

## Country Reports on Human Rights Practices - 2008 Released by the Bureau of Democracy, Human Rights, and Labor February 25, 2009

### Vietnam

The Socialist Republic of Vietnam, with a population of approximately 86 million, is an authoritarian state ruled by the Communist Party of Vietnam (CPV). The most recent National Assembly elections, held in May 2007, were neither free nor fair, since all candidates were vetted by the CPV's Vietnam Fatherland Front (VFF), an umbrella group that monitored the country's mass organizations. Civilian authorities generally maintained effective control of the security forces.

The government's human rights record remained unsatisfactory. Citizens could not change their government, and political opposition movements were prohibited. The government continued to crack down on dissent, arresting political activists and causing several dissidents to flee the country. Police sometimes abused suspects during arrest, detention, and interrogation. Corruption was a significant problem in the police force, and police officers sometimes acted with impunity. Prison conditions were often severe. Individuals were arbitrarily detained for political activities and denied the right to fair and expeditious trials. The government continued to limit citizens' privacy rights and tightened controls over the press and freedom of speech, assembly, movement, and association. The government maintained its prohibition of independent human rights organizations. Violence and discrimination against women remained a concern. Trafficking in persons continued to be a significant problem. Some ethnic minority groups suffered societal discrimination. The government limited workers' rights and arrested or harassed several labor activists.

### RESPECT FOR HUMAN RIGHTS

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

##### *a. Arbitrary or Unlawful Deprivation of Life*

The government or its agents did not commit any politically motivated killings; however, there was one confirmed report of a death in police custody.

On May 1, Y Ben Hdok, a Montagnard from Dak Lak, died while in detention in the Buon Ma Thuot provincial police station. Police detained him on April 28 for questioning regarding his suspected involvement in inciting demonstrations. Officials stated that the suspect hanged himself during a break in questioning, but family members said his corpse was bruised. No investigation was carried out, and the family reportedly refused to authorize an autopsy.

There were reports that another Montagnard prisoner died shortly after being released from police custody, although the cause of death could not be verified.

There were no developments related to the 2006 death of Y Ngo Adrong.

### ***b. Disappearance***

The unregistered Unified Buddhist Church of Vietnam reported that monk Thich Tri Khai, whom police arrested from his monastery in Lam Dong Province in April, remained missing at year's end.

According to nongovernmental organization (NGO) and press reports, political activist Tim Sakhorn, sentenced in November 2007 to one year in prison for "sabotaging national unity" and released in July, was residing in An Giang Province under house arrest and constant police surveillance. Le Tri, a Vietnamese citizen and political activist who disappeared in Cambodia in May 2007, remained missing at year's end.

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

The law prohibits physical abuse; however, police commonly physically mistreated suspects during arrest or detention.

Incidents of police harassment were reported in the provinces of Dien Bien, Thanh Hoa, Son La, and Thai Binh. Land rights protesters in An Giang Province also reported harassment from local authorities.

There were reports that police harassed or beat ethnic minorities returning from Cambodia to the Central Highlands, although most reports could not be substantiated. Monitors found that most incidents involved land, money, or domestic disputes.

Throughout the year the government committed activists involuntarily to mental hospitals as a tactic to quell dissent.

### **Prison and Detention Center Conditions**

Prison conditions could be severe but generally did not threaten the lives of prisoners. Overcrowding, insufficient diet, lack of clean drinking water, and poor sanitation nonetheless remained serious problems in many prisons. Prisoners had access to basic health care, with additional medical services available at district- or provincial-level hospitals. However, in many cases officials obstructed family members from providing medication to prisoners. Prisoners generally were required to work but received no wages. Prisoners sometimes were moved to solitary confinement, where they were deprived of reading and writing materials for periods of up to several months. Family members made credible claims that prisoners received better benefits by paying bribes to prison officials.

Family members of several political dissidents reported improved living conditions at Xuan Loc Prison in Dong Nai Province. Foreign diplomats observed Spartan but clean living areas and generally acceptable labor conditions during a June visit to the prison. Family members of one activist who broke his arm in a prison in Kien Giang Province claimed that medical treatment was inadequate, resulting in the partial loss of function in his arm. Family members of Catholic activist Father Nguyen Van Ly claimed that he continued to be denied access to a Bible.

The government generally did not permit the International Committee of the Red Cross or NGOs to visit prisons, and no such visits occurred during the year. However, authorities allowed foreign diplomats and a religious delegation to make limited prison visits and meet with prisoners. Most other requests by diplomatic observers to visit prisoners were denied.

#### ***d. Arbitrary Arrest or Detention***

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

#### **Role of the Police and Security Apparatus**

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

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

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

#### **Arrest and Detention**

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

The investigative period typically lasts from three months for less serious offenses (punishable by up to three years' imprisonment) to 16 months for exceptionally serious offenses (punishable by more than 15 years' imprisonment or capital punishment), or 20 months for national security

cases. However, at times investigations can be prolonged indefinitely. The criminal code further permits the Procuracy to request additional two month periods of detention after an investigation to consider whether to prosecute a detainee or ask the police to investigate further. Investigators sometimes used physical isolation, excessively lengthy interrogation sessions, and sleep deprivation to compel detainees to confess.

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

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

Police generally informed families of detainees' whereabouts, but family members were allowed to visit a detainee only with the permission of the investigator, and this permission was not automatically granted. During the investigative period, authorities frequently did not allow detainees access to family members, especially in national security cases. Prior to a formal indictment, detainees also have the right to notify family members. However, a number of detainees suspected of national security violations were held incommunicado. At year's end some persons arrested early in the year had not been seen by family members or a lawyer, nor had they been formally charged with crimes.

There is no functioning bail system or equivalent system of conditional release. Time spent in pretrial detention counts toward time served upon conviction and sentencing.

Courts may sentence persons to administrative detention of up to five years after completion of a sentence. In addition police or mass organizations can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. The measures include terms ranging from six to 24 months in either juvenile reformatories or adult detention centers and generally were applied to repeat offenders with a record of minor offenses, such as committing petty theft or "humiliating other persons." Chairpersons may also impose terms of "administrative probation," which generally was some form of restriction on movement and travel. Despite the March 2007 repeal of Decree 31, an administrative measure often used to punish perceived political dissidents, authorities continued to punish some individuals using other vaguely worded national security provisions in the criminal code.

Arbitrary detentions, particularly for political activists, remained a problem. The government used decrees, ordinances, and measures to detain activists for the peaceful expression of opposing political views. During the year authorities arrested several individuals for violating Article 88, which prohibits the "distribution of propaganda against the state." Those charged with violating Article 88 were typically sentenced to terms of up to five years in prison. While several activists received reduced prison sentences after they appealed, others had their original

sentences reaffirmed during appeals. In September an Internet blogger was convicted of tax evasion and sentenced to 30 months in prison after writing about corruption and protesting China's actions in the disputed Spratly/Paracel Islands.

In August and September, the government arrested at least 13 activists, most connected with the political movement Bloc 8406, and briefly detained at least a dozen others. On November 7, land protester and Bloc 8406 member Le Thi Kim Thu was sentenced to 18 months' imprisonment for "disturbing public order." At year's end the remaining activists had not been charged or tried.

Police forcibly entered the homes of a number of prominent dissidents throughout the country, such as Nguyen Khac Toan and Do Nam Hai, and removed personal computers, mobile cellphones, and other material.

There were reports that government officials in the Central and Northwest Highlands temporarily detained ethnic minority individuals for communicating with the ethnic minority community abroad during the year.

Peaceful land rights protests in Ho Chi Minh City and Hanoi resulted in the temporary detention, surveillance, and arrest of several organizers, although the government handled the dispersal of these protests without significant violence. Peaceful protests during the year against Chinese actions in the Spratly/Paracel Islands also resulted in the temporary detention and arrest of several activists for demonstrating without permission. In September authorities arrested four activists and temporarily detained several more, reportedly in an effort to prevent demonstrations and discourage groups from meeting publicly.

In the case of five political activists--two Vietnamese and three foreign citizens--arrested in November 2007, two of the foreigners were released in December 2007. On May 13, the remaining three were tried and convicted on terrorism charges with credit for time served; one Vietnamese was released immediately, the foreigner was deported a few days later, and the other Vietnamese was released in August.

Several of the approximately 30 activists arrested in a government crackdown in 2006-07 were convicted during the year. Others remained under investigation and under administrative detention without being formally charged.

Religious and political activists were subject to varying degrees of informal detention in their residences.

## **Amnesty**

The central government did not announce a Tet or National Day amnesty. Nevertheless, provincial councils throughout the country conducted both Tet and National Day amnesties of prisoners under their jurisdiction. No high profile prisoners benefited from special release during the year.

### ***e. Denial of Fair Public Trial***

The law provides for the independence of judges and lay assessors; however, in practice the CPV controlled the courts at all levels through its effective control over judicial appointments

and other mechanisms. In many cases the CPV determined verdicts. Most, if not all, judges were members of the CPV and were chosen at least in part for their political views. As in past years, the judicial system was strongly distorted by political influence, endemic corruption, and inefficiency. CPV influence was particularly notable in high profile cases and others in which a person was charged with challenging or harming the CPV or the state.

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

There was a shortage of trained lawyers and judges. Low judicial salaries hindered efforts to develop a trained judiciary. The few judges who had formal legal training often had studied abroad only in countries with communist legal traditions.

There was no independent bar association. In January the prime minister approved a proposal to form a national bar association; however, it had not been created by year's end.

Government training programs to address the problem of inadequately trained judges and other court officials continued during the year.

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

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

## **Trial Procedures**

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

examine evidence against their clients. Convicted persons have the right to appeal. District and provincial courts did not publish their proceedings. The SPC continued to publish the proceedings of all cases it reviewed.

There continued to be credible reports that defense lawyers were pressured not to take as clients any religious or democracy activists facing trial.

The public prosecutor brings charges against an accused person and serves as prosecutor during trials. Earlier reforms to the criminal procedures code were intended to move courtroom procedures from an "investigative" system, in which the judge leads the questioning, to an "adversarial" system, in which prosecutors and defense lawyers advocate for their respective sides. The change was intended to provide more protections for defendants and prevent judges from coercing defendants into confessing guilt; however, implementation differed from one province to another.

In May government officials allowed two foreign diplomats to attend the joint trial of three Viet Tan (Vietnam Reform Party) activists, and in December four foreign diplomats were permitted to attend the joint trial of the eight Thai Ha defendants. Other requests by foreign diplomats to attend trials were denied.

### **Political Prisoners and Detainees**

There were no precise estimates of the number of political prisoners. The government claimed it held no political prisoners, only lawbreakers. The government held at least 35 political detainees at year's end, although some international observers claimed the number ranged into the hundreds.

In April a fresh wave of demonstrations in the Central Highlands resulted in dozens of reported arrests and detentions of individuals suspected of organizing the protests. Local observers reported the demonstrations were prompted by ethnic minority groups protesting local land use policies.

On August 14, authorities arrested land rights activist Le Thi Kim Thu in Hanoi for disturbing the public order by organizing a protest in a public park opposite the Office of the Government. On November 7, she was convicted and sentenced to 18 months in prison. During the year land rights leaders reported that at least a dozen demonstrators from Ho Chi Minh City and surrounding provinces were convicted on charges ranging from "disturbing the public order" to "propagandizing against the State."

In September and October, Bloc 8406 activists Nguyen Xuan Nghia, Pham Van Troi, Ngo Quynh, Nguyen Van Tuc, Pham Thanh Nghien, Vu Hung, Tran Duc Thach, Nguyen Kim Nhan, Nguyen Van Tinh, Nguyen Thi Cam Hong, Duong Van Nam, and Le Thanh Tung were arrested, reportedly for their efforts to organize public protests, distribute prodemocracy leaflets, protest government land seizures and Chinese government actions, and post banners critical of the government. At year's end all were in detention waiting to be formally charged and tried.

On December 8, eight individuals who participated in prayer vigils at the Thai Ha parish in Hanoi were tried jointly at the Dong Da People's Court in Hanoi and convicted of disturbing public order and destroying public property. Seven of the parishioners were given suspended sentences ranging from 12 to 15 months; of these, four were also sentenced to additional

administrative probation ranging from 22 to 24 months. The eighth individual was given a warning. None received additional jail time.

After having been sentenced in 2007 for violating Article 88, several high-profile dissidents remained in prison, including Catholic priest Nguyen Van Ly and human rights attorneys Nguyen Van Dai and Le Thi Cong Nhan. Dai, Nhan, and three members of the People's Democracy Party were awarded sentence reductions after appeal.

In January writer and journalist Tran Khai Thanh Thuy, detained in April 2007 for violation of Article 88, was tried, sentenced to time served, and released for medical treatment.

Prodemocracy activist Nguyen Ba Dang, arrested in May 2007 for "propagandizing against the state," reportedly continued to be held in Kinh Chi Camp in Hai Duong City.

In May one of four members of the prolabor United Workers and Farmers Organization (UWFO) arrested and convicted in December 2007 was released after serving his sentence; the other three remained in prison (see section 6.a.).

In January, after 17 months in detention, Bloc 8406 member Truong Quoc Huy was tried and sentenced to six years in prison for "propagandizing against the state."

Viet Tan activists Nguyen Quoc Quan, Nguyen The Vu, and Nguyen Quoc Hai, arrested in 2006, were tried and convicted in May under Article 84 for crimes related to terrorism, but they were released after time served.

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

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

### **Civil Judicial Procedures and Remedies**

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

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



civil or criminal judicial procedures to remedy human rights abuses, and few legal experts had experience with the system.

### **Property Restitution**

There were widespread reports of official corruption and a general lack of transparency in the government's process of confiscating land and moving citizens to make way for infrastructure projects. By law citizens must be compensated when they are resettled to make way for infrastructure projects, but there were complaints, including from the National Assembly, that compensation was inadequate or delayed. A team established by the government after land rights protests in 2007 toured several provinces in the south, but few claimants reported resolution to their cases as a result.

In January Catholic parishioners conducted large-scale prayer vigils at the residence of the former papal nuncio in Hanoi, which was confiscated by the government and the object of an ongoing dispute. After the government promised to resolve the problem, the prayer vigils ceased. On September 19, city officials announced that they would turn the site into a public park, with the former papal nuncio's home becoming a library. City officials immediately began demolishing buildings on the site. Large-scale protests followed, with as many as 15,000 Catholic parishioners attending a special Mass and prayer vigil conducted by the archbishop on September 21.

In January, April, August, and September, Catholic parishioners conducted other large-scale prayer vigils over disputed land previously owned by the Thai Ha parish in Hanoi. Eight individuals were arrested in August and September and convicted in December for destroying public property and disturbing public order in connection with their participation in the prayer vigils at Thai Ha. Other religious organizations also protested the use of confiscated Church properties for commercial or government purposes.

Some members of ethnic minority groups in the Central and Northwest Highlands continued to complain that they had not received proper compensation for land confiscated to develop large-scale state-owned coffee and rubber plantations. Several residents attributed the cause of the April demonstrations in the Central Highlands to ethnic minority frustration and discontent over policies regarding state land use.

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

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

Forced entry into homes is not permitted without orders from the public prosecutor; however, security forces seldom followed these procedures but instead asked permission to enter homes, with an implied threat of repercussions for failure to cooperate. Some individuals refused to cooperate with such "requests." Police sometimes left when faced with noncompliance, particularly in urban areas.

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

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

The government continued to implement a family planning policy that urged families to have no more than two children, but the policy emphasized exhortation and education rather than coercion. The government can deny promotions and salary increases to public sector employees with more than two children, and some cases of denied promotion or financial penalties were reported, although the policy did not appear to be enforced in a consistent manner. These types of sanctions were becoming increasingly less effective as a larger segment of the population, particularly in urban areas, continued to move into the private sector.

## **Section 2 Respect for Civil Liberties, Including:**

### ***a. Freedom of Speech and Press***

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

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

At various times political activists and family members of prisoners were physically prevented from meeting with foreign diplomatic representatives. Tactics included setting up barriers or guards outside their residences or calling them into the local police station for random and repetitive questioning.

The CPV, government, and party controlled mass organizations controlled all print, broadcast, and electronic media. The government exercised oversight through the Ministry of Information and Communication (MIC) and supplemented its control through pervasive party guidance and national security legislation sufficiently broad to ensure effective self censorship by the domestic media. Beginning in March a government "rectification" campaign led to financial audits of many newspapers and imposed restrictions on the media's ability to conduct public outreach

programs, including charities and scholarships. Those in the media widely interpreted the actions as an effort by authorities to limit further the independence and influence of the media.

Despite the continued growth of Internet blogs, there was a general crackdown on press freedom throughout the year, resulting in the firings of several senior media editors and the arrest of two reporters. These actions dampened what had previously been a trend toward more aggressive investigative reporting.

On May 12, police arrested reporters Nguyen Viet Chien of the daily newspaper Thanh Nien and Nguyen Van Hai of the daily newspaper Tuoi Tre for "abusing power in carrying out their official duties" in connection with their 2006 reports on a major corruption scandal at the Ministry of Transportation's Project Management Unit Number 18 (PMU-18). The state press and the public voiced strong opposition to the arrests. However, after two days of heavy coverage of the arrest, the Ministry of Culture and Information directed the media to stop reporting the story. Print and broadcast media obeyed this decision, but some bloggers continued to criticize the arrests. The charges against the journalists later were changed to "abusing democratic freedoms," and on October 15, the two were tried and convicted. The court sentenced Nguyen Viet Chien to two years in prison and Nguyen Van Hai to a two-year noncustodial "reeducation" sentence.

In July Tuoi Tre and Thanh Nien each replaced a senior editor. The newspapers portrayed the moves as routine, although sources stated that the two editors were demoted for publishing stories on corruption. In August the government revoked the press cards of seven journalists from state-controlled newspapers for "lack of responsibility" in connection with their reports on the PMU-18 scandal.

On September 19, police briefly detained and beat a foreign correspondent working as the Hanoi bureau chief for the Associated Press and kept his camera for eight weeks after he attempted to photograph a prayer vigil at the former residence of the papal nuncio.

On December 18, the government issued new regulations prohibiting bloggers from posting material that the government believes undermines national security or discloses state secrets, incites violence or crimes, or includes inaccurate information harming the reputation of individuals and organizations. The new regulations also require global Internet companies with blogging platforms operating in the country to report to the government every six months and, if requested, to provide information about individual bloggers.

During the year the government also continued to restrict press stories critical of China's actions over disputed islands in the South China Sea and supposed military plans to invade Vietnam. The editor in chief of a major online news outlet fined in December 2007 for a controversial editorial regarding the South China Sea remained in his job, despite warnings that he would be removed.

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

Foreign journalists must be approved by the Foreign Ministry's press center, and they must be based in Hanoi, with the exception of one correspondent reporting solely on economic issues who lived and maintained an office in Ho Chi Minh City while officially accredited to Hanoi. Foreign journalists are required to renew their visas every three to six months, although the process is routine, and there were no reports of any visa renewals being refused. The number of foreign media employees allowed was limited, and local employees who worked for foreign media also were required to be registered with the Foreign Ministry.

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

Foreign language editions of some banned books were sold openly by street peddlers and in shops oriented to tourists. Foreign language periodicals were widely available in cities. Occasionally, the government censored articles.

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

### **Internet Freedom**

The government allows access to the Internet through a limited number of Internet service providers (ISPs), all of which were state owned joint stock companies. Internet usage continued to grow throughout the year. According to the MIC, 24 percent of the population had access to the Internet. Blogging continued to increase rapidly. The MIC estimated that there were more than one million bloggers online. In addition a number of prominent print and online news journalists maintained their own professional blogs. In several cases their blogs were considered far more controversial than their mainstream writing. In a few cases, the government fined or punished these individuals for the content of their blogs.

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

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

While citizens enjoyed unprecedented increasing access to the Internet, the government monitored e mail, searched for sensitive key words, regulated Internet content, and blocked

many Web sites with political or religious content that authorities deemed "offensive." They claimed that censorship of the Internet was necessary to protect citizens from pornography and other "antisocial" or "bad elements." They also claimed that efforts to limit Internet access by school-age users was intended to keep them from gaming at the expense of their school work.

Officials construed Article 88 of the criminal code, which bans "distributing propaganda against the state," to prohibit individuals from downloading and disseminating documents that the government deemed offensive.

Authorities continued to detain and imprison dissidents who used the Internet to publish ideas on human rights and political pluralism. In January writer and journalist Tran Khai Thanh Thuy was arrested for violation of Article 88. She was tried, sentenced to time served, and released for medical treatment. In April well-known blogger and head of the Free Journalist's Club Nguyen Hoang Hai (also known as Dieu Cay) was arrested; on September 10, he and his wife were tried and sentenced in Ho Chi Minh City on tax evasion charges. Hai was sentenced to 30 months in prison and a fine of 210 million VND (approximately \$12,730). Hai's wife received the same fine. On December 4, both Hai's and his wife's sentences and fines were upheld upon appeal. The appellate court notified Hai's attorney only nine days prior to the scheduled hearing, not 15 as required by law.

In September local authorities in Hanoi threatened to arrest bloggers or other individuals for e-mailing information overseas regarding Catholic property disputes.

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

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

Intellasia, an online news and investment publication that the government shut down in August 2007 for posting "distorted and reactionary content," continued to operate from outside the country.

### **Academic Freedom and Cultural Events**

The government asserts the right to restrict academic freedom, and authorities sometimes questioned and monitored foreign field researchers. However, the government continued to permit a more open flow of information, including in the university system, than in previous years. Local librarians increasingly were being trained in professional skills and international standards that supported wider international library and information exchanges and research. Foreign academic professionals temporarily working at universities in the country were allowed to discuss nonpolitical issues widely and freely in classes, but government observers regularly attended classes taught by both foreigners and nationals. Security officials occasionally questioned persons who attended programs on diplomatic premises or used diplomatic

research facilities. Nevertheless, requests for materials from foreign research facilities increased. Academic publications usually reflected the views of the CPV and the government.

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

## ***b. Freedom of Peaceful Assembly and Association***

### **Freedom of Assembly**

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

Prior to the April Olympic torch relay in Ho Chi Minh City, several activists reported that authorities called them in for questioning and warned them against organizing demonstrations.

Large-scale prayer vigils occurred in January, April, August, and September at disputed Catholic properties at the former papal nuncio's residence and at the Thai Ha parish in Hanoi. Police arrested eight individuals and harassed other participants in the vigils (see section 1.e.). Smaller demonstrations by citizens demanding redress for land rights claims frequently took place in Ho Chi Minh City and occasionally in Hanoi. Police monitored these protests but generally did not disrupt them.

### **Freedom of Association**

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

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

Members of Bloc 8406, a political activist group that calls for the creation of a multiparty state, continued to face harassment and imprisonment. Its senior members were arrested and jailed in a crackdown beginning in 2007. In September authorities arrested an additional six members of Bloc 8406 for criticizing the government's response to China and economic policies. Other

members faced severe harassment for their peaceful political activities. Bloc 8406 claimed more than 2,000 supporters inside the country, although this number could not be verified. At least 16 members of the group were in detention at year's end.

Several members of another activist group, the People's Democratic Party of Vietnam, and a related group, the UWFO, remained in prison at year's end.

### ***c. Freedom of Religion***

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

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

Religious groups encountered the greatest restrictions when they engaged in activities that the government perceived as political activism or a challenge to its rule. The government continued to discourage participation in a banned faction of the Hoa Hao Buddhist Church. The government also restricted the activities and movement of the leadership of the unrecognized Unified Buddhist Church of Vietnam (UBCV) and maintained that it would not recognize the organization under its existing leadership. The government remained concerned that some ethnic minority groups active in the Central Highlands were operating a self styled "Dega Church," which reportedly mixes religious practice with political activism and calls for ethnic minority separatism.

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

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

As in past years, official oversight of religious groups varied widely from locality to locality, often as a result of ignorance of national policy or varying local interpretations of the policy's intent. In general, central level efforts to coordinate proper implementation of the government's religious framework reduced the frequency and intensity of religious freedom violations. Nevertheless, activities of nonrecognized and unregistered religious groups remained technically illegal, and these groups occasionally experienced harassment. Several "unregistered" religious gatherings were broken up or obstructed in Haiphong and the Northwest Highlands, amid accusations by religious practitioners that local authorities sometimes used "contract thugs" to harass or beat them. In Tra Vinh there were reports of repeated police harassment and beatings by plainclothes "citizen brigades" at several house churches, including the Full Gospel Church. Authorities took no disciplinary action against the offenders. However, the level of harassment declined in comparison with previous years, and the vast majority of unregistered churches and temples were allowed to operate without interference.

The government actively discouraged contacts between the UBCV, which the government considered an illegal group, and its foreign supporters, although such contacts continued. Police routinely questioned some persons who held alternative religious or political views, such as UBCV monks and certain Catholic priests. Police continued to restrict the free movement of UBCV monks.

There were few credible allegations of forced renunciations in the Central and Northwest Highlands during the year. Nevertheless, articles in some provincial newspapers encouraged local authorities and ethnic minority groups to favor animist and traditional beliefs and to reject Protestantism.

The vast majority of Buddhists practiced their religion under the Vietnam Buddhist Sangha Executive Council, the officially sanctioned Buddhist governing council, and generally were able to worship freely. The government continued to harass UBCV members and prevented them from conducting independent charitable activities outside their pagodas.

Senior UBCV leaders remained under heavy police surveillance at their pagodas and reported limited ability to travel within the country. Thich Quang Do and Thich Khong Thanh were able to attend the funeral of the UBCV patriarch in July, although some UBCV monks in the provinces reported that authorities prevented them from traveling. One UBCV monk moved to Ho Chi Minh City from the provinces and resigned from the UBCV leadership because of constant surveillance and harassment by authorities.

The Catholic Church reported that the government continued to ease restrictions on assignment of new clergy. Unlike in previous years, there were no cases of the government rejecting Catholic bishops. The Church discussed establishing additional Catholic seminaries with the government and expanded its pastoral works program. The Church moved towards establishment of an official joint working group with the Vatican to develop principles and a roadmap toward establishing official relations.

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



permits for some Catholic charities to operate as NGOs remained suspended. In October the government granted authority for Caritas to reopen an office following a 32-year absence.

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

Despite some reports of discrimination against Catholic students, authorities denied that the government has a policy of limiting access to education based on religious belief.

At least 10 Hoa Hao Church followers allegedly involved in a 2005 clash with police remained in prison. Hoa Hao monks and believers following the government approved Hoa Hao Administrative Council were allowed to practice their faith. Monks and followers who belonged to dissident groups or declined to recognize the authority of the council suffered restrictions.

Religious organizations are not allowed to operate schools independently. Foreign missionaries may not operate openly as religious workers in the country, although many undertook humanitarian or development activities with government approval and met with registered congregations.

The government generally required religious publishing to be done through a government owned religious publishing house; however, some religious groups were able to copy their own materials or import them, subject to government approval. The government relaxed restrictions somewhat on the printing and importation of some religious texts, including in some ethnic minority languages. At year's end the government's Committee for Religious Affairs had not approved publication of a Hmong-language Bible, permission for which was requested more than two years ago, pending approval from the Ministry of Education and Training.

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

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government imposed some limits on freedom of movement for certain individuals. The government generally cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Several political dissidents, amnestied with probation or under house arrest, were subject to official restrictions on their movements, but police allowed them to venture from their homes under surveillance. For example, political dissidents Pham Hong Son and Nguyen Khac Toan, amnestied in 2006, and attorney Le Quoc Quan and journalist Nguyen Vu Binh, amnestied in 2007, continued to be subject to administrative detention in the form of official restrictions on their movements. Although occasionally confined to their homes, they were allowed some movement within Hanoi, but their movements and visits from other dissidents were closely monitored. On September 1, while attempting to travel to meet with foreign parliamentarians, Quan was detained at Hanoi's Noi Bai airport. Authorities canceled Quan's passport and informed him that he was not allowed to travel overseas. Son and Toan also were prohibited from traveling overseas. In Ho Chi Minh City, prominent activists Nguyen Dan Que and Do Nam

Hai remained under house arrest. Hai was prevented from meeting with foreign diplomats on at least two occasions.

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

The 2007 Law on Residence was not broadly implemented, and migration from rural areas to cities continued unabated.

Moving without permission hampered persons seeking legal residence permits, public education, and healthcare benefits. Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens 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 Northern Highlands.

The government refused to issue passports to a number of well-known dissidents. Provincial governments in the Central Highlands facilitated the passport issuance and travel of ethnic minority individuals traveling legally to the United States on family reunification visas.

Officials occasionally delayed citizens' access to passports to extort bribes. Prospective emigrants rarely encountered difficulties in obtaining a passport.

The law does not provide for forced internal or external exile, and the government did not use it.

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

By law the government considers anyone born in the country to be a citizen, even if the person has acquired another country's citizenship, unless a formal renunciation of citizenship has been approved by the president. However, in practice the government usually treated overseas Vietnamese as citizens of their adopted country. Emigrants were not permitted to use Vietnamese passports after they acquired other citizenship. The government generally encouraged visitation and investment by such persons but sometimes monitored them carefully. During the year the government liberalized travel restrictions for overseas Vietnamese, adopting a multiple-entry visa program for "qualified" persons, and in November the National Assembly passed legislation allowing for dual citizenship.

The government continued to honor a tripartite memorandum of understanding signed with the government of Cambodia and the UNHCR to facilitate the return from Cambodia of all ethnic Vietnamese who did not qualify for third country resettlement.

Local government authorities observed but did not hinder fact finding and monitoring visits by UNHCR and foreign diplomatic mission representatives to the Central Highlands. The UNHCR reported that it was able to meet with returnees in private. Foreign diplomats experienced some resistance from lower level officials in permitting private interviews of returnees. As in previous

years, local police officials sometimes were present during foreign diplomat interviews with returnees but left when asked. Provincial governments generally continued to honor their obligations to reintegrate peacefully ethnic minority returnees from Cambodia.

The UNHCR reported that the situation in the Central Highlands appeared to be one of integrating ethnic minorities into a national community rather than a refugee-producing situation and that the atmosphere was "relaxed" during their monitoring visits. The UNHCR also reported that conditions for ethnic minorities in the Central Highlands had improved since the 2001 and 2004 crackdowns. It stated that there was "no perceptible evidence of mistreatment" of any of the ethnic minority individuals it monitored in the Central Highlands. The flow of ethnic minorities across the border into Cambodia, high in the early part of the year, essentially stopped in mid-year, possibly because almost all new arrivals were determined by the UNHCR to be economic migrants rather than refugees.

### **Protection of Refugees**

The country is not a signatory to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the law does not provide for the granting of asylum or refugee status. The government has not established a system for providing protection to refugees and did not grant refugee status or asylum. The government did not provide protection against the expulsion or return of persons where their lives or freedom would be threatened; however, there were no such reported cases during the year.

### **Stateless Persons**

The country's largest stateless group consisted of approximately 9,500 Cambodian residents who sought refuge in Vietnam in the 1970s and were denied the right to return by the government of Cambodia, which asserted that no proof existed to confirm that these individuals had ever possessed Cambodian citizenship. Almost all were ethnic Chinese or Vietnamese. The group was initially settled in a number of refugee camps in and around Ho Chi Minh City. When humanitarian assistance in these camps ceased in 1994, an estimated 7,000 refugees left the camps in search of work and opportunities in Ho Chi Minh City and the surrounding area. A further 2,200 remained in four villages in which the camps once operated. Many had children and grandchildren born in Vietnam, but neither the original refugees nor their children enjoyed the same rights as Vietnamese citizens, including the right to own property, comparable access to education, and public medical care. In 2007 the UNHCR and the governments of Cambodia and Vietnam developed a plan calling for a full survey and Vietnamese naturalization of these stateless individuals. However, implementation of the plan was postponed during the year.

By passing new legislation allowing for dual citizenship, the government attempted to resolve earlier problems of statelessness by involuntary denationalization of its citizens, such as women who married foreigners. This group typically consisted of women who married Chinese, Korean, or Taiwanese men. Previously the women had to renounce their Vietnamese citizenship to apply for foreign citizenship, but before gaining foreign citizenship, they divorced their husbands and returned to Vietnam without possessing any citizenship or supporting documentation. The UNHCR worked with the government and the international community to address other aspects of this problem.

The Vietnam Women's Union continued to work with the government of South Korea to address international marriage brokering and premarriage counseling, including education on

immigration and citizenship regulations. The Ministry of Foreign Affairs pledged to work with immigration authorities to publicize more effectively the methods for such women to regain their lost Vietnamese citizenship, documentation, and residency benefits. However, because the process was costly and cumbersome, such women often remained stateless. Some domestic and international NGOs provided assistance.

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

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

#### **Elections and Political Participation**

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

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

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

The National Assembly, although subject to the control of the CPV (all of its senior leaders and more than 90 percent of its members were party members), continued to take incremental steps to assert itself as a legislative body. The National Assembly publicly criticized socioeconomic policies, the government's handling of inflation, and the plan to expand Hanoi's governing jurisdiction. Assembly sessions were televised live countrywide. Some deputies also indirectly criticized the CPV's preeminent position in society.

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

The government continued to restrict public debate and criticism severely. No public challenge to the legitimacy of the one party state was permitted; however, there were instances of

unsanctioned letters critical of the government from private citizens, including some former senior party members, that circulated publicly. The government continued to crack down on the small opposition political groupings established in 2006, and members of these groups faced arrests and arbitrary detentions.

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

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

### **Government Corruption and Transparency**

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

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

According to the 2007 decree, government officials must annually report by November 30 the houses, land, precious metals, and "valuable papers" they own; money they hold in overseas and domestic bank accounts; and their taxable income. The decree requires the government to publicize asset declaration results only if a government employee is found "unusually wealthy" and more investigation or legal proceedings are needed. In addition to senior government and party officials, the decree applies to prosecutors, judges, and those at and above the rank of deputy provincial party chief, deputy provincial party chairperson, deputy faculty head at public hospitals, and deputy battalion chief. Due to a lack of transparency, it was not known how widely the decree was enforced.

While the 2007 trial and conviction of officials involved in the PMU-18 scandal were initially hailed as a positive step, the prosecution and dismissal of journalists and editors who reported the story had a chilling effect on investigative reporting of official corruption.

In April the head of the provincial CPV in Ca Mau Province claimed someone had tried to bribe him with 100 million VND (approximately \$6,060) to receive a government job. Because he refused to identify the individual, in September he was fired as party chief.

In September the MPS began investigating an incident in which a senior official in the Management Board of the East-West Avenue and Water Environment project in Ho Chi Minh City allegedly received a bribe of 90 million yen (\$820,000) from officials of a foreign consulting firm. In November the Ho Chi Minh City People's Committee temporarily suspended Huynh Ngoc Sy from his dual post as deputy director of the municipal Transport Service and director of the East-West Avenue and Water Environment project for his alleged involvement in the corruption.

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

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

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

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

The government was willing to discuss human rights problems bilaterally with some foreign governments, and several foreign governments continued official talks with the government concerning human rights, typically through annual human rights dialogues.

#### **Section 5 Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven.

##### **Women**

The law prohibits using or threatening violence, taking advantage of a person who cannot act in self defense, or resorting to trickery to have sexual intercourse with a person against that person's will. This appears to criminalize rape, spousal rape, and in some instances sexual

harassment; however, there were no known instances of prosecution for spousal rape or sexual harassment. Other rape cases were prosecuted to the full extent of the law. No reliable data were available on the extent of the problem.

The law prescribes punishment ranging from warnings to a maximum of two years' imprisonment for "those who cruelly treat persons dependent on them." The 2007 Law on Domestic Violence Prevention and Control went into effect on July 1. It specifies acts constituting domestic violence, assigns specific portfolio responsibilities to different government agencies and ministries, and stipulates punishments for perpetrators of domestic violence; however, NGO and victim advocates considered many of the provisions to be weak. While the police and legal system generally remained unequipped to deal with cases of domestic violence, the government, with the help of international and domestic NGOs, began training police, lawyers, and legal system officials in the 2007 law.

Officials increasingly acknowledged the existence of domestic violence as a significant social concern, and this was discussed more openly in the media. Domestic violence against women was considered common, although there were no firm statistics measuring the extent of the problem. Several domestic and international NGOs worked on the problem. Hot lines for victims of domestic violence operated by domestic NGOs existed in major cities. The Center for Women and Development, supported by the Vietnam Women's Union, also operated a nationwide hot line, although it was not widely advertised in rural areas. While rural areas often lacked the financial resources to provide crisis centers and domestic hot lines, the 2007 law established "reliable residences" allowing women to turn to another family while local authorities and community leaders attempt to confront the abuser and resolve complaints. Government statistics reported that approximately half of all divorces were due in part to domestic violence. The divorce rate continued to rise, but many women remained in abusive marriages rather than confront social and family stigma as well as economic uncertainty.

The government, with the help of international NGOs, supported workshops and seminars aimed at educating women and men about domestic violence and also highlighted the issue through public awareness campaigns. Domestic NGOs were increasingly engaged in women's issues, particularly violence against women and trafficking of women and children. A government-supported national center provided services to victims of trafficking, including a shelter and vocational training. The center was partly supported by foreign foundations and NGOs.

Prostitution is illegal, but enforcement was uneven. Estimates varied widely--the government reported more than 30,000 prostitutes, but some NGOs estimated that there were up to 300,000 in the country, including those who engaged in prostitution part-time or seasonally. As in past years, some women reportedly were coerced into prostitution, often victimized by false promises of lucrative employment; many more felt compelled to work as prostitutes because of poverty and a lack of other employment opportunities. There were fewer reports that parents coerced daughters into prostitution or made extreme financial demands that compelled them to engage in prostitution. The Women's Union as well as international and domestic NGOs engaged in education and rehabilitation programs to combat these abuses.

While there is no legal discrimination, women continued to face societal discrimination. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage and in the workplace, as well as labor code provisions that call for preferential treatment of women, women did not always receive equal treatment.

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

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

The Women's Union and the National Committee for the Advancement of Women (NCFAW) continued to promote women's rights, including political, economic, and legal equality and protection from spousal abuse. The Women's Union also operated microcredit consumer finance programs and other programs to promote the advancement of women. The NCFAW continued implementing the government's national strategy on the advancement of women by the end of 2010. Key areas of this strategy focus on placing more women in senior ministry positions and in the National Assembly. The strategy also focuses on increasing literacy rates, access to education, and healthcare.

## **Children**

International organizations and government agencies reported that, despite the government's promotion of child protection and welfare, children continued to be at risk of economic exploitation.

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

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

Child prostitution, particularly of girls but also of boys, existed in major cities. Many prostitutes in Ho Chi Minh City were under 18 years of age. Some minors were forced into prostitution for economic reasons.

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

## **Trafficking in Persons**

The law prohibits trafficking in persons, but trafficking, particularly in women and children for sexual exploitation and men for forced labor overseas, remained a significant problem. Reliable statistics on the number of citizens who were victims of sex related trafficking were not available; however, there was evidence that the number was growing. Documentation of known trafficking cases as well as the level of case adjudications and prosecutions increased, while the government became more open in identifying and prosecuting trafficking cases and public



awareness rose. As the country's economy continued to grow, international and domestic criminal organizations involved in human trafficking sought to take advantage of increased exposure to international markets, expanded use of the Internet, and a growing gap between rich and poor to exploit persons at risk and develop trafficking networks.

The country was a significant source for trafficking in persons. Women were trafficked primarily to Cambodia, Malaysia, China, Taiwan, and South Korea for sexual exploitation. Women also were trafficked to Hong Kong, Macau, Thailand, Indonesia, the United Kingdom, Eastern Europe, and the United States. There were reports that some women going to Taiwan, Hong Kong, Macau, South Korea, and China for arranged marriages were victims of trafficking. Women and children also were trafficked within the country, usually from rural to urban areas. Men were trafficked regionally to work in construction, agriculture, fishing, and other commercial enterprises.

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

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

There were multiple arrests of private citizens and government officials for offering payments to birth parents in exchange for relinquishing infant children for adoption, creating fraudulent documents to conceal the child's identity, and trafficking these children to other provinces where they were offered for adoption. In addition there were documented cases in which small children and infants were kidnapped and sold for adoption to persons in Europe, North America, or China. The MPS identified the problem of kidnapping and trafficking in children for purposes of adoption as one of increasing concern, and these cases were highlighted in the media.

There were some documented cases of trafficking in adults for labor. These included men trafficked to Malaysia and Thailand to support construction industry projects and cases of fishermen working in Taiwan. Deceitful and fraudulent overseas labor contracts and recruiting remained problem,, although the government began to take steps to regulate export labor. MOLISA reported that some workers of state-owned labor companies who were recruited and sent abroad suffered conditions akin to involuntary servitude or forced labor. MOLISA reported incidents within the Malaysian construction industry as well as in Thailand (see section 6.e.).

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. Research by the MPS and the UN Children's Fund indicated that trafficking victims could come from any part of the country but were concentrated in certain northern and southern border provinces, especially the Mekong Delta and 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 daughters to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income; others were offered lucrative jobs by acquaintances. False

advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, family members, and employers.

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

The law provides for prison sentences of two to 20 years for each offense for persons found guilty of trafficking women, and between three years and life in prison for each offense for persons found guilty of trafficking children. The government continued to increase efforts to prosecute traffickers. In Tay Ninh Province, police broke up four trafficking rings, arrested 11 suspects, and rescued 15 trafficking victims in a series of raids carried out during the first half of the year. At year's end nine of the 11 suspects were in detention awaiting trial, and two were released due to lack of evidence.

A national steering committee, led by the MPS, coordinated government efforts in the identification and prosecution of trafficking cases and assisted in prevention and training activities. The Criminal Police Department of the MPS, the Ministry of Justice, the Border Guard Command, and the Social Evils Department of MOLISA were the main government agencies involved in combating trafficking, with significant collaboration from the Women's Union. The committee continued to train national and local officials to combat trafficking. The government produced a comprehensive training manual on the prevention and suppression of human trafficking, drafted with input from international NGOs, that provides an overview of human trafficking, describes assistance available to victims, and explains international and domestic legal documents, laws, and policies on trafficking. Police took an increasingly active role in investigating trafficking during the year, including continued development of the dedicated antitrafficking force. The government reported no increase in case investigations and prosecutions and attributed this to greater public awareness and knowledge on the part of the traffickers that the government would arrest and prosecute perpetrators.

The government continued to implement its 2004-10 National Program of Action on combating trafficking in women and children as well as a new export labor law and directives on recruitment and contracting transparency. MOLISA issued a government circular describing the procedures for receiving and supporting the trafficking victims.

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

The government worked with international NGOs to supplement and strengthen law enforcement measures and institutions and cooperated with foreign governments to prevent trafficking. It also cooperated closely with other countries within the frameworks of Interpol, its Asian counterpart, and the Association of Southeast Asian Nations. On March 24, the government signed an antitrafficking memorandum of understanding with Thailand, resulting in increased cooperation on border security, identification, and prosecution of trafficking cases.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

## **Persons with Disabilities**

The law requires the state to protect the rights and encourage the employment of persons with disabilities. The provision of services to such persons, although limited, improved during the year.

The Ministry of Transportation continued to implement accessibility codes for public transportation facilities and trained transportation agency officials and students on use of the codes.

Construction or major renovation of new government and large public buildings must include access for persons with disabilities. The Ministry of Construction maintained enforcement units in Hanoi, Ho Chi Minh City, Danang, Quang Nam, and Ninh Binh to enforce the barrier-free codes.

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

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

The government supported the establishment of organizations aiding persons with disabilities. Such persons were consulted in the development or review of national programs, such as the national poverty reduction program, vocational laws, and various educational policies. The National Coordination Committee on Disabilities and its ministry members worked with domestic and foreign organizations to provide protection, support, physical access, education, and employment. The government operated a small network of rehabilitation centers to provide long term, inpatient physical therapy. Several provinces, government agencies, and universities had specific programs for those with disabilities.

## **National/Racial/Ethnic Minorities**

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

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

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

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

The government maintained a program to conduct classes in some local ethnic minority languages up to the fifth grade. The government worked with local officials to develop local language curricula, but it appeared to implement this program more comprehensively in the Central Highlands than in the mountainous northern and northwestern provinces. The government operated special schools for ethnic minorities in many provinces, including subsidized boarding schools at the high school and middle school levels, and offered special admission and preparatory programs as well as scholarships and preferential admissions at the university level. There were also a few government-subsidized technical and vocational schools for ethnic minorities. Nonetheless, there were credible cases of discrimination against Christian ethnic minorities, although the law provides for universal education for children regardless of religion or ethnic group.

The government broadcast radio and television programs in ethnic minority languages in some areas. The government also instructed majority ethnic Kinh officials to learn the language of the locality in which they worked. Provincial governments continued initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and make officials sensitive and receptive to ethnic minority culture and traditions.

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

### **Other Societal Abuses and Discrimination**

Some persons formerly interned in reeducation camps on the basis of association with the pre 1975 government continued to report varying levels of official and social discrimination as they and their families sought access to housing, education, and employment, although the overall incidence of such discrimination declined substantially as previously enforced prohibitions eased and the percentage of war veterans in the work force decreased.

There was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed. There were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. In a few cases, children of persons with HIV/AIDS were barred from schools, despite its being against the law. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and decrease societal stigma and discrimination, although overall consistency was lacking. Religious charities were sometimes permitted to operate in this area.

A homosexual community existed but was largely underground. There was low public awareness of homosexuality and little evidence of discrimination based on sexual orientation.

## **Section 6 Worker Rights**

### ***a. The Right of Association***

Workers may chose whether or not to join a union and at which level (local, provincial, or national) they wish to participate; however, every union is affiliated with and controlled by the nation's only trade union, the Vietnam General Confederation of Labor (VGCL). The VGCL, an umbrella organization controlled by the CPV, approves and manages a range of subsidiary labor unions organized according to location and industry. Workers are not free to join or form any union independent of the VGCL.

According to VGCL statistics, in August total membership was more than 6.2 million, or an estimated 39 percent of the country's approximately 16 million wage earners. Of the VGCL members, 36.5 percent worked in the public sector, 33.1 percent in state owned enterprises, and 30.4 percent in the private sector. The VGCL claimed that its membership represented 95 percent of public-sector workers and 90 percent of workers in state owned enterprises. Approximately 1.7 million union members worked in the private sector, including in enterprises with foreign investment (more than 700,000 persons).

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

Union leaders influenced key decisions, such as amending labor legislation, developing social safety nets, and setting health, safety, and minimum wage standards. However, the VGCL asserted that authorities did not always prosecute violations of the law. MOLISA acknowledged shortcomings in its labor inspection system, emphasizing that the country had an insufficient number of labor inspectors. The VGCL stated, and MOLISA acknowledged, that low fines on firms for labor violations failed to act as an effective deterrent against law violations.

In the case of four UWFO members convicted in December 2007 under Article 258 of the penal code, which prohibits "abusing democratic freedoms to infringe upon the interests of the state and the rights of organizations and citizens," Doan Huy Chuong was released on May 13 after

-serving his sentence; Nguyen Tan Hoanh was also released from prison in May. On February 25, the three-year prison sentence of Nguyen Thi Tuyet was upheld by a court of appeal. Le Van Sy was reportedly released in March 2007; the status of two other UWFO members-- Nguyen Toan and Le Ba Triet--was unknown at year's end.

Nguyen Khac Toan, former journalist and founder of the International Labor Union of Vietnam (ILUV), remained under strict surveillance and house arrest. In August he was prohibited from traveling overseas to seek medical treatment. Police briefly detained him several times throughout the year and seized his computers and other personal equipment. The government continued to outlaw the ILUV, which Toan created in 2006 to protect workers' rights.

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

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

On January 30, the government issued a decree on "wildcat" strikes, declaring that individuals participating in strikes declared illegal by a people's court and found to have caused damage to their employer are liable for damages.

Most strikes typically did not follow the authorized conciliation and arbitration process and thus were considered illegal "wildcat" strikes. The number of such strikes increased substantially during the year, with more than 90 percent occurring in Ho Chi Minh City and surrounding provinces. While illegal under the law, the government tolerated these strikes and took no action against the strikers. The law prohibits retribution against strikers, and there were no reports of retribution. In some cases the government disciplined employers for the illegal practices that led to strikes, especially with foreign-owned companies.

### ***b. The Right to Organize and Bargain Collectively***

By law the provincial or metropolitan branch of the VGCL is responsible for organizing a union within six months of the establishment of any new enterprise, and management is required to cooperate with the union. In actuality only 85 percent of state owned enterprises, 60 percent of foreign invested enterprises, and 30 percent of private enterprises were unionized.

The labor code requires enterprises to facilitate employee efforts to join a union and prohibits antiunion discrimination on the part of employers against employees who seek to join a union, but enforcement was uneven.

The law provides VGCL affiliated unions the right to bargain collectively on behalf of workers. Collective labor disputes over rights must be routed through a conciliation council and, if the council cannot resolve the issue, to the chairperson of the district level people's committee. Amendments made to the labor law in July divide such disputes into those over rights (compliance with the law) and those over interests (demands beyond what the law provides), setting out different procedures for both. The law stipulates an extensive process of mediation and arbitration that must be followed before a strike may take place.

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

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

### ***c. Prohibition of Forced or Compulsory Labor***

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

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

Amid the export labor industry's rapid growth, media articles and international human rights groups cautioned the government against building up the industry without also providing robust worker protections. They noted the increasing number of workers who were charged as much as 165 million VND (approximately \$10,000) for the opportunity to work abroad, fees that most workers typically could recover only after one to two years abroad. Reports of bonded labor, related sex trafficking, and the lack of resources available to workers in distress, which implied complicity by some labor brokers licensed by the government, subsequently emerged. The government's 2007 decision to regulate labor brokerage fees, in conjunction with the 2006 Export Labor Law, which went into effect in July 2007, were designed to alleviate this situation and to assist and provide recourse to victims of labor-based trafficking. While the justice system continued to be deficient in providing significant recourse to labor trafficking victims, the government began to take steps against deceptive labor export companies, and in June it revoked the licenses of 16 labor export companies for violating the law.

### ***d. Prohibition of Child Labor and Minimum Age for Employment***

Child labor remained a problem, particularly in rural areas, where 72 percent of the population resided. The law prohibits most child labor but allows exceptions for certain types of work. The law sets the minimum age for employment at 18, but enterprises may hire children between 15 and 18 if the firm obtains permission from parents and MOLISA. In 2006 MOLISA reported that approximately 30 percent of children between the ages of six and 17 participated in some economic activity, usually on family farms or in family businesses not within the scope of the law.

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

In rural areas children worked primarily on family farms and in other agricultural activities and household responsibilities. In some cases they began work as young as age six and were expected to do the work of adults by the time they were 15. Especially during harvest and planting seasons, some parents did not permit children to attend school. In urban areas children worked in family owned small businesses or on the street shining shoes or selling articles such as lottery tickets and newspapers. Migration from rural to urban settings exacerbated the child labor problem, because unauthorized migrants were unable to register their households in urban areas. Consequently, their children could not attend public schools, and families had less access to credit. Officials stated that juveniles in education and nourishment centers, which functioned much as reform schools or juvenile detention centers, were commonly assigned work for "educational purposes."

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

International donor assistance targeted the problem of child labor. The government also continued programs to eliminate persistent child labor, with a particular focus on needy families and orphans.

#### ***e. Acceptable Conditions of Work***

The law requires the government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for unskilled laborers at foreign investment joint ventures and foreign and international organizations was one million VND (approximately \$61) in the urban districts of Hanoi and Ho Chi Minh City; 900,000 VND (\$55) in the suburban districts of Hanoi, Ho Chi Minh City, and several other industrial districts and towns; and 800,000 VND (\$48) elsewhere in the country. The government may temporarily exempt certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum monthly wage in these cases can be no lower than 800,000 VND (\$48). The official monthly minimum wage for unskilled labor in the state sector was approximately 540,000 VND (\$34). For employees working for national companies, on farms, or in family households, the official



minimum wage was approximately 620,000 VND (\$38) in urban areas and 540,000 VND (\$34) for rural areas. This amount was inadequate to provide a worker and family a decent standard of living, especially with high inflation during the year.

The government set the workweek for government employees and employees of companies in the state sector at 40 hours, and it encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours but did not make compliance mandatory.

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

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

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

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

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