of: the history of the household registration system; its present effects upon the Vietnamese population; and policy recommendations as to future regulatory measures for controlling Vietnam's internal migration movements. Dang Nguyen Anh's overview notes that the Vietnamese "household registration system (*ho khau*)...is a similar version of the Chinese model of '*hukou*' which aimed at controlling population mobility, especially spontaneous outflows of rural residents" into urban areas (p.31). According to Dang Nguyen Anh, "household registration procedures no longer directly affect every aspect of people's lives the way they used to"; "[t]he household registration system, despite its continuation, no longer limits acquisition of essential goods and residence in the cities" (p.32). Dang Nguyen Anh describes the current household registration system as a "hybrid system" in which "[a] key interface is the issuance of temporary residence" (pp.32-3). According to Dang Nguyen Anh's study "[t]here is little...that the [present day Vietnamese] Government can do to reverse or modify profoundly the direction of population flows through direct policy intervention on how or where people should migrate" (p.33). Relevant extracts follow in detail:

Migration flows involving changes of residence to urban places, especially to the largest cities, were strictly controlled through migration policies and the household registration system (*ho khau*). This system is a similar version of the Chinese model of "*hukou*" which aimed at controlling population mobility, especially spontaneous outflows of rural residents. Urban-rural and rural-rural migration was explicitly encouraged to avoid what was considered to be overurbanization, social insecurity and disorder. State jobs and the family reunion migration they occasioned became the main route to urban life. In practice, this system did not abolish spontaneous migration. It just made it expensive.

Immediately after the reunification of north and south Viet Nam in 1975, there were large-scale movements from the cities to rural areas.

...Regardless of migration status, people no longer have to depend on government subsidies and rationing to obtain their basic life needs, especially in urban centres. The household registration system, despite its continuation, no longer limits acquisition of essential goods and residence in the cities. Driven by extreme poverty and scarce resources, people are seeking locations where economic opportunities are perceived to be better, usually in major urban centres. Income inequality and rural-urban dual prices disadvantage rural residents and hence promote outmigration.

Today, household registration procedures no longer directly affect every aspect of people's lives the way they used to. Survey data and media reports suggest that rural-to-urban migration has fuelled the jump in levels of urbanization (Dang, 2001; Guest, 1998b). The fear

of masses of rural poor flooding into the cities of Viet Nam has resulted in a number of policy suggestions to put in place some measures to control migration into major cities. Although these intended restrictions have not been implemented, perhaps because of the recognition that increased rural-urban migration is in part a response to the development policies adopted by the Government, concern over migration patterns remain. The result is a hybrid system operating in internal contradiction. A key interface is the issuance of temporary residence. This is reflected in the statistics: by 1994, of those who had moved to Ho Chi Minh City after 1989, 62 per cent were accepted as “temporary long-term residents” based on an extendable three- or six-month stay (IER, 1996). Of 202,100 in-migrants to Ho Chi Minh City in 1990-1994, only 26.6 per cent had obtained a permanent residence permit (compared with 44 per cent of the 178,000 arriving in 1986-1990 and 64 per cent of 125,800 in-migrants in the early 1980s). There is little, however, that the Government can do to reverse or modify profoundly the direction of population flows through direct policy intervention on how or where people should migrate (Dang, A.N. 2003, ‘Internal Migration Policies in the ESCAP Region’, UNESCAP website, source: *Asia-Pacific Population Journal*, September, pp.31-3 <http://www.unescap.org/esid/psis/population/journal/2003/Jour18-3-p2.pdf> – Accessed 26 April 2005 – Attachment 4).

The aforementioned work of Dang Nguyen Anh has also appeared within a June 2003 collaborative study, of internal migration in Vietnam, which was co-authored with Cecilia Tacoli (of the London based International Institute for Environment and Development; or IIED) and Hoang Xuan Thanh (of the Hanoi based Ageless Consultants group) and published by the Livelihoods website of the UK Department for International Development (DFID). This study also contains some additional information on the household registration system. Like Dang’s aforementioned September 2003 publication, the collaborative June 2003 publication observes that the “household registration system...no longer limit[s] the acquisition of essential goods, employment and residence in urban centres” (p.i; see also pp.9-10). The collaborative study, however, adds to this the observation that, in certain instances, the household registration system can enforce restrictions of this nature. The situation of the rural to urban migrant is highlighted as an instance of this kind: “migrants to the largest cities, where infrastructure and services are under considerable pressure, face restrictions on the issuance of permanent residence permits”; restrictions which limit “access to social services, formal sector employment and secure housing tenure, and [which] can exacerbate the difficulties that low-income migrants face without actually stopping their arrivals” (p.i). Relevant extracts follow in detail:

However, migrants to the largest cities, where infrastructure and services are under considerable pressure, face restrictions on the issuance of permanent residence permits. This limits access to social services, formal sector employment and secure housing tenure, and can exacerbate the difficulties that low-income migrants face without actually stopping their arrivals.

...Implicit barriers to mobility still exist, and increase the costs of migration. However, they are likely to be higher for unskilled, low-income migrants than for white-collar, skilled ones. They also tend to be higher in large cities with infrastructure and services already under pressure (Nguyen, 2002) (Dang, A.N., Tacoli, C, Hoang, T.X. 2003, *Migration in Vietnam: A review of information on current trends and patterns, and their policy implications*, Livelihoods (UK DFID) website, 22–24 June, pp.i,10 [http://www.livelihoods.org/hot\\_topics/docs/Dhaka\\_CP\\_7.pdf](http://www.livelihoods.org/hot_topics/docs/Dhaka_CP_7.pdf) – Accessed 26 April 2005 – Attachment 1)

The Dang *et al* June 2003 report also provides information on the institutional infrastructure which administers the household registration system. According to Dang *et al*, household

registration is administered, at the national level, by the “Ministry of Public Security (MPS)”;

a body whose jurisdiction over such matters is shared, in certain regards, with other agencies such as the “Ministry of Justice (MOJ)” and the “Ministry of Labour, War Invalids and Social Affairs (MOLISA)”;

and whose governance becomes even more fractured at the local level where “policies, decisions and regulations regarding population and migration” are also issued by “People’s Committees at different levels”;

and where “mass and political organisations such as the women’s union, the youth union, the peasant union and the labour federation are also mobilised and participate in the daily work of the government” (p.5). Relevant extracts follow in detail:

*...Government ministries and departments responsible for migration*

...The Ministry of Labour, War Invalids and Social Affairs (MOLISA) is directly responsible for employment and vocational training.

...The Ministry of Public Security (MPS) is responsible for the registration of temporary migrants and directly manages the household registration system (*ho khau*), but mainly for permanent and official migrants. Spontaneous and undocumented migrants are often not included. In its function to maintain national security, the MPS, in cooperation with the Ministry of Foreign Affairs (MOFA) and the Ministry of Justice (MOJ), is responsible for immigration. Recently, the MPS has started investigating human trafficking and smuggling cases in cooperation with the Border Guard Command (BGC). The Ministry of Construction (MOC) is responsible for rural and urban planning and infrastructure development which have indirect impacts on population movement.

The Committee for Population, Family and Children Affairs is another government agency to be mentioned. Although not directly involved in migration, the committee has been concerned about the effects of migration on maintaining population targets in destination areas. Recently, it has also become engaged in combating child trafficking, together with other government ministries and international organisations.

In parallel with line ministries, People’s Committees at different levels operate and supervise the civil society from a territorial perspective. They also issue their own policies, decisions and regulations regarding population and migration. In addition to government agencies, mass and political organisations such as the women’s union, the youth union, the peasant union and the labour federation are also mobilised and participate in the daily work of the government in several domains at local level. (Dang, A.N., Tacoli, C, Hoang, T.X. 2003, *Migration in Vietnam: A review of information on current trends and patterns, and their policy implications*, Livelihoods (UK DFID) website, 22–24 June, p.5 [http://www.livelihoods.org/hot\\_topics/docs/Dhaka\\_CP\\_7.pdf](http://www.livelihoods.org/hot_topics/docs/Dhaka_CP_7.pdf) – Accessed 26 April 2005 – Attachment 1).

The Dang *et al* June 2003 report does not provide clear information on how a person, who has lost their household registration, might regain access to the system. That said, the report does provide information on the requirements which, though they are “not generally ... implemented”, are officially required of Vietnamese citizens who re-locate. These requirements may provide an estimate of what is required of persons who make such an application having lost access to the system entirely. The relevant extract follows in detail:

In Hanoi, undocumented migrant workers are required to acquire a three-month temporary work permit at the cost of 50,000 dong, renewable for the same amount, in addition to a letter of reference from the authority of the place of origin, identity card, etc. In Ho Chi Minh City, where in-migration increases pressures on already overloaded public services and infrastructure, migrant workers without permanent residence registration must meet minimum

skills and their employers are expected to contribute 5% of wages to the city's welfare funds. Although these intended restrictions have not generally been implemented, perhaps because of the recognition that increased rural-urban migration is in part a response to national macro-economic strategies, concern over migration patterns remain. The result is a hybrid system operating in internal contradiction, since explicit barriers to movement were effectively abolished by Vietnam's Constitution and Labour Code which asserts the legal right of individuals to choose freely their place of residence and work (Nguyen, 2002) (Dang, A.N., Tacoli, C, Hoang, T.X. 2003, *Migration in Vietnam: A review of information on current trends and patterns, and their policy implications*, Livelihoods (UK DFID) website, 22–24 June, p.9-10 [http://www.livelihoods.org/hot\\_topics/docs/Dhaka\\_CP\\_7.pdf](http://www.livelihoods.org/hot_topics/docs/Dhaka_CP_7.pdf) – Accessed 26 April 2005 – Attachment 1).

Testimony delivered to the US Commission on International Religious Freedom on 13 February 2001 by Father Ly, of the Unified Buddhist Church of Vietnam, suggests that the government's relaxation of household registration system has not diminished the system's significance as a regulatory mechanism in the specific instance of individuals who are already deemed to be political dissidents. According to Father Ly, although the "government has recently relaxed restriction on domestic travel" the "government [still] uses household registration as a powerful means to harass and control people on its black list". Father Ly's testimony, sourced from the Committee for Religious Freedom in Viet Nam (CRFVN) website, is supplied as Attachment 5. Relevant extracts follow in detail:

The government uses household registration as a powerful means to harass and control people on its black list. The government has recently relaxed restriction on domestic travel but still keeps suspects under close surveillance. I have been questioned by the public security police every time I travel to another city. For example last July I was invited to conduct a meditation session at Phu Son Temple in Quang Nam Province. The local public security police interrupted and ended the session. It is extremely hard for people like me to get a passport to travel abroad. In 1998, I was invited to conduct a meditation session in Laos for Vietnamese residents in that country but was not allowed to go. Last August, the United Nations invited me to speak at its Millennium Peace Summit. The Vietnamese government barred me from going but instead sent a government-selected delegation to the summit. This delegation was not admitted to the summit as its members were not on the guest list of the United Nations ('Father Ly's Testimony on Religious Persecution in Vietnam' 2001, Committee for Religious Freedom in Viet Nam (CRFVN) website, 13 February <http://www.crfvn.org/humanrights/ThichThaiHoaTestimony.html> – Accessed 26 April 2005 – Attachment 5).

A report produced by the Research Directorate of the Canadian Immigration and Refugee Board, in October 2001, indicates that an SRV citizen, who has lost his/her household registration as a consequence of "not liv[ing] in her/his residence continuously for one year", can make application to be restored to *ho khai* "if he/she is closely related to the Head of the Household (sibling, son or daughter, spouse, parent)" in question. The report goes on to observe that SRV citizens "who [have] committed felonies or who are otherwise considered undesirable by the government would not be eligible" to make an application of the aforementioned nature. The relevant extract follows in detail:

If a citizen did not live in her/his residence continuously for one year, the government would remove her/him from the household registration. The individual may apply to be restored if he/she is closely related to the Head of the Household (sibling, son or daughter, spouse, parent). For people who emigrate from Vietnam, the government considers them no longer part of their original household and they would lose their registration.

An individual needs to return to Vietnam first before applying for his/her name to be restored. People who committed felonies or who are otherwise considered undesirable by the government would not be eligible (Immigration and Refugee Board of Canada 2001, VNM37802.E Vietnam: Whether Vietnamese citizens or residents are required to cancel their Household Registration (*ho khau*) when leaving Vietnam to live abroad; whether the registration can be restored upon returning to Vietnam after two or more years of absence; grounds for refusal to issue a household registration to a returnee, 16 October – Attachment 6).

In 2001, Dr Andrew Hardy (then a Fellow at the Southeast Asian Studies Programme, Faculty of Arts and Social Sciences, National University of Singapore) published an extensive study of the *ho khau* system's history, significance and effects. The study observes that "[h]ousehold registration [has] served, as it was originally intended, as a powerful technology of surveillance for internal security" in addition to "provid[ing] the government with socio-economic knowledge about the population" for purposes such as: "regulat[ing] people's access to goods and services"; administering "regional economic planning"; and, "up to the 1980s, for the distribution of commodities under the command economy". "With the dismantling of co-operatives and the abolition of ration coupons in the 1980s," writes Hardy, "greater freedom of choice emerged"; "[p]eople could now move and work freely; they could register as temporary residents (*tam tru*) if necessary, and live off the income from their labour rather than depend on the state". Nonetheless, Hardy also notes that the *Doi Moi* (Renovation) reform program had some effects which actually accentuated the significance of *ho khau*. For instance, "[d]ecollectivization turned every *ho khau* into a title to land and into capital for use in development". This was a particularly significant development for those living in rural areas. Hardy's study suggests that, in some ways, rural family's "[w]ithout a *ho khau*" now live a much more marginal existence "than in previous years when the land was owned in common". Urban areas experience a variation of this effect insofar as you "need your *ho khau* if you want to buy land or build a house": "[l]egal ownership of land was conditional on presentation of the *ho khau* booklet". "In other words, household registration remain[s] the necessary condition for access to housing in the city" within the letter of the law. People do, however, according to Hardy, attempt to "negotiate" the system by engaging in *ho khau* fraud or by building illegally (often with the complicity of local officials and the payment of graft; an option which puts the offender at the risk of losing their residence through its demolition by the local authorities or its appropriation by a legitimate *ho khau* holder). The relevant extracts follow in detail:

In what ways were the rules on household registration still important? A conversation with some elderly Hanoi residents gave me an indication of the first of these. In the past, the *ho khau* was crucial for travel. For urbanites, they said, possession of a *ho khau* was also essential in the past: If you didn't have a *ho khau*, then you could get no coupons, no paddy, no rice, and life was very hard. This had now changed, since the abolition of the subsidy system. But nowadays, you still need your *ho khau* if you want to buy land or build a house.(41) In other words, household registration remained the necessary condition for access to housing in the city. Legal ownership of land was conditional on presentation of the *ho khau* booklet. I asked one migrant from the country whether, after thirteen years living in the city, he intended to bring his family to Hanoi, and arrange for a *ho khau* there. No, he replied, land is too expensive.(28) In his mind, household registration was primarily a condition for access to a permanent living space.(29)

The elderly Hanoi residents also told me how this rule could be negotiated. You could register ownership under the *ho khau* of a relative or friend, at the risk of losing your property if you fall out with them. Or you could, they implied, just go ahead and build your house. In the

latter case, if you don't have a *ho khau*, your house will be illegal. It was, in fact, quite conceivable to build a house in contravention of the rules. During the 1990s, large numbers of illegal buildings appeared throughout the city of Hanoi.(30) Officers in the Hai Ba Trung police station complained of the construction of temporary houses, which didn't used to exist.(31) The destruction of numerous such houses along Hanoi's Yen Phu dike in 1995, by order of Prime Minister Vo Van Kiet, was one instance where this practice was not tolerated. But in countless others, people preferred to pay fines imposed for contravention rather than navigate the complex and costly paths of *ho khau* and other building regulations necessary for legal construction. They might equally prefer to pay a "fee" in advance.(32) The difference between legal and illegal behaviour had become a play-off between costs and benefits, a matter for the family balance sheet (Hardy, Andrew 2001, 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3).

According to Hardy, the administration of household registration has typically been "a police matter" although this is subject to "regional variation". Hardy underlines his point by pointing to the manner in which Vietnam Ministry of Police circulars have, historically, complained of the manner in which "registration and administration of *ho khau* are not yet cohesive"; with "urban areas, rural areas, offices, factories and building sites throughout the country all have their own regulations". Further to this, Hardy states that "[m]onetary resources, family and official support [have] offered opportunities for manoeuvre within the system" owing to the "complex structure of the Vietnam state". This situation is said to remain current in present-day Vietnam: "[a]s in the past, money, family, and official sympathy [are] keys to the success of any venture". Migrating citizens may also, Hardy observes, simply run the risk of not attending to the administration of their household registration. The relevant extract follows in detail:

The law states that people moving across administrative boundaries must declare their departure, motivations, and their new address to the police station where their *ho khau* registered. On arrival, they then have to register as temporary residents presenting a "certificate of temporary absence".(35) Many migrants do not inform local authorities of their departure. They're afraid – as one official put it – not to be allowed to go (Hardy, Andrew 2001, 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3).

Hardy's study suggests that such persons can survive because "[t]he system itself is no longer the all-embracing tool of population control it used to be, when it was linked to the subsidy system"; and because "household registration is no longer a condition of eligibility for a state job". Nonetheless, Hardy also notes that this need not always prove the case. In some circumstances access to employment, and other life necessities, can still be affected by the possession of a *ho khau* in the way that it was formerly. The relevant extract follows in detail:

The system's relationship with other aspects of everyday life has also been simplified. Under the law, household registration is no longer a condition of eligibility for a state job. But among many state employers, especially in urban areas, administrative psychology remains influenced by the old link between *ho khau* and employment. In the late 1990s, people were still denied employment for lack of a local *ho khau*. Police in Hanoi's Hai Ba Trung district described these practices as unfortunate (Hardy, Andrew 2001, 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3).

As is evident from much of what Hardy has to say, his report suggests that the procedures, authorities and effects which attend the workings of household registration in Vietnam, are

always subject to the contingencies of locality. Further to this, Hardy also notes (as per the Dang *et al* June 2003 study) that even at the level of national governance, the administration of *ho khau* is “complex and multi-layered”; and is often riven by contradictions and discontinuities. The relevant extract follows in detail:

The system has been simplified, but remains far from simple. Its administration remains complex and multi-layered, coming under the responsibility of four separate ministries: the Ministry of Interior (now the Ministry of Police), the Ministry of Labour, Invalids and Social Welfare, the National Family Planning Committee, and the General Statistical Office.

...Contradictions between this and other policies create anomalies, as experienced by Hanoi’s Labour Department where a fee-paying labour registration scheme introduced in 1995 had to be abandoned the following year. Officials there told me it was contrary to a law whereby labourers have the free right to seek work.(47) Contradictions between state policy and local implementation are also commonplace... (Hardy, Andrew 2001, ‘Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform’, *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3).

Finally, Hardy’s 2001 study suggests that possession of household registration is greatly valued by present-day SRV citizens insofar as it is often a pre-requisite for making application to many other administrative modalities. For instance, Hardy’s observes that “the family *ho khau*” is one of four documents required for the “registry of a birth”; the others being: “a medical ‘witness of birth’ form, a certificate of marriage...and the ID card of the person making the declaration”. Similarly, the *ho khau* is one of the three documents which, according to Hardy, must be presented in order to register a marriage: “[t]hese include the birth certificates of both bride and groom, and the *ho khau* of either of them” (Hardy, Andrew 2001, ‘Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform’, *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3).

A 1999 report on poverty in four Vietnamese cities, which was submitted to the World Bank on behalf of a number of human rights organisations, including Oxfam, states that “descriptions of the migrant population in *Ho Chi Minh City* (those who do not have permanent registration, or *ho khau*) were strongly suggestive of social exclusion”. The report indicates that, “[w]ithout the *ho khau*, households have difficulty accessing public services, cannot enjoy exemptions from school fees, cannot secure HEPR [Hunger Eradication and Poverty Reduction program] loans and cannot be introduced for a stable job”. The relevant extract follows in detail:

The descriptions of the migrant population in *Ho Chi Minh City* (those who do not have permanent registration, or *ho khau*) were strongly suggestive of social exclusion: one site report commented on the derogatory names which were used by permanent residents for migrants from different parts of the country. Without the *ho khau*, households have difficulty accessing public services, cannot enjoy exemptions from school fees, cannot secure HEPR loans and cannot be introduced for a stable job. Interviewees from the migrant community describe themselves as “*visitors – eating and living in another’s place*”. One site report describes an area known as the “tribal hamlet”. This is populated by households with no *ho khau*, although they have been resident in *Ho Chi Minh City* for up to 10 years. It is called the tribal hamlet because it is so infamous for poverty, muggings and drug abuse that no outsider will allow their sons or daughters to marry anyone from the hamlet. Young people from within the hamlet are forced to marry from within their “tribe”. Communities of migrants living on the river (“floating migrants”) are also said to have very little contact with the legally resident population (Vietnam-Sweden Mountain Rural Development Programme,

ActionAid, Save the Children Fund (UK) & Oxfam (GB) 1999, 'A Synthesis of Participatory Poverty Assessments from Four Sites in Viet Nam: Lao Cai, Ha Tinh, Tra Vinh & Ho Chi Minh City', World Bank website, July  
<http://www1.worldbank.org/prem/poverty/voices/reports/national/vietnam.pdf> – Accessed 27 April 2005 – Attachment 11).

A report produced by the Research Directorate of the Canadian Immigration and Refugee Board, in January 1999, suggests that the household registration book facilitates the regulation of political dissidence by the SRV authorities. According to this report, “[e]ach Vietnamese citizen possesses a curriculum vitae that contains all his/her past history (*antécédents*) and that of his/her family, somewhat similar to a criminal or police record”. “This CV” is said to be “included in the residence permit (*ho khau*), which is issued by the area policeman in charge of the political surveillance of the population”. The relevant extract follows in detail:

The executive secretary states that the Vietnamese authorities discriminate against the families of ex-Communist dissidents. Each Vietnamese citizen possesses a curriculum vitae that contains all his/her past history (*antécédents*) and that of his/her family, somewhat similar to a criminal or police record. This CV is included in the residence permit (*ho khau*), which is issued by the area policeman in charge of the political surveillance of the population, and which is necessary for all administrative procedures (work, admission to school or hospital, etc.). Religious affiliation and politics are also included on this CV. The attachments provided by the executive secretary offer examples and confirm that children of dissidents experience discrimination and stigmatisation, cannot pursue university studies or enter professions they would like to practise. One of the examples provided is that of the wife of a dissident who was forbidden from maintaining her small retail business, thereby placing her family in a more precarious economic situation (Immigration and Refugee Board of Canada 1998, VNM28655.E *Vietnam: Update to Response to Information Request VNM28180.E of 3 November 1997 on the treatment of families of individuals who have “fallen out of favour” with the government*, 14 January – Attachment 12).

A decree on household registration, which was issued by the SRV on 19 May 1997, *Decree No. 51-CP of May 10, 1997 on Household Registration and Management*, provides extensive information on the kind of generally enforced administrative procedures which are addressed by a number of the studies considered in this Response. Prominent among these is the role played by the police. Article 2 of the 1997 Decree states that “[e]very citizen of the Socialist Republic of Vietnam shall have the right and obligation to have his/her household residence registered and managed by the police as stipulated”. Article 8 of the Decree provides further information on the role of the police in administering *ho khau*; and also specifies a role for other “public agenc[ies]”. The relevant extract from Article 8 follows in detail:

The police shall keep an original household registration book of an administrative division or a collective apartment building for household registration and management.

In addition to the book kept at the police, each public agency or organization which registers a collective household membership must have a copy of its collective household registration book for monitoring and management. This book shall not be a substitute for the original household registration book kept at the police (*‘Vietnam – Decree No. 51-CP of May 10, 1997 on Household Registration and Management’ 1997, Vietnam Official Gazette, 30 June – Attachment 17*)

- 4. How do the authorities in Vietnam deal with persons suspected of or involved in people smuggling?**
- 5. How is illegal departure from the country viewed by the authorities?**

Before entering into a discussion of the issues broached by questions 4 and 5 it should be noted that information on people smuggling is often rendered ambiguous by virtue of the undefined manner in which this term is often employed. This ambiguity emerges out of the distinction, or non-distinction, that is made, or not made, between “people smuggling” and “people trafficking”. In general discourse, these two terms are often employed interchangeably, but this is not always the case. The United Nations, for instance, has made a clear distinction between these two terms as two distinct forms of practice. Article 2 of the United Nations *Revised draft Protocol against Smuggling in Migrants by Land, Air and Sea, Supplementing the United Nations Convention against Transnational Organized Crime* defines people smuggling as “the intentional procurement for profit of the illegal entry of a person into and/or illegal residence of a person in a State of which the person is not a national or a permanent resident”. People trafficking is, alternatively, defined in the UN *Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, as: “the recruitment, transportation, transfer, harbouring or receipt of persons, either by the threat or use of kidnapping, force, fraud, deception or coercion, or by the giving or receiving of unlawful payments or benefits to achieve the consent of a person having control over another person, for the purpose of sexual exploitation or forced labour”. Information on the Vietnamese government’s attitude to both of these issues follows below. Within this information it is sometimes apparent that a given source is addressing, in the manner prescribed by the United Nations, either the issue of people smuggling or the issue of people trafficking. This distinction, however, is not always apparent and, to some extent, it is often impossible to discern the manner in which the aforementioned distinction between people smuggling and people trafficking is delineated, conflated or combined (UN General Assembly 1999, *Revised draft Protocol against Smuggling in Migrants by Land, Air and Sea, Supplementing the United Nations Convention against Transnational Organized Crime*, UNCJIN website, Article 2, 23 November <http://www.uncjin.org/Documents/Conventions/dcatoc/5session/4a1r2e.pdf> – Accessed 9 May 2005 – Attachment 13; UN General Assembly 1999, *Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, UNCJIN website, Article 2, 23 November <http://www.uncjin.org/Documents/Conventions/dcatoc/5session/4a3r3e.pdf> – Accessed 9 May 2005 – Attachment 14).

Information provided by the sources consulted indicates that illegal departure is considered a criminal act by the SRV authorities. Further to this, SRV citizens who engage in, or who facilitate, illegal departure, have been prosecuted by SRV authorities. Nonetheless, the sources consulted also provided information which suggests there have been instances in which the SRV government has agreed to set aside the criminality of this infraction in order to facilitate the return of Vietnamese persons to the SRV (notable instances include: the Comprehensive Plan of Action (CPA) which saw the return of large numbers of Vietnamese ‘boat people’ during the ’90s, and the recent agreement signed with UNHCR to return members of the Montagnard community to the SRV Central Highlands from Cambodia). It should, however, also be noted that many sources have disputed the degree to which the SRV has honoured its commitment not to target returnees of this kind. Finally, it should be noted

that the sources consulted provided information which indicates that there have been instances in which SRV have been found to be complicit in facilitating illegal departures. (For information on the criminal nature of illegal departure, see: DFAT 2003, *Country Information Report No. 120/03 – Request for Information Regarding Vietnamese Boat People on Christmas Island*, 16 September – Attachment 15; for information on the manner in which the SRV government has set aside the issue of illegal departure to facilitate the repatriation of SRV citizens, and for information on the manner in which this commitment has come into question, see the response to Questions 1 & 2 in: RRT Country Research 2005, *Research Response VNM17238*, 24 March 2005 – Attachment 16.)

A survey of the available information on the Vietnamese government's attitude towards people smuggling (and/or people trafficking) follows below (see also, the response to Questions 1 & 2 in: RRT Country Research 2005, *Research Response VNM17238*, 24 March 2005 – Attachment 16).

The US Department of State's most recent report on human rights practices in Vietnam states that the Vietnamese "Penal Code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation was a serious problem". According to this report, Vietnamese "law provides for prison sentences of 2 to 20 years for each offense for persons found guilty of trafficking women, and for between 3 years and life in prison for each offense for persons found guilty of trafficking children". The report notes that "[h]undreds of traffickers have been convicted and imprisoned". The report indicates that "[t]he Social Evils Department of the MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in combating trafficking, in cooperation with the Ministry of Justice, the Women's Union, and the Border Guards". Further to this, the report notes that "[t]he police took an increasingly active role in investigating trafficking during [2004], including establishing a dedicated anti-trafficking force". Nonetheless, the report also observes that "[c]orruption was a serious problem at all levels, and some officials were involved in the flow of overseas workers into exploitative conditions or into trafficking". The relevant extracts follow in detail:

The Penal Code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation was a serious problem. There were no known cases of trafficking in persons for labor during the year. While reliable statistics on the number of citizens trafficked were not available, there was evidence that the number has grown in recent years. The Social Evils Department of the MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in combating trafficking, in cooperation with the Ministry of Justice, the Women's Union, and the Border Guards. The police took an increasingly active role in investigating trafficking during the year, including establishing a dedicated anti-trafficking force.

During the year, the Government increased its efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for each offense for persons found guilty of trafficking women, and for between 3 years and life in prison for each offense for persons found guilty of trafficking children. Hundreds of traffickers have been convicted and imprisoned. The Government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with other countries within the framework of INTERPOL and its Asian counterpart. The country hosted an international conference in February on trafficking and human smuggling as part of the Bali Process.

The country was a source for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000, approximately 20,000 young women and girls were sent to China to become brides, domestic workers, or prostitutes; however, it was not clear how many were victims of trafficking. Between 1995 and 2000, approximately 5,000 women and children were trafficked to and escaped from Cambodia. Some women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some women going to Taiwan, Hong Kong, Macau, and China for arranged marriages were victims of trafficking. The Government estimated that approximately 10 percent of women in arranged marriages with Chinese men may have become trafficking victims. Women and children also were trafficked within the country, usually from rural to urban areas. There were no incidents of trafficking of adult males domestically or abroad during the year.

Some children were trafficked domestically and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically were even lower.

Provincial- and national-level authorities made combating trafficking in women and children a priority. In September 2003, the Deputy Prime Minister held a high-level meeting of all relevant agencies to assess anti-trafficking efforts and to chart a course forward. As a result of that meeting, MPS coordinated the Government's interagency anti-trafficking efforts.

There were reports that some women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In 2002, the Government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services had helped to arrange marriages between women and foreigners, primarily Taiwanese men. Government officials still noted that it is difficult to obtain information from Taiwanese officials on cases of alleged trafficking in Taiwan. During the year, the Ho Chi Minh City Women's Union established a pilot program to counsel and assist women who plan to become overseas brides.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. MPS and UNICEF research indicated that trafficking victims can come from any part of the country, but were concentrated in certain northern and southern border provinces as well as the central province of Thanh Hoa. 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 daughter 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, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (see Section 5, Women). The Government stated that organized criminal groups were involved in recruitment, transit, and other trafficking-related activities.

Corruption was a serious problem at all levels, and some officials were involved in the flow of overseas workers into exploitative conditions or into trafficking. There were no cases in 2003 indicating that governmental authorities or security forces facilitate or condone trafficking in persons. However, the Government has a persistent problem with corruption, which is particularly severe among street-level police and border agents. There were several cases in 2003 in which officers in state-owned enterprises were found to have facilitated illegal migration through labor export. The Government prosecuted these cases. In May 2003, three officials from the Employment Service Center of the Administration Department of the General Staff Department of the Ministry of Defense (MOD) were found to have participated in a scheme to send workers to Malaysia, where they were exploited. One of them was prosecuted by the local police in Thai Binh Province and the two others by MOD's Criminal Investigation Division. Also in 2003, the press also reported that the Acting Chief of the Center for Development and Application of Technology and Science--an NGO supported in part by the Government--was sentenced to 9 years in prison for involvement in a predatory labor export scheme.

Official institutions, including the MOLISA, the Women's Union, the Youth Union, and the Committee for Population, Family, and Children, had active programs aimed at prevention and victims' protection. These programs included warning women and girls of these dangers, repatriation programs, and vocational training for teenage girls in communities considered vulnerable to trafficking. Government agencies worked closely with the International Organization for Migration and other international NGOs to provide temporary shelter, some medical services, education, credit, counseling, and rehabilitation to returned trafficking victims.

Throughout the year, security agencies with border control responsibility have also received training in investigative techniques that can be used to prevent trafficking (US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Vietnam*, 'Section 5 Discrimination, Societal Abuses, and Trafficking in Persons', 28 February – Attachment 9).

On 16 September 2003, the Department of Foreign Affairs & Trade (DFAT) advised that "people-smuggling is illegal in Vietnam and individuals identified as being instrumental in organising a group departure may face prosecution under the normal processes of Vietnamese law" (DFAT 2003, *Country Information Report No. 120/03 – Request for Information Regarding Vietnamese Boat People on Christmas Island*, 16 September – Attachment 15).

The Dang *et al* June 2003 report states that "[a]lthough trafficking in women and children has become a growing problem in Vietnam, relatively little is known about it". Nonetheless, the report does indicate that "[b]etween 1991 and mid-1997, 3,058 people involved in human trafficking rings were arrested in Vietnam" (Dang, A.N., Tacoli, C, Hoang, T.X. 2003, *Migration in Vietnam: A review of information on current trends and patterns, and their policy implications*, Livelihoods (UK DFID) website, 22–24 June, p.12-14 [http://www.livelihoods.org/hot\\_topics/docs/Dhaka\\_CP\\_7.pdf](http://www.livelihoods.org/hot_topics/docs/Dhaka_CP_7.pdf) – Accessed 26 April 2005 – Attachment 1).

Dr Andrew Hardy has observed that, although "[b]oat people departures were officially illegal for much of their twenty-year history", "different branches of the Vietnamese state, and notably local security services, were at this time involved in their promotion for profit". Dr Hardy's discussion of the discontinuous regulation of people smuggling and illegal departure continues:

Passage out of the country might thus be arranged with the help of the authorities of one province, but other provinces had to be crossed to get there. Aspiring refugees were regularly

apprehended and subject to theft and threats for trying to leave the country, and had to await intervention from their official backer (Hardy, Andrew 2001, 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 3).

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