



Australian Government
Refugee Review Tribunal

Country Advice

Vietnam

Vietnam – VNM38290 – Debt– Police
Corruption
11 March 2011

1. Please provide information on the treatment of illegal business people in Vietnam and whether they are treated in a discriminatory way or harmed seriously?

There is no information to confirm or deny that people conducting illegal business would be treated in a discriminatory manner or would suffer serious harm because they carry out illegal business practices.

2. Please provide information on the broad legal procedures to be followed in Vietnam in cases where there is a dispute of money wrongfully gained through illegal business?

According to the most recent US Department of State Country Report on human rights practices of March 2010, people in Vietnam are able to have recourse to the people's court. Each district has a people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Moreover each Province also has a people's court, which serves as the appellate forum for district court cases. Administrative courts adjudicate complaints by citizens about official abuse and corruption. There are also special committees to help resolve local disputes.¹

The Courts of first instance at district and provincial levels include judges and lay assessors. People's councils appoint lay assessors from a pool of candidates suggested by the VFF (Vietnam Fatherland Front - an umbrella group which monitors the country's mass organizations). Lay assessors are required to have "high moral standards," but legal training is not required, and their role is largely symbolic. There is a shortage of trained lawyers and judges and low judicial salaries hinder efforts to develop a trained judiciary. The constitution provides that citizens are considered innocent until proven guilty.²

The judiciary is hampered by the prevalent problem of corruption and the report found that obtaining redress by civil action was difficult:

Civil Judicial Procedures and Remedies

There is no clear or effective mechanism for pursuing a civil action to redress or remedy abuses committed by authorities. Civil suits are heard by administrative courts, civil courts, and criminal courts, all of which follow

¹ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 - Vietnam*, March (Section 1. E. Denial of Fair Public Trial) - Attachment 1

² US Department of State 2010, *Country Reports on Human Rights Practices for 2009 - Vietnam*, March (Section 1. E. Denial of Fair Public Trial; Trial Procedures) - Attachment 1

the same procedures as in criminal cases and are adjudicated by members of the same body of judges and lay assessors. All three levels were subject to the same problems of corruption, lack of independence, and inexperience.³

According to the ‘Country Study Report’ published by Transparency International in 2006 the judiciary is affected by nepotism and does not function independently of the Communist Party of Vietnam.⁴ There is also no single independent agency such as an Ombudsman to handle citizen complaints.⁵

3. Please provide information on whether there is information to suggest that authorities in Vietnam would arrest and imprison a debtor’s daughter for debts incurred by the debtor in operating an “illegal business”.

A search of the available resources has not provided information that can confirm or deny that authorities in Vietnam would arrest and imprison a debtor’s daughter for debts incurred by the debtor in operating an “illegal business”; however there is a reference in the US Department of State March 2010 report referred to above to a case in January 2009 when a woman was sentenced to three years jail because of the unpaid debts of her deceased husband.⁶

The Vietnamese economy is reported to be strained by rising inflation, a budget deficit and a falling currency.⁷

A 2001 article provides useful information on the high demand for mini-loans in Vietnam and how workers particularly in private companies depend on such loans which eventually ‘tie workers in a vicious circle of debt’.⁸

4. Please provide information on the effectiveness and fairness of the Vietnamese police. Please provide information on whether there is any evidence to suggest the police in Vietnam may be corrupt or that it might be discriminatory or fail to protect a Vietnamese citizen for reasons of the citizen’s race, nationality, religion, political opinion or membership of a particular social group.

Information on the problem of corruption in the Vietnamese police force does not attribute the cause of corruption to a citizen’s race, nationality, religion, political opinion or membership of a particular social group. The US Department of State report of March

³ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 - Vietnam*, March (Section 1. e. Civil Judicial Procedures and Remedies) - Attachment 1

⁴ Transparency International 2006, ‘National Integrity Systems Country Study Report: Vietnam’, Transparency International website, p.21 -22
http://www.transparency.org/content/download/11680/104752/file/Vietnam_NIS_2006.pdf – Accessed 8 February 2011 – Attachment 6

⁵ Transparency International 2006, ‘National Integrity Systems Country Study Report: Vietnam’, Transparency International website, p.26
http://www.transparency.org/content/download/11680/104752/file/Vietnam_NIS_2006.pdf – Accessed 8 February 2011 – Attachment 6

⁶ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 - Vietnam*, March (Section 1. e. Political Prisoners and Detainees) - Attachment 1

⁷ ‘Vietnam: Vietnam’s troubled economy: steady as she staggers’ 2011, *The Economist*, 6 January – Attachment 2

⁸ Tran Dinh, T L 2001, ‘Vietnam: Workers at private firms fall into debt traps’ Inter Press Service, 29 June – Attachment 3

2010 referred to previously found that ‘corruption among police remained a significant problem at all levels’.⁹ A Human Rights Watch report published in September 2010 outlined serious problems in the police force and reported a series of incidents which indicate that police brutality is systemic and widespread.¹⁰

According to an advice from the Refugee Board of Canada which cites a survey on the problem of bribery in Vietnam, Vietnamese citizens give bribes to officials as a ‘habit’ and in an attempt to ensure efficiency; and a third of officials and civil servants accept bribes because it is seen as “common practice”. It also indicates that a diagnostic survey released in 2005 found that the extent of corruption among the traffic police resulted in it being the third most corrupt institution in Vietnam.^{11 12} The ‘Transparency International Corruption Index 2010’ lists Vietnam among those countries which verge on the ‘highly corrupt’ countries with a ranking of 2.7 on a scale of 10 (very clean) to 0 (highly corrupt).¹³

Attachments

1. US Department of State 2010, *Country Reports on Human Rights Practices for 2009 - Vietnam*, March.
2. ‘Vietnam: Vietnam’s troubled economy: steady as she staggers’ 2011, *The Economist*, 6 January. (CISNET Vietnam CX255895)
3. Tran Dinh, T L 2001, ‘Vietnam: Workers at private firms fall into debt traps’ Inter Press Service, 29 June. (FACTIVA)
4. Immigration and Refugee Board of Canada 2006, *Vietnam: The nature and extent of police corruption, particularly the extent to which the police accept bribes (November 2002 - October 2006)*, 13 December http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=450743&l=e – Accessed 7 March 2011.
5. Human Rights Watch 2010, “*Vietnam: Widespread police brutality, deaths in custody*” 22 September.
6. Transparency International 2006, ‘National Integrity Systems Country Study Report: Vietnam’, Transparency International website

⁹ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 - Vietnam*, March (Section 1. D. Role of the Police and Security Apparatus) - Attachment 1

¹⁰ Immigration and Refugee Board of Canada 2006, *Vietnam: The nature and extent of police corruption, particularly the extent to which the police accept bribes (November 2002 - October 2006)*, 13 December http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=450743&l=e – Accessed 7 March 2011 - Attachment 4

¹¹ Immigration and Refugee Board of Canada 2006, *Vietnam: The nature and extent of police corruption, particularly the extent to which the police accept bribes (November 2002 - October 2006)*, 13 December http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=450743&l=e – Accessed 7 March 2011 - Attachment 4

¹² Transparency International 2006, ‘National Integrity Systems Country Study Report: Vietnam’, Transparency International website, p.12 http://www.transparency.org/content/download/11680/104752/file/Vietnam_NIS_2006.pdf – Accessed 8 February 2011 – Attachment 6

¹³ Transparency International 2010, *Corruption Perception Index 2010* (p 3) http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results - Accessed 10 November 2010 - Attachment 7

http://www.transparency.org/content/download/11680/104752/file/Vietnam_NIS_2006.pdf – Accessed 8 February 2011.

7. Transparency International 2010, *Corruption Perception Index 2010*
http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results -
Accessed 10 November 2010.