



**Australian Government**  
**Refugee Review Tribunal**

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# Country Advice

## Vietnam

Vietnam – VNM37583 – Christians –  
Protestants – Blacklisting – Returnees from  
Hong Kong – Land taxation

1 November 2010

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### 1. Please provide an update on the Vietnamese government's attitude towards Protestant Christians.

The Vietnamese government allows citizens freedom to follow or not follow a religion, but maintains bureaucratic control over religious practice. It recognises Protestantism as a religion. The Vietnamese government has allowed increased religious activity, and increased activity has been observed. There are reports of localised inconsistencies in the application of the law and reports that the Vietnamese government is 'backsliding' with respect to religious freedom. The government supports the registration of congregations, the registration of places of worship and the training of religious professionals. Problems experienced by Protestants in relation to their ability to register include the uneven application of the legal code by local officials, some instances of forced recantation and seizure of church land.

The Committee for Religious Affairs compiled the documents regarding law in relation to religion in 2006.<sup>1</sup> The *Ordinance on Belief and Religious Organisation* approved from 15 November 2004 came with the period of Reform Renewal. The guide to the implementation of this Ordinance was the *Decree on Religion* (Decree No.22/2005). In 2005 the Prime Minister's *Instruction on Some Tasks Regarding Protestantism* was also issued in relation to the Central and Northwest Highlands. At the national level, the Committee on Religious Affairs disseminates information to provincial, district, commune and village levels and has some role in relation to the international contacts of religious bodies. Officials in the northern highlands received specific training in relation to Protestants and a training manual received international comment and was revised in 2007.<sup>2</sup> A news report has referred to *Guidance Committee 160*, which has since 2007 been charged with guiding officials in relation to the implementation of the Ordinance among

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<sup>1</sup> Socialist Republic of Vietnam Government Committee for Religious Affairs, 2006, *Religion and Policies Regarding Religion in Vietnam*, not paginated, [http://www.presscenter.org.vn/en/images/Religion\\_and\\_Policies\\_regarding\\_Religion\\_in\\_Vietnam.doc](http://www.presscenter.org.vn/en/images/Religion_and_Policies_regarding_Religion_in_Vietnam.doc) - Accessed 26 October 2010 – Attachment 1.

<sup>2</sup> 'Briefing, Vietnam, *Analysis: 2007 Revision of Internal Training Manual 'Concerning the Task of the Protestant Religion in the Northern Mountainous Region'* 2008, Christian Solidarity Worldwide and the International Society for Human Rights, February [http://www.igfm.de/fileadmin/igfm.de/pdf/Publikationen/Vietnam-Analysis\\_of\\_2007\\_persecution\\_Handbook.pdf](http://www.igfm.de/fileadmin/igfm.de/pdf/Publikationen/Vietnam-Analysis_of_2007_persecution_Handbook.pdf) - Accessed 27 October 2010 – Attachment 2.

the ethnic minorities.<sup>3</sup> The government of Vietnam is said to not favour a particular religion, does not observe any religious holidays and all senior government and communist party officials and National Assembly delegates are formally ‘without religion’.<sup>4</sup> However, many are said to openly practice traditional ancestor worship and some visit Buddhist or Cao Dai pagodas. Tens of thousands of Communist Party members are religious believers and religious adherence does not seriously disadvantage people but may prevent advancement to senior ranks. Practitioners of various religious groups serve in local and provincial government positions and are represented in the national Assembly.<sup>5</sup>

The legal framework provides freedom of religion as long as this does not undermine peace, unity, independence and democracy.<sup>6</sup> The normal provisions allow for: some registration of monasteries, convents and religious orders according to local level requirements; training of religious professionals, ordination and the conferment of titles, appointment, election and nomination within religious organisations; the creation of ‘favourable conditions’ for religious activities such as conferences, congresses, preaching and disseminating; the publication, printing and distribution of religious texts; and humanitarian activities.

Protestantism is one of the religions recognised by the Vietnamese government. In 2007 the Vietnamese government referred to religious activity flourishing in the national renewal process and outlined the number of Protestant believers, worshipping facilities, pastors and missionaries.<sup>7</sup> It referred to providing education for a number of Protestant missionaries and pastors, including those of ‘ethnic minority origin’ in the Central Provinces, and students. The government referred to the increase in the number of Protestant churches since 2003. Notwithstanding this, Christian Solidarity Worldwide referred in 2008 to the ‘standstill’ in the registration of individual Protestant congregations with only 334 of 1,498 applications from affiliated congregations being successful at that time.<sup>8</sup> The U.S. Department of State reported in 2009 on the national recognition of six new protestant denominations in the reporting period.<sup>9</sup> It stated that Protestantism is among the expanded number of religious organisations recognised, and the report noted an

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<sup>3</sup> ‘Forced Recantations of Faith Continue’ 2010, *Compass Direct News* website, 18 January <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 22 October 2010 – Attachment 3.

<sup>4</sup> Vietnam 2009, Bureau Of Democracy, Human Rights, And Labor, U.S. Department Of State, October 26, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 28 October 2010 – Attachment 4.

<sup>5</sup> *Vietnam, International Freedom Report* 2009, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 13.

<sup>6</sup> Socialist Republic of Vietnam Government Committee for Religious Affairs, 2006, *Religion and Policies Regarding Religion in Vietnam*, 3.2 [http://www.presscenter.org.vn/en//images/Relegion\\_and\\_Policies\\_regarding\\_Religion\\_in\\_Vietnam.doc](http://www.presscenter.org.vn/en//images/Relegion_and_Policies_regarding_Religion_in_Vietnam.doc) - Accessed 26 October 2010 – Attachment 1.

<sup>7</sup> Trinh, Tran Van, 2007, Religious activities flourish in Vietnam’s national renewal process, Tap Chi Cong San, Theoretical and Political Agency of the Communist Party of Vietnam, 1 June [http://www.tapchiconsan.org.vn/index\\_e.asp](http://www.tapchiconsan.org.vn/index_e.asp) - Accessed 28 October 2010 – Attachment 5.

<sup>8</sup> Christian Solidarity Worldwide 2008, ‘Briefing, Vietnam, A Submission to the United Nations Human rights Council Universal Periodic Review’, October, 3.2 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW\\_VNM\\_UPR\\_S5\\_2009\\_ChristianSolidarityWorldwide.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW_VNM_UPR_S5_2009_ChristianSolidarityWorldwide.pdf) - Accessed 27 October 2010 – Attachment 6

<sup>9</sup> *Vietnam, International Freedom Report* 2009, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 13.

increase of religious activity and observance, and the continuing diminution of reports of abuse of religious freedom.<sup>10</sup>

Three issues that may be identified in relation to religious freedom in Vietnam are: forced recantations or renunciations, confiscation of property and registration of congregations. Although *Decree 22/2005* prohibits forced renunciation, there were reports of isolated instances of this among Protestants in 2009; some renunciations were demanded as an alternative to a fine.<sup>11</sup> While the *Ordinance on Belief and Religious Organisation* protects the legal assets of religious establishments and the creation of favourable conditions for the management and utilisation of land owned by religious organisations, the confiscation of church land and property, and the return of church land and property confiscated as long ago as 1975, has been the subject of dispute.<sup>12</sup> Land confiscation has been identified as a means by which the government controls religious practice.<sup>13</sup> The confiscation of Protestant church property was identified by the U.S. Department of State in 2009.<sup>14</sup> Religious authorities have reported that land disputes are matters of economic rather than religious discrimination.<sup>15</sup>

The implementation of the law pertaining to religion is said to be uneven among local administrations.<sup>16</sup> In some areas there have been concerns that the registration of congregations has been delayed by local officials and that this, along with other impediments has had an effect on the freedom to practice Protestantism. Restrictions said to be applied to Protestants by village-level authorities have included: demand for renunciation, imposition of economic penalties such as fines, refusal of issue of identity cards, refusal to receive applications, forced evictions, restrictions on movement and

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<sup>10</sup> *Vietnam, International Freedom Report 2009*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 13.

<sup>11</sup> ‘Forced Recantations of Faith Continue’ 2010, *Compass Direct News* website, 18 January <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 22 October 2010 – Attachment 3; *Vietnam, International Freedom Report 2009*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 13.

<sup>12</sup> Socialist Republic of Vietnam Government Committee for Religious Affairs 2006, *Religion and Policies Regarding Religion in Vietnam*, 3.2 [http://www.presscenter.org.vn/en/images/Relegion\\_and\\_Policies\\_regarding\\_Religion\\_in\\_Vietnam.doc](http://www.presscenter.org.vn/en/images/Relegion_and_Policies_regarding_Religion_in_Vietnam.doc) - Accessed 26 October 2010 – Attachment 1; Christian Solidarity Worldwide 2008, ‘*Briefing, Vietnam, A Submission to the United Nations Human rights Council Universal Periodic Review*’, October, 3.1 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW\\_VNM\\_UPR\\_S5\\_2009\\_ChristianSolidarityWorldwide.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW_VNM_UPR_S5_2009_ChristianSolidarityWorldwide.pdf) - Accessed 27 October 2010 – Attachment 6.

<sup>13</sup> Tom Lantos Human Rights Commission 2010, Official Transcript, Status Update: Religious Freedom In Vietnam, Hearing, 18 August, pp.4-5, 12. [http://tlhrc.house.gov/docs/transcripts/2010\\_08\\_18\\_Vietnam/Transcript\\_Vietnam\\_8\\_18\\_2010.pdf](http://tlhrc.house.gov/docs/transcripts/2010_08_18_Vietnam/Transcript_Vietnam_8_18_2010.pdf) - Accessed 26 October 2010 – Attachment 12

<sup>14</sup> Vietnam 2009, Bureau Of Democracy, Human Rights, And Labor, U.S. Department Of State, October 26, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 28 October 2010 - Attachment 4.

<sup>15</sup> Christian Solidarity Worldwide 2008, ‘*Briefing, Vietnam, A Submission to the United Nations Human rights Council Universal Periodic Review*’, October, 3.2 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW\\_VNM\\_UPR\\_S5\\_2009\\_ChristianSolidarityWorldwide.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW_VNM_UPR_S5_2009_ChristianSolidarityWorldwide.pdf) - Accessed 27 October 2010 - Attachment 6; *Vietnam, International Freedom Report 2009*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 13.

<sup>16</sup> Christian Solidarity Worldwide 2008, ‘*Briefing, Vietnam, A Submission to the United Nations Human rights Council Universal Periodic Review*’, October, 2.4 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW\\_VNM\\_UPR\\_S5\\_2009\\_ChristianSolidarityWorldwide.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW_VNM_UPR_S5_2009_ChristianSolidarityWorldwide.pdf) - Accessed 27 October 2010 – Attachment 6.

theological training and some use of torture.<sup>17</sup> In 2007 the U.S. State Department has reported on government measures to address problems raised by Protestants.<sup>18</sup> These measures include provincial authorities rebuking a local authority, training local officials, allowing the training of religious leaders, allowing several large gatherings and the celebration of Easter, and a more tolerant environment. There were localised instances of congregations not being permitted to celebrate Christmas. In the same year Human Rights Watch reported in 2009 on ‘backsliding’ in relation to religious freedom.<sup>19</sup> Human Rights Watch referred to the government viewing religious groups that it feared it could not control as a challenge to the authority of the Communist Party. Human Rights Watch further reported that adherents of religious groups not officially recognised by the government had been persecuted through the dispersal of meetings, police interrogation and the detention of members on charges of violating national security. The Human Rights Watch report also refers to hundreds of people being imprisoned for their religious or political beliefs or a combination of the two (for example, among Montagnard Protestants in the central highlands).

## 2. If a person was blacklisted in 1974, is this of any practical consequence in 2010?

No information was located to indicate whether being blacklisted in 1974 was of any practical consequence in 2010 and no current reference was found to families being blacklisted.

In an article published in the *Journal of Social Issues in Southeast Asia*, Hardy indicated in 2001 that with *doi moi* (the government economic renewal program that began in the late 1980s) the *ly lich* (resume or personal narrative) is no longer as important as it was and is incorporated into the household registration system. He referred to *ly lich* as compiled:

secretly by the Ministry of Interior, the *ly lich* constituted a record not only of people's political activities, but also of their family backgrounds. The *ly lich* was thus a register of people associated by their own decisions, or by those of their relatives, with past or present activities deemed a threat to the country's social, economic, and above all political development.<sup>20</sup>

Other authors in 2000 referred more strongly to the element of personal recording in the official *ly lich* and indicated that after 1975 it could still have implications for things such

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<sup>17</sup> Christian Solidarity Worldwide 2008, ‘*Briefing, Vietnam, A Submission to the United Nations Human rights Council Universal Periodic Review*’, October, 3.2 [http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW\\_VNM\\_UPR\\_S5\\_2009\\_ChristianSolidarityWorldwide.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/CSW_VNM_UPR_S5_2009_ChristianSolidarityWorldwide.pdf) - Accessed 27 October 2010 – Attachment 6; *Vietnam, International Freedom Report 2009*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 13.

<sup>18</sup> *Vietnam, International Freedom Report 2009*, U.S. Department of State, Bureau of Democracy, Human Rights and Labor, 26 October, <http://www.state.gov/g/drl/rls/irf/2009/127294.htm> - Accessed 27 October 2010 – Attachment 6.

<sup>19</sup> ‘Vietnam: Sharp Backsliding on Religious Freedom’ 2009, Human Rights Watch, *Refworld* website, UNHCR, 18 October <http://www.unhcr.org/refworld/docid/4add69001a.html> - Accessed 22 October 2010 – Attachment 14

<sup>20</sup> Hardy, Andrew 2001, ‘Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform’, *SOJOURN: Journal of Social Issues in Southeast Asia*, October, pp.1, 5, 6 [http://findarticles.com/p/articles/mi\\_hb3413/is\\_2\\_16/ai\\_n28870025/?tag=content:coll](http://findarticles.com/p/articles/mi_hb3413/is_2_16/ai_n28870025/?tag=content:coll) - Accessed 28 October 2010 – Attachment 15.

as household registration and mobility, school and university entrance, examinations, jobs and access to commodities.<sup>21</sup>

Historically, blacklisting (*gia dinh co lich zau* or ‘family with a wicked family history’) affected family members of different generations (up to three generations) and was noted on all government documents (Household Registration, Rice Booklet), and blacklisted family members could be denied an Identification Card.<sup>22</sup> In an article published in the *Indochina Journal* in 1990, Gow stated that 40 per cent of the asylum seeker community in Hong Kong was constituted of blacklisted families.<sup>23</sup> The first generation of the blacklisted family was likely to have been granted refugee status in Hong Kong, but not succeeding generations; without refugee status people had a fear of returning to Vietnam and refused to return voluntarily.<sup>24</sup>

### 3. Does the Vietnamese government punish persons who previously sought asylum in Hong Kong?

Open source searching has found no reference to current government punishment of people who previously sought asylum in Hong Kong; however, some returnees did face difficulties in the past.

Human Rights Watch describes the exodus of people from Vietnam to Hong Kong as being associated with the end of the war, and extending to 1991.<sup>25</sup> The repatriation to Vietnam of those ‘screened-out’ of refugee status in Hong Kong was monitored under the UNHCR sponsored Comprehensive Plan of Action and the Memorandum of Understanding between the UNHCR and Vietnam.<sup>26</sup> Information provided by the Vietnamese government to the Australian Embassy in 1996 indicated that Vietnamese citizens, whether they had left Vietnam legally or illegally, and who had been rejected for refugee status, could return to Vietnam if they made an application for voluntary return, had a previous address in Vietnam and had a guarantor in Vietnam.<sup>27</sup> Vietnam was,

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<sup>21</sup> Graw, Steve et al, 20, ‘Ly Lich’, *Vietnam Studies Group*, website [http://www.lib.washington.edu/southeastasia/vsg/elist\\_2000/lylich.htm](http://www.lib.washington.edu/southeastasia/vsg/elist_2000/lylich.htm) - Accessed 28 October 2010 – Attachment 8.

<sup>22</sup> Gow, Anne Wagley 1990, The Black Listing Of Families In Vietnam, *Indochina Journal*, Vol IV, No 2, pp.2-9, pp. 2-5 <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 25 October 2010 – Attachment 7.

<sup>23</sup> Gow, Anne Wagley 1990, The Black Listing Of Families In Vietnam, *Indochina Journal*, Vol IV, No 2, pp.2-9, p.1 <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 25 October 2010 – Attachment 7.

<sup>24</sup> Gow, Anne Wagley 1990, The Black Listing Of Families In Vietnam, *Indochina Journal*, Vol IV, No 2, pp.2-9, pp.6-8 <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 25 October 2010 – Attachment 7.

<sup>25</sup> Human Rights Watch 1997, *Abuses Against Vietnamese Asylum Seekers in the Final Days of the Comprehensive Plan of Action, 10 March*, Refworld website, UNHCR <http://www.unhcr.org/refworld/country,,,COUNTRYREP,HKG,,3ae6a7f10,0.html> - Accessed 26 October 2010 – Attachment 9.

<sup>26</sup> Human Rights Watch 1997, *Abuses Against Vietnamese Asylum Seekers in the Final Days of the Comprehensive Plan of Action, 10 March*, Refworld website, UNHCR <http://www.unhcr.org/refworld/country,,,COUNTRYREP,HKG,,3ae6a7f10,0.html> - Accessed 26 October 2010 – Attachment 9.

<sup>27</sup> Country Information Report No. 367/96 1996 Vietnam: Returnee: CIS Information Request VNM3472, 22 April, <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 25 October 2010 – Attachment 10.

however, unwilling to accept returnees from Hong Kong, where it was believed they were of Chinese ethnicity.<sup>28</sup>

Human Rights Watch stated in 1997 that ‘UNHCR officials have repeatedly stated that returnees face no persecution, discrimination or harassment from Vietnamese authorities for leaving Vietnam illegally’.<sup>29</sup> Nevertheless, Human Rights Watch itself expressed concern in relation to particular groups of returnees at that time.<sup>30</sup> These groups were: those found on arrival in Vietnam to be ‘political suspects’; those thought to have made an ‘illegal departure’ from Vietnam in going to Hong Kong; those politically active in the detention camps in Hong Kong and who had contact with foreigners of foreign voluntary agencies. Many returnees at that time encountered problems with housing and household registration and some were harassed about religious activities or military backgrounds. Some were interrogated or faced multiple sessions of debriefing by the government on arrival. Eighty-eight returnees were reported to have been arrested on return for alleged crimes committed before they left Vietnam.<sup>31</sup> UNHCR was reported to have, between January 1996 and September 1997, visited approximately 50 returnees who were detained.<sup>32</sup>

In 2001 the U.S. Department of State reported that persons formerly detained or imprisoned must obtain special permission from the authorities before resuming religious activities and that no religious organisation could reclaim lands or properties taken over by the state between 1954 and 1975.<sup>33</sup> The report referred to religious detainees and religious prisoners in 2001, saying that it was difficult to determine the exact numbers or confirmation as to the detention, imprisonment, trial or release of any person. It estimated that that time there were 14 or more religious prisoners.<sup>34</sup> Although not specifically in

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<sup>28</sup> Country Information Report No. 367/96 1996 Vietnam: Returnee: CIS Information Request VNM3472, 22 April, <http://immibelweh03/NXT/gateway.dll?f=templates&fn=default.htm&vid=cisnet:main> - Accessed 25 October 2010 - Attachment 10; Asia, Ethnicity And Nationality 1997, Forced Migration Online (FMO), 19 October, [http://www.forcedmigration.org/search/?cx=005595856240560178284%3Au3km7w5yatq&q=returnees+and+\(vietnam+or+viet+nam\)+and+hong+kong'&sa=Search&cof=FORID%3A9#634](http://www.forcedmigration.org/search/?cx=005595856240560178284%3Au3km7w5yatq&q=returnees+and+(vietnam+or+viet+nam)+and+hong+kong'&sa=Search&cof=FORID%3A9#634) - Accessed 25 October 2010 – Attachment 11.

<sup>29</sup> Immigration and Refugee Board of Canada 1997, Vietnam: Information on the treatment of returnees, *Refworld* website, UNHCR, 1 September <http://www.unhcr.org/refworld/publisher,IRBC,,VNM,3ae6ad8cc,0.html> - Accessed 26 October 2010 – Attachment 16.

<sup>30</sup> Human Rights Watch 1997, *Abuses Against Vietnamese Asylum Seekers in the Final Days of the Comprehensive Plan of Action, 10 March*, *Refworld* website, UNHCR <http://www.unhcr.org/refworld/country,..COUNTRYREP,HKG,,3ae6a7f10,0.html> - Accessed 26 October 2010 – Attachment 9.

<sup>31</sup> Immigration and Refugee Board of Canada 1997, Vietnam: Information on the treatment of returnees, *Refworld* website, UNHCR, 1 September, <http://www.unhcr.org/refworld/publisher,IRBC,,VNM,3ae6ad8cc,0.html> - Accessed 26 October 2010 – Attachment 16.

<sup>32</sup> Immigration and Refugee Board of Canada 1997, Vietnam: Information on the treatment of returnees, *Refworld* website, UNHCR, 1 September <http://www.unhcr.org/refworld/publisher,IRBC,,VNM,3ae6ad8cc,0.html> - Accessed 26 October 2010 – Attachment 16.

<sup>33</sup> U.S. Department of State 2001, ‘Vietnam, International Religious Freedom Report, Bureau of Democracy, Human Rights, And Labor 2001, <http://www.state.gov/g/drl/rls/irf/2001/5692.htm> - Accessed 22 October 2010 – Attachment 17.

<sup>34</sup> U.S. Department of State 2001, ‘Vietnam, International Religious Freedom Report, Bureau of Democracy, Human Rights, And Labor 2001, <http://www.state.gov/g/drl/rls/irf/2001/5692.htm> - Accessed 22 October 2010 – Attachment 17.

relation to returnees who had been detained in 2001, the report referred to restrictions on religious freedom of people who had previously been detained under the 1999 decree. Presumably this would include returnees who had been detained on arrival in Vietnam.

#### 4. Does the Vietnamese government impose high home ownership values for particular persons in order to impose high taxes on those people's homes?

Open source searching has found no reference to the imposition of high valuations and taxation on home ownership. An AusAID report of 2000 on land management in Vietnam stated that it is a central principle of communist doctrine that land property and land management reside in the state for all the people of the country.<sup>35</sup> AusAID refers to the state conducting land regulation in the context of decolonisation struggle, doctrinal issues and regulation of income-producing land. The Laws of Vietnam refer to laws (<http://www.asianlii.org/cgi-bin/disp.pl/vn/legis/laws/onoalutaah659/onoalutaah659.html?stem=0;synonyms=0;query=title%28land%20use%20%29-disp1>) on the non-payment of agricultural land use tax arrears and housing/land tax, and to taxes on dwelling house ownership and residential land use certificates and rights in urban areas.<sup>36</sup>

It is possible that some fines imposed on people could have been imposed under the *Penal Code* of Vietnam or the *Criminal Procedure* of Vietnam. These instruments refer to property confiscation, to penalty of a fine and property confiscation and to distraintment (collection of part of the value of a property to settle an amount owing to the government) of property. Section 40 of the *Penal Code* says that confiscation of property:

means to confiscate part or whole of the sentenced person's property for remittance into the State's fund. The property confiscation shall apply only to persons sentenced for serious crimes, very serious crimes or particularly serious crimes prescribed by this Code.

When all their property is confiscated, the sentenced persons and their families shall still be left with conditions to live.<sup>37</sup>

Article 146 of the *Criminal Procedure Code* also refers to 'distraintment' of property (seizure of property to compel a payment or reparation).<sup>38</sup>

Article 146 states:

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<sup>35</sup> The Australian Government's Overseas Aid Program 2000, Viet Nam, Land Administration, Working Paper 4, December [http://www.ausaid.gov.au/publications/pdf/vietnam\\_wp4.pdf](http://www.ausaid.gov.au/publications/pdf/vietnam_wp4.pdf) - Accessed 25 October 2010 – Attachment 18.

<sup>36</sup> Laws of Vietnam, *On the non-payment of agricultural land use tax arrears and housing/land tax*, ASIALII, Attachment 19; Laws of Vietnam *Laws of Vietnam*, ASIALII, *On dwelling house ownership and residential land use right in urban areas* - [http://www.asianlii.org/cgi-bin/disp.pl/vn/legis/laws/otdhoarlurua674/otdhoarlurua674.html?stem=0&synonyms=0&query=title\(dwelling%20house%20\)](http://www.asianlii.org/cgi-bin/disp.pl/vn/legis/laws/otdhoarlurua674/otdhoarlurua674.html?stem=0&synonyms=0&query=title(dwelling%20house%20)) – Accessed 1 November 2010 - Attachment 20.

<sup>37</sup> Article 40, Penal code, Vietnamese Laws, WORLDII, <http://www.worldlii.org/vn/legis/pc66/s40.html> - Accessed 27 October 2010 – Attachment 21

<sup>38</sup> Article 146, Criminal Procedure Code (No. 19/2003/QH11 Of November 26, 2003), Laws of Vietnam, WORLDII, <http://www.asianlii.org/vn/legis/laws/cp167/> - Accessed 27 October 2010 - Attachment 22

1. Distraintment of property shall only apply to the accused or defendants charged with offenses which, as prescribed by the Penal Code, may be subject to property confiscation or fine penalty as well as to persons liable to pay damage compensation according to law provisions.

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2. Distraintment shall be made only of a portion of property corresponding to the amount likely to be confiscated, to the pecuniary fine or the damage compensation.

Distrainted property shall be assigned to their owners or their relatives for preservation. If the persons assigned to preserve such property commit acts of consuming, transferring, fraudulently swapping, concealing or destroying the distrainted property, they shall bear penal liability under the provisions of Article 310 of the Penal Code.

3. Property distraintment must be witnessed by the involved persons or their families' adult members, representatives of the commune, ward or township administrations and neighbors. The distrainting persons must make the minutes, clearly stating the name and condition of each distrainted property item. Such minutes must be made according to Articles 95 and 125 of this Code, read to the involved persons and other present persons, and signed by these persons. Any complaints of the involved persons shall be recorded in the minutes, with the signatures for certification of such persons and the distrainting persons.

...

4. When deeming that distraintment is no longer necessary, the competent persons defined in Clause 1, Article 80 of this Code must issue in time decisions to cancel distraintment warrants.

Vietnam has law relating to sanctions against administrative violations in tax payment that allows for the registration of property for auction sale to fully collect a tax and fine.<sup>39</sup> That is, the government may register property for auction sale, to recover an unpaid tax or fine.

## Attachments

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