

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

- 1. Could I please have an update on the status of HIV+ and/or Hep B sufferers (if there is any recent information), particularly in non-urban localities?**
- 2. Could I please have any information in relation to the success or failure of the new anti-discrimination law which took effect on 1/1/07 referred to in VNM33616?**
- 3. Could I please have information in relation to whether a resident of Ca Mau would experience difficulties in registering to live in Ho Chi Minh City?**

RESPONSE

- 1. Could I please have an update on the status of HIV+ and/or Hep B sufferers (if there is any recent information), particularly in non-urban localities?**

No recent information was found regarding the status of Hepatitis B sufferers in Vietnam.

In relation to HIV sufferers however, the most recent US Department of State human rights report claims that in 2008, “[t]here was no evidence of official discrimination against persons with HIV/AIDS, but societal discrimination against such persons existed.”

There were credible reports that persons with HIV/AIDS lost jobs or suffered from discrimination in the workplace or in finding housing, although such reports decreased. In a few cases, children of persons with HIV/AIDS were barred from schools, despite its being against the law. With the assistance of foreign donors, the national government and provincial authorities took steps to treat, assist, and accommodate persons with HIV/AIDS and decrease societal stigma and discrimination, although overall consistency was lacking. Religious charities were sometimes permitted to operate in this area (US Department of State 2009,

An article dated 29 May 2009 claims that “widespread community discrimination” against people with HIV/AIDS in Vietnam has hindered the education opportunities of many children who are infected with the disease, or who have parents that are infected. Despite schools being ordered by district authorities to enrol afflicted children and the implementation by some schools of HIV prevention and transmission information classes, concerns are still raised over the potential societal discrimination that children may receive from parents and other children:

Children infected with HIV/AIDS or with parents similarly afflicted still find it hard to get a formal education owing to the widespread community discrimination against them, a Ho Chi Minh City official said.

“These children have a right to go to school. It’s a pity that many parents don’t want their kids to study with those who suffer from HIV,” Le Truong Giang, vice chairman of the city’s AIDS Prevention Committee, told reporters at a press conference in Ho Chi Minh City last Friday.

...“It’s basically very hard for the kids to go to school, and even [when they can do so] they have to hide their history and attend a school far from their neighborhood, a private school or even classes for disadvantaged children,” Giang said.

Nguyen Thi Nguyet, head of the Nang Mai Group working to help HIV-affected people in Thu Duc District, told reporters a story about a boy whose father had died from AIDS and who had tried three times to find a school that would enroll him.

“Actually, the schools did accept him at first. It was only when they learned about his father that they changed their minds and refused him,” Nguyet said.

He was finally accepted by a school more than 10 kilometers from home, but only after his mother told them the father had died from tuberculosis.

“Please let me go to school, don’t make me stay home. I haven’t done anything wrong,” Nguyet remembered the boy saying.

When Xuan Hiep Elementary School in Thu Duc District announced that it would enroll kids with HIV this year, hundreds of parents called or went to the school to protest against the decision, school principal Duong Hoang Tuan said.

Some parents even hurried to switch their children to other schools, saying it was “impossible” to let them study with diseased kids, Tuan added.

Thankfully the ruffled feathers have since been smoothed somewhat now that parents have seen how the school is committed to lessening the risk of transmission, he said.

Besides stocking up on medical gear and training the teachers in first aid, Xuan Hiep Elementary School arranged several classes at the start of the school year to inform parents about HIV prevention and transmission, he said.

“With the school year about to end, we can definitely see a change in the parents’ attitude,” Tuan said.

Tran Thi Thu Tram from the Tam Binh Care Center for HIV-afflicted Children said 22 of the center's kids were attending local elementary schools.

"Most of them are doing well, yet they still experience discrimination from some of the parents," Tram said.

Nun Le Thi Triu from Cu Chi District's Mai Hoa Center, which cares for HIV-affected children and terminal patients, is relieved that the district authorities have ordered schools in Cu Chi to enroll afflicted children from the next school year.

Yet, she's still concerned about the discrimination from parents and other kids.

"Sick children will be happier if they can go to school without discrimination," Triu said ('Intolerance still prevails against kids with HIV/AIDS' 2009, Look at Vietnam website, source: VietNamNet, 29 May <http://www.lookatvietnam.com/2009/05/intolerance-still-prevails-against-kids-with-hiv-aids.html> – Accessed 15 June 2009 – Attachment 2).

Similarly, an article from September 2008 describes the marginalization and discrimination faced by children with HIV/AIDS in Ho Chi Minh City. The article claims that these children have "little opportunity to complete basic schooling" and that the Vietnamese government is hindering the activities of churches and humanitarian organizations in providing services for those affected. The article follows in further detail:

Marginalization, discrimination, little opportunity to complete basic schooling, and fears over an uncertain future, devoid of concrete prospects for a better life. This is the reality for 1,750 children in Ho Chi Minh City who suffer from AIDS or are HIV-positive, in the context of a total number of people sick with the disease that in the former Saigon alone – according to official estimates – numbers 34,909 cases, although the real number could be twice as high.

The lack of a stable family to take care of them is one of the main problems that HIV-positive children must face: according to the statistics, out of 100 children living in the district of Go Vap in Ho Chi Minh City, 48 suffer because of the absence of their parents, while 22 say that they are concerned over a future that they see as irreparably compromised.

Despite the slogan so dear to "Uncle Ho" – as Ho Chi Minh was familiarly called – according to which "all citizens are equal and enjoy equal rights", the sick face significant discrimination and are marginalized from the rest of society. The problem is even more serious for the youngest, who even at school must face a disparity of treatment that in many cases amounts to genuine isolation.

Tam, nine years old and HIV-positive, says that many of the other children don't want to play with him because they are "afraid". A woman says that she helped another child find a place at an elementary school in the city, which he attended regularly for six months "without learning anything". When she went to the school to ask for an explanation, she saw that the boy was kept far from the other children, in a corner of the class, without any contact with the others. The teacher justified herself by saying that she was "worried" that the other children could "contract the infection" even by sharing the same physical space.

In order to address the emergency, the Catholic Church and various humanitarian organizations (26 in all) have begun a series of projects dedicated to HIV-positive children. It is a charitable activity intended to alleviate the sufferings of the sick, but in many cases it is blocked by the government, which "is afraid of the initiatives of religious associations". For this reason, the volunteers are asking for greater freedom of action: "if the authorities continue to maintain their prejudiced towards religion", they say, "the country can never make progress in social equality and human rights" (Nguyen, H. 2008, 'Vietnam, HIV-

positive children abandoned by parents and government', *Asia News IT*, 20 September – Attachment 3).

The US Department of State International Religious Freedom report for 2008 provides similar information regarding the efforts of the Catholic Church in Ho Chi Minh City and Hue to operate hospices, shelters, treatment centres and counselling services to HIV-positive children and mothers. It is reported that the Ho Chi Minh City government “allowed the Church to pursue these initiatives quietly” despite the Church having no official legal status to engage in such activities. In addition, Catholic priests and nuns in several provinces in the Mekong Delta region received training courses in the care of HIV/AIDS patients in early 2008; and although “[c]haritable activities undertaken by religious groups in northern Vietnam were more restricted... a number of northern provinces reportedly became more permissive during the reporting period.”

Thai Binh Province, for example, actively encouraged the Catholic Church's work in HIV/AIDS and the treatment of the sick and disabled. Haiphong authorities also began working with the Catholic Church in areas related to drug addiction treatment and HIV/AIDS during the reporting period, while the Catholic Diocese of Nam Dinh operated an orphanage.

ECVN [Evangelical Church of Vietnam North] leaders reported that provincial authorities in Thanh Hoa and Nam Dinh actively encouraged their churches to expand charitable activities. The VBS [Vietnam Buddhist Sangha] engaged in humanitarian activities, including anti-drug and child welfare programs, as well as HIV/AIDS programs and other charitable work across the country. The province of Hanoi allowed a number of VBS-run temples to run orphanages for abandoned and disabled children, along with HIV/AIDS treatment programs (US Department of State 2008, *International Religious Freedom Report for 2008 – Vietnam*, September, Section II - Attachment 4).

A report published by the International Center for Research on Women in 2009 describes the implementation of community-based interventions in Vietnam which, it is argued, can be effective in reducing HIV-related stigma. The report highlights the results of community interventions carried out in 2005-2007, involving “work with community leaders and members in two provinces to increase their understanding of stigma and build capacity to reduce it.” The findings of the report show that in two communities involved in the study, “[e]xposure to intervention activities was associated with significant reductions in fear-driven stigma;” and “[p]eople’s intent to discriminate based on HIV status decreased among survey respondents.” However, “the overall level of value-driven stigma remained high. For example, respondents continued to express high levels of blame toward people living with HIV, injecting drug users and sex workers” (Nyblade, L., Hong, K.T., Van Anh, N., Ogden, J., Jain, A., Stangl, A., Douglas, Z., Tao, N. and Ashburn, K. 2009, ‘Communities Confront HIV Stigma in Viet Nam’, International Center for Research on Women website, pp. 1-2 <http://www.icrw.org/docs/2009/Communities-Confront-HIV-Stigma-in-Vietnam.pdf> – Accessed 16 June 2009 – Attachment 5).

2. Could I please have any information in relation to the success or failure of the new anti-discrimination law which took effect on 1/1/07 referred to in VNM33616?

The law in question is entitled the ‘Law on HIV/AIDS Prevention and Control’, also referred to as the HIV Law, or the National AIDS Law, which came into effect on 1 January 2007. According to the 2009 report published by the International Center for Research on Women cited earlier, the law highlights “the need to combat stigma and discrimination in HIV/AIDS prevention work” (Nyblade, L., Hong, K.T., Van Anh, N., Ogden, J., Jain, A., Stangl, A.,

Douglas, Z., Tao, N. and Ashburn, K. 2009, 'Communities Confront HIV Stigma in Viet Nam', International Center for Research on Women website, p. 4
<http://www.icrw.org/docs/2009/Communities-Confront-HIV-Stigma-in-Vietnam.pdf> – Accessed 16 June 2009 – Attachment 5).

Limited specific information was found on the success or failure of this law. However, a report published in December 2008 by a group of international non-governmental organizations (INGOs) argues that “HIV-related stigma and discrimination continue to undermine the national responses to the epidemic, preventing people from using HIV prevention, care and treatment services, as well as accessing employment and social services;” calling for the Government of Vietnam to “set a clear leadership example” and “eliminate confusion between HIV and social evils.” This may indicate that little progress was made in this area in the period leading up to December 2008.

The above key populations may experience double or even triple stigma due to their involvement in social taboo behaviours, such as sex work, drug abuse and male-to-male sex.

Despite laudable efforts to extend care and treatment services to adults and children living with HIV, coverage is far from universal. It is estimated that less than 50 per cent of those in need of anti-retroviral therapy (ART) have access to it (WHO 2008). Furthermore, palliative care service availability, including treatment of pain, remains highly limited.

...Stigma and discrimination remain problematic for people living with and affected by HIV, as well as among those who engage in social taboo behaviours that put them at risk. Combating stigma and discrimination must, therefore, remain a focus at all relevant levels of policy and across the prevention-to-care continuum. It is important that the Government of Vietnam champion this issue and set a clear leadership example to promote a community environment free from stigma and discrimination. This will also greatly improve access to health services. Of particular concern is the need to ensure that children living with and affected by HIV are able to go to school and experience an educational environment without fear of stigma and discrimination.

Indeed, government leadership is required to eliminate confusion between HIV and social evils, and to reduce HIV-related stigma and discrimination that prevents people from accessing care and treatment services ('International Non-Governmental Organisation (INGO) Statement for the Vietnam Consultative Group Meeting' 2008, NGO Resource Centre website, December, pp. 8-11
http://www.ngocentre.org.vn/files/docs/INGO_Statement_2008.pdf – Accessed 17 June 2009 – Attachment 6).

Although not specifically referring to the Law on HIV/AIDS Prevention and Control, a 2008 report published by the Global Youth Coalition on HIV/AIDS similarly identifies stigma and discrimination as current concerns for people living with HIV/AIDS, calling for the Vietnamese government to “[act] on its policies to protect people from discrimination.”

Stigma and discrimination remain significant concerns for PLHIV. This leads to a reluctance to access prevention methods, testing, and treatment services. Too often, PLHIV face exclusion and rejection from work and family, which results in unstable living situations/conditions that perpetuate risk behaviours and an expansion of the epidemic. It is imperative that the Viet Nameese government acts on its policies to protect people from discrimination (Global Youth Coalition on HIV/AIDS 2008, 'National Youth Shadow Report-Vietnam', Global Youth Coalition on HIV/AIDS website

<http://www.youthaidscoalition.org/docs/vietnam.pdf> – Accessed 19 June 2009 – Attachment 7).

In addition, although undated, the website of the HIV/AIDS Asia Regional Program states that “[s]tigma and discrimination towards IDU [injecting drug users] remains a serious...barrier” to the implementation of the Law on HIV/AIDS Prevention and Control:

While the Government of Vietnam should be commended on passing the law on HIV/AIDS Prevention and Control which contains explicit provisions on harm reduction, implementation remains challenging with the Ministry of Health, Ministry of Public Security and the Ministry of Labour, Invalids and Social Affairs unclear of roles and responsibilities.

At the local level, there is a continuing reliance on punitive approaches to drug users including arrest and incarceration in mandatory rehabilitation centres. Stigma and discrimination towards IDU remains a serious implementation barrier (‘Vietnam’ (undated), HIV/AIDS Asia Regional Program (HAARP) website <http://www.haarp-online.org/www/html/151-vietnam.asp?intLocationID=77> – Accessed 18 June 2009 – Attachment 8).

On the other hand, a fact sheet published by the Joint UN Programme on HIV/AIDS in July 2008 claims that since the implementation of the Law on HIV/AIDS Prevention and Control, Vietnam has addressed the stigma and discrimination associated with HIV/AIDS through “increased support for participation from civil society and PLHIV [people living with HIV], approved methadone substitution treatment on a pilot basis, and expanded quality HIV care and support, treatment, condom distribution, Information Education and Communication, needle exchange targeting key populations at higher risk, population-wide access to voluntary testing and counselling, and PMTCT [preventing mother-to-child transmission].”

In 2006 Viet Nam passed the Law on HIV/AIDS Prevention and Control, which protects the rights of PLHIV and stipulates government and social responsibilities. In 2007 the ministries finalized the Programmes of Action (HIV Prevention, Information Education and Communication and Behaviour Change Communication; Harm Reduction Prevention targeting high risk populations; PMTCT; Management and Treatment of STIs; Care and Support for PLHIV; Access to HIV Treatment including antiretroviral therapy; HIV Surveillance and Monitoring and Evaluation; Capacity Building and International Cooperation Enhancement; and Blood Safety). Major barriers to prevention, treatment, care and support are stigma and discrimination, access for key populations at higher risk, and lack of human resources. To address this Viet Nam has increased support for participation from civil society and PLHIV, approved methadone substitution treatment on a pilot basis, and expanded quality HIV care and support, treatment, condom distribution, Information Education and Communication, needle exchange targeting key populations at higher risk, population-wide access to voluntary testing and counselling, and PMTCT. Finally, provincial AIDS Centres have been established in 90% of provinces to improve and consolidate human resources. The HIV response is linked to the government’s poverty reduction, education, and sexual and reproductive health efforts. Recognized as a threat to development, HIV is being mainstreamed into school curriculum and reproductive health services (Joint United Nations Programme on HIV/AIDS 2008, ‘Vietnam - Country Situation’, UNAIDS website, July http://data.unaids.org/pub/FactSheet/2008/sa08_vtn_en.pdf – Accessed 18 June 2009 – Attachment 9).

In a 2009 report to the UN Human Rights Council, the Vietnamese government claimed that “[s]trategic programmes and policies on...prevention and control of tuberculosis and HIV/AIDS have proven to be effective.” The report further provides the following information:

35. ...Almost all ethnic minority communes with difficulties have health clinics while community-based health services are available in most villages, contributing importantly to the prevention and control of many fatal diseases and improvement of the people’s health and quality of life.

... 84. Viet Nam continues to give priority to healthcare and improvement of people’s physical conditions, including the prevention and control of communicable diseases and epidemics, early detection and control of outbreaks, raising awareness on healthcare, improving access to clean water and sanitation services for all, with priority support given to the poor and entitled beneficiaries, ethnic minorities and regions in special hardship, ensuring food safety in accordance with regional and international standards, and gradually driving back and eliminating drug addiction. National Target Programmes (NTP) on the prevention of some dangerous communicable diseases and HIV/AIDS, on population and family planning, on clean water and clean rural environment (total budget of over VND 22,000 billions), on food safety (total budget of VND 1,000 billions) and on the prevention and control of narcotic drugs for 2006-2010 will continue to be implemented (Government of the Socialist Republic of Vietnam 2009, ‘National Report submitted in accordance with Paragraph 15(A) of the Annex to Human Rights Council Resolution 5/1’, UN High Commissioner for Human Rights website, 16 February http://lib.ohchr.org/HRBodies/UPR/Documents/Session5/VN/A_HRC_WG6_5_VNM_1_E.pdf – Accessed 18 June 2009 – Attachment 10).

In addition, the most recent UK Home Office report on Vietnam provides some information on the country’s progress towards universal targets in combating HIV/AIDS:

24.06 In an article dated 11 May 2009, UNAIDS stated:

“Although the country faces challenges to meet its universal access targets, Viet Nam has made significant progress in some areas. Expansion of coverage and access to quality HIV treatment and care have been considerably improved in those areas with high HIV prevalence since the targets were set in 2006. There has been a 50% increase in the number of eligible pregnant women receiving antiretroviral treatment, and a six-fold increase in access to antiretroviral treatment” (UK Home Office 2009, *Country of Origin Information Report: Vietnam*, June, pp. 58-59 – Attachment 11).

3. Could I please have information in relation to whether a resident of Ca Mau would experience difficulties in registering to live in Ho Chi Minh City?

The UK Home Office report for 2009 cited previously indicates that all persons living in Vietnam must be registered on a household registry called Ho Khau, and that this registration must be changed when moving from one place to another:

25.02 As recorded by the website of the US State Department’s Bureau of Consular Affairs, accessed on 30 April 2009, “Every person residing in Vietnam must be listed on a household registry (Ho Khau), maintained by the Public Security Bureau.”

- ...25.03 A report by the Canadian Immigration and Refugee Board (IRB) dated 16 October 2001 noted that if individuals move from one place to another without changing their household registration, they are moving illegally, and would be unable to obtain a job or schooling for their children. [6c] On the same date the Canadian IRB recorded that a household registration document (ho khau) is one of the documents required for a Vietnamese citizen to secure a passport within Vietnam (the other documents being a birth certificate, a government-issued ID card and a letter of introduction for a passport, if applicable). [6e]
- 25.04 The Canadian IRB recorded on 16 October 2001 that people would be removed from the household registry (ho khau) if they failed to live continuously at their address for one year. Such people could apply to have their registration restored if they were closely related to the head of the households concerned (sibling, son or daughter, spouse or parent). [6c]
- 25.05 The same source stated further, “For people who emigrate from Vietnam, the government considers them no longer part of their original household and they would lose their registration.” An individual could apply for restoration of his name to the household registry only after returning to Vietnam, but those considered undesirable by the government would not be eligible (UK Home Office 2009, *Country of Origin Information Report: Vietnam*, June, pp. 60-61 – Attachment 11).

The US Department of State human rights report cited earlier indicates that Vietnam’s household registration system is less intrusive than it was in the past and that in 2008, “migration from rural areas to cities continued unabated.” However, “[m]oving without permission hampered persons seeking legal residence permits, public education, and healthcare benefits.”

Internal security is the responsibility of the Ministry of Public Security (MPS)...It also maintains a system of household registration and block wardens to monitor the population. While this system has generally become less intrusive, it continued to be used to monitor those suspected of engaging, or likely to engage, in unauthorized political activities.

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

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

...The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government imposed some limits on freedom of movement for certain individuals.

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

Moving without permission hampered persons seeking legal residence permits, public education, and healthcare benefits. Foreign passport holders must register to stay in private homes, although there were no known cases of local authorities refusing to allow foreign visitors to stay with friends and family. Citizens are also required to register with local police when they stay overnight in any location outside of their own homes; the government

appeared to have enforced these requirements more strictly in some districts of the Central and Northern Highlands (US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Vietnam*, February, Sections 1d, 1f, 2d – Attachment 1).

A previous research response dated 16 May 2005 describes in detail Vietnam's permanent and temporary household registration procedures, including the processes for changing location and the specific conditions required for relocating to cities or towns, as outlined in *Decree No. 51-CP of May 10, 1997 on Household Registration and Management*. The decree provides the following information:

Article 10.

When a person moves to a new place of residence, he/she or the head of the family, or the head of the collective apartment building where the person concerned is to move out must go to the police agency of the locality where he or she is residing to fill the procedure of relocation.

Within at most 7 days in a city or town, and at most 10 days in a rural area of arrival in his/her new place of residence, the new comer or the head of the newly coming family must fill the procedure of registering their permanent household residence with the police agency in the new locality.

Registration requires the following papers:

- The Identity Card (for persons aged 15 and above).
- The certificate of relocation.
- The certificate of the change of permanent residence.
- The certificate of a lawful dwelling house.
- Other papers directly related to the change of permanent residence (if any).

Within 10 days after receiving the necessary valid papers as stipulated for persons moving to a rural area, and within 20 days after receiving the necessary valid papers for persons moving into a city or town, the police must settle the case.

Article 11.

In order to have his/her permanent residence registered at the new place of residence, the new comer must have a lawful dwelling house. A lawful dwelling house is:

1. A house owned by oneself.
2. A house which one is entitled to use legally by a decision of house allotment or by a rental contract.
3. A house whose legitimate owner agrees to let the new comer live in. The house must ensure environmental hygiene and have the minimum living space as stipulated. It is neither being disputed nor in an area to be cleared under general planning.

The above-mentioned lawful dwelling house must have the necessary papers recognizing the ownership or the right of the user to use it legally as stipulated by law.

In particular, Article 12 of *Decree No. 51-CP of May 10, 1997 on Household Registration and Management* states that the following conditions are necessary for any persons wishing “to transfer their permanent residence to cities or towns (hereafter referred to as cities)”:

1. For persons transferred or assigned by the authorized State agency to work in an urban center:
 - a) Public servants and employees transferred by the authorized level within the branch or to another branch of the same profession to replace those who are transferred to another place, or who retire on a pension, retire for health reason, or quit the job, and those sent there to work.
 - b) Public servants and employees who have been sent by a State agency or an organization to study, to work or on a special assignment in another place, but who are now to return to the former place of residence to work by decision of the authorized State agency.
 - c) Graduates of universities, colleges, high schools and vocational schools who, by decision of the authorized State agency of ministerial level (for central State agencies or organizations) or the provincial People’s Committees (for provincial and municipal State agencies and organizations), have been working on regular jobs.
2. Professional officers and army men, workers and personnel of the People’s Army and the People’s Police who regularly work in an urban center and belong to one of the following cases shall be permitted to register their permanent residence in their families’ household:
 - a) Persons who come to live with their parents, spouse and children who are permanent residents in a city.
 - b) Policewomen and army women who are married or who have children.
 - c) Persons who have continually worked in an urban center for at least 3 years.
 - d) Pensioners.
3. In addition to the stipulations in Points 1 and 2, persons who belong to one of the following categories shall also be allowed to transfer their permanent residence to the place of residence of persons who have registered their permanent residence in a city:
 - a) Public servants and employees who work in neighboring provinces or cities and who daily live and have their meals together with their parents (if unmarried) or with their spouse and children who are permanent residents in a city.
 - b) Persons who have grown past the working age, who have retired for old age or health reason, and who want to come and live with their children or siblings (if they are unmarried and have no children) who are permanent residents in a city.
 - c) Persons who have lost their working capacity due to disability, mental deficiency or disease and who want to come and live with their parents, children, or siblings, uncles, aunts, or a sponsor (if they have no parents, spouse or children) who are permanent residents in a city.
 - d) Persons under 18 years old who come to live with their grand-parents, siblings, uncles, aunts, a sponsor or a guardian (if their parents were dead) who are permanent residents in a city.
 - e) A man or a woman who wishes to come and live with his or her spouse who is a permanent resident in a city.

f) Overseas Vietnamese who are repatriated and are permitted by the authorized level to reside in a city.

g) Persons who were permanent residents or were born in a city, but who have been called up or have gone to another place (including a foreign country) to work as assigned, to study, or to work under a labor contract, and who now return legally, and their dependents as stipulated in Points b, c, d, and e, item 3, of this Article.

h) Persons who were permanent residents in a city, but who have served a prison term or have returned from a re-education center, a reformatory camp or a medical institution after carrying out a punitive decision for administrative violation, and who do not belong to the categories banned from cities.

4. With regard to special cases, the Director of the Municipal Police Service shall report to the President of the Municipal People's Committee and the Minister of the Interior for decision.

In terms of temporary registration, the requirements are as follows:

Article 14.

Persons aged 15 and above who stay overnight away from their permanent place of residence in another ward, town or commune must register their temporary stay there as stipulated. If parents, husbands and wives, and their children are regular guests in one another's house, they must register their first temporary stay in the year.

Article 15.

The following categories of persons must register their period of temporary stay as stipulated:

1. Persons who are de facto residing in a locality but who have not yet fully met the conditions for registering their permanent residence.

2. Persons who come from another place to study, work or serve as casual laborers.

3. Persons who have been assigned to work in the State agencies or organizations, enterprises of different economic sectors, foreign representative offices or branch offices in provinces or cities of Vietnam.

Article 16.

Persons aged 15 and above who for personal reasons must be absent overnight from the precinct, city, town or district where they are residing permanently must register their temporary absence as stipulated.

Persons who have been absent from their permanent place of residence for more than 6 months without registering their temporary absence and without plausible reasons shall have their names crossed out from the household registration book. When they return, they must re-apply for registration of their permanent residence as stipulated.

With regard to those persons who have registered their permanent residence but who in fact do not live in their permanent residence address without any plausible reasons, or cannot live there, the household management agency must cross out their names in the household registration book.

The Ministry of the Interior shall give a detailed guidance on the procedure of registering temporary stay and temporary absence ('Vietnam – Decree No. 51-CP of May 10, 1997 on Household Registration and Management' 1997, Vietnam Official Gazette, 30 June – Attachment 12; MRT Country Research 2005, *Research Response VNM17324*, 16 May – Attachment 13).

The International Organization for Migration's World Migration report for 2008 outlines Vietnam's complex household registration system, which is applicable to both urban and rural areas, and "restricts access to government services outside the authorized location of residence/work." The system identifies four categories of residents, KT1, KT2, KT3 and KT4 as follows:

- KT1 – Person registered in the district of residence;
- KT2 – Person not registered in the district of residence, but registered at another district of the same province;
- KT3 – Person who has temporary registration for a period of six months and more;
- KT4 – Person who has temporary registration for a period of less than six months.

There is also a category of "no registration" at the destination (Deshingkar, P. and Natali, C. 2008, 'Internal Migration', Chapter 7 in International Organization for Migration 2008, 'World Migration 2008: Managing Labour Mobility in the Evolving Global Economy', International Organization for Migration website http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/studies_and_reports/WMR2008/Ch7_WMR08.pdf – Accessed 19 June 2009 – Attachment 14).

A 2006 report published by the United Nations Population Fund on the quality of life of migrants in Vietnam highlights some registration difficulties faced by internal migrants, based on the complex household registration system:

1. Registration and migrant status

A large proportion of migrants had some kind of registration in their places of origin before they moved. While migrants who moved earlier may have acquired KT1 registration, recent migrants are mainly in the unregistered and spontaneous/temporary categories. A majority of young and single migrants who have moved recently tend to have KT4 registration i.e. less than six months, older married migrants tend to have KT3 registration which is also temporary but more than six months.

This suggests that most recent migrants were either not able to obtain longer permits to remain at the destination, had lost their papers or chose to stay for only a short period because their intention is to work for a few months in the destination and retain their access to rights in the village. Indeed nearly 63 percent of those who moved for work have KT4 registration, and 50 percent of those who moved for improving living conditions, had KT4 registration. In the case of those who moved for family reasons almost 47 percent had KT3 registration. Being refused permission to register was cited as a reason for not having registration by 46 percent of the migrants.

...2. The difficulties faced by migrants

Nearly 45 percent of the migrants said they faced difficulties after arrival and a lack of proper housing ("dwelling problems") was cited as a major problem. Other problems mentioned were a lack of access to water, electricity and jobs.

...1.1.4 The household registration system

...In general KT3 and KT4 groups are spontaneous (i.e. not government organised or sponsored). It needs to be borne in mind that the enumeration of KT4 migrants is extremely difficult and most recorded figures on KT4 migrants are probably gross underestimates due to the fact that they depend on registration through guesthouses and the like with the police.

Since renewal of absence certificates is required every six months, many migrants may choose not to renew their papers depending on their circumstances and the attitude of local authorities (Winkels 2004). Thus they may become undocumented migrants... Thanh (2002) notes the presence of unregistered migrants in all districts of HCMC. His figures show that on average unregistered migrants comprise 15 percent of the population of HCMC. His comparisons of data in 1998 and 2000, show an increase in unregistered migrants from around 13 percent in 1998 to more than 15 percent in 2000, in 20 out of 22 districts.

1.1.5 The difficulties faced by migrants

While many migrants without permanent registration (i.e. KT1 or KT2 status) can find work in many urban and rural areas, limitations exist in terms of gaining access to formal sector jobs, education, healthcare, housing, land tenure, registering businesses and assets and obtaining credit (World Bank 1999a). Furthermore, most temporary migrants tend to segregate in certain areas that are usually poor in water and sanitation infrastructure.

...2.3 Why migrants do not/cannot register

Table 2.3 provides an indication of why some people did not have permanent registration at their place of origin. The majority (46 percent) said that this was because they did not have permission to register. Another 22 percent said that they did not think it was necessary to register. Of the remaining respondents 19 percent said that their registration process was not complete. A further 9 percent said that they did not know how to register indicating problems with access to information or literacy and 8 percent said they did not apply because of complicated procedures.

Those who moved for employment or for improving their living conditions were more likely to be refused registration (53 percent of those who moved for a job said that they did not get permission and 47 percent of those who moved for improving living conditions said the same). As stated previously, there is a possibility that the migrants did not pursue this option because they did not intend to stay permanently (United Nations Population Fund and General Statistics Office 2006, 'The 2004 Vietnam Migration Survey: The Quality of Life of Migrants in Vietnam', United Nations Population Fund (UNFPA) website, pp. 1-21 http://vietnam.unfpa.org/documents/TheQualityofLifeofMigrantsinVN_GSO1206_e.pdf – Accessed 22 June 2009 – Attachment 15).

In addition, a report on internal migration in Vietnam published by the United Nations Population Fund in 2007 indicates that the difficulties faced by some migrants upon arrival “are the result of administrative regulations, such as the household registration system, which limit migrants’ ability to find employment, obtain credit, and find suitable housing.”

A minority of migrants to urban areas face difficulties upon arrival and the great majority report that their lives have improved because of their move.

...However, some migrants still face difficulties after they move. Many of these difficulties are the result of administrative regulations, such as the household registration system, which limit migrants' ability to find employment, obtain credit, and find suitable housing. Elimination of these restrictions would improve the life for migrants and would also improve social and living conditions in destination areas. Strengthening the formal systems that can provide support to migrants who are seeking employment and housing, meanwhile, would also make migrants more productive in their new environments (United Nations Population Fund 2007, 'Internal Migration in Vietnam: The Current Situation', United Nations Population Fund (UNFPA) Vietnam website, pp. 27-30
http://vietnam.unfpa.org/documents/2008/Internal%20Migration_Current%20situation_e.pdf
– Accessed 19 June 2009 – Attachment 16).

A study of migration to Ho Chi Minh City (HCMC) highlights policies designed to restrict migration to urban areas. It is argued that with the implementation of the Renovation (Doi Moi) Policy in the mid 1980s, "HCMC became the country's most significant target region for flows of foreign direct investments (FDI) and the growth engine of Vietnam's economy." As a result, "household registration procedures no longer affect every aspect of people's lives...but there are still severe measures that aim to restrict migration."

Policies towards Migrants

The fear that the rural population would move to the major cities of Vietnam in overwhelming numbers resulted in a number of policies to restrict migration into urban areas directly and indirectly. Before 1990, migration streams were strictly controlled by the Vietnamese government through employment policies and the household registration system, similar as in China. Since the Doi Moi reforms, household registration procedures no longer affect every aspect of people's lives (Waibel 2005), but there are still severe measures that aim to restrict migration. The most important tool for restricting migration is the division of the Vietnamese population into different categories of residential household status. There are four nation-wide categories, from KT-1 (officially registered permanent citizens) to KT-4 (migrant with temporary residence permit). Each status entails certain rights or obligations/legal restrictions (Thanh 2007; Weyl 2006: 14f; VeT et al 2005: 11; Anh 2005: 59f).

...In order to be able to apply for KT-1 status in HCMC, citizens must show a permit from their place of origin, prove that they have a legal and stable job in the formal sector and are owners of legal housing space in the place of destination (GSO/UNPF 2005: 69/Thanh 2007: 11). So, migrants who are just tenants of a housing unit had no chance to apply for KT-1 status. The requirement to prove legal residency in a house is the most difficult precondition. In this context, it is very revealing that many migrants cited the lack of access to financial loans as major problem for them (GSO/UNPF 2005: 70). In many cases, taking out a loan to purchase property is the only way to access legal housing. The need for loans or for access to formal financial services was far more frequently mentioned than the lack of access to services such as education and health care.

In fact, migrants in HCMC, especially those of low-income, may require several years to attain KT-1 status, as proven by a survey done by the author in District 12 in 2006. **Also, the change of the residential status, e.g. from KT-3 to KT-1, involves high indirect and direct costs.** For example, a legal land use certificate has to be shown, the costs of which can be up to 20 million VND (1.000 Euro) (Tuan 2007). For a large percentage of the migrants, however, applying for a KT-1 status is out of question because they neither have a stable and permanent job in the formal sector nor do they have any documents to prove their legal housing status. There are even families who have lived in Ho Chi Minh City for more than 30 years while having to cope with their status as KT-3 citizens.

Although the temporary residence permit can be extended after expiration, it creates barriers and limits migrants' access to social services. This is especially true for the poorest groups of migrants, who are explicitly discouraged from moving to the large cities. In contrast to permanently registered low-income people, they have no or limited access to formal sector jobs, education, health care, notary public services, or financial loans. Therefore, low-income migrants are likely to remain confined to the unskilled, low-paid, and insecure informal sector... Furthermore, migrants are generally not eligible for the services provided under the Hunger Eradication and Poverty Reduction Programme, which includes, among others, low-interest loans, free health care, and exemption from school fees.

...As mentioned above, migrants can only apply for KT-1 or KT-2 status when they hold a stable job in the formal sector and are occupying legal housing (housing space legally owned by relatives or legal rental housing). Nevertheless, they are not allowed to purchase land titles, and in general, legal housing is often linked to higher prices/rents. This causes a further marginalisation, and the migrants often have to live in low-income settlements like boarding house units (see above). Furthermore, parts of the formal labour market like the state sector are not accessible for the migrants (Anh 2005: 60). This constitutes a dilemma for migrants who plan to live in HCMC permanently. They are forced into the informal sector or unskilled-labour sector of the industrial zones with little chance of achieving KT-1 and KT-2 status... The achievement of permanent residential status is thus a crucial step for the citizens considered migrants towards escaping the vulnerability they are confronted with and towards achieving a better living standard.

...Am [sic] appreciable step towards the improvement of the legal situation of migrants was made **in July 2007, when a new residential law came into effect. Among other measures, the new residential law makes it far easier for KT-3 citizens to get KT-1 status than was previously the case.** Now, KT-3 migrants only have to prove that they have had an uninterrupted employment status for one year, and to show that they have held a registered residential record for the same time. Previously, they had to be temporary residents of Ho Chi Minh City for three consecutive years (until 2005 the requirement was even five years) (Thanh 2006). Most important seems to be a change in regulation, which allows migrants to apply for KT-1 status even if they do not own a house, but just rent a housing unit. To apply for permanent residency in houses which are not owned, the applicants must show the house owners' written approvals. It is estimated that approximately 800.000 migrants in Greater Ho Chi Minh City will benefit from this new law (Thanh 2007).

...So far, **rural-urban migrants can not fully participate in the economic success of Greater Ho Chi Minh City. Exclusion effects are strongly related to their legal residential situation,** especially in terms of housing... The recent change in governance towards migrants with the introduction of the new residential law in July 2007 can only be seen as a first step in the right direction (Researcher's own emphases) (Waibel, M. 2007, 'Migration to Greater Ho Chi Minh City in the course of Doi Moi Policy', Irmgard Coninx Stiftung website, October http://www.irmgard-coninx-stiftung.de/fileadmin/user_upload/pdf/urbanplanet/Waibel.pdf – Accessed 19 June 2009 – Attachment 17).

The research response cited earlier highlights an article which also outlines the household registration system and identifies a change in processes for negotiating the registration rules since the implementation of the Doi Moi policy:

The obstacles created by this system can, nowadays, be more easily negotiated. Pham Thanh Binh noted that the change in attitude of the population towards household registration is demonstrated in the extent of undeclared migration to the South and central highlands, to Hanoi and Ho Chi Minh City, as well as practices of non-migration and non-registration

(Pham Thanh Binh 1997, p. 3). The link between identity, migration, and livelihood was effectively broken with the demise of the command economy. While ties of personal relationship with officials remain important, the key resource is now economic. Market reforms have made money the determining form of relation in people's attempts to negotiate the identity system, although it still presents major difficulties for country people wishing to move to the city. The ho khau laws, based on policies of socialist economic management, political record determinism, and wartime surveillance, are looking increasingly outdated. Continued market development will undoubtedly effect further change in the link between identity and migration... Using resources drawn from the market and from their own ingenuity to negotiate the state, people will increasingly take matters into their own hands (Hardy, Andrew 2001, 'Rules and Resources: Negotiating the Household Registration System in Vietnam under Reform', *Sojourn*, Vol. 16, No. 2, 1 October, pp.187-212 – Attachment 18; MRT Country Research 2005, *Research Response VNM17324*, 16 May – Attachment 13).

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Vietnam Development Gateway <http://www.vietnamgateway.org/>

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Topic Specific Links

Global Youth Coalition on HIV/AIDS <http://www.youthaidscoalition.org/>

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Search Engines

Google <http://www.google.com.au/>

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