



Australian Government

Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT VIETNAM

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MAP



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ACRONYMS

ASEAN	Association of Southeast Asian Nations
ATS	amphetamine-type stimulants
AUD	Australian dollar
CAT	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment
CAT-OP	Optional Protocol to CAT
CCPR	International Covenant on Civil and Political Rights
CCPR-OP2-DP	Optional Protocol to CCPR aiming to the abolition of the death penalty
CED	Convention for the Protection of All Persons from Enforced Disappearance
CEDAW	Convention on the Elimination of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CESCR	International Covenant on Economic, Social and Cultural Rights
CIC	Citizen Identification Card
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
CPC	Country of particular concern (according to the US Commission on International Religious Freedom)
CPV	Communist Party of Vietnam
CRC	Convention on the Rights of the Child
CRC-OP-AC	Optional Protocol to CRC on the involvement of children in armed conflict
CRC-OP-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
CRPD	Convention on the Rights of Persons with Disabilities
CRVS	Civil Registration and Vital Statistics system
CSO	Civil society organisation
GDP	Gross Domestic Product
HCMC	Ho Chi Minh City
HRC	United Nations Human Rights Council
IJAV	International Journalists Association of Vietnam

ILO	International Labor Organization
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
MOLISA	Ministry of Labour – Invalids, and Social Affairs
MPS	Ministry of Public Security
NGO	Non-government organisation
NHRI	National Human Rights Institution
PPSFV	People’s Public Security Forces of Vietnam
SRS	Sexual Reassignment Surgery
UBCV	Unified Buddhist Church of Vietnam
UN	United Nations
UNCAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UNODC	UN Office on Drugs and Crime
UPR	Universal Periodic Review
USCIRF	US Commission on International Religious Freedom
VFF	Vietnamese Fatherland Front
VND	Vietnamese dong (currency)
VPA	Vietnam People’s Army

GLOSSARY

<i>06 Centres</i>	Compulsory drug treatment centres
<i>commune</i>	the smallest official administrative unit
<i>Degar Protestantism</i>	a religious movement, which combines aspirations for <i>Montagnard</i> independence with Evangelical Christianity
<i>doi moi</i>	‘Renovation’, refers to 1980s economic reforms
<i>giay thong hanh</i>	travel document for citizens without a passport
<i>ho khai</i>	household registration
<i>Montagnard</i>	French for ‘mountain-dweller’, a collective term for the ethnic minority group indigenous to the Central Highlands, also known as <i>Degar</i>
<i>Viet Minh</i>	League for the Independence of Vietnam, a national independence organisation

Terms used in this report

high risk	DFAT is aware of a strong pattern of incidents
moderate risk	DFAT is aware of sufficient incidents to suggest a pattern of behaviour
low risk	DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

1. PURPOSE AND SCOPE

1.1 The Department of Foreign Affairs and Trade (DFAT) has prepared this Country Information Report for protection status determination purposes only. It provides DFAT's best judgement and assessment at time of writing and is distinct from Australian government policy with respect to Vietnam.

1.2 The report provides a general, rather than an exhaustive, country overview. It has been prepared with regard to the current caseload for decision makers in Australia, without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 84 of 24 June 2019 under s 499 of the Migration Act 1958 states that:
Where the Department of Foreign Affairs and Trade has prepared [a] country information assessment expressly for protection status determination purposes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report draws on DFAT's on-the-ground knowledge and discussions with a range of sources in Vietnam. It takes into account information from government and non-government sources, including (but not limited to) those produced by: the US Department of State; the UK Home Office; World Bank; Transparency International; Amnesty International; Human Rights Watch; Reporters Without Borders; the Committee to Protect Journalists; relevant UN agencies; and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report released on Vietnam published on 21 June 2017.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Vietnam officially gained independence from French rule in 1956; two years after the League for the Independence of Vietnam (*Viet Minh*) ended the First Indochina War by defeating French forces at the Battle of Dien Bien Phu. The French withdrawal brought to an end a colonial presence in the region that had commenced in the late 19th century. The 1954 Geneva Accords divided Vietnam into two separate republics, the Republic of Vietnam in the south and the communist Democratic Republic of Vietnam in the north. The contest for legitimacy between the two states, fuelled by Cold War tensions and considerable international intervention, escalated into conflict and resulted in what is commonly referred to as the Vietnam War (generally referred to in Vietnam as the American War or the Second Indochina War). During this period, there was conflict between China and the Republic of Vietnam in relation to competing territorial claims over the Paracel Islands in the South China Sea. The war ended in April 1975 when communist forces captured the presidential palace in the southern capital of Saigon, now officially named Ho Chi Minh City (HCMC).

2.2 Following a series of border clashes between Vietnam and Cambodia in the years immediately after the Vietnam War, Vietnamese forces invaded Cambodia in 1978. Cambodia's ally, China, responded the following year by launching attacks on several northern provinces of Vietnam. The deterioration of Sino-Vietnam relations, combined with the implementation of economic policies directed at socialist transformation in the former Republic of Vietnam, resulted in a mass exodus of ethnic Chinese people from Vietnam in the late 1970s.

2.3 Vietnam's economy stagnated during the first decade of reunification, with central planning predominating. The government responded in 1986 by commencing a series of reforms (known as *Doi Moi* or 'Renovation' reforms) which opened up the country to foreign investment and achieved economic growth (see [Economic Overview](#)). The US lifted its 30-year trade embargo in 1994, beginning the normalisation of US-Vietnam relations. Vietnam became a full member of the Association of Southeast Asian Nations (ASEAN) in 1995 and joined the World Trade Organization in 2007.

2.4 Vietnam's rapid economic transformation has contributed to significant improvements in health, education, and poverty outcomes. The Communist Party of Vietnam (CPV) has maintained tight political control and provides limited space for dissent. The country continues to experience numerous small-scale protests, the vast majority of which are connected to either land-use issues, calls for increasing political space, or the lack of equitable mechanisms for resolving disputes (see [Political Opinion \(Actual or imputed\)](#)). More significant protests have also occurred in recent years: following the April 2016 Formosa environmental disaster, in which toxic discharge from a steel plant poisoned a large stretch of Vietnam's central coastline; in June 2018, in relation to both a proposed new special economic zone and a restrictive cyber-security law; and in relation to the ongoing South China Sea dispute with China.

DEMOGRAPHY

2.5 Vietnam's estimated population in 2018 was 97 million. Around 34.8 million people (approximately 35.9 per cent of the total population) live in urban areas. HCMC has the largest population, estimated at 8.2 million people; Hanoi (7.4 million); Haiphong (1.9 million); Can Tho (1.2 million); Bien Hoa (1.1 million); and Da Nang (1 million). Vietnam's most recent population and housing census was conducted in April 2019 (a ten-year gap from the last census in 2009), with official data expected to be released publicly on 20 December 2019. Preliminary census data released on 11 July found the total population of Vietnam as at 1 April 2019 was 96,208,984 persons, of which the male population was around 49.8 per cent, and the female population around 50.2 per cent. Vietnam's population has increased by 10.4 million persons since 2009.

2.6 The government recognises 54 ethnic groups, of which the majority Kinh (Viet) make up approximately 86 per cent of the population (see [Race/Nationality](#)). The 2009 census recognised Tay, Thai, Muong, Khmer and Hmong as the other main ethnic groups. Vietnamese is the official language, and some French, Chinese, Khmer, and mountain area languages (Mon-Khmer and Malayo-Polynesian) are also used in different regions.

2.7 Vietnam describes itself as a multi-religious, multi-belief country. In 2018, the US State Department reported that, according to statistics released by the Government Committee for Religious Affairs, 26.4 per cent of the population was categorised as religious believers: 14.91 per cent Buddhist; 7.35 per cent Roman Catholic; 1.47 per cent Hoa Hao Buddhist; 1.16 per cent Cao Daist; and 1.09 per cent Protestant. Smaller religious groups that combined constituted less than 0.16 per cent of the population included a devotional form of Hinduism (estimated at 70,000), approximately 80,000 Muslims, an estimated 3,000 members of the Baha'i Faith, and approximately 1,000 members of The Church of Jesus Christ of Latter-day Saints (Church of Jesus Christ). Religious Groups originating within the country (Buu Son Ky Huong, Tu An Hieu Nghia, Minh Su Dao, Minh Ly Dao, Tinh Do Cu Si Phat Hoi, and Phat Giao Hieu Nghia Ta Lon) comprised a total of 0.34 per cent. A small, mostly foreign, Jewish population resides in Hanoi and Ho Chi Minh City. Many individuals blend traditional practices with religious teachings, particularly Buddhism and Christianity (see [Religion](#)).

ECONOMIC OVERVIEW

2.8 The World Bank describes Vietnam as 'one of the most dynamic emerging countries in East Asia'. The economic reforms launched in 1986 transformed the country from one of the world's poorest to 'low middle income status' over a period of 25 years. Vietnam currently has one of the world's fastest growing economies, with its gross domestic product (GDP) estimated to have increased by 7.1 per cent (year-on-year) in the first half of 2018. In 2018, GDP per capita was forecast at approximately USD 2,551 (approximately AUD 3,411).

2.9 According to the World Bank, Vietnam's poverty rate (defined as those living on less than USD1.90 per day) declined from 20.8 per cent in 2010 to 9.8 per cent in 2016. Reductions in poverty have been particularly pronounced among Vietnam's ethnic minority population, which has historically experienced higher rates of poverty compared to the majority Kinh ethnic group. The poverty rate among the ethnic minority population dropped from 57.8 per cent in 2014 to 44.6 per cent in 2016 (compared to a decline of only 1.4 per cent between 2012 and 2014), representing the steepest decline in poverty for the past two decades. It also marks the first instance in Vietnam when declining poverty among ethnic minorities drove the overall decline in poverty rates nationwide.

2.10 Individuals identified as poor are eligible for a social assistance benefit from 60 years of age. There are major gaps in coverage, and only around 3 per cent of the population were reported to have received

regular social assistance benefits in 2016. In May 2018, the government approved the Master Plan on Social Insurance Reform, which aims to increase the coverage and levels of social protection. The Master Plan seeks to address the fragmentation of social insurance legislation, unclear eligibility criteria, and accessibility to information and benefits which limits participation among some ethnic groups.

2.11 Despite recent improvements in Vietnam's economic performance, major structural issues within its economic system remain. These include fiscal deficits, loose monetary policy, an infrastructure deficit, and a legal framework that is, at times, inconsistently applied. With its economy highly reliant on low-cost, labour-intensive manufacturing, Vietnam also faces challenges in adapting to the global shift to digitisation and automation.

Employment

2.12 Article 8 of the *Labour Code* (2012) prohibits discrimination in employment on the basis of gender, race, disability, colour, social class, marital status, belief, religion, HIV status, and trade union membership or participation. The law does not prohibit discrimination based on political opinion, age, language, national origin, sexual orientation, or gender identity. In 2017, the US Department of State reported that the government does not effectively enforce laws related to employment discrimination, and noted discriminatory hiring practices including in relation to gender, age, disability, and marital status. An International Labour Organization (ILO) review of 12,300 job advertisements found that one in five included gender requirements. Of these, 70 per cent specified a male candidate (for technical and highly skilled jobs), while 30 per cent requested female applicants only (preferred for office and support work).

2.13 Amendments to the 2012 *Labour Code* contained in MOLISA's final Labour Bill 'to ensure and to promote gender equality at work' were brought before the National Assembly in May 2019 and were passed by the National Assembly on 20 November 2019. The amendments include strengthening the definition of sexual harassment, eliminating the list of occupations banned for female workers, and reducing the retirement age gap from the current 55 years for women and 60 years for men (to be raised to 60 years for women by 2035 and 62 years for men by 2028).

2.14 The World Bank reported in 2018 that Vietnam's employment rates were high and unemployment rates were very low by global standards. Labour force participation rates are also high for both men and women, who participate in the labour force in almost equal numbers. Job quality is low, however, with only 10 per cent of jobs in professional or managerial occupations. The top ten occupations, which employ two-thirds of the labour force, are very low skilled, including agricultural, forestry and fishery labourers. Around three-quarters of jobs in Vietnam are in family farming (39 per cent), household enterprises (20 per cent), or employment without a contract (17 per cent). These occupations are characterised by low pay and limited worker protections. Ethnic minorities, women, and unskilled workers make up the majority of workers in these jobs.

2.15 There are four regional minimum wage standards, designed to reflect the cost of living in each area. Region I (including Hanoi and HCMC) has the highest minimum wage, while region IV (for rural areas) has the lowest. The 2018 wage levels were 6.5 per cent higher than in 2017, which increased the minimum monthly wage for region I to VND 3.98 million (approximately AUD 241) and region IV to VND 2.76 million (approximately AUD 167). Registration with the Vietnamese Social Insurance Agency is mandatory for formal workers in the private sector, and informal workers can make voluntary contributions. Social insurance coverage is low nationwide (around 23 per cent in 2015), and only a very small percentage of the workforce are likely to receive a retirement pension.

2.16 Workers are able to join unions at the local, provincial or national levels; however, the government requires every union to be under the purview of the Vietnam General Confederation of Labor, a CPV-run organisation.

Corruption

2.17 Vietnam ranked 116th (equal with Indonesia) out of 189 countries in the 2018 United Nations Development Programme's Human Development Index. Transparency International's 2018 Corruption Perceptions Index ranked Vietnam 117th out of 180 countries, higher than its neighbours Cambodia (at 161st) and Laos (at 132nd). Vietnam has a comprehensive anti-corruption legal framework, including through the *Law on Anti-Corruption* (2005) and several provisions under the Penal Code. Several government agencies have authority to investigate and prosecute corruption offences, but enforcement remains problematic and indictments of high-level corruption are often perceived to be politically motivated. Corruption is perceived to be widespread in the ranks of the Vietnamese police, public service sector and land administration affecting construction and development.

2.18 A number of high-profile corruption trials have been held since 2017, including those of several high-ranking officials involved in state-owned enterprises. Some economic crimes in the Penal Code, including embezzlement and taking bribes (Articles 353 and 354), can result in the Death Penalty being applied. There are provisions allowing for commutation to a life sentence when a percentage of the damages is paid back to the state. A recent case in 2017 saw the General Director and the Sales Manager of state-owned shipping company Vinashinlines sentenced to death for embezzlement.

2.19 The current administration has given particular focus to countering corruption, including through initiating more investigations into the conduct of high-profile officials, restructuring government ministries, and reviewing governance and oversight mechanisms for state-owned enterprises. The anti-corruption campaign has resulted in the removal of several high-level office holders. While some citizens have welcomed the government's current anti-corruption campaign as a necessary reform, government critics generally consider it to be a political strategy, noting it has mostly targeted those close to former Prime Minister Nguyen Tan Dung. Some commentators have noted that, despite the government's focus on corruption by senior officials, day-to-day corruption faced by Vietnamese people in accessing public services is still common.

Health

2.20 According to the World Health Organization, the life expectancy in Vietnam was 72 years for males and 81 years for females in 2016. The population is rapidly ageing, although 70 per cent of the population is under 35 years of age. Health outcomes have generally improved in recent decades in line with Vietnam's considerable economic growth. The transition from a centrally controlled to a market economy, however, led to a reduction in state expenditure on healthcare and the introduction of user fees for both public health facilities and private practice. This has resulted in growing disparities in health outcomes between higher and lower socioeconomic groups, urban and rural areas, and the majority Kinh people and ethnic minority groups. For example, the maternal mortality rate in 2016 was 58 deaths per 100,000 live births (compared to 233 deaths per 100,000 live births in the 1990s), yet the UN Population Fund (UNFPA) reports that rates are higher in rural areas and among ethnic minorities. Similarly, the UN Children's Fund (UNICEF) has reported that the infant mortality rate (17 deaths per 1,000 live births in 2017) is higher in poorer central and northern regions of the country.

2.21 A social health insurance scheme was introduced in Vietnam in 1992, which has contributed to improved health indicators through increased access to healthcare services for beneficiaries, particularly the poor and vulnerable. Participation in the scheme is compulsory for some groups (such as formal sector workers, who are fully subsidised by the social security agency and/or the government) and voluntary for others (such as informal workers, who are required to make full or partial premium payments). In 2013, close to 70 per cent of the total population was covered by social health insurance. Of these participants, most came from compulsory groups, while just over 21 per cent of participants were from voluntary groups. Enrolment has remained low among persons whose participation is voluntary. As a result, households face financial risks of high out-of-pocket payments for health care.

2.22 Social health insurance participants have a health insurance card that must be renewed annually for continued coverage. Participants can register with public or private health facilities from options provided by the government. Since 2010, participants have been required to make a co-payment of up to 20 per cent of health expenses (this does not apply to pensioners, the poor, ethnic minorities and children under six years of age, who are fully subsidised by the government). If participants choose to be treated in other facilities, a higher co-payment (at least 40 per cent) is required, except in emergency cases. Any costly, technologically advanced treatment has a ceiling on the maximum benefit for the treatment of each episode; the ceiling defined as the total minimum salary over 40 months.

2.23 Health centres in communes (the smallest official administrative unit in Vietnam) and hamlet health workers are typically the first point of contact in communes and remote areas for people with health concerns. According to the Ministry of Health, virtually all communes (99 per cent) have health centres. Government facilities are supported by non-government organisations (NGOs), social organisations and other community partners. These have primarily focused on supporting the most vulnerable groups, including through innovative service delivery to access remote ethnic minority communities.

2.24 A 2015 government report found that mental health issues were estimated to affect around 10 per cent of the population (approximately 9 million people), of which 200,000 people were classified as severely mentally ill. A draft National Strategy on Mental Health (2018-2025), with a view to 2030, prioritised the provision of healthcare to poor regions, those in difficult situations, and ethnic minorities and other vulnerable groups. A 2018 joint UNICEF, the Ministry of Labour – Invalids and Social Affairs (MOLISA), and ODI study of Mental Health and Psychosocial Wellbeing among Children and Young People in selected provinces and cities in Vietnam reinforced that mental health and psychosocial problems were widespread and increasing in Vietnam, and, despite some progress, the service environment and response remained largely inadequate. The lack of mental health services was particularly acute in remote provinces and services often focused on severe mental health disorders. The report recommended the Government approve and implement the National Strategy, supported by budgetary allocations and collaboration among different sectors. It remains unclear, however, whether the strategy has been approved by the Government of Vietnam.

2.25 Currently, mental health and psychosocial services are provided through social welfare and social protection centres, mental health hospitals and psychosocial units in schools. The Ministry of Health is responsible for health centre and hospital services to diagnose and provide treatment for serious and persistent mental illness stemming from neurological conditions and developmental disabilities. MOLISA provides social support policies for social protection beneficiaries and services for serious cases. The Ministry of Education and Training provides psychosocial counselling units in schools and life-skills training.

2.26 NGOs are increasingly providing mental health and psychosocial related services, and familial and community-based support is also common. In 2011, the government introduced a program for social support and community-based rehabilitation for people with mental illness for the period 2011 to 2020 (known as Decision 1215). This program focuses on the family and community provision of spiritual and material

support, and rehabilitation. Herbal medicine and shamanism are also used to treat mental illness in some areas. Due to remoteness from mental health service providers, lack of awareness, and adherence to ethnically based community practices, those suffering from mental health issues will often take herbal remedies and perform certain rituals before seeking formal treatment. The 2018 MOLISA study also found that, while explicit stigma toward mental health patients was declining, many people were still reluctant to access mental health services due to perceived stigma.

2.27 Illegal drug use is a significant social problem, and is reportedly increasing. According to the United Nations Office on Drugs and Crime (UNODC), there were 222,582 registered drug users (96 per cent male) in 2017, marking an increase of 11,181 users compared to 2016. While heroin is still the most widely used drug, the use of amphetamine-type stimulants (ATS) such as methamphetamines and ecstasy is reportedly increasing. The actual number of users is likely much higher, given data is limited and many users are unwilling to enter government treatment programs due to the threat of police harassment or detention in compulsory treatment centres.

2.28 Compulsory treatment centres for people who use drugs, known as 'O6 centres', have operated in Vietnam since the late 1980s. Drug users in O6 centres are forced to cease using drugs, while voluntary patients are able to access treatment. According to unofficial data, 30,000 drug users were sent to O6 centres from January to April of 2018.

2.29 In-country sources in Vietnam report that drug users typically spend 12 months in O6 centres, though some remain for up to four years for post-treatment management. Limited information is available about the living and working conditions in O6 centres, as no external monitoring is permitted by authorities. In-country sources report, however, that conditions in O6 centres are worse than those in prison. Evidence indicates that compulsory detention of drug users in Vietnam is frequently ineffective, forced labour is used as a form of 'treatment', post-release services are limited, and the stigma of being a O6 centre inmate often impedes reintegration into communities in terms of employment and accessing healthcare. In addition to the O6 centres, treatment is also provided through community or home-based programs, including methadone clinics for heroin users in some districts and communes, which require co-payment by the user.

2.30 The 2013 'Decision on Drug Rehabilitation Renovation Plan for 2013-2020' focused on: diversifying drug dependence treatment models; increasing community-based and voluntary treatment centres; and reducing the number of people in compulsory rehabilitation O6 centres. UNODC reported that, as of 2018, there were six remaining compulsory treatment O6 centres in Vietnam; 75 mixed facilities with compulsory and voluntary treatment; 18 facilities offering methadone and voluntary treatment; two shelters and treatment facilities for homeless drug users; and 18 social centres for non-drug purposes.

2.31 Intravenous drug use is the primary source of HIV/AIDS transmission in Vietnam. HIV prevalence is reportedly higher in the northern and south-eastern regions, Hanoi and HCMC. It is concentrated among key populations, including people who inject drugs, gay men and other men who have sex with men, and female sex workers. The level of HIV may be underreported, however, as many people with HIV are unwilling to seek treatment due to stigma and discrimination, both within the community and the medical profession.

2.32 The government introduced a change in 2018 to include antiretroviral therapy under the national health insurance scheme. Previously, HIV patients had been able to access it free under a national program funded by international donors.

Education

2.33 Education in Vietnam is compulsory from ages five to 14. The national education policy provides universal access to education and ensures minimal conditions are met in every primary school. Vietnam has

high primary school completion rates, strong gender parity, low student-to-teacher ratios, and low out-of-school rates. Since 2008, the government has spent around 20 per cent of its national budget on education.

2.34 Access and quality remain concerns for lower secondary education (grades 6-9). According to UNICEF, only 60 per cent of students in lower secondary school transition to upper secondary level nationwide. Education quality is particularly limited in remote areas. While school tuition is free, families are required to pay for textbooks, uniforms and school maintenance services, which can limit school enrolment from disadvantaged groups.

2.35 Access to facilities is also a major problem for ethnic minority children, who typically live in remote areas. The government operates around 300 boarding schools in 50 provinces for ethnic minority children, primarily in the Northwest and Central Highlands and the Mekong Delta. The government has also developed local-language curricula with local officials in a number of ethnic minority areas. This has reportedly proven more effective in the Central Highlands and the Mekong Delta than in the Northwest Highlands. The government also subsidises several technical and vocational schools for ethnic minorities. While ethnic minority students are exempt from paying school fees under a government subsidy program, their attendance can be limited by government and family budgets for education. Some, particularly in rural areas, may also be restricted from attending school due to the need to assist their families in agriculture.

2.36 Around half a million children reportedly have a disability of some kind. These children also face challenges in accessing education, primarily due to a lack of specialised school facilities and training for teachers. Many children with disabilities either remain out of the education system, or fail to complete primary or secondary school.

POLITICAL SYSTEM

2.37 Vietnam is one of the world's few remaining one-party communist states. Under Article 4 of the Constitution, the CPV remains the country's only legal political party. The CPV, through official and unofficial channels, controls all major government decisions (including defence and security matters), and CPV members hold all senior government and military positions.

2.38 The National Congress is the CPV's largest national decision-making body. It comprises around 1,500 delegates and assembles every five years. The 12th CPV Congress was held in January 2016, with the 13th Congress scheduled to meet in 2021. The Congress elects the CPV's Central Committee, the highest decision-making authority outside the CPV National Congress. The Central Committee currently comprises 180 full and 20 alternate (non-voting) members, and meets twice a year. The Central Committee elects the Politburo, Vietnam's most powerful political body and the CPV's decision-making body between Central Committee meetings. The Politburo currently comprises 16 members.

2.39 The four key pillars of power in the Vietnamese system are the General Secretary of the CPV (currently the most powerful position); President (Head of State) concurrently held by the General Secretary since October 2018 following the death of the then-President, the previous month; Prime Minister (Head of Government); and, President of the National Assembly (the national Legislature). The General Secretary, Prime Minister and President of the Assembly are all members of the Politburo. In 2019, the General Secretary reportedly suffered a serious illness and as a result has relied on the Vice President and Head of the Secretariat to support him in fulfilling his leadership roles.

2.40 The 14th National Assembly elections were held in May 2016. An extensive vetting process took place for all candidates, which was led by a CPV-sponsored organisation, the Vietnamese Fatherland Front (VFF). The VFF approved 870 candidates to run; of whom 97 were non-Party members and 11 were self-nominees (162 self-nominees sought approval, an increase on previous elections). Of the 496 elected deputies, 475 are

Party members, 21 are non-Party members including only two self-nominated candidates. Subsequent to the 2016 elections, due to illness, death, prosecution and other reasons, the current number of deputies has reduced to 483.

2.41 State-run media reported that 99.35 per cent of the eligible population cast ballots. While the CPV concluded the process was successfully conducted, observers criticised the vetting process for candidates and the tight security and propaganda that prevailed throughout the process. Some critics did not consider the two self-nominated candidates elected to be genuinely independent.

HUMAN RIGHTS FRAMEWORK

2.42 Vietnam has ratified or acceded to the following UN treaties: the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW); the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD); the *International Covenant on Civil and Political Rights* (CCPR); the *International Covenant on Economic, Social and Cultural Rights* (CESCR); the *Convention on the Rights of the Child* (CRC); the *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (CRC-OP-AC); the *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (CRC-OP-SC); the *Convention on the Rights of Persons with Disabilities* (CRPD); and the *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* (CAT). Vietnam has not, however, signed the *Optional Protocol of the Convention against Torture* (CAT-OP), the *Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty* (CCPR-OP2-DP), the *Convention for the Protection of All Persons from Enforced Disappearance* (CED), or the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (CMW).

2.43 Chapter 2 of the Constitution defines human rights and the fundamental rights and obligations of citizens. Article 50 states: '...human rights in all respects, political, civic, economic, cultural and social are respected, find their expression in the rights of citizens and are provided for by the Constitution and the law.' The application of human rights standards has been limited by domestic legislation, which generally defines human rights as needing to comply with 'the policies and interests of the State.' For example, the Constitution supports the right to freedom of expression, assembly, and association, but only 'in accordance with the provisions of the law.'

2.44 In 2016, Vietnam concluded its three-year term on the UN Human Rights Council (HRC). In January 2019, Vietnam underwent its third Universal Periodic Review (UPR), the process by which the HRC reviews the human rights records of all 193 UN Member States every four years. In June 2019, Vietnam announced that it would accept 220 of the 291 recommendations made by member states; that it would partially accept 21; and that it would not accept 50. As per previous UPRs, Vietnam did not accept recommendations concerned with the abolition of the death penalty (or a moratorium on its use); arbitrary detention and the prosecution of political activists; and transparency.

2.45 The Ministry of Foreign Affairs published a report in February 2018, entitled 'Protection and Promotion of Human Rights in Vietnam', the first such report since 2005. The report was published in preparation for Vietnam to submit several reports under UN human rights mechanisms, including the UPR. It covered legislative and constitutional change in recent years, including an updated Constitution and several new laws relating to human rights effective from January 2018, including the *Law on Belief and Religion* (2016), the 2015 Penal Code (which came into force in January 2018), the Criminal Procedure Code and the *Law on Enforcement of Custody and Temporary Detention* (2015); and the *Law on Access to Information* (2016), effective from July 2018.

National Human Rights Institution (NHRI)

2.46 Vietnam does not have a national human rights institution (NHRI). Human rights issues are currently managed by an inter-agency steering committee chaired by the Ministry of Public Security (MPS). In March 2019, when questioned in the HRC during its third UPR, Vietnam indicated it would seriously consider the possibility of establishing a NHRI in order to fill the void in the existing institutional architecture. However, it did not provide any indicative timeline.

SECURITY SITUATION

2.47 The MPS is responsible for domestic security and controls the national police (see [Police](#)), a special national security investigative agency, and other domestic security units. Security and law enforcement personnel are highly visible throughout Vietnam, particularly during politically sensitive occasions or potential demonstrations (see [Political Activists](#)).

2.48 Organised crime groups exist, and engage in prostitution, extortion, gambling, illicit drug trade and human trafficking. As noted in [Health](#), illicit drug use is a growing problem and activities associated with the drug trade have contributed to an increase in the crime rate. While violence associated with the drug trade has largely been limited to rival gangs, local authorities in Hanoi have reported a rise in the level of violence associated with crimes (assaults, homicides and robberies) affecting the general population. Petty crime occurs regularly in larger cities and towns, and is reportedly increasing. The Economist Intelligence Unit's 2017 Safe Cities Index rated 60 cities (including Ho Chi Minh City) worldwide across 49 indicators, including digital security, health security, infrastructure security and personal security. Ho Chi Minh City ranked 56th overall, ahead of Jakarta, Dhaka, Yangon and Karachi, and 58th in terms of personal security, ahead of only Caracas and Karachi.

2.49 Illegal moneylending is widespread in Vietnam, largely due to the complicated nature of accessing bank loans. Interest rates are often extortionate. A 2018 UK Home Office report found that some borrowers unable to repay loans, or their families, had been trafficked or forced into labour or prostitution. Police investigations into illegal moneylenders have reportedly increased, including through the establishment of dedicated police units in some provinces. As the high interest rates are typically not written on loan papers police face difficulties in convicting illegal moneylenders.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Article 5 of the Constitution enshrines Vietnam's commitment to the equality, solidarity and support of ethnic minorities; the rights of minorities to use their own language and script; and the rights of minorities to preserve their identities, traditions and cultures. It also commits the government to gradually improving the 'material and spiritual conditions' of ethnic groups in Vietnam. There is no single, comprehensive anti-discrimination law in Vietnam, although anti-discrimination clauses exist in a number of national laws.

3.2 Of the 54 recognised ethnic groups in Vietnam, 53 are minority ethnic groups that collectively comprise 13.4 million people (14.6 per cent of the national population). These groups constitute a larger percentage of the population in the Northwest and Central Highlands, and areas of the Mekong Delta. All ethnic minorities have Vietnamese citizenship. Many minority communities in remote locations do not speak Vietnamese and have little interaction with the majority Kinh people. The younger generation of ethnic minorities do increasingly speak Vietnamese through their education in the public school system.

3.3 The Committee for Ethnic Minority Affairs is a ministry-level agency that manages ethnic minority affairs nationwide. In October 2017, the CPV disbanded several regional steering committees through which it had implemented policies in regions with significant ethnic minority populations, including in the Northwest, Central Highlands, and the Southwest regions. The move was reportedly done to streamline the political system in those locations.

3.4 Ethnic minorities account for 72 per cent of Vietnam's poor. As the economy has grown, the socioeconomic gap between the Kinh and ethnic minority groups has widened. The World Bank reported in April 2018, however, that poverty levels among ethnic minorities had fallen by 13 percentage points between 2014 and 2016, representing the largest decrease in poverty among ethnic minorities in the last decade. Vietnam has identified promoting development for ethnic minority groups in its 'Socio-Economic Development Plan 2016-2020'. To address this gap, the government continues through its programs to subsidise education and health facilities, expand road access and electrification to rural communities and villages, and allocate land to ethnic minorities in the Central Highlands. While land appropriation is an issue that also affects the Kinh majority, indigenous communities are disproportionately affected, as the government does not recognise their ancestral lands. A number of ethnic minority groups continue to be displaced, including as a result of development projects.

3.5 There is considerable overlap between ethnic, religious, and political issues affecting minority communities, particularly in rural areas. In-country sources report that ethnic minorities at provincial and village levels tend to experience greater official harassment due to their religion, compared to other Vietnamese exercising their freedom of religion (see [Religion](#)). DFAT assesses that, in cases where minorities experience discrimination, it is likely to be the result of numerous contributing factors rather than a single causative one. This section should therefore be read in conjunction with other relevant sections.

Degar/Montagnards

3.6 The Degar, more commonly known as ‘Montagnards’, are a group of more than 30 indigenous communities of the Central Highlands with distinct cultures and languages. The Montagnard population is estimated to be between one and two million. Although Vietnam has ratified the Declaration on the Rights of Indigenous Peoples, the government does not recognise the Montagnards as an indigenous group, denying them the protection otherwise offered by Vietnamese law. The Kinh majority have typically viewed Montagnards (and other ethnic minorities) as backward and uneducated. In practice, most Kinh have limited interaction with Montagnards due to the remoteness of Montagnard communities.

3.7 The Montagnards have historically been considered a sensitive group by the government, largely because many Montagnards fought alongside American and South Vietnamese troops in the Central Highlands (a strategically important region) in the Vietnam War. The Montagnards have also engaged in periodic political activism against the government, notably in 2001 and 2004 when Montagnard groups participated in large-scale demonstrations against the confiscation of their ancestral lands and religious persecution by the government. Montagnard recognition of land rights is done orally among families and communities, meaning that in many cases there is no formal land title. Local Montagnard rights organisations claim that the government has used this as an opportunity to seize Montagnard land for economic development. Authorities reportedly prevent human rights monitors from having unhindered access to the Central Highlands.

3.8 Although Montagnards traditionally follow animistic beliefs, the introduction of Christianity into Montagnard areas by French missionaries in the 1850s took deep roots, and many Montagnards follow Catholicism or Protestantism (see [Catholics](#) and [Protestants](#)). Smaller numbers belong to the Evangelical Church of Christ. Many Montagnards distrust the government-authorised Protestant church in the Central Highlands, the Southern Evangelical Church of Vietnam, and choose instead to worship in independent village or house churches. The government has reportedly accused Montagnards who worship in these independent churches of using religion as a front for political activities. Of particular concern to authorities is ‘Degar Protestantism’, a movement that combines aspirations for independence with evangelical Christianity. Provincial authorities have reportedly routinely dispersed religious gatherings and directed officials to organise public renunciations of Degar Christianity and other unauthorised Christian beliefs among ethnic minority communities. The official government media has also published articles discouraging citizens from affiliating with Degar Protestantism.

3.9 Human rights observers have reported numerous cases in which authorities have targeted Montagnards in relation to religious activities perceived to be political. At least five Montagnards in Gia Lai Province were convicted in 2017 for participating in religious groups not approved by the government, receiving sentences of up to 10 years imprisonment. In March 2018, 25 Montagnards in Gia Lai Province were arrested for reportedly proselytising Degar Protestantism, while throughout 2018 local authorities were reported to have interrupted house worship sessions in several Montagnard communities in Bac Giang Province.

3.10 Human rights groups have consistently reported that Montagnards face surveillance, intimidation, public criticism, arbitrary arrest and detention, and mistreatment in security force custody. Prominent political activists, or those with connections to groups perceived by the government to have separatist aims, such as Degar Protestantism, have been particularly targeted for arrest and imprisonment. According to Human Rights Watch, hundreds of Montagnards have fled to Cambodia and Thailand in recent years because of government harassment. Vietnamese authorities have claimed, however, that these individuals were illegal migrants who left Vietnam in pursuit of economic opportunities.

3.11 DFAT assesses that Montagnards face a moderate risk of official discrimination and harassment due to their historical allegiances to foreign groups, actual or perceived political activism, and religious practices perceived to be political. This risk is higher for prominent political activists, including leaders of unauthorised religious communities and adherents of Degar Protestantism. DFAT further assesses that the Montagnards face a moderate risk of societal discrimination on the basis of their ethnic identity, as their lack of recognition as an indigenous group denies them the protection available to other minorities.

Hmong

3.12 The Hmong are an ethnic group of Vietnam, China, Laos and Thailand who speak mutually intelligible languages. The government's Committee for Ethnic Minority Affairs classifies the Hmong into six subgroups: the White Hmong, Flowery Hmong (Hmong Leng), Red Hmong, Green Hmong, Black Hmong and Na Mieu (though the Na Mieu do not consider themselves Hmong). The estimated one million Hmong in Vietnam have a presence in almost all provinces, but are particularly concentrated in the Northern Highlands region. The Hmong are reported to have the highest poverty levels and lowest education levels of all ethnic groups in Vietnam, due in part to their geographic isolation.

3.13 Like the Montagnards, the Hmong have historical links to the US through the Vietnam War era, when some Hmong were reportedly recruited by the Central Intelligence Agency. Hmong groups have also participated in political protests, most notably a large-scale demonstration in north-western Dien Bien Province in 2011 that saw thousands of Hmong demand greater religious freedom, land rights and autonomy. DFAT is not aware of any reports of significant reprisals from authorities in relation to this demonstration.

3.14 Around 300,000 Hmong in Vietnam are Protestant (see also [Protestants](#)). Hmong religious conversions reportedly began around the 1980s, inspired by a Hmong-language evangelistic radio program broadcast from the Philippines. International observers reported in 2018 that local officials in several provinces in the Central Highlands had denied household registration to 700 Hmong Christians who had recently migrated there from elsewhere in the country. As a result, local education officials did not allow the group's children to attend school. It is unclear whether authorities denied the group registration on the basis of their ethnicity, religion, or for any other reason.

3.15 DFAT assesses that the Hmong face a low risk of official or societal discrimination on the basis of their ethnicity.

RELIGION

3.16 Officially, Vietnam is an atheist state. Article 24 of the Constitution states, however, that all people have the right to freedom of belief and religion, including the right to follow any religion or to follow no religion; that all religions are equal before the law; and that no one has the right to infringe on the freedom of belief and religion or to take advantage of belief and religion to violate the law. These constitutional rights are conditional on law and The Penal Code (2015) establishes penalties for practices that, in the view of authorities, undermine peace, national independence and unity.

3.17 According to the 2019 Annual Report of the United States Commission on International Religious Freedom (USCIRF), government-recognised religions/faiths in Vietnam numbered 43 religious organisations from 16 religious traditions, representing more than 25 million followers in total. These traditions included: Buddhism, Hoa Hao Buddhism (see [Buddhists](#)), Catholicism (see [Catholics](#)), Cao Dai (see [Cao Daists](#)), Protestantism (see [Protestants](#)), Islam, the Baha'i faith, Mormonism (Church of Jesus Christ of Latter-Day

Saints), Khmer Brahmanism, Hieu Nghia Ta Lon Buddhism, Vietnam Adventist Church; as well as Buu Son Ky Huong, Tinh Do Cu Si Phat Hoi, Tu An Hieu Nghia, Phat Duong Nam Tong Minh Su Dao, and Minh Ly Dao Tam Tong Mieu (the last five are all domestic practices); and officially atheist. Three additional groups – the Assemblies of God, Ta Lon Dutiful and Loyal Buddhism, and Vietnam Full Gospel Church – are ‘licensed for religious operation’ but are not recognised as official organisations. Differing slightly, the Vietnam Government’s National Report to the 2019 HRC UPR process noted its recognition of the legal status of 42 religious organisations affiliated with 15 religions. These statistical differences may be attributed to the Government recognising in addition one dharma practice (a set of spiritual practices); the Vietnam Adventist Church being included within the Protestant tradition; and the time-lag between applying for registration and licencing. As noted in 2.7, other religious groups present in Vietnam include small communities of Hindus, Falun Gong followers, Muslims, Jehovah’s Witnesses and a mostly foreign Jewish population.

3.18 Some Buddhist, Protestant, Hoa Hao, and Cao Dai communities choose not to participate in officially recognised religious organisations and instead belong to independent organisations that also claim to represent the religion. There is a considerable difference in the treatment by authorities of official and independent religious groups. For the most part, religious followers belonging to officially recognised religious organisations are able to practise their faith without significant interference, regardless of which particular religion they may follow. Those associated with independent organisations, however, are less likely to be able to do so (as outlined in this section). There is also a difference in treatment according to location: whereas religious followers in urban, economically developed areas are generally able to exercise their religion or belief freely, religious communities in rural parts of some provinces are more likely to face restrictions and/or harassment. This is particularly the case for religious followers in ethnic minority areas, where ethnic, political, and religious issues frequently overlap (see also [Race/Nationality](#)).

3.19 USCIRF has classified Vietnam as a ‘country of particular concern (CPC)’ since 2002, which defines it as ‘a country that commits systematic, ongoing, and egregious violations of religious freedom’. Human rights observers reported an overall decline in the situation for religious groups in 2017 and 2018, particularly for followers of independent religious groups. Religious leaders representing independent groups have reportedly faced various forms of official harassment, including physical assaults, arrests, prosecutions, monitoring, travel restrictions, property seizure or destruction, and denials of registration and/or other permissions. Followers of independent religious groups have reportedly been subjected to public criticism, forced renunciation of faith, detention, interrogation, torture, and imprisonment. International observers also reported an increase in acts of violence against religious groups (including registered groups) in 2017 and 2018 by police and plainclothes individuals, including some working closely with or representing authorities.

3.20 A new *Law on Belief and Religion* (2018) came into effect in January 2018, superseding a number of existing regulations, decrees, policies and practices overseeing religion. The law nominally obliges the government to protect religious freedom, gives Vietnamese religious organisations the right to legal personhood, and has eased some operational bureaucracy for registered religious organisations, reducing considerably the waiting period for applications (from 23 years to five years). The new law also requires all religious groups to register with the Government Committee for Religious Affairs and to report on routine religious activities, including festivals and conferences. The implementing regulations, which came into force in June 2018, impose fines on organisations deemed to ‘abuse religion to infringe upon the interests of the state or engage in fabrication or slander’. Human rights organisations have raised concerns that these provisions are overly vague, and potentially enable authorities to arbitrarily punish religious groups.

3.21 Civil society organisations report that some official religious groups have found it more difficult to obtain government approval to conduct routine activities since the new Law on Belief and Religion came into effect. In January 2018, for example, authorities in Quynh Ngoc Province cited the new law to declare a Catholic Mass illegal because the priest had not registered the meeting, while authorities in Quang Binh

Province banned a Catholic priest from making home visits to conduct prayer services, which he had been doing since 2014. By criminalising activities not officially approved in advance, the new law has had a particularly deleterious impact on independent groups. On a number of occasions in 2018, authorities used the new law to justify prohibiting informal religious activity that the previous legal framework had tolerated (if not endorsed). Local authorities have also reportedly used the new law as justification for seizing religious sites and temples associated with independent religious groups.

3.22 DFAT understands that there have been instances in which national policies have not been efficiently communicated to and/or consistently implemented by local authorities, leading to negative treatment for religious groups. For example, multiple cases were reported in 2018 in which local authorities seized property from religious groups for economic development, without providing the groups adequate compensation. In some cases, central authorities intervened and mediated property disputes on behalf of religious groups.

3.23 Local authorities in the Central Highlands have reportedly refused to issue identity cards, household registration and birth certificates to approximately 2,000 Protestant Montagnard and Hmong households (around 10,000 individuals), leaving them effectively stateless. In-country sources advise that, in many cases, the local authorities' refusal to issue the documentation is in retaliation for individuals rejecting official requests to renounce their faith.

3.24 DFAT assesses that adherents of officially recognised religious groups are generally able to practise their faith with minimal interference from authorities, although they may still face discrimination from local and provincial authorities. Adherents associated with independent religious groups generally face more restrictions, which vary depending on region, ethnicity, and any perceived or actual involvement in religious freedom advocacy or political activism.

Buddhists

3.25 Buddhists are found throughout Vietnam and Buddhism is the single largest organised religion in the country. As noted in 2.7 above, according to Government statistics, of the 14.91 per cent professing Buddhism, Mahayana Buddhism is the dominant affiliation of the Kinh (Viet) ethnic majority, while approximately 1.2 per cent of the total population, almost all from the ethnic minority Khmer group, practises Theravada Buddhism. Hoa Hao is officially recognised as a separate Buddhist tradition, and its followers constitute 1.47 per cent of the population.

3.26 Like other religious groups, followers of Buddhism (including Hoa Hao Buddhism) are divided between those affiliated with government-sanctioned religious organisations and those with independent groups. DFAT understands that followers of official Buddhist groups are generally able to practise their religion freely without government intervention. Followers of independent Buddhist groups, however, including Khmer Krom, the Unified Buddhist Church of Vietnam (UBCV), and unrecognised branches of Hoa Hao, reportedly face ongoing surveillance, harassment, and occasional violence from authorities.

3.27 Independent Hoa Hao Buddhists reported multiple cases in 2017 and 2018 of harassment and physical assault by local authorities in An Giang Province, including interference with ceremonies and worship. For example, authorities reportedly established physical barriers and established temporary police stations to prevent independent Hoa Hao Buddhists from celebrating important holy days, including the founding day of Hoa Hao Buddhism.

3.28 Independent Buddhist communities have been significantly impacted by land appropriation and destruction of property: according to USCIRF, the UBCV has only 12 remaining temples nationwide. Khmer

Krom Buddhists have also reported concerns with the government's ongoing confiscation and demolition of structures and land used by followers in Tra Vinh Province.

3.29 Several prominent independent Hoa Hao activists faced legal sanction in 2017 and 2018 in relation to their political activities, including (but not limited to) the following:

- In July 2017, HCMC police reportedly abducted and arrested a prominent independent Hoa Hao Buddhist activist, Nguyen Bac Truyen, charging him with 'acting to overthrow the people's government', and denying him access to family and legal representation (see [Enforced or Involuntary Disappearances](#)). Nguyen, who ran an independent civil society organisation that provided legal advice to rights victims, was sentenced to 11 years imprisonment in April 2018
- In February 2018, local authorities in An Giang Province tried and convicted six independent Hoa Hao Buddhists for staging a protest against religious repression in 2017. The activists received sentences of between three and five years' imprisonment.

3.30 Human rights observers also reported that security forces and government employees prevented independent Buddhist monks and adherents from entering temples in Danang and HCMC during major religious festivals in 2018; and that plainclothes police and security agents surrounded a UBCV pagoda in Hue in July 2018 to prevent children from attending a Buddhist youth camp.

3.31 DFAT assesses that Buddhists who belong to registered organisations and are not politically active face a low risk of official harassment. Adherents of independent Buddhist traditions, including UBCV and Hoa Hao, face a moderate risk of official discrimination in the form of monitoring, harassment and interference in their right to worship freely, including through destruction of structures and property used by followers. Those engaging in political activism on the basis of their religious practices face a high risk of arrest and conviction.

Catholics

3.32 While Catholics reside in most districts, provinces and cities, the highest concentration is in central Vietnam (Nghe An, Ha Tinh and Quang Binh Provinces). In-country sources report that Catholics are generally able to practise freely at registered churches, particularly in areas with larger Catholic populations. Authorities do not, however, permit the Catholic Church in Vietnam to have official publications, radio stations or TV channels, which observers report is a means of limiting proselytisation.

3.33 Unlike other religions, there are no independent Catholic organisations claiming to represent Vietnamese Catholics. There has, however, been a rise in the number of independent 'house churches' in locations where Catholic parishes have faced difficulties in registering with provincial authorities, due in part to inconsistent enforcement of national laws. These parishes are generally in remote areas and/or areas with majority ethnic minority populations, with the most problematic regions reportedly in the Central Highlands (Gia Lai, Dak Lak, Dak Nong, Kon Tum, and Lam Dong Provinces), the Northwest Highlands, and Hoa Binh Province. Human rights observers report that these house churches face constant surveillance by authorities.

3.34 The Catholic Church has played a prominent role in organising and engaging political demonstrations on a number of issues, including in relation to historical land grievances. In the aftermath of the Formosa environmental disaster of 2016 (see [Recent History](#)), Catholic priests in Nghe An and Ha Tinh Provinces were active in organising demonstrations in response to pollution and high volumes of fish deaths, and assisted parishioners to file lawsuits against the government for financial compensation. Catholic priests were also among the most vocal critics of draft laws on cybersecurity and special economic zones in June 2018 (see [Political Activists](#)). For example, the Federation of Vietnamese Catholic Mass Media criticised the Cybersecurity Law's lack of privacy protections, and claimed it had reduced online traffic to Catholic websites

(see also [Media](#)). Authorities responded by arresting several Catholic activists, while others reportedly went into hiding or fled the country.

3.35 Throughout 2017 and 2018, state-run media and local authorities in northern Vietnam continued to denounce the role of Catholic leaders and parishioners in protesting the government's response to the Formosa disaster. As a result, human rights observers reported a notable increase in the harassment of Catholic priests and parishioners throughout Vietnam in 2017 and 2018 by both plainclothes individuals and members of the Red Flag Association, a highly organised pro-government militant group that has typically worked with or under the direction of local authorities. For example, a violent clash broke out in December 2017, between Catholic parishioners and plainclothes individuals regarding the construction of a new chapel in Vinh Diocese. State media reported that parishioners assaulted police, while social media reported plainclothes individuals assaulted parishioners under local authority directives. Human rights observers reported several other violent incidents involving Red Flag members throughout 2017 and 2018, including other attacks in Nghe An and Dong Nai Provinces. International observers reported that the Red Flag Association self-dissolved in 2018 and is no longer active.

3.36 The Catholic community has also been significantly affected by ongoing incidents of land appropriation and destruction of property in a number of locations, including Hue, HCMC, Da Nang, and Hanoi. In January 2019, for example, HCMC authorities reportedly demolished at least 112 residential properties on land claimed by the Catholic Church.

3.37 DFAT assesses that Catholics who belong to registered churches and are not politically active face a low risk of official harassment. Catholic adherents who are perceived to challenge the authority or interests of the CPV and its policies, particularly through political activism, face a moderate risk of harassment from authorities or their proxies, which may include arrest or violence. Catholics belonging to house churches are likely to come under surveillance by authorities.

Protestants

3.38 Like other religious groups, Protestants are divided between those affiliated with government-sanctioned religious organisations and those with independent groups. Two-thirds of Protestants are members of ethnic minorities, including groups in the Northwest Highlands and in the Central Highlands, including those known as the Montagnard (see [Degar/Montagnard](#)). As noted in [Race/Nationality](#), there is considerable overlap between ethnic, religious, and political issues affecting minority communities, particularly in rural areas. This section covers only those issues that are predominantly related to religious affairs.

3.39 Members of official Protestant churches are generally able to conduct religious activities without significant government interference. In a number of cases in 2017 and 2018, however, local authorities in the provinces of Quang Binh, Bac Giang, Bac Ninh, Ha Giang, and Hoa Binh reportedly prevented members of recognised Protestant groups from assembling, or from officially registering their organisations. International observers have also reported that local authorities, particularly in the Central Highlands provinces of Gia Lai and Kon Tum, have pressured newer and smaller congregations to affiliate with older, larger, more well established congregations. Church leaders have stated such requests are unreasonable, noting that many of the congregations are composed of a variety of ethnic minority groups with different languages and incongruent worship practices, while mountainous terrain and lack of infrastructure often prevent churches from sustaining the minimum number of followers necessary to qualify for local registration.

3.40 Some independent Protestant churches have reported harassment from local authorities to cease religious activities on the basis that they did not comply with registration requirements. For example, in March 2018, media reported a violent mob attack led by a village chief in the north-western highlands

against 24 Hmong Protestants, in a reported attempt to make the group renounce their Christian faith. In April 2018, police in Nghe An Province disrupted a Hmong worship group of the government-sponsored Evangelical Church of Vietnam, on the basis that it was not properly registered. In-country sources reported that, in June 2018, MPS sent an order to police in Tra Vinh Province in the Mekong Delta region to not allow independent Protestants to worship or practise baptism.

3.41 There have been several cases in which Protestant leaders who have engaged in political activism have faced legal sanction. In April 2018, a Hanoi court sentenced a religious freedom and human rights activist (and Protestant Pastor), Nguyen Trung Ton, to 12 years' imprisonment for 'carrying out activities aimed at overthrowing the people's administration'. Ton had been associated with the outlawed Brotherhood for Democracy (see [Political Opinion \(Actual or imputed\)](#)), and was tried alongside several other prominent human rights activists. Prior to his arrest in July 2017, Ton had reportedly been kidnapped by unknown assailants and severely beaten. In a separate case in October 2017, the pastor of an unregistered Protestant group was reportedly prevented from departing Vietnam on national security grounds.

3.42 DFAT assesses that members of registered Protestant churches face a low risk of official discrimination or harassment in relation to their faith. Adherents of independent Protestant churches face a moderate risk of harassment from authorities, which is likely to include surveillance. Protestant adherents who are perceived to challenge the authority or interests of the CPV and its policies, particularly through political activism, face a moderate risk of harassment from authorities or their proxies, which may include arrest or violence.

Cao Daists

3.43 Cao Dai is an indigenous religion, incorporating components of Buddhism, Christianity, Confucianism, Hinduism, Islam and Taoism. The majority of Cao Daists reportedly reside in the Mekong Delta region.

3.44 Members of officially recognised Cao Dai congregations are generally able to worship and celebrate religious festivals without interference. In recent years, independent branches of Cao Dai have reported several incidents of surveillance, harassment, land and property appropriation, and violence from both local authorities and the officially recognised Cao Dai Tay Ninh Sect (or 1997 Sect), including:

- in March 2017, local authorities reportedly monitored and occupied independent Cao Dai temples in Long An Province
- in March 2017, village, district and provincial authorities reportedly seized a temple from independent Cao Daists in Dong Thap Province for use by a registered Cao Dai group, and attempted to coerce the independent Cao Daists to join the registered group
- in July 2017, independent Cao Daists in Binh Dinh Province were verbally harassed by local authorities while preparing for customary rites
- in January 2018, several independent Cao Daists in Tay Ninh Province were prevented from burying a deceased relative by members of the 1997 sect and local officials, who insisted that the ceremony use clergy from the 1997 Sect
- in April and June 2018, the 1997 Sect in Tay Ninh Province was reported to have demolished at least 15 graves belonging to independent Cao Daists whose families refused to join the 1997 Sect; and
- in June 2018, a prominent Cao Dai religious leader and human rights activist was physically assaulted in his house in Lam Dong Province by plainclothes individuals.

3.45 DFAT assesses that members of independent Cao Dai organisations face a moderate risk of harassment, and possible violence, from authorities or their proxies, including members of the officially recognised Cao Dai Tay Ninh Sect.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.46 As noted in [Political System](#), Article 4 of the Constitution establishes the CPV as the only legal political party in the country. The CPV tightly controls political discourse, and there are very few formal avenues for political participation for non-members. The structure of Vietnamese society strongly favours those with CPV ties. After the Vietnam War, trusted CPV members and their families were awarded with prime positions, while Vietnamese previously allied to the US were punished and their children denied opportunities. The importance of CPV membership and loyalty for social and professional advancement endures in current Vietnam. For example, the CPV continues to prohibit membership if one's parents (or those of a spouse) worked in the Saigon government or 'armed forces of the enemy.' Around three-quarters of the current government's cabinet is from northern Vietnam, with the remainder from the southern and central provinces. The increasingly important private sector, however, is creating alternative pathways to social and professional advancement for non-party members.

3.47 Opposition political parties are typically based outside of Vietnam to avoid harassment, arrest and detention. The Vietnam Reform Revolutionary Party (known as Viet Tan) is a US-based opposition group (also with an active branch in Australia) which advocates for democracy in Vietnam. It is considered a terrorist organisation by the Vietnam government. Members of other foreign-based opposition groups, such as the Brotherhood for Democracy, have also been accused of carrying out activities aimed at overthrowing the government. The Brotherhood for Democracy is reported to have funding links to Viet Tan (see [Political Activists](#)).

3.48 Vietnam has made some steps towards greater openness and transparency, and authorities have tolerated criticism of government in some instances. There are limits to dissent, however, and no signs that the CPV is willing to loosen its monopoly on power. Individuals can incur long prison terms for breaching broad national security provisions. A range of high-profile arrests and trials over the recent years have attracted international criticism of Vietnam's one-party political system and its management of freedom of expression of political views and human rights (see [Political Activists](#) and [Media](#)).

Political Activists

3.49 The Constitution enshrines rights with regard to freedom of speech, assembly, association and demonstration. These rights are restricted, however, by a number of 'national security' provisions within the Penal Code, namely: Article 109 ('overthrowing the State'); Article 117 ('conducting propaganda against the State'); and Article 331 ('abusing rights to democracy and freedom to infringe upon the interests of the State'). These provisions take precedence over constitutionally enshrined rights in practice, and are commonly applied to activists. The penalties mandated by the provisions remain unchanged, ranging from prison sentences of between six months and 20 years, to life imprisonment or capital punishment (see [Death Penalty](#)). Official approval is required for all public gatherings, and authorities routinely deny permission for meetings or marches considered politically sensitive. Police and other security authorities routinely use excessive force to disperse unauthorised demonstrations (see [Police](#)).

3.50 Despite legal restrictions and often-severe responses from authorities, citizens do continue to protest, generally in relation to single issue, livelihood-related issues, or occasionally in relation to anti-Chinese sentiment. Hundreds of residents from the central provinces protested regularly in the months following the 2016 Formosa disaster (see [Recent History](#)), with some protesters reportedly beaten and arrested by police. Police also reportedly stopped some protesters from marching from central Nghe An Province to Ha Tin Province to submit their compensation claims. Activists and their families in Nghe An Province reported an increased incidence of harassment and assault by local authorities in relation to the Formosa disaster protests.

3.51 Large-scale protests occurred on an unprecedented scale in June 2018 in a series of demonstrations in major cities. Thousands reportedly demonstrated in HCMC, Hanoi, Nha Trang, Binh Thuan Province, and other areas against a proposed special economic zone, with some also protesting against a new restrictive cyber security law (see [Media](#)). Police in HCMC reportedly beat and detained around 180 people at a stadium, including individuals who were not activists, while civil society organisations reported that plainclothes police officers also beat protesters. By November 2018, at least 127 people were reported to have been arrested and convicted for their participation in the protests. Many protesters subsequently released by police claim to have been mistreated, harassed, assaulted, and detained in relation to the protests in HCMC.

3.52 Low-level protests also occur periodically over land use and compulsory official land acquisition, occasionally involving violence. Under both the Constitution and the *Land Law* (2013), all land in Vietnam is formally owned by the State, which issues land use rights to individuals or organisations but retains the right to acquire it compulsorily at any time. The *Housing Law and Real Estate Business Law* (2014) stipulates that land can only be acquired by government if considered necessary for socioeconomic development that is in the public or national interest. The definition of 'socioeconomic development' is ambiguous, however, leading to numerous disputes over land use rights. In one such incident in April 2017, villagers in the Dong Tam commune on the outskirts of Hanoi reportedly detained 38 police officers for one week during a land dispute. The standoff ended after the Hanoi mayor committed to not filing criminal charges against protesters, and to investigating land management in Dong Tam and allegations of police injuring the village leader during the protests.

3.53 Since late 2017, there has been a significant rise in instances in which authorities have arrested and charged high-profile activists under the national security provisions. Many of those arrested have received lengthy sentences after highly publicised trials. Some notable cases include:

- In February 2018, a prominent advocate for workers' rights was sentenced to 14 years' imprisonment in Nghe An Province for 'resisting persons in the performance of their official duties' (Article 330 of the Penal Code) and for crimes committed under Article 331. The activist sentenced had written about the impact of the Formosa disaster, highlighting the effects on local fishermen and assisting them in seeking justice and compensation;
- In April 2018, an anti-corruption and land rights activist in Thai Binh Province was sentenced to thirteen years' imprisonment, to be followed by five years' probation, after being convicted of crimes committed under Article 79 after a trial that lasted only hours. The activist, a member of the Brotherhood for Democracy (see [Political Opinion \(Actual or imputed\)](#)), had published articles denouncing the authorities for corruption and abuses of human rights;
- In August 2018, a human rights and environmental activist from Central Vietnam was convicted of crimes under Article 79 and sentenced to 20 years in prison and 5 years' house arrest, the longest sentence recorded in years for national security crimes. The activist had joined campaigns in support of prisoners of conscience, had used social media to share information about human rights violations, and had campaigned for compensating fishermen affected by the Formosa disaster. During his trial, state media highlighted his affiliation with the Viet Tan organisation (see [Political Opinion \(Actual or imputed\)](#)). The sentence handed down was three years longer than that requested by the prosecutor, with the court adding more time to the sentence because the activist remained silent during his trial and did not admit any crimes.
- In November 2019, a 70-year-old Vietnamese-Australian dual citizen and two co-accused were sentenced to twelve years' imprisonment after being convicted of 'engaging in terrorist activities to oppose the government' (Article 113.2 of the Penal Code). Authorities had arrested the man, a Viet Tan member, in Ho Chi Minh City in January 2019 while he was meeting a Brotherhood of Democracy activist.

- In November 2019, a prominent activist was taken into custody upon their arrival at Hanoi International Airport, and was released after eight hours of questioning. The activist had left Vietnam in May 2016 to work for a Vietnamese civil society organisation, which campaigns for human rights in Vietnam from abroad.

3.54 In a number of cases, authorities have released activists from prison and forcibly deported them from Vietnam. In May 2017, for example, authorities revoked the citizenship of a Viet Tan member and forcibly deported him to France. In June 2018, a Brotherhood for Democracy leader and his assistant were released from prison in Vietnam and deported to Germany, after having been sentenced in April 2018 to 15 and 9 years' imprisonment respectively. Conversely, human rights observers report that in other cases authorities have confiscated the passports of activists in order to prevent them from travelling abroad, or have imposed restrictions on their domestic travel within Vietnam. Authorities have also subjected prominent activists to house arrest at sensitive times, including during state visits by foreign leaders. In July 2017, Germany publicly accused Vietnam of abducting an asylum-seeking senior Vietnamese official from Germany and forcibly returning him to Vietnam, after he had fled in 2016 amid accusations of economic mismanagement and had been dismissed from Vietnam's National Assembly. He was later sentenced to life imprisonment.

3.55 Human rights observers report that lawyers who represent political activists often face harassment from authorities to drop cases. Those who do not do so reportedly face restrictions on their ability to practise, which in some cases can lead to disbarring, arrests and detention. Many lawyers are therefore reluctant to accept these cases.

3.56 DFAT assesses that activists who are known to authorities as active organisers of protests, or who openly criticise the state, face a high risk of official sanction. This may include surveillance, harassment, preventative detention, physical assault, travel bans, arrest, and prosecution. This risk is higher for those engaged in areas judged politically sensitive, or who have well-established links with outlawed political organisations. Such activists may not be able to access legal representation, and are unlikely to receive a fair trial. DFAT assesses that low-level protesters against the government, and their supporters, face a moderate risk of harassment from authorities, which may include arrest and being subjected to violence.

GROUPS OF INTEREST

Civil Society Organisations

3.57 Article 25 of the Constitution guarantees the right to the freedom of association but, in practice, this freedom is limited by highly restrictive regulations. The CPV prohibits the establishment or operation of independent groups, including civil society organisations (CSOs). The domestic legal framework governing civil society is Decree 45 on the Organization, Activities and Management of Associations (2010), which places a range of limitations on CSO activities. For example, CSOs are prohibited from conducting activities deemed harmful to 'national security, social order, ethics and national customs and practices.' CSOs are required to register with the government and to obtain official approval before commencing activities. Decrees 76 and 93, which relate to government oversight of events and funding from foreign sources respectively impact on CSO operations. Local CSOs report that additional permits are generally needed to work in the provinces. CSOs in southern Vietnam reportedly tend to be smaller and less established than those in the north.

3.58 In practice, the government has permitted some space for CSOs working on issues it considers as non-threatening to the CPV and its interests. A small but active civil society in Vietnam works to promote a range of rights, including on gender, the environment, land and health. The restrictive legal framework in Vietnam has limited the formation of independent CSOs, however, and authorities have prohibited the formation or operation of dedicated local human rights organisations. Individuals who criticise the government's approach to human rights are subject to surveillance; interference with personal communications and freedom of movement; arrest; and imprisonment. A number of CSO representatives involved in Vietnam's UPR process in Geneva in January 2019 reported that they were required to attend an interview with MPS before their departure from Vietnam and/or after their return. DFAT is not aware of any cases in which authorities refused CSO representatives permission to travel.

3.59 Local sources report that authorities have become increasingly discomforted in recent years with the role and activities of CSOs – the term 'civil society', itself was among a list of phrases that CPV members were instructed to avoid in a Party directive of December 2017. This attitude has seen the operating environment become considerably more challenging for CSOs, ranging from international NGOs to local unregistered groups. CSOs report that authorities are now enforcing regulations more strictly: previously the absence of an official response to CSOs' requests for approval to undertake activities could be considered tacit consent; now this is no longer the case. This is particularly true for activities organised in partnership with foreign donors or participants, with several workshops and conferences cosponsored by international organisations or foreign embassies being cancelled or shut down at the last minute. In December 2018, authorities shut down an annual conference of CSO representatives in Hanoi, despite many of the participants being registered organisations and the conference having been held in previous years.

3.60 Authorities have applied these increased restrictions across the board, including on CSOs whose work covers the less-sensitive areas mentioned in 3.58. Many CSOs have reported difficulties and delays both in renewing their registration with the government and in obtaining approvals to undertake activities, which have, in some cases, taken more than six months. In some instances, authorities have either not responded to requests for approval, or have denied them altogether. Sources have reported that some local CSOs have been encouraged to pay bribes to reduce the time taken for project approvals.

3.61 A draft law to regulate all associations and CSOs in Vietnam has been under discussion for a number of years. In late 2016, the draft law put to the National Assembly received strong backlash from civil society groups, due to its recognition of only registered organisations (thus banning unregistered CSOs), the complexity of the registration process for CSOs, and the prohibition against CSOs receiving foreign donor funding. At the time of publication, the National Assembly had not committed to a timeline to reconsider the draft law.

Media

3.62 Article 25 of the Constitution provides freedom of opinion and speech, and freedom of the press to Vietnamese citizens, 'in accordance with the provisions of the law'. The criminal code prohibits speech that is critical of the government. According to Freedom House, the definition of such speech is vaguely worded and broadly interpreted. The CPV, government institutions, or the army continue to prevent the circulation of dissenting views to the public through ownership and/or control of almost all print, broadcast, online and electronic media, while a number of laws and decrees also restrict media freedom. The internet continues to be the main outlet for free expression despite a growing crackdown by the State. Internet service providers are either wholly or partly state-owned. The state-owned Vietnam Posts and Telecommunications Groups dominates the fixed-line broadband market. The Ministry of Information and Communications has legal

authority over media outlets through the guidance of the CPV Propaganda and Education Commission, and frequently intervenes to censor media content and set press guidelines. The government also has the ability to disrupt access to the internet, including through blocking websites and monitoring private online communications without legal authority. A cyber security military unit established in 2016 and known as 'Force 47' is reportedly staffed with 10,000 members to monitor online media content. Sources advise that the majority of Force 47 are professional defence officers who distribute propaganda for government policy. Reporters Without Borders ranked Vietnam 176th out of 180 countries on its 2019 Press Freedom Index.

3.63 Under Decree 65, issued in 2015, press agencies are subject to sanctions for publishing 'untruthful information' in relation to statistics; atomic energy; management of prices, charges, fees, and invoices; education; civil aviation; vocational training; hydrometeorology; cartography; and health. Fines for breaches range from a maximum of VND500,000 (AUD30) for journalists, newspapers and online media who publish using incorrect or insufficient sources, and up to VND100 million (AUD6,130) for publishing or broadcasting works subject to circulation ban or confiscation decisions, and works damaging national interests. In July 2018, news agency Tuoi Tre Online was fined VND220 million (approximately AUD13,480) and issued a three-month suspension for attributing untrue comments to the president and 'disrupting national unity'. This represented one of the most severe punishments in recent years.

3.64 Decree 72, issued in March 2018, governs internet services and online information. It includes a requirement for media to register and store users' personal information, and to facilitate the removal of information that violates laws. The decree complements the *Law on Cybersecurity* (2018), which came into effect in January 2019, and which requires foreign firms to store users' personal data locally.

3.65 Due to the harsh regulatory environment, journalists typically practise self-censorship. A limited number of independent journalists operate primarily through blogs and social media, but in doing so risk police harassment, violence and arrest. Police are reported to have raided the homes and offices of journalists who cover sensitive issues, and frequently attempt to intervene in interviews, including through cutting the electricity, phone signal or internet connection of critical journalists. The Independent Journalists Association of Vietnam (IJAV), established in 2014, comprises journalists who have left the state media, democracy activists (bloggers and Facebookers), and professional Vietnamese journalists based overseas (mostly in the US). Under pressure from authorities, some IJAV members have had their press credentials revoked. Authorities have also reportedly harassed relatives of IJAV members, including through preventing them from doing business or obtaining jobs. Some journalists have reportedly left the IJAV due to concerns about family safety.

3.66 According to local sources, MPS monitors Vietnamese journalists working abroad. It has also occasionally restricted the entry of foreign journalists into Vietnam, including through failing to issue visas, or through issuing visas but then preventing journalists from entering Vietnam, thus imposing a financial loss to the journalist. Foreign journalists are required to advise authorities when travelling outside of Hanoi to sensitive areas, such as the Central or Northwest Highlands, or when covering a story the government might otherwise consider sensitive.

3.67 Throughout 2017 and 2018, a number of arrests and convictions were made against critical journalists and bloggers, including:

- In June 2017, a prominent human rights blogger Nguyen Ngoc Nhu Quynh, also known as Me Nam, (Mother Mushroom) was convicted and sentenced to ten years imprisonment under Article 88 ("conducting propaganda") of the 1999 Penal Code after having published Facebook posts about deaths in police custody, the Formosa disaster, and criticisms of the CPV. She was released in October 2018 with the remainder of her 10-year prison sentence reportedly suspended, and subsequently went into exile in the United States.

- In November 2017, an independent journalist and blogger was sentenced to seven years' prison and three years' house arrest under Article 88 after reporting on social media about protests in Ha Tinh Province in relation to the Formosa disaster.
- Between June and September 2018, a further 14 activists were imprisoned for social media posts, including for 'abusing democratic freedom' and 'making, storing, and spreading information, materials, and items for the purpose of opposing the state.'

According to the Committee to Protect Journalists, 11 journalists and bloggers were in Vietnamese prisons as of December 2018, rising from eight as at 1 December 2016 and six in 2015.

3.68 DFAT assesses that journalists, bloggers and other media workers in Vietnam who report on sensitive issues or are critical of the government face a moderate risk of harassment. Prosecutions take place under vaguely worded provisions in the national security section of the Penal Code, which can result in unfair trials and/or long prison sentences on charges that would not be considered offences at law in many states. DFAT further assesses that media workers generally face a low risk of physical violence as a result of their reporting.

Women

3.69 Article 26 of the Constitution guarantees male and female citizens equal rights in all fields, explicitly bans all forms of discrimination against women, and states that 'men and women shall receive equal pay for equal work'. A range of domestic legislation supports these principles, including the *Law on Gender Equality* (2006), the *Law on Prevention and Control of Domestic Violence* (2007), and the *Law on the Prevention of Human Trafficking* (2017). In addition, amendments to the *Law on Land* (2014) and the *Law on Marriage and Family* (2014), improve the property rights of women in families. The 2015 review of Vietnam's implementation of CEDAW found, however, that while Vietnam had made extensive legal commitments to guarantee women's rights on paper, it had not taken steps to enforce or protect them in practice.

3.70 Vietnam's female labour participation rate of 73 per cent is among the highest in the world, but differences remain in the treatment of men and women in the workplace. Workplace laws surrounding pregnant and nursing mothers prevent them from working the same hours as men or women without children. The majority of women work in the informal sector, however, and do not have access to conditions such as the paid six-month maternity leave entitlement. Indeed, many women are denied access to 77 occupations: 38 categories of job are prohibited on the basis of sex, and an additional 39 are prohibited for pregnant women and women with children under 12 months. Many women find it difficult to find a job after the age of 35, and there have been recent reports of women receiving termination letters upon reaching that age. The Vietnam General Confederation of Labour has reported that women aged over 35 account for roughly half of all unemployed workers in the country.

3.71 The average monthly salary of paid workers is VND5,715,000 (AUD350) for men as compared with VND5,225,000 (AUD320) for women. The ability of women to rise to managerial ranks and access higher incomes and pensions is impacted by an earlier mandatory retirement age than that of men: women are expected to retire at 55 and men at 60. Draft revisions to the Labour Code currently before the National Assembly include a proposal to increase the retirement age for both men (to 62 years) and women (to 60 years). There are two scenarios proposed for achieving this, the slower of which proposes an increase by three months annually for men (reached by 2029) and 4 months annually for women (reached by 2036).

3.72 The aforementioned 2015 CEDAW review expressed concern over the high prevalence of violence against women and girls, and recommended the amendment of legislation to criminalise all forms of violence against women. Articles 37 and 183 of the Labour Code (2012) expressly reference sexual harassment in relation to grounds for unilaterally terminating labour contracts and prohibitions against

domestic workers. The legal definition of sexual harassment is vague, however, and the ILO and other international organisations have advocated for a more precise definition in forthcoming Labour Code revisions. National-level data into the prevalence of sexual harassment is not available. Increasing media coverage of incidents and anecdotal evidence suggest that it is pervasive, including in public areas, schools, and workplaces. Although MOLISA endorsed a voluntary code of conduct on sexual harassment in the workplace in 2015, a 2018 study on sexual harassment in Vietnamese workplaces by MOLISA and the ILO found that formal complaints were usually only undertaken when the harassment constituted serious sexual assault. In March 2019, local and social media reported widely on a case of sexual harassment against a woman in an elevator, whereby the perpetrator was fined only VND200,000 (AUD12). The minimal fine sparked public outcry and criticisms of the lack of sanctions for sexual harassment in Vietnamese law.

3.73 The Penal Code defines rape (including within marriage) as an extremely serious crime for both men and women, and allows for the use of the death penalty if the victim is under 16 years old. In addition to forced sexual intercourse, the Penal Code includes ‘other sexual contacts’ and ‘forced sex crimes’ in its section on rape, while its list of prohibited acts proscribes vaginal, anal, or oral penetration of a sexual nature of the body of another person with any bodily part or object. Authorities do not release arrest, prosecution, conviction, or punishment statistics in relation to rape.

3.74 Punishments for convicted perpetrators of domestic abuse range from warnings through to probation and imprisonment for up to three years. Human rights observers report that authorities treat domestic violence as civil cases unless the victim suffers injuries to more than 11 per cent of the body. Data on domestic violence rates collected by different government agencies in Vietnam varies. For example, the Ministry of Health reported in 2016 that it records approximately 20,000 cases of domestic violence annually, with almost all victims being women. The Ministry of Justice, however, reported that one million divorce cases between 2008 and 2018 involved domestic violence, which would indicate that cases would average around 100,000 per year. These statistics likely underplay the real number of cases, with fear of social stigma or harassment from spouses or family members reportedly preventing many victims from coming forward. A 2015 NGO survey found that 59 per cent of married women had suffered physical or sexual abuse at least once in their lives, typically from a male partner or member of the family.

3.75 Popular attitudes towards domestic violence are underpinned by a number of cultural factors, including traditional views of family, marriage and ‘saving face’, and the common practice for women to live with their family-in-law. The first National Study on Domestic Violence Against Women, conducted by the government and UNFPA in 2010, found that between 30 and 60 per cent of female respondents, including young women, believed their husbands’ violence could be justified under certain circumstances. Police reportedly often encourage victims of domestic violence to ‘solve their problems within the family’ rather than bringing criminal charges. The MPS has responded by developing a circular on police response to domestic violence and a police protocol for gender-responsive policing.

3.76 The government and CSOs provide support services to address domestic violence. The Center for Women and Development (primarily funded by the government, with some support from international donors) operates a nationwide domestic violence hotline, although this is not widely advertised in rural areas. It also runs three shelters for female victims of domestic violence and trafficking – two in Hanoi known as ‘Peace House’, and one in Can Tho. Women typically learn of these services through the centres’ Facebook pages or websites (though the addresses of the two houses in Hanoi are not publicly advertised), or from referrals from the police, courts or hospitals. Domestic violence victims can remain in the shelters for three months, and trafficking victims can stay for six months. The shelters also offer a follow-up program after 20 months to provide counselling, vocational training and legal aid. Although government-provided support services are substantially funded by international donors, MOLISA has committed to funding and running two shelters and six women protection centres by 2020.

3.77 The CPV-led Women's Union has also established a number of 'trusted addresses', which are private homes in various communes that women can go to if they are unable to seek overnight shelter elsewhere. The Women's Union provides training to trusted households to provide victims with legal counsel, clothing, first aid, medicine, and telephone cards. The Center for Women and Development also works with local communities to establish safe locations for victims of domestic violence, including supporting relocation to a new area. Women are able to borrow money at low interest rates (and under certain criteria, with no interest at all) from the Women's Union, which is the leading microcredit lender with services throughout Vietnam. Despite the range of services available to women, the 2010 National Study on Domestic Violence Against Women reported that most abused women (87 per cent) never sought help from formal services (including state legal advice, hospitals and health facilities) or people in authority (including police). If they sought help, usually when the violence was severe, it was most commonly from local leaders. It further reported that about 60 per cent of women who experienced physical or sexual violence by husbands said that they had heard about the law on domestic violence. The qualitative interviews, however, showed that women did not know the details of the law and that many local authorities did not have enough knowledge about the law and domestic violence in general. The results of a second national study, this time expanded beyond domestic violence to cover violence against women and girls in private, work, and school settings, are expected to be released in March 2020.

3.78 DFAT assesses that women in Vietnam face moderate levels of official and societal discrimination on the basis of their sex. Women throughout Vietnam face a moderate risk of gender-based violence, particularly domestic violence, regardless of their geographic location or socio-economic level.

Sexual Orientation and Gender Identity

3.79 Same-sex relationships are legal in Vietnam, provided they comply with other legislation also applicable to heterosexual activity and are consensual between adults. The age of consent in Vietnam is 16 regardless of gender or sexual orientation. The revised *Law on Marriage and Family* that entered into force on 1 January 2015 allows same-sex weddings but does not offer legal recognition or protection to unions between people of the same sex, including with regard to inheritance and adoption. Vietnamese law also does not offer protection from discrimination on the basis of sexual orientation or gender identity in relation to housing, employment, or access to services.

3.80 There has been a marked improvement in recent years in the quality and quantity of discussion about lesbian, gay, bisexual, transgender and intersex (LGBTI) issues and rights in Vietnam, aided by the fact that the government does not consider LGBTI issues to be politically sensitive. Vietnam's first gay pride parade, Viet Pride, took place peacefully in Hanoi in 2012 and has since become a nationwide annual event. The 2019 parade event in HCMC was themed 'Out and Proud' and was part of a series of activities marking Viet Pride. There are LGBTI-friendly spaces in Hanoi and HCMC, including coffee shops, art spaces, and 'queer zones', which are visually identifiable by stickers and located on a community map. Social media, especially Facebook, is the main channel for finding networks, and younger LGBTI members are increasingly accessing information from their peers and community. Advocacy groups, including the Parents, Families and Friends of Lesbians and Gays, provide support to LGBTI individuals. Information and support networks remain limited at the provincial level, however. Local research on ethnic minority LGBTI communities reported self-stigma and access to services as the key challenges for this community.

3.81 While there have been some improvements in the legislative environment, and an improvement in the level of social acceptance, Vietnamese culture continues to promote traditional views of gender and sexuality that tend to be conservative. Non-normative sexual orientations and gender identities are believed by many to be the result of karma; LGBTI individuals or their families are commonly believed to have committed negative actions in their previous lives. A 2015 study conducted by a local LGBTI rights

organisation found that one in three LGBTI individuals had experienced discrimination within families, schools, workplaces or health providers in the previous year, but only two per cent of respondents had reported their cases to police or local authorities. In-country sources report that gay and lesbian people typically seek employment and then 'come out', to prevent their sexuality affecting recruitment decisions. Transgender individuals reportedly experience job denial based on their gender expression, forcing many to engage in low-paid jobs, including prostitution. Discrimination and bullying in schools from peers, has caused some LGBTI individuals to leave school early, which has negatively affected their employment prospects.

3.82 Domestic violence against LGBTI people is high, largely due to the societal expectation of marriage. A local LGBTI rights organisation reported receiving calls on a weekly basis from LGBTI individuals who had been beaten or prevented from leaving their homes by family members. Some parents and siblings have also been reported to pressure LGBTI family members to change their appearance, to enter a heterosexual marriage and have children (especially for lesbians), or, in extreme cases, to leave the family. Families have also been involved in forced medical treatment, ranging from medication to psychological interventions, but the number of forced medical treatments has reportedly reduced. In-country sources report that public violence against LGBTI people is low, but occurs more commonly against transgender people as they tend to be more visibly identifiable. A 2015 study by Save the Children found that young LGBT people were frequently subjected to police hostility, including physical violence, meaning that many felt unable to seek the assistance of police when needed.

3.83 Article 37 of the revised *Civil Code* (2015), which came into effect in 2017, recognises the right to legal gender recognition of transgender people. The Article still requires additional legislation to be fully implemented, and a draft law protecting the legal status and rights of transgender people is expected to be reviewed by the National Assembly by 2020. LGBTI advocates have criticised Article 37's prerequisite for individuals to undergo sexual reassignment surgery (SRS) in order to legally change identity documentation, arguing that some transgender individuals are unable to or choose not to undergo SRS. SRS typically involves two separate procedures for the upper and lower body. The procedure for the upper body is considered plastic surgery, but is typically not costly and can be undertaken at provincial hospitals. The procedure for the lower body requires major surgery and such surgery and aftercare costs are reported to be around VND13 million (approximately AUD800), beyond the means of most transgender people. SRS is covered under the national health insurance scheme for intersex people, but not transgender people. Medical interventions on intersex infants and children in Vietnam are permissible under Article 36 of the Civil Code and are still performed.

3.84 DFAT assesses that LGBTI individuals in Vietnam face a low risk of official discrimination, and a moderate risk of societal discrimination on a day-to-day basis. DFAT further assesses that LGBTI individuals in Vietnam face a moderate risk of violence due to their sexual orientation or gender identity. As most societal discrimination and violence against LGBTI individuals is within the domestic context, DFAT assesses that LGBTI individuals can typically relocate within Vietnam, subject to their individual financial circumstances, household registration requirements (see [Household Registration](#)), and the availability of LGBTI support services and networks.

Children

3.85 Vietnam was the first country in Asia and the second globally to ratify the CRC in 1990. Vietnam's *Law on Children* (2016), however, defines a child as a person under 16 years of age, in contravention of the Convention's definition of a child as a person under 18 years of age. The minimum age for criminal liability in Vietnam is 14 years of age. The 2015 Penal Code narrowed the scope of crimes for which 14-16 year olds serve time in prison, limiting it to 28 very serious crimes under Article 12 of the Penal Code, with a maximum

sentence of 12 years imprisonment. Offenders 16 years or older are criminally liable for any offence, and face a higher maximum sentence of 18 years imprisonment.

3.86 The *Law on Marriage and Family*, *Law on Children*, and the Penal Code prohibit and penalise child and early marriage, defined in Vietnam as a marriage where one or both partners have not reached the minimum legal age for marriage (18 years for girls and 20 years for boys). Despite these prohibitions, child marriage remains an issue in Vietnam. While its prevalence varies across geographic areas, girls from all regions and levels of society are vulnerable to early marriage, which may take the form of family arranged marriage, love marriage, marriage to 'resolve pregnancy' and bride abduction/trafficking. In 2014, one-in-10 women (aged 20 to 24 years) was married or in a union before their 18th birthday and one-in-100 women before their 15th birthday. Child marriage is more common in rural areas, with the highest rates in 2014 (most recent statistics) reported for women in the Northern Midlands and Mountainous area (18.8 per cent), the Central Highlands (15.8 per cent) and the Mekong River Delta (13.8 per cent). Although most child marriages involve girls, some involve underage boys. In 2015, a national 10-year program (2015-2025) was approved to address child marriage in ethnic minority areas. A child bride is reportedly more likely to be a member of one of the 53 ethnic minority groups in Vietnam than a member of the majority Kinh population. In 2014, 23.1 per cent of ethnic minority women (aged 20-49 years) were married before the age of 18. Still, a significant percentage of Kinh women (9.2 per cent) were married before their 18th birthday. The rate of child marriage is especially high in ethnic minorities with small populations (less than one million).

3.87 Vietnamese children, particularly girls, are vulnerable to human trafficking, including for the purposes of early and forced marriage. The US Department of State reported in 2018 (published March 2019) that many children from impoverished rural areas, primarily girls from ethnic minority communities in the Northwest Highlands, and an increasing number of children from middle class and urban settings, were subjected to sex trafficking. Sources in Vietnam described a recent and increasing trend of young children also being trafficked for adoption. In February 2018, international media reported that a Child Helpline established by Plan International in Vietnam had received nearly 8,000 trafficking-related calls in the previous three years. All acts of sale or deprivation of liberty of children, including child labour and prostitution, are criminalised in Vietnam, with sentences ranging from three years to life imprisonment, and fines from VND5 million to VND50 million (approximately AUD305 to AUD3,050). In October 2019, the bodies of 31 Vietnamese males and eight females (including three children under the age of 18) were found in a lorry container in eastern England. Media reporting suggested that traffickers had transported the group from Western Europe, although details remain sketchy.

3.88 For information on domestic violence against children, see [Corporal Punishment](#).

Elderly

3.89 The proportion of Vietnam's population aged over 65 years is expected to grow from 6.7 per cent in 2015, to 21.5 per cent in 2050. State support for the elderly is limited: individuals aged 80 years and over without an alternative income source are eligible for a small monthly social assistance benefit (around VND230,000 or AUD14). MOLISA reported in 2016 that around 30 per cent of the eligible elderly were not covered by social pensions, and most of Vietnam's elderly primarily lived off personal savings and other family members. In Vietnamese culture, children and grandchildren traditionally care for the elderly, but urbanisation has changed working and living arrangements, and the time workforce participants can dedicate to caring responsibilities is reportedly decreasing.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

Extra-Judicial Killings

4.1 The US Department of State reported multiple arbitrary or unlawful killings by officials or other agents under the authority of the MPS or provincial public security departments in 2018, including at least 11 deaths that implicated on-duty police officers. In most cases, authorities either provided little information on investigations into the deaths, or reported that the deaths were due to suicide or medical problems (see [Deaths in Custody](#)).

Enforced or Involuntary Disappearances

4.2 According to the US Department of State, there were no reports of disappearances committed by, or on behalf of, state actors in 2017 or 2018. The UN Working Group on Enforced or Involuntary Disappearances reported in July 2018 that there had been two cases of enforced or involuntary disappearances reported to the Working Group and referred to the government between 1980 and 2018.

4.3 In some cases, particularly those involving activists, authorities have held detainees incommunicado for extended periods. For example, in July 2017, a prominent human rights defender was secretly arrested and held incommunicado, and his family not advised until three weeks later. The family of a blogger who disappeared in September 2018 reportedly only received informal confirmation from authorities that he had been taken into custody around six weeks later.

Deaths in Custody

4.4 According to a February 2017 report by the Ministry of Justice, there were at least 2,812 deaths of people in custody between 1 July 2011 and 30 June 2016, including executions (see [Death Penalty](#)). The high number of deaths is likely due in part to the high rate of infectious diseases rates within prisons and detention centres (see [Detention and Prison](#)).

4.5 Guidance from the Supreme People's Court stipulates that police officers responsible for deaths in custody be charged with murder. In recent years, however, officers have only been held accountable in a small number of cases, and have typically faced lesser charges. In September 2018, a court in Ninh Thuan Province sentenced five former police officers to between three and seven years' imprisonment for the use of corporal punishment in beating a drug user to death while in custody in 2017. The court also banned the officers involved from holding any law enforcement positions for up to three years following their prison terms.

4.6 In August 2017, four UN Special Rapporteurs and the Chairperson of the Working Group on Arbitrary Detention requested information from the government on the May 2017 custodial death of a prominent Hoa Hao Buddhist in Vinh Long Province. The detainee died in police detention the day after a police interrogation on allegations of ‘conducting anti-state propaganda’. Police informed his family that he had committed suicide during interrogation by using a letter opener of an interrogation officer, and authorities issued a response denying any wrongdoing. The detainee’s family reportedly experienced harassment and intimidation from authorities following his death.

DEATH PENALTY

4.7 The 2015 Penal Code states that there are 18 crimes for which the death penalty is applicable, including: high treason; espionage; rebellion; involvement in the production, transporting, or trading of narcotics; murder; child rape; taking bribes; and terrorism. The Penal Code states that the death penalty will not be handed down in the cases of juvenile offenders (aged under 18 years), women who are pregnant or caring for children under three years old, or people aged over 75 at the time of the crime or the trial. In such cases, the sentence will be commuted to life imprisonment. People sentenced to death for embezzlement or receiving bribes can have their sentences commuted to life imprisonment if they return at least 75 per cent of the value of the illegal transaction. International human rights observers have reported that over 600 people were known to be under sentence of death in Vietnam as at the end of 2018.

4.8 Data on the death penalty is usually classified as a state secret, disclosure of which is subject to criminal penalty of up to 15 years in prison. However, the Minister for Public Security advised the National Assembly in November 2018 that 85 executions had been carried out to date in that year. A MPS report published in 2017 containing statistics from 2011 to 2016 showed a high rate of sentencing and executions, and it is commonly accepted that Vietnam regularly carries out executions. A number of domestic newspapers, citing a MPS report, reported that there had been 429 executions from August 2013 to 30 June 2016. In-country sources report that the death penalty is most frequently used for the crimes of murder and drug trafficking. No death sentences have been handed down on charges related to national security, terrorism, or treason since the 1980s. Although there have been recent cases of death sentences handed down in relation to corruption cases, DFAT is not aware of any executions that have followed.

4.9 The *Law on Execution of Criminal Judgments* (2010) changed the method of execution from firing squad to lethal injection. Initially, the precise drugs to be used in executions were specified by name in the legislation, but a trade export ban by the European Union meant that Vietnam could not import the necessary drugs to carry out executions. This led to a pause in executions from July 2011 to August 2013, when the law was amended again to leave the drugs used for lethal injection unspecified. Executions then recommenced. Information on the domestically produced drugs that are now used for executions is not publicly available. Currently, the Ministry of Health supplies the drugs for the MPS to carry out executions.

4.10 The principle of double jeopardy is regulated in the Constitution, Penal Code and *Criminal Code* (2015). It is also referenced in the *Law on Mutual Assistance* (2008). According to the Ministry of Justice, the principle of double jeopardy applies in Vietnam: persons convicted overseas of serious crimes who have completed their sentences and returned to Vietnam cannot be subjected to further trial in Vietnam for the same crimes. Article 6 of the Penal Code provides that people, who have committed offences overseas, where the sentence has not been served, may be ‘examined for penal liability in Vietnam’.

TORTURE

4.11 Article 20 of the Constitution states that ‘no one shall be subjected to torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health or offending his or her honour and dignity’. Vietnam signed CAT in November 2013, ratifying it in November 2014 (see [Human Rights Framework](#)).

4.12 Despite these legislative protections, there are consistent reports of mistreatment by authorities of detainees that may in some cases amount to torture. Human rights observers allege that police, plainclothes security officials, and compulsory drug detention centre personnel frequently abuse suspects during arrest, interrogation, and detention. Detainees are reportedly most at risk during interrogation in temporary detention centres prior to trial, when torture may be used to extract information and coerced confessions. A July 2016 Amnesty International report documented several cases of torture and physical abuse of political prisoners by police and prison officials. According to international observers, authorities (including police, prosecutors and oversight agencies) rarely investigate reports of torture or other mistreatment.

4.13 In August 2018, a political activist died in Kien Giang Province following a police interrogation regarding his involvement in the June 2018 mass demonstrations (see [Political Activists](#)). The activist’s death was reported in state media, with police claiming he had committed suicide. Social media and CSOs reported, however, that the activist had multiple injuries, including to his head, neck and abdomen, which possibly indicated that he had been tortured.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.14 The Constitution states that a court or prosecutorial decision is required to arrest an individual, with an exception made for ‘flagrant offenses.’ Under the Penal Code, police can detain an individual without warrant for up to 72 hours in ‘urgent circumstances,’ such as when a person is caught in the act of committing a crime. An approval or disapproval of the arrest from the People’s Procuracy is required, however, within 12 hours of police notification of the arrest. A decision by the People’s Procuracy is required to commence a formal criminal investigation of a detainee within three days of arrest, without which police must release the suspect. The People’s Procuracy can request two additional three-day extensions, therefore increasing the maximum custody period to nine days.

4.15 In practice, suspects are held during investigations for varying lengths of time depending on the level of seriousness of the alleged crime. The Penal Code allows for a detention period of up to 20 months for the investigation of crimes categorised as particularly serious, and for two months (extendable once for an additional two months) for less serious crimes. There is no time restriction for crimes that relate to national security. International observers have reported a number of cases in which the government has exceeded these time periods, including in October 2018 when three human rights activists were convicted and sentenced to lengthy prison terms following an almost two-year period of pre-trial detention. As of May 2019, Amnesty International reported at least 128 prisoners of conscience were incarcerated across the country — up from 97 the previous year. The 88 project, a free speech advocacy group, puts the number even higher, at 266 activists behind bars. In June 2019, an American citizen was sentenced to 12 years in prison for "attempting to overthrow the state", having being detained since July 2018.

4.16 Detainees can question the legality of their detention with the relevant authorities, but this right is denied to political prisoners. Access to legal representation is reportedly granted inconsistently. Those held on national security charges (under Chapter 8 of the 2015 Penal Code) can be denied access to legal representation until the investigation is fully complete under Article 74 of the 2015 Criminal Procedure Code. In one case, a human rights activist arrested in July 2017 was prevented from meeting his lawyer until July 2018, and was then sentenced a month later to 20 years' imprisonment (see [Judiciary](#)). The Vietnamese-Australian dual citizen sentenced to twelve years' imprisonment in November 2019 on terrorism charges (see [Political Activists](#)) was not given access to a lawyer, in accordance with Vietnamese law, until the end of the investigation process.

4.17 The *Law on Administrative Violations* (2012) authorises the arbitrary 'administrative detention' without trial of individuals considered threats to security, social order, or public safety. In theory, administrative detention is intended as punishment for people who have committed public order offences that do not warrant criminal prosecution. In practice, however, administrative detention is often imposed in cases where there is insufficient evidence for a conviction on criminal charges. While administrative detainees are typically detained by police, administrative detention centres are not part of the criminal justice system. The law outlines penalties for administrative detainees, ranging from fines and warnings to re-education and compulsory detention. State media reported that authorities imposed 'administrative punishments' on 175 protesters arrested in HCMC in June 2018 on suspicion of 'violating laws at different levels, from harming national security to affecting social order and safety'.

4.18 International observers report that arbitrary arrest and detention has been commonly employed against political and religious activists and individuals protesting land seizures (see [Political Activists and Religion](#)). Individuals have been arbitrarily detained in their homes, in vehicles, at local police stations, social protection centres (for the homeless), and local government offices, and upon return to Vietnam following overseas travel. Human rights observers have also reported cases of activists taken into custody by plainclothes individuals without an arrest warrant. Some drug users have reportedly been detained in '06 centres' without charge and with limited judicial involvement (see [Health](#)).

Corporal Punishment

4.19 Article 298 of the 1999 Penal Code bans the application of corporal punishment 'in investigating, prosecuting, adjudicating and/or judgement-executing activities'. Penalties range from six months to twelve years in prison, depending on the seriousness of the crime. Corporal punishment is lawful in the home. Authorities have not interpreted provisions against violence and abuse in the *Law on Children*, the *Criminal Code*, the *Law on Marriage and Family*, and the *Law on Domestic Violence Prevention and Control* (2007) as prohibiting the use of physical punishment as a disciplinary tool. In 2019, the Global Initiative to End All Corporal Punishment Against Children reported near universal social acceptance of corporal punishment in childrearing, and that the minimum sentence of six months' imprisonment likely only applies to corporal punishment of a certain severity.

4.20 Although the *Law on Education* (2005) prohibits corporal punishment in schools, it continues to be a common practice. According to a 2015 study by UNICEF, almost 70 per cent of children aged one to 14 years had experienced violent discipline, and physical abuse by teachers was common. A 2018 UNICEF survey on corporal punishment by teachers and other adults in school found that of 417 respondents, 18 per cent reported having experienced physical discipline more than once, while 37 per cent reported witnessing it.

5. OTHER CONSIDERATIONS

STATE PROTECTION

Military

5.1 Although Vietnam's official defence budget is a state secret, its publicly released budget shows that military spending has increased substantially from VND20.5 trillion (approximately AUD1.8 billion) in 2006 to VND100 trillion (approximately AUD6.6 billion) in 2015. International observers estimated it will reach VND140 trillion (AUD8.7 billion) by 2020.

5.2 The Vietnam People's Army (VPA) includes a large ground force component, and has the most personnel of Vietnam's services. The Vietnam People's Navy and Naval Infantry are responsible for safeguarding the waters and airspace over the waters belonging to Vietnam, and for maintaining coordination with other maritime forces (such as the police, customs service, border defence force, and maritime police) to control national waters and economic activities at sea. The Border Defence Command is a component of the VPA, and is responsible for controlling and protecting security along land borders, islands, territorial waters, and border gates. In practice, all other services are subordinate to the VPA. The Minister of National Defence is responsible for directing and administering the VPA.

5.3 Military service is compulsory for males aged 18 to 25 years, and females can volunteer for active duty military service. The period of service depends on the force: 18 months for the VPA and Air Defence, and two years for the Navy and Air Force. Exemptions are available on several grounds, including for university students and people employed in certain professions. In practice, DFAT understands that while all males must register with the military, very few are required to serve for the full military service period. The US Department of State reported in 2018 that religious adherents are regularly excluded from military recruitment, and are not permitted to be commissioned officers. Local media reported in 2017 that enlistment had become stricter in recent years after legislators had accused wealthy families of paying bribes in order for their children to avoid military service.

5.4 In March 2019, the online newspaper of the Vietnamese Armed Forces reportedly accused some independent newspapers, media, and civil society organisations of misrepresenting information about the CPV and the government by portraying them in a negative light. The article implied the activists and journalists operating the organisations would face criminal prosecution, although DFAT is unaware of whether any prosecutions eventuated.

5.5 DFAT assesses that the military has a strong ability to provide protection to civilians, but is highly influenced by the CPV.

Police

5.6 The MPS manages the People's Public Security Forces of Vietnam (PPSFV), the country's main police and security force. It comprises two core forces: the People's Security Force primarily collects intelligence to detect activities that damage national security; while the People's Police Force is responsible for social order and public safety and manages more traditional police work, including criminal investigations, neighbourhood policing, traffic control, household registration, and identification cards. Police recruits are required to be members of the CPV or Communist Youth League.

5.7 The PPSFV operates at national, provincial, district, and commune levels. Commune police often have lower salaries and fewer benefits than police at the district, provincial, and national levels and generally receive inadequate training in law and basic police procedures. Provincial and local police forces have a high degree of discretion in their activities. International observers report that corruption is highly prevalent within the ranks of the police. Sources have reported recent cases of organised crime groups bribing local police to not respond in specific situations, and instances in which police have not responded when citizens have called for help. Sources have also reported that local police sometimes use contract 'thugs' and 'citizen brigades' to harass and beat political activists and religious adherents perceived as undesirable or a threat to national security.

5.8 The Supreme People's Procuracy has authority to investigate security force abuse, but in practice, police organisations operate with significant discretion and little transparency. Human rights groups have reported multiple recent cases of police abuse where officers have acted with impunity. In the rare cases where officers are prosecuted and convicted, light or suspended sentences or internal disciplinary measures such as warnings are commonly applied. There is no independent police complaint agency to investigate allegations of police abuse by ordinary citizens.

5.9 DFAT assesses that police have a limited ability to provide protection to civilians, particularly at the commune level, are vulnerable to corruption, and typically act with impunity.

Judiciary

5.10 Vietnam has a two-tier court system, including courts of first instance and courts of appeal. It consists of the Supreme People's Court, which is the highest court of appeal and review; Provincial People's Courts, which serve as the appellate courts for district cases and the courts of first instance for more high profile cases; local people's courts; and other tribunals established by law to adjudicate on specific issues. Each district throughout the country has a district people's court, which serves as the court of first instance for most domestic, civil and criminal cases.

5.11 Prosecutions are managed by the Supreme People's Procuracy, which has broad ranging powers to bring charges against suspects and also serves as prosecutor during trials. A judging council, made up of a judge and one or more people's jurors, determines guilt or innocence, and passes sentence on the convicted. The relevant people's council appoints people's jurors.

5.12 Ongoing reforms have given the judiciary some independence from the CPV and other state agencies, including the Supreme People's Procuracy. Most judges still tend to be CPV members, however, chosen in part for their political views and affiliations, and as such are subject to political influence from the local and central levels. Judicial appointments are typically a five-year term, after which reappointments are made by the CPV.

5.13 Judges and arbitrators are sometimes inadequately trained, and this lack of experience and independence creates varying quality in court processes and inconsistent implementation of law. Judicial

officers are reportedly paid extremely low wages. Bribes and irregular payments to facilitate favourable judicial decisions are perceived to be common. According to a 2017 Transparency International survey, around a quarter of Vietnamese citizens believe most or all judges are corrupt.

5.14 The Constitution provides defendants the right to legal counsel, but many lawyers are reluctant to accept human rights or other sensitive cases for fear of harassment from the authorities (see [Political Activists](#)), including in some cases involving minors or the death penalty. According to official statistics, accused persons use a lawyer in only around a fifth of criminal cases. While mechanisms exist for pursuing civil action against abuses by authorities, in practice few victims have successfully received redress or compensation through the court system.

5.15 DFAT assesses that the judicial system in Vietnam has limited capacity to provide state protection, and citizens generally have limited access to legal counsel. In cases that are politically sensitive, the judicial system cannot be relied upon to provide an independent and fair outcome. DFAT further assesses that corruption within the judicial system may impinge on the prospects for a fair trial.

Detention and Prison

5.16 The MPS has responsibility for Vietnam's prisons, which are run by the Department of Prison Management and prison conditions vary substantially by prison and province. There is no independent oversight mechanism for prison management. Although official statistics are not available, government reporting suggests the prison population in Vietnam is just under 150,000 people. Men and women are generally detained separately, as are juvenile and adult prisoners. Prison authorities have reportedly placed some transgender individuals in solitary confinement, due to confusion about whether they should be detained with men or women. Prisoners are further categorised based on the crime, their sentence, health and other individual factors, and usually share cells with 20 to 40 inmates. The International Committee of the Red Cross is permitted to undertake prison visits, but it reportedly neither requested nor carried out prison visits during 2018. Diplomatic representatives conducted supervised visits in 2018 to several political prisoners at both temporary and long-term detention facilities. However, such visits do not afford the opportunity for independent assessment of the prisoners or prison conditions.

5.17 Prison conditions in Vietnam are considered harsh, but generally not life threatening, with issues of overcrowding, poor sanitary conditions, insufficient diet and lack of access to potable water. A MPS report of 2017 acknowledged a lack of quality infrastructure and overcrowding as ongoing challenges for the prison system. Adult prisoners are generally required to work for eight hours a day, five days a week, without pay and primarily in agricultural and manufacturing work. Healthcare is often inadequate. Prisoners at Nghe An Prison Number 6 went on a hunger strike in July 2019 to protest the lack of access to fans to deal with crippling heat in the prison.

5.18 The living conditions for political prisoners and death row inmates are typically harsher than those for general inmates. Political prisoners (estimated at 244 inmates in December 2018, see [Political Activists](#)) are commonly held in small groups separate from general inmates, and can experience harassment and violence from both authorities and other inmates. Former political prisoners have reported receiving less and inferior food to other inmates, although some prisoners were able to receive additional food or other preferential treatment through bribing prison officials. International observers have reported cases of prison authorities revoking, denying, or delaying visitation rights, and restricting family from providing permissible items to detainees. Political prisoners are also commonly detained far from their hometowns to limit family access, and their families are not routinely advised of transfers to other prisons. According to international observers, solitary confinement is used for standard periods of three months for general inmates and for more extended periods for political prisoners. Death row inmates are also detained separately from general

inmates. They are only permitted to leave their cells for medical treatment, and be visited by immediate family members for no more than one hour per month. Death row inmates who violate prison rules can be punished by shackling, or restricting communications with family.

INTERNAL RELOCATION

5.19 While the Constitution allows for freedom of movement, citizens staying overnight away from their place of residence are required to register with local police. Authorities reportedly enforce this requirement more strictly in some Central and Northern Highlands districts. Citizens who fail to register movements are subject to fines, and may face difficulties in accessing legal residence permits, public education and health care. Authorities also require citizens to obtain a permit to visit sensitive locations, including border areas, defence facilities, industrial zones involved in national defence, areas of ‘national strategic storage,’ and ‘works of extreme importance for political, economic, cultural, and social purposes.’

5.20 Authorities have imposed additional restrictions on the movement of activists, or those convicted under national security or related charges. This has reportedly included holding individuals under house arrest, particularly during politically sensitive periods, or confiscating national identity cards to prevent individuals from accessing domestic air travel or conducting routine matters. There were multiple reports in 2018 of police checking residency registration as a means of intimidating and harassing activists, and to prevent them from travelling outside of their place of registration.

5.21 Vietnam is experiencing increasing migration and mobility, including internal migration. Rapid economic development and increasing job opportunities are generating large migration flows from rural to urban and peri-urban regions. There are an estimated six million internal migrants, though the number is likely substantially higher including unregistered migrants. Government figures report around 25 to 30 per cent of Vietnam’s largest city populations are comprised of migrants. Younger members of ethnic minority groups schooled in the Vietnamese language are more likely to overcome linguistic and cultural barriers associated with relocation.

5.22 The growth in migration has also fuelled human trafficking, including internal trafficking from rural areas to cities, particularly Hanoi and HCMC. In-country sources have also reported cases of individuals from the Central and South Central provinces being trafficked to work in the mining sector. Women and young girls are also trafficked to urban areas for prostitution.

5.23 DFAT assesses that the strong and effective Vietnamese public security network means that there are few options for internal relocation to seek protection from state authorities.

TREATMENT OF RETURNEES

Exit and Entry Procedures

5.24 Article 23 of the Constitution provides for citizens to ‘freely travel abroad and return home from abroad in accordance with the provisions of the law’. In practice, the government imposes limits on the movement of some individuals, particularly foreign travel by high profile political activists or critical journalists. Authorities often confiscate passports or deny issuance of passports for people the government deems a threat to national interests, including their family members.

5.25 The Department of Immigration, part of the MPS, is responsible for the issuance of passports and visas, as well as monitoring citizen migration to and from Vietnam. The Immigration Department, under the

MPS, is responsible for controlling the entry and exit of citizens and foreigners at airports. Vietnam's three main international airports in Hanoi, HCMC, and Da Nang account for the vast majority of airborne entry and exit into and out of the country. Several other international airports elsewhere in the country primarily operate domestic flights. There are a number of land crossing points on the borders with Cambodia and Laos, which are for nationals of Cambodia, Laos and Vietnam only. Other passport holders are not able to cross at these points of entry/exit. In 2018, the government established an anti-human trafficking taskforce to improve law enforcement in border areas with a high prevalence of crime.

5.26 Irregular maritime movements occur in Vietnam, including for intended travel to Australia. Most departures to date have originated from Binh Thuan Province in the south and Quang Binh, Nghe An, and Ha Tinh Provinces in the north. DFAT is not aware of any reports of authorities being involved in facilitating illegal departures.

5.27 Vietnamese nationals who depart the country unlawfully, including without travel documents, may be subject to a fine upon return. Article 17 of the Decree on Sanctions of Administrative Violations in Social Security, Order and Safety, Prevention and Fighting of Social Evils, Fire, and Domestic Violence mandates a fine of between VND3 million (AUD187) and VND5 million (AUD310) for crossing a national border without undergoing official exit procedures; evading, organising or helping others to leave illegally; or departing using another person's travel documents (or permitting another person to use their documents). Fines of between VND5 million (AUD310) and VND10 million (AUD620) are mandated for the owners or operators of vehicles that transport people across the border illegally; and for the use of fraudulent travel documents or other identity documents. In practice, the implementation of this legislation varies depending on the person and the circumstances of the illegal departure.

Conditions for Returnees

5.28 Articles 120 and 121 of the Penal Code state that 'Fleeing abroad or defecting to stay overseas with a view to opposing the people's administration' is a criminal offence. Organisers of such movements face imprisonment of between five and 15 years, and those found to have committed particularly serious crimes can be imprisoned for 12 to 20 years, or life. Individual travellers face imprisonment of between three and 12 years, or between 12 and 20 years in serious cases.

5.29 DFAT is unaware of any cases where these provisions have been used against failed asylum seekers returned from Australia. Returns to Vietnam are usually done on the understanding that the individuals in question will not face charges as a result of making an application for protection. In 2016, a Memorandum of Understanding was signed between the Australian Department of Home Affairs and the MPS, which provides a formal framework for the return of Vietnamese nationals 'with no legal right to enter or remain in Australia, including those intercepted at sea'.

5.30 In-country sources report that all individuals involved in people smuggling operations, whether as organisers or travellers, are typically held by authorities for questioning to determine their involvement in operations. Sources have described cases where people have been detained for multiple days or recalled for further questioning. According to sources in Vietnam, any returnees with travel document concerns are questioned at interview rooms at airports. DFAT understands that would-be migrants who have employed the services of people smugglers typically only face an administrative fine, including in cases of multiple illegal departures.

5.31 DFAT understands that authorities occasionally question returnees from Australia upon their arrival in Vietnam. The interview process generally takes between one to two hours, and focuses on obtaining information about the facilitation of any illegal movement on their part. DFAT is not aware of any cases in which returnees from Australia have been held overnight for this purpose.

5.32 International human rights observers have reported several recent cases in which failed asylum seekers have been detained upon return to Vietnam from neighbouring states. Human Rights Watch reported that in April 2017, a Montagnard who had sought protection in Cambodia was detained for 12 days and interrogated upon return to Vietnam. The US Department of State reported in 2018 that ethnic and religious minorities, including Hmong and Montagnards, who had fled to Cambodia or Thailand, had claimed that Vietnamese authorities had initially pressured them to return by threatening their remaining family in Vietnam, and then abused, detained, or questioned them upon their return.

5.33 Returnees, including failed asylum seekers, labour migrants and trafficking victims, typically face a range of difficulties upon return. These include unemployment or underemployment, and challenges accessing social services, particularly in cases where household registration has ceased. In addition, trafficking victims face social stigma and discrimination, and may experience difficulty in accessing appropriate trauma counselling services outside of large cities. Many returnees have high levels of debt from funding their travel out of Vietnam. Sources in Vietnam have reported cases of moneylenders taking borrowers' houses or land as repayment, or borrowers having to flee loan sharks when they are unable to repay their loans (see [Security Situation](#)). Anecdotally, indebtedness is reportedly lower among people living in irregular migration hotspots (such as Nghe An and Ha Tinh Provinces), as low or no-interest loans are generally organised within the community. Those who travel from outside of these provinces typically have fewer connections and thus tend to borrow from external lending groups who generally demand high interest rates.

5.34 A number of formal programs support the reintegration of returnees, including with the support of foreign governments. The International Organization for Migration provides financial assistance for education or income-generating activities or in-kind goods. The Reintegration Network is a non-funded, voluntary alliance of local and international organisations and UN agencies that specifically supports the return and reintegration of women and children, including through improving the coordination of referrals and reintegration assistance provided to returnees.

5.35 DFAT assesses that the government typically views persons who paid money to organisers of people smuggling operations as victims of criminal activity rather than as criminals themselves. Such individuals are unlikely to be subjected to the penalties allowed in the law for illegally departing Vietnam. DFAT assesses that long-term detention, investigation, and arrest is generally conducted only in relation to those suspected of involvement in organising people-smuggling operations.

DOCUMENTATION

Birth and Death Certificates

5.36 Under the *Law on Civil Status* (2014), Vietnamese citizens have rights and obligations to register civil status events including births, marriages and deaths. The Ministry of Justice manages the national Civil Registration and Vital Statistics (CRVS) system. The office of the justice clerk in every commune maintains a civil and vital events register to record births, deaths, and marriages of commune residents, which are then reported to district, provincial and central levels. Applications for birth registration of a Vietnamese child born overseas, or the reissuance of original birth certificates for Vietnam-born citizens based overseas, can be processed through the relevant Vietnamese embassy. It is unclear whether replacement identity cards can be issued overseas.

5.37 Article 15 of the *Law on Civil Status* stipulates that births are required to be registered within 30 days. Article 13 of the Law stipulates that certificates be issued by the local (commune) authority where the

mother is living or registers her permanent address. The application for certificate requires: evidence to prove the birth of the child; a marriage certificate for the parents (if any); family residence book or temporary residence certificate of the mother; and an identity document for the person who registers the baby. The application is free and is generally processed within a day, but applications can reportedly be expedited by payment of facilitation fees to the processing officer. Birth certificates are required to access public services, including education and health care.

5.38 UNICEF estimated in 2016 that 359,000 children under five years of age in Vietnam did not have birth certificates, with most living in remote areas. International observers have reported that some parents, particularly from ethnic minorities, have chosen not to register their children; while there have also been instances of local authorities preventing some parents from registering the births of their children to discourage migration. Victims of human trafficking also often lack birth certificates. MOLISA reported in 2014 that there were approximately 150,000 to 176,000 orphaned or abandoned children in Vietnam who may also lack birth certificates. Others potentially in this category include children born outside of marriage, to parents with HIV/AIDS, or as the third child (under the previous two-child policy), as their parents may not approach authorities for fear of social stigma, official discrimination or other consequences in these circumstances.

5.39 Rates for the reissue of a birth certificate vary between localities. The rate in Hanoi is reportedly VND5,000 (AUD0.31) at the Communal Peoples' Committee, and VND50,000 (AUD3.10) at the District People's Committee. DFAT is aware of claims that unofficial facilitation fees are often required, but does not have any information in relation to this. There have been some reports that the Public Security Bureau, which provides background checks before birth certificates are issued, may offer individuals the option of providing community service, for example being a neighbourhood guard, in lieu of paying for a birth certificate. DFAT does not have any specific information in relation to how common this practice is.

5.40 All deaths are required to be registered within 15 days. The registration of deaths through the CRVS system is dependent on whether and how family report information about the death of their relatives to the commune justice officers. As such, the information on death certificates is often incomplete or poorly recorded.

5.41 The government has taken steps in recent years to enhance its CRVS system, and further improvements have been included in the National Action Plan for the implementation of the 2030 sustainable development agenda. These include providing legal identification, including birth registration, by 2030 for all citizens, with a particular focus on ethnic minorities, migrants, and those living in mountainous regions. The government is also progressively rolling out a nationwide electronic civil status database to be used in all registration offices.

Citizen Identification Card (CIC)

5.42 The *Law on Citizen Identification* (2014) governs Citizen Identification Cards (CIC). Since January 2016, citizens over 14 years of age have been required to obtain a CIC, which contains a 12-digit personal identification number and replaces earlier identity cards. Identity cards issued before January 2016 remain valid until their date of expiry, and all valid papers issued on information from such cards remain valid until 31 December 2019. From 1 January 2020, the new national identification database will be made available online and citizens will use their citizen identification cards for all administrative transactions. Individuals lacking official identification are subject to a VND200,000 (AUD12) on-the-spot fine. This digital transition marks a change from the previous physical household residence book (*ho khai*) and national identity card system.

5.43 CICs are used to carry out administrative transactions to access basic legal, social and economic rights in Vietnam, including to apply for birth certificates, register vehicles, or own property. They must be replaced when the cardholder reaches the ages of 25, 40 and 60, or within a two-year window prior to the age limits being reached. The front of the card displays: the cardholder's photo; a 12 digit national identification number; the surname; middle name and first name provided in the birth certificate; date of birth; gender; nationality; place of origin; permanent residence; and an expiry date. The back of the card includes: the cardholder's fingerprint; date of issue; the surname; middle name and first name, designation, and signature of the issuer; and the card issuing authority's stamp with the national emblem.

Household Registration

5.44 The *Law on Residence* (2006) establishes the system and policies for household registration (*ho khau*) and is administered by the Police. Under the law, there are two categories of registration (reduced from four under the previous law): temporary and permanent. Household registration requires citizens to register their permanent residence in only one district in Vietnam. To gain permanent residence status in a new district, citizens must either marry into a family already holding permanent residence, purchase land, or live in rental housing with an official lease and a minimum amount of liveable space.

5.45 The government revised the law in 2013 in response to concerns raised by the MPS over rapid urbanisation in major cities, which had seen more people changing their status to permanent after one year of residence (previously three years). The revisions tightened the requirements for permanent residence from one year to two years of continuous residence. In recent years, both Hanoi and Danang have enacted local laws to increase the restrictions on household registration changes.

5.46 Household registration is initially obtained through the registration of a person's birth with the village or provincial administrators. Officials use the registration system to determine the levels of services provided to villages and provinces, linking a person's right to access government health care, education and other services to their place of residence. Household registration is also essential for obtaining employment with the government or in state-owned enterprises. Furthermore, household registration provides benefits for low-income families, including reduced electricity rates.

5.47 Although health care facilities can be accessed anywhere in Vietnam in emergency cases, there have been reports of public facilities turning away non-life-threatening cases where the person is not properly registered. Access to schools is determined by household registration and administration fees may apply to children not registered in an area zoned for a particular school. For members of minority groups, household registration is essential to access development-related entitlements in rural and regional centres. This may include additional language training or employment related training. Citizens can request the issuance or reissuance of a household registration book, a certificate of temporary residence or other residential papers from local authorities.

5.48 As noted above, under government resolution 112/NQ-CP issued 31 October 2017, the household registration book will be abolished in 2020 and replaced with a new online database, removing some previously time-consuming administrative procedures. Personal administrative procedures going forward will be linked to an individual's 12-digit personal identification number, and updated on the national database.

Passports

5.49 Passports are obtained by application to the Immigration Department of the MPS, at either the Central level (in Hanoi) or the Central-City level (in Hanoi, Danang and HCMC). Applicants outside these three

cities can apply by post. Applicants must provide their identity card or birth certificate (for children under 14 years of age), an application form and two recent passport photos. MPS reviews the application in consultation with authorities in the province who verify the applicant's identity. The process officially takes five working days at the Central level and eight working days at the Central-City level. Ordinary passports are valid for 10 years for individuals aged 14 years or over, and for five years for children under 14 years of age. Passports are issued for children aged under 14 years with the signature of parents or guardians and using their birth certificate.

5.50 Vietnamese passports do not currently use biometric information. Article 7 of the draft law on the entry and exit of Vietnamese citizens, developed in December 2018, outlines a new system for biometric electronic passports. All official, diplomatic and ordinary passports would be embedded with a microchip that stores the holder's personal information, fingerprint scans, ID photo and a digital signature from the issuing agency. The biometric e-passport system would also link to the online national identification database. Applicants will be able to apply either online or at police municipal and provincial immigration offices.

5.51 The draft law also proposes replacing the current travel document (*giay thông hành*) with temporary passports, which would be valid for one year and be used when a Vietnamese citizen travels to a foreign country while their passport is lost or expired, or otherwise exits a foreign country (either voluntarily or involuntarily) when the host country does not allow residency. It is expected that travel documents, which are currently valid for one year, could still be issued for Vietnamese citizens travelling to bordering countries, or any country involved in an international agreement to which Vietnam is a party. The bill, if adopted by the National Assembly, is expected to come into effect in July 2020.

PREVALENCE OF FRAUD

5.52 Document fraud is common in Vietnam. Citizens may seek to obtain fraudulent documents, or to obtain documents unofficially, to avoid corruption and inefficiency in the responsible government agencies. Source identification documents are held at the local level and are considered a high fraud risk by Australian immigration officials. Passport fraud is one of the most difficult types of document fraud to detect in Vietnam, since it is normally undertaken using false documents to obtain a genuine passport fraudulently. If a suspicious passport is referred to the Investigations Unit of the Vietnam Immigration Department, it is possible to obtain advice on the base documents used to apply for that passport. The Immigration Department is not, however, able to trace fraud in relation to the base documents, the responsibility for which lies with other Vietnamese government agencies. The implementation of the national identification database from January 2020 is expected to reduce the production of fraudulent identification documents.

5.53 Some fraud cases are linked to criminality or attempts to avoid entry and exit requirements. Fraud facilitators, people smugglers, and organised criminal syndicates are known to have sought to facilitate their business through abuse of Australia's visa program (and those of other developed country destinations in Europe, North America, and elsewhere), using document and other fraud to obtain visas.