



Australian Government
Refugee Review Tribunal

Country Advice

Vietnam

Vietnam – VNM39799 – Treatment of
homosexuals – Discrimination –
Vietnamese Law – Military service
23 February 2012

1. Is there information that would generally support, or not support, the assertion that the situation in Vietnam has become worse for homosexual men in recent years (say since 2007 when VNM32466 was prepared)?

No information was located to suggest that the situation in Vietnam has become worse for homosexual men since *Country Advice VNM32466*¹ was prepared.

Please refer to the responses to [Question 2](#), [Question 3](#) and [Question 4](#) for updated information regarding the situation for homosexuals in Vietnam.

2. Has there been any relevant change to Vietnamese law since VNM32466 was prepared?

No information was located to suggest that there have been any relevant changes to Vietnamese law since *Country Advice VNM32466*² was prepared.

In April 2011, the US Department of State (USDOS) noted that “[a] homosexual community exists but was largely underground. There are no laws that criminalize homosexual practices”. USDOS further noted, however, that contrary to the Vietnamese penal code, “the chief judge of the Quang Binh Provincial People’s Court in August [2010] refused to prosecute the gang rape of a transsexual, claiming the code did not address rape of transgendered individuals”.³

In January 2010, the Immigration and Refugee Board of Canada (IRB) reported that “[w]hile homosexuality is not illegal in Viet Nam...homosexuals are not protected against discrimination”. Some gay travel sources reportedly noted that “homosexual conduct can be prosecuted for „undermining public morality””.⁴

Similar sentiment was expressed in an undated article on the Gay Times website, which noted that “[h]omosexuality has never been explicitly illegal in Vietnam. The current Penal Code doesn’t mention homosexuality; indeed, it seems that there is no mention of homosexuality in Vietnamese law”. The article also noted, however, that “[t]here is no legal protection of gays such as anti discrimination laws”.⁵

¹ RRT Country Advice 2007, *Country Advice VNM32466*, 16 October

² RRT Country Advice 2007, *Country Advice VNM32466*, 16 October

³ US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Vietnam*, 11 April, Section 6

⁴ Immigration and Refugee Board of Canada 2010, *VNM103323.E: Viet Nam: Treatment of homosexuals, including legislation, availability of state protection and support services*, UNHCR Refworld website, 8 January <http://www.unhcr.org/refworld/docid/4b7cee8e37.html> – Accessed 15 February 2012

⁵ „Gay Guide – Vietnam” (undated), Gay Times website <http://www.gaytimes.co.uk/Hotspots/GayGuide-action-Country-countryid-1016.html> – Accessed 15 February 2012

3. Are there any reasonably up to date reports of discrimination, especially with regard to employment or other opportunities to earn a livelihood, against homosexuals in Vietnam?

According to USDOS, during 2010 “[t]here was no official discrimination in employment, housing, statelessness, or access to education or health care based on sexual orientation, but social stigma and discrimination was pervasive”. Further, USDOS noted that “[t]here was growing public awareness of homosexuality and little evidence of direct official discrimination based on sexual orientation”.⁶

In December 2011, the *Vietnamese News Agency (VNA)* reported that “[g]ay people in Viet Nam are struggling to overcome social prejudice and family opposition to live true to themselves and find happiness”. *VNA* cited an online survey conducted by Lesbian Gay Bisexual and Transgender (LGBT) organisation the Information Sharing and Connecting Group (ICS), which found that “78 per cent of those surveyed had sought counselling to find help for their problems resolving identity confusion, social prejudice and relationship problems”.⁷

An October 2011 report by *Than Nien News*⁸ referred to a recent study conducted by the Center for Creative Initiatives in Health and Population, which found that “most homosexuals, bisexuals, and transsexuals in Vietnam face discrimination and are often exposed to violence from their parents and family members”.⁹

According to lookatvietnam.com, a study by the Vietnamese Institute for Studies of Society, Economy and Environment found that “[m]any Vietnamese newspapers still show bias against homosexuals”, with many stories suggesting that “the sexual practices of homosexuals should be condemned as unacceptable and debauched rather than considering them legitimate”. Nearly a third of those interviewed in the study said that “they kept their sexual orientation strictly within the homosexual community as they feared discrimination if they came out”.¹⁰

In December 2009, *Radio Free Asia* reported that “homosexual men who ‘come out’ and acknowledge their orientation are still subject to social stigma and workplace discrimination”. According to one openly gay college student, “[t]he openly gay community runs into a lot of difficulties, like the inability to find work in government agencies and companies”. A counsellor based in Hai Dong noted that “[m]ost gay men prefer to stay closeted...[they] fear that their organizations or workplaces may find out about them and fire them”.¹¹

⁶ US Department of State 2011, *Country Reports on Human Rights Practices for 2010 – Vietnam*, 11 April, Section 6

⁷ „Society alienating gays and lesbians’ 2011, *Vietnamese News Agency*, 12 December <http://vietnamnews.vnagency.com.vn/social-issues/218575/society-alienating-gays-and-lesbians.html> – Accessed 13 December 2011

⁸ *Thanh Nien* describes itself as the “flagship publication of the Vietnam National Youth Federation” and “one of the most prestigious and influential newspapers in Vietnam”. <http://www.thanhniennews.com/aboutus/pages/about-us.aspx> .

⁹ „Gay and afraid’ 2011, *Than Nien News*, 21 October <http://www.thanhniennews.com/2010/pages/20111022-gay-and-afraid.aspx> – Accessed 15 February 2012

¹⁰ Anh, B. 2009, „Homosexuals still feel the media lash’, lookatvietnam.com website, 19 February <http://www.lookatvietnam.com/2009/02/homosexuals-still-feel-the-mediaa%c2%80%c2%99s-lash.html> – Accessed 28 January 2010

¹¹ „Vietnamese “Still in Closet”’ 2009, *Radio Free Asia*, 18 December <http://www.rfa.org/english/news/vietnam/gayvietnam-12182009112123.html> – Accessed 1 April 2011

According to the IRB in 2010, “overt hostility towards homosexuals is not common”. The IRB noted that according to the GlobalGayz website, “,gay bashing’ is almost unheard of in Viet Nam”, while Gay Times had noted that “life has become much easier for gays and lesbians” in the last ten years”. The IRB also noted, however, that according to the head of the STDs, HIV and AIDS Prevention Center, “[t]hose who are open about their sexuality cannot even get an ID card or work for public companies”.¹² Possession of an ID card, such as a household registration (*ho khau*), is essential in order to “legally reside in one’s home...legally hold a job, collect grain rations, attend a government-run school, receive public health care, travel, vote, or formally challenge administrative abuses”.¹³

4. Is there evidence of any variation with regard to the treatment of homosexuals between the north and south, or between provinces?

Limited information was located regarding variations of the treatment of homosexuals between the north and south of Vietnam.

In 2009, *VietNamNet* reported that while “Vietnamese society is relatively conservative on issues of homosexuality and gay people and transgendered individuals often suffer social stigma...[a]n increasing number of people from [these] communities have become more confident in going public about their sexuality”.¹⁴

According to *BBC News* in 2002, “[t]he alternative lifestyles of gay men and women are less visible in the capital Hanoi than in the more liberal commercial centre Ho Chi Minh City”.¹⁵ According to a study by the Vietnamese Institute for Studies of Society, Economy and Environment, more than 60 per cent of homosexuals surveyed lived in Ho Chi Minh City, while 12 per cent lived in Hanoi.¹⁶

An undated article on the Gay Times website noted that there was a “burgeoning gay scene developing in Ho Chi Minh City (Saigon) and to a lesser extent a smaller scene in Hanoi. In both cities various bars and clubs have opened catering to gays”.¹⁷ According to the IRB, gay travel website Utopia-Asia.com reported that “there are also some gay and gay-friendly establishments in smaller cities throughout the country”, while GlobalGayz stated that there are “little pockets of LGTB [lesbian, gay, transgendered and bisexual] expression in the smaller cities like Hoi An and Hue”.¹⁸

5. What are the general requirements for service in the Vietnamese army? To what extent, if any, does that depend on whether the person has tertiary qualifications? If tertiary

¹² Immigration and Refugee Board of Canada 2010, *VNM103323.E: Viet Nam: Treatment of homosexuals, including legislation, availability of state protection and support services*, UNHCR Refworld website, 8 January <http://www.unhcr.org/refworld/docid/4b7cee8e37.html> – Accessed 15 February 2012

¹³ Human Rights Watch 2006, “*Children of the Dust*”: *Abuse of Hanoi Street Children in Detention*, p.35, footnote 90 – Accessed 13 November 2006

¹⁴ „Underground but loud’ 2009, *VietNamNet/Thanh Nien News*, 30 August <http://english.vietnamnet.vn/lifestyle/2009/08/866060/> – Accessed 28 January 2010

¹⁵ Arthurs, C. 2002, „Novel breaks Vietnam’s gay sex taboo’ *BBC News*, 20 August <http://news.bbc.co.uk/2/hi/asia-pacific/2205506.stm> – Accessed 11 February 2010

¹⁶ Anh, B. 2009, „Homosexuals still feel the media lash’ *lookatvietnam.com* website, 19 February <http://www.lookatvietnam.com/2009/02/homosexuals-still-feel-the-mediaa%2%80%2%99s-lash.html> – Accessed 28 January 2010

¹⁷ „Gay Guide – Vietnam’ (undated), *Gay Times* website <http://www.gaytimes.co.uk/Hotspots/GayGuide-action-Country-countryid-1016.html> – Accessed 15 February 2012

¹⁸ Immigration and Refugee Board of Canada 2010, *VNM103323.E: Viet Nam: Treatment of homosexuals, including legislation, availability of state protection and support services*, UNHCR Refworld website, 8 January <http://www.unhcr.org/refworld/docid/4b7cee8e37.html> – Accessed 15 February 2012

qualifications can make a person exempt, does that include tertiary qualifications obtained outside Vietnam?

Limited information was located regarding the general requirements for service in the Vietnamese People's Army. According to the CIA World Factbook, military service is compulsory for males 18 years of age, while females may volunteer for service. The service obligation for males is generally two years, though the navy requires three to four years' service. Males serving in the Militia Force or Self-Defence Forces must be between 18 and 45 years of age, while females must be between 18 and 40.¹⁹

According to a report by the Sultan Haji Bolkuh Institute of Defence and Strategic Studies, "[a]ll men and women with specialist skills, become eligible for compulsory military service at the age of 18. Nearly a million men reach military age each year. Due to a massive reduction in the size of Vietnam's regular army, Vietnam has few problems in meeting its general manpower requirements". Vietnam's Military Service Law was reportedly amended in 2005, "to reduce the length of compulsory service from two years to eighteen months, and lower the age of eligibility for military service from the 18-27 year range to 18-25".²⁰

The report noted that "[m]any young men seek to avoid conscription through prolonging higher education and other strategies often only available to the elite and professional classes, leaving military service to the rural and urban poor and those without skills or influence". The report further noted that in 2009, the National Assembly reportedly considered a "draft Law on Militiamen and Self-Defence Forces that covered their roles, functions and tasks in peacetime. The law included a draft provision that militia and self-defence forces be compulsory in any enterprise that employed fifty or more workers".²¹ No further information was located as to whether such a law was implemented.

A 2001 report by the Conference on Prospects for the Constituencies of Vietnam in Changing Times noted that "[a]s a result of universal conscription, which has been in force since 1960, and estimated one out of every three adult males serves in a military organization either in the regular forces and reserves or in various paramilitary groups".²²

No information was located as to whether an individual may be exempted from service if they had obtained tertiary qualifications outside Vietnam.

¹⁹ „Military Service Age and Obligation’ (undated), CIA World Factbook
<https://www.cia.gov/library/publications/the-world-factbook/fields/2024.html> – Accessed 13 February 2012

²⁰ Thayer, C. A. 2009, „Vietnam People's Army: Development and Modernization’, Sultan Haji Bolkuh Institute of Defence and Strategic Studies, American University Washington D.C. website, 23 August, p.4
<http://www.american.edu/sis/aseanstudiescenter/upload/17313967-Thayer-Vietnam-Peoples-Army-Modernization-and-Development.pdf> – Accessed 13 February 2012

²¹ Thayer, C. A. 2009, „Vietnam People's Army: Development and Modernization’, Sultan Haji Bolkuh Institute of Defence and Strategic Studies, American University Washington D.C. website, 23 August, pp.23-24
<http://www.american.edu/sis/aseanstudiescenter/upload/17313967-Thayer-Vietnam-Peoples-Army-Modernization-and-Development.pdf> – Accessed 13 February 2012

²² Thayer, C. A. 2001, „The Vietnam People's Army as a Constituency in the Political System of the Socialist Republic of Vietnam’, Conference on Prospects for the Constituencies of Vietnam in Changing Times, Vietnamese Professionals of America website, 16 November, p.3 <http://www.vpa-inc.org/conference/pdf/thayerIII.pdf> – Accessed 13 February 2012

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