

5. Vietnam



Statistics

GENERAL

Population

- Total population (millions): 84.2.¹
- Population by sex (thousands): 41,382.0 (female) and 41,099.0 (male).²
- Percentage of population aged 0–14: 31.4.³
- Percentage of population aged 15–24: 20.7.⁴
- Percentage of population in rural areas: 74.⁵

Economy

- Annual percentage growth of gross domestic product (GDP): 7.6.⁶
- Gross national income per capita: USD 480.⁷
- Government expenditure on health: 1.5% of GDP.⁸
- Government expenditure on education: 2.8% of GDP.⁹
- Percentage of population below the poverty line: 29.¹⁰

WOMEN'S STATUS

- Life expectancy: 73.1 (female) and 69.1 (male).¹¹
- Average age at marriage: 23.1 (female) and 24.4 (male).¹²
- Labor force participation: 79.4 (female) and 86.0 (male).¹³
- Percentage of employed women in agricultural labor force: Information unavailable.
- Percentage of women among administrative and managerial workers: Information unavailable.
- Literacy rate among population aged 15 and older: 92% (female) and 95% (male).¹⁴
- Percentage of female-headed households: 32.¹⁵
- Percentage of seats held by women in national government: 27.¹⁶
- Percentage of parliamentary seats occupied by women: 27.¹⁷

CONTRACEPTION

- Total fertility rate: 2.23.¹⁸
- Contraceptive prevalence rate among married women aged 15–49: 79% (any method) and 57% (modern method).¹⁹
- Prevalence of sterilization among couples: 6.8% (total); 6.3% (female); 0.5% (male).²⁰
- Sterilization as a percentage of overall contraceptive prevalence: 9.²¹

MATERNAL HEALTH

- Lifetime risk of maternal death: 1 in 290 women.²²
- Maternal mortality ratio per 100,000 live births: 130.²³

- Percentage of pregnant women with anemia: 52.²⁴
- Percentage of births monitored by trained attendants: 85.²⁵

ABORTION

- Total number of abortions per year: 1,520,000.²⁶
- Annual number of hospitalizations for abortion-related complications: Information unavailable.
- Rate of abortion per 1,000 women aged 15–44: 83.3.²⁷
- Breakdown by age of women obtaining abortions: 0.9% (under 20); 11.3% (age 20–24); 22.4% (age 25–29); 30.7% (age 30–34); 21.3% (age 35–39); 13.3% (40 or older).²⁸
- Percentage of abortions that are obtained by married women: 96.2.²⁹

SEXUALLY TRANSMISSIBLE INFECTIONS (STIS) AND HIV/AIDS

- Number of people living with sexually transmissible infections: Information unavailable.
- Number of people living with HIV/AIDS: 220,000.³⁰
- Percentage of people aged 15–49 living with HIV/AIDS: 0.3 (female) and 0.7 (male).³¹
- Estimated number of deaths due to AIDS: 9,000.³²

CHILDREN AND ADOLESCENTS

- Infant mortality rate per 1,000 live births: 28.³³
- Under five mortality rate per 1,000 live births: 37 (female) and 52 (male).³⁴
- Gross primary school enrollment ratio: 97% (female) and 105% (male).³⁵
- Primary school completion rate: 88 (female) and 90 (male).³⁶
- Number of births per 1,000 women aged 15–19: 19.³⁷
- Contraceptive prevalence rates among married female adolescents: 14.9% (modern methods); 3.2% (traditional methods); 18.1% (any methods).³⁸
- Percentage of abortions that are obtained by women younger than age 20: 0.9.³⁹
- Number of children under the age of 15 living with HIV/AIDS: Information unavailable.

ENDNOTES

1. See UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF WORLD POPULATION 2005, at 112 (estimate for 2004).
2. See UNITED NATIONS POPULATION FUND (UNFPA), COUNTRY PROFILES FOR POPULATION AND REPRODUCTIVE HEALTH: POLICY DEVELOPMENTS AND INDICATORS 2003 (2003), <http://www.unfpa.org/profile/default.cfm>. [hereinafter UNFPA COUNTRY PROFILES].
3. See THE WORLD BANK, WORLD DEVELOPMENT INDICATORS 2004, at 40 (2004), <http://www.worldbank.org/data/> (estimate for 2002). [hereinafter THE WORLD BANK].
4. See UNFPA, COUNTRY PROFILES, *supra* note 2.
5. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 112 (estimate for 2003).
6. See THE WORLD BANK, *supra* note 3, at 184 (estimate for 1990–2002).
7. See THE WORLD BANK, WORLD DEVELOPMENT INDICATORS 2004: DATA QUERY (2004), <http://devdata.worldbank.org/data-query/> (statistical figure was obtained through the Atlas method) (estimate for 2003).
8. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 112.
9. See UNITED NATIONS CYBERSCHOOLBUS, INFO NATION: GOVERNMENT EDUCATION EXPENDITURE (2004), http://www.un.org/Pubs/CyberSchoolBus/infonation/e_infonation.htm (estimate for 1997).
10. See THE WORLD BANK, COUNTRY AT A GLANCE TABLES FOR VIETNAM 2004, at 1 (2004), <http://www.worldbank.org/data/countrydata/countrydata.html>.
11. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 108.
12. See UNFPA, COUNTRY PROFILES, *supra* note 2.
13. See *Id.*
14. See UNFPA, COUNTRY PROFILES, *supra* note 2.
15. See SOCIAL AND DEMOGRAPHIC STATISTICS BRANCH, UNITED NATIONS STATISTICS DIVISION, THE WORLD'S WOMEN 2000: TRENDS AND STATISTICS 49 (2000) (estimate for 1991/1997).
16. See SAVE THE CHILDREN, STATE OF WORLD'S MOTHERS 2004, at 38 (2004), http://www.savethechildren.org/mothers/report_2004/images/pdf/SOWM_2004_final.pdf (estimate for 2004).
17. See UNITED NATIONS STATISTICS DIVISION, MILLENNIUM INDICATORS DATABASE (2005), http://unstats.un.org/unsd/mi/mi_series_results.asp?rowId=557 (last updated Mar. 16, 2005) (estimate for 2005).
18. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 112 (estimate for 2000–2005).
19. See *Id.* at 108.
20. See ENGENDERHEALTH, CONTRACEPTIVE STERILIZATION: GLOBAL ISSUES AND TRENDS, tbl. 2.2, at 47 (2002) (estimates for 1997).
21. See *Id.* at tbl. Supp. 2.5, at 56 (estimate for 1997).
22. See WORLD HEALTH ORGANIZATION (WHO) ET AL., MATERNAL MORTALITY IN 1995: ESTIMATES DEVELOPED BY WHO, UNITED NATIONS CHILDREN'S FUND (UNICEF), UNITED NATIONS POPULATION FUND (UNFPA), 47 (2000) (estimate for 1995).
23. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 108.
24. See SAVE THE CHILDREN, *supra* note 16, at 38 (estimate for 1989–2000).
25. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 112.
26. See Stanley K. Henshaw et al., *The Incidence of Abortion Worldwide*, 25 INT'L FAM. PLANNING PERSP. S30–S38 (Supp. 1999), <http://www.agi-usa.org/pubs/journals/25s3099.html> (estimate for 1995–96).
27. See DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, UNITED NATIONS POPULATION DIVISIONS, UNITED NATIONS WORLD ABORTION POLICIES 1999, U.N. DOC. ST/ESA/SER.A/178 (1999), <http://www.un.org/esa/population/publications/abt/abt.htm> (estimate for 1996).
28. See Akinrinola Bankole et al., *Characteristics of Women who Obtain Induced Abortion: A Worldwide Review*, 25 INT'L FAM. PLANNING PERSP. 68–77 (1999), <http://www.guttmacher.org/pubs/journals/2506899.html> (statistical figure obtained through incomplete national statistics) (estimates for 1991).
29. See *Id.*
30. See JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS) et al., UNAIDS/WORLD HEALTH ORGANIZATION (WHO) EPIDEMIOLOGICAL FACT SHEETS ON HIV/AIDS AND SEXUALLY TRANSMITTED INFECTIONS – 2004 UPDATE: VIETNAM 3 (2004), http://www.who.int/GlobalAtlas/PDFFactory/HIV/EFS_PDFs/EFS2004_VN.pdf (estimate for 2003).
31. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 108.
32. See JOINT UNITED NATIONS PROGRAMME ON HIV/AIDS (UNAIDS) et al., *supra* note 30.
33. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 108.
34. See UNFPA, COUNTRY PROFILES, *supra* note 2.
35. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 108. The ratio may be more than 100 because the figures remain uncorrected for individuals who are older than the level-appropriate age due to late starts, interrupted schooling or grade repetition.
36. See *Id.*
37. See UNFPA, THE STATE OF WORLD POPULATION 2005, *supra* note 1, at 108.
38. See Saroj Pachauri & K.G. Santhya, *Reproductive Choices for Asian Adolescents: A Focus on Contraceptive Behavior*, 28 INT'L FAM. PLANNING PERSP. 186–195 (2002), <http://www.agi-usa.org/pubs/journals/2818602.html> (estimates for 1997).
39. Bankole et al., *supra* note 28.

The Socialist Republic of Vietnam is situated in Southeastern Asia, bordering the Gulf of Thailand, Gulf of Tonkin, South China Sea, China, Laos, and Cambodia.¹ Vietnam has existed as an independent state for half a century. In 111 BC, the Chinese Han dynasty conquered northern Vietnam and ruled with other Chinese dynasties for the next thousand years.² Vietnam finally achieved independence under a native dynasty in 939 AD.³ There were civil wars between the powerful northern and southern families in the 17th and 18th centuries.⁴ France began its efforts to seize control of Vietnam in 1858 and colonized the nation in 1885.⁵ In 1930, the Communist Party of Vietnam waged a protracted revolutionary struggle against French colonialism.⁶ Although Vietnam declared independence after the departure of Japanese troops in 1945 and created the Democratic Republic of Vietnam, French colonial rule persisted until Communist forces under Ho Chi Minh defeated the French at Dien Bien Phu in 1954.⁷

As a result of that defeat, France and the Democratic Republic of Vietnam signed the 1954 Geneva Agreement on Vietnam which ended French colonial rule.⁸ The agreement called for an election in July 1956 to unify the Communist North and the non-Communist South under one government; however, the South Vietnamese government refused and declared itself the Republic of Vietnam on October 26, 1955.⁹ A period of extended conflict between North and South Vietnam, sometimes termed the Second Indochina War, followed.¹⁰ The United States government's involvement escalated from providing economic and military aid to South Vietnam to sending troops.¹¹ The United States withdrew its armed forces in 1973 following a cease-fire agreement under the Paris Accords.¹² Two years later, North Vietnamese forces occupied the South, taking Saigon on April 30, 1975, and announced the reunification of the country.¹³ North Vietnam absorbed South Vietnam to form the Socialist Republic of Vietnam on July 2, 1976.¹⁴

In 2002, Vietnam's total population was 80.2 million,¹⁵ of which approximately 50.6% was female.¹⁶ The official national language is Vietnamese. Other languages include English, increasingly favored as a second language; French; Chinese; Khmer; and mountain area languages such as Mon-Khmer and Malayo-Polynesian.¹⁷ The ethnic composition of Vietnam consists of Vietnamese (85%–90%), Chinese (3%), Hmong, Thai, Khmer (Cambodians), Cham, and about 30 mountain groups of various cultures and dialects.¹⁸ Religions practiced in Vietnam include Buddhism, Hoa Hao, Cao Dai, Christianity (predominantly Roman Catholic, some Protestant), indigenous beliefs, and Islam.¹⁹

Vietnam has been a member of the United Nations

(UN) since 1977.²⁰ It is also a member of the Association of Southeast Asian Nations (ASEAN), the ASEAN Regional Forum (ARF), and the Asia-Pacific Economic Cooperation (APEC) forum,²¹ and holds observer status, while applying for full membership, at the World Trade Organization (WTO).²²

I. Setting the Stage: the Legal and Political Framework of Vietnam

Fundamental rights are rooted in a nation's legal and political framework, as established by its constitution. The principles and goals enshrined in a constitution, along with the processes it prescribes for advancing them, determine the extent to which these basic rights are enjoyed and protected. A constitution that upholds equality, liberty, and social justice can provide a sound basis for the realization of women's human rights, including their reproductive rights. Likewise, a political system committed to democracy and the rule of law is critical to establishing an environment for advancing these rights. The following section outlines important aspects of Vietnam's legal and political framework.

A. THE STRUCTURE OF NATIONAL GOVERNMENT

The Constitution of Vietnam came into force on April 15, 1992, and was amended on December 25, 2001.²³ It establishes a constitutional republic dominated by the Vietnamese Communist Party (VCP).²⁴ Vietnam is a "law governed socialist State of the people, by the people, and for the people."²⁵ State power is vested in the people and exercised through the National Assembly and the People's Councils under the principle of democratic centralism.²⁶ The constitution is the supreme law of the land²⁷ and divides Vietnam's national government into three distinct but interrelated branches: executive, legislative, and judicial. The constitution "institutionalizes the relationship between the Party as leader, the people as master, and the State as administrator."²⁸ The constitution reaffirms the central role of the Communist Party and cites the National Assembly as the highest representative body of the people, overseeing all government functions.²⁹ In recent years, the National Assembly has been increasingly vocal and assertive in exercising its lawmaking authority but remains subject to Communist Party direction.³⁰

Executive branch

The president is the head of state,³¹ commander of the armed forces, and chair of the National Defense and Security Council.³² The National Assembly elects him or her from among its members for a five-year term.³³ The government is

the executive organ of the National Assembly and the highest organ of executive or administrative power. It is composed of the prime minister, who is the head of government, the deputy prime ministers, the cabinet ministers, and other members.³⁴ The president, on the basis of resolutions of the National Assembly or its Standing Committee, has authority to appoint or dismiss deputy prime ministers and cabinet ministers.³⁵ The president also has authority to appoint and dismiss vice presidents and judges of the Supreme People's Court, the deputy head, and members of the Supreme People's Office of Supervision and Control.³⁶ The vice president, who is elected by the National Assembly from among its members,³⁷ assists the president³⁸ and may act as president, in case of the president's incapacity or vacancy, until a new president is elected.³⁹

The prime minister directs the work of the government and People's Councils at all administrative levels and chairs cabinet meetings.⁴⁰ The prime minister has authority to appoint or dismiss vice ministers, and approves the election and dismissal of the chair and deputy chair of People's Committees of provinces and cities under direct central rule.⁴¹ If he or she finds that they contravene the constitution or Vietnamese law in general, the prime minister may suspend or annul decisions and circulars made by cabinet ministers or decisions and directives issued by People's Councils or chairs of People's Committees of provinces and municipalities.⁴² The deputy prime ministers assist the prime minister and, in his or her absence, choose a delegate from among themselves to direct the work of the government.⁴³

Legislative branch

Legislative power rests with a unicameral National Assembly, or *Quoc-Hoi*. The National Assembly consists of 498 members who are elected by popular vote to serve five-year terms.⁴⁴ The National Assembly exercises supreme control over all activities of the state and is the only organ formally vested with constitutional and legislative powers.⁴⁵ Deputies to the National Assembly are elected by their regional constituencies to represent their "will and aspirations."⁴⁶ The National Assembly has the right to amend the constitution with the approval of at least two-thirds of its total membership.⁴⁷ It also has the power to make and amend laws, and to abrogate laws and official written documents that contravene the constitution.⁴⁸

The National Assembly has authority to elect and remove from office the president; vice president; chair of the National Assembly; vice chair and members of the Standing Committee; prime minister; tribunal president of the Supreme People's Court; and head of the Supreme People's Office of Supervision and Control.⁴⁹ The assembly

determines domestic and foreign policy; decides issues of national defense, security,⁵⁰ and war and peace; and has the authority to proclaim a state of emergency.⁵¹ Once a member of the National Assembly has lost the people's confidence, he or she may be removed from office by his or her electors or the National Assembly.⁵²

The Standing Committee of the National Assembly is the permanent representative body of the National Assembly and is composed of its chair, the vice chair, and the members.⁵³ A member of the Standing Committee cannot be a member of the government.⁵⁴ The Standing Committee calls and presides over the election of the National Assembly;⁵⁵ interprets the constitution, the law, and decree-laws;⁵⁶ and supervises and controls the People's Councils.⁵⁷

The National Assembly elects a Nationalities Council that comprises a chair, a vice chair, and members.⁵⁸ The council makes proposals to the National Assembly on ethnic issues, and it supervises and controls the implementation of policies regarding national minorities.⁵⁹

The president, the Standing Committee, the Nationalities Council, the Committees of the National Assembly, the government, the Supreme People's Court, the Supreme People's Office of Supervision and Control, the Vietnam Fatherland Front and its members, and individual deputies to the National Assembly may present bills to the National Assembly.⁶⁰ Laws and resolutions of the National Assembly must be approved by more than half of the assembly's total membership.⁶¹ Decisions to remove an assembly member, to reduce or prolong the assembly's tenure, or to amend the constitution must be approved by at least two-thirds of the assembly's total membership.⁶² After the National Assembly adopts a bill, it is signed by the assembly president.⁶³ The president of the nation then promulgates the law, which is effective no later than 15 days from adoption.⁶⁴

The fifteen-member Politburo, headed by the Communist Party's general secretary, determines government policy, and its nine-person Secretariat oversees day-to-day policy implementation.⁶⁵ A party congress meets every five years to set the direction of the party and the government.⁶⁶ The 150-member Central Committee, elected by the Party Congress, meets at least twice a year.⁶⁷

B. THE STRUCTURE OF LOCAL GOVERNMENTS

Regional and local governments

For administrative purposes, Vietnam is divided into fifty-nine provinces and five municipalities.⁶⁸ Provinces are divided into districts, provincial cities, and towns, which are further divided into communes, townlets, and wards.⁶⁹ Municipalities are divided into urban districts, rural districts, and towns;

and urban districts are further divided into wards.⁷⁰ Provinces and municipalities are centrally administered by the national government. Other administrative divisions are accountable to the locally elected People's Councils and their People's Committees.⁷¹

People's Councils are local organs of state power that are composed of elected representatives of the local people and established in administrative divisions in accordance with the law.⁷² People's Councils pass resolutions for the implementation of the constitution and national laws, and for the improvement of people's living conditions.⁷³ A People's Council member may be removed by the electors or by other council members in the event of a loss of public confidence.⁷⁴ The People's Committees are elected by the People's Councils and are the latter's executive organs.⁷⁵ The chair of the People's Committee gives leadership and operational guidance to the activities of the People's Committee.⁷⁶

Judicial branch

The constitution establishes an integrated hierarchical system of courts composed of the Supreme People's Court, local People's Courts, military tribunals, and other tribunals established by law.⁷⁷ The Supreme People's Court is the highest judicial organ.⁷⁸ It is headed by the tribunal president, who is elected by the National Assembly upon the recommendation of the president for a five-year term.⁷⁹ The Supreme People's Court hears appeals from the local People's Courts.⁸⁰ It supervises and directs the judicial work of Special People's Courts and military tribunals.⁸¹ The Supreme People's Court has ten Special Courts, including three appeal divisions and a Central Military Court.⁸² The appeal divisions hear appeals from the Provincial and City People's Courts, and from the District People's Courts.⁸³ The three appeal divisions also act as trial courts for Hanoi, Da Nang, and Ho Chi Minh City.⁸⁴ The Provincial and City People's Courts have original jurisdiction over cases beyond the jurisdiction of the District People's Courts and appellate jurisdiction over cases decided by the District People's Courts. District Courts hear criminal cases where punishments do not exceed seven years' imprisonment. Cases arising from economic contracts are subject to a separate arbitration system.⁸⁵ Judicial decisions are binding on a case-specific basis and are not subject to constitutional review.⁸⁶

The Supreme People's Office of Supervision and Control ensures obedience of the law by ministries, local organs of power, economic bodies, social organizations, people's armed units, and citizens.⁸⁷ It exercises the right to initiate public prosecutions and ensures a serious and uniform implementation of the law.⁸⁸ The heads of local offices of supervision and control and the heads of military offices of

supervision and control are subject to the overall leadership of the head of the Supreme People's Office of Supervision and Control, who serve five-year terms.⁸⁹ The head of the Supreme People's Office of Supervision and Control appoints and dismisses the heads, deputy heads and members of the local people's offices of supervision and control and of military offices of supervision and control in military zones.⁹⁰

C. THE ROLE OF CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS (NGOS)

Individual membership and voluntary participation in a variety of social groups and certain state-controlled groups is common in Vietnam. However, these groups have limited influence over policy on the local and national levels. Studies reveal that 25%–30% of the Vietnamese population is associated with women's groups and almost 15% belong to voluntary health groups.⁹¹ Less than 5% of the Vietnamese population is associated with human rights and development groups.⁹² The high level of social group membership in Vietnam is attributed to the government's efforts to mobilize participation in state-controlled groups such as youth groups and women's groups.⁹³ Some social scientists have noted that the *doi moi* (renovation or renewal) reforms, a broad reform effort introduced in 1986 to transform Vietnam's economy into a market economy, along with the process of social modernization in general have contributed to the development of civil society in Vietnam.⁹⁴

D. SOURCES OF LAW AND POLICY

Domestic sources

Sources of domestic law include the constitution and enactments by the National Assembly. Other forms of legislation, such as decrees, instructions, circulars, regulations, and ordinances,⁹⁵ made by an authorized person under legislative or constitutional authority, are also an important source of Vietnamese law. The Vietnamese legal system is based on communist legal theory and the French civil law system.⁹⁶ The Civil Code, effective since 1996, is a comprehensive codification of Vietnamese laws, including a separate codification for family law.⁹⁷ The code of civil commercial procedure is based on French civil procedure and colonial civil and commercial legislation.⁹⁸ Customary laws of ethnic minorities that are not contrary to existing laws are also recognized.⁹⁹

The constitution promotes a socialist-oriented economy based on a system of ownership by the entire population, including collectives and private individuals.¹⁰⁰ It guarantees respect for human rights¹⁰¹ and recognizes citizens' duties to the state and society.¹⁰² The constitution guarantees equal rights between men and women in political, economic, cultural, and social fields and in the family.¹⁰³ It also guarantees equal

pay for equal work and bans all acts of discrimination against women and all acts damaging women's dignity.¹⁰⁴

The constitution promotes the creation of conditions that raise women's qualifications in all fields, including the development of maternity homes, pediatric departments, crèches, and other social welfare units to lighten house work and allow women to engage more actively in work and study.¹⁰⁵ It further protects marriage and the family¹⁰⁶ by requiring marriage to conform to the principles of free consent, progressive union, monogamy, and equality between husband and wife, and it protects children against discrimination.¹⁰⁷ It is the responsibility of the state, society, the family, and the citizen to implement the nation's population program and family planning policies.¹⁰⁸

The constitution guarantees freedom of opinion and speech; freedom of the press; the right to be informed; and the rights to assemble, form associations, and hold demonstrations.¹⁰⁹ It guarantees freedom of belief and religion, provides that all religions are equal before the law, and protects against misuse of beliefs and religions to contravene the law and state policies.¹¹⁰ The constitution guarantees the inviolability of the person and the protection of life, health, honor, and dignity. It forbids harassment, coercion, torture, and violations of honor or dignity.¹¹¹

International sources

The constitution authorizes the president to sign treaties or international agreements.¹¹² Such agreements become valid and effective when ratified by the National Assembly.¹¹³ Vietnam has ratified the following international human rights instruments: the Convention on the Elimination of All Forms of Discrimination against Women;¹¹⁴ the Convention on the Rights of the Child;¹¹⁵ the International Covenant on Economic, Social, and Cultural Rights;¹¹⁶ the International Covenant on Civil and Political Rights;¹¹⁷ the International Convention on the Elimination of All Forms of Racial Discrimination;¹¹⁸ the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;¹¹⁹ and the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.¹²⁰

II. Examining Reproductive Health and Rights

In general, reproductive health matters are addressed through a variety of complementary, and sometimes contradictory laws and policies. The scope and nature of such laws and

policies reflect a government's commitment to advancing the reproductive health status and rights of its citizens. The following sections highlight key legal and policy provisions that together determine the reproductive rights and choices of women and girls in Vietnam.

A. GENERAL HEALTH LAWS AND POLICIES

The constitution requires the government to provide for health initiatives in both its budget and economic planning processes.¹²¹ It also enjoins the state to organize health insurance and create the necessary conditions for all citizens to enjoy health care.¹²² The constitution requires the state to invest in, ensure the development of, and oversee the protection of the people's health.¹²³ In particular, prevention is to be combined with treatment, as are traditional and modern medicine.¹²⁴ The constitution emphasizes that priority will be given to the health care of highlanders and national minorities.¹²⁵

Long-term policies and strategies for the health sector are established through five- and ten-year plans as well as in specific decrees issued by the Government of Vietnam and/or the Ministry of Health.¹²⁶ In 2001, the Government of Vietnam released a Ten Year Socio-Economic Development Strategy (SEDS) for 2001–2010.¹²⁷ The overall objective of SEDS is “to bring [the] country out of underdevelopment; improve noticeably the people's material, cultural and spiritual life; and [to] lay the foundations for [becoming] ... a modern-oriented industrialized country by 2020.”¹²⁸ In conjunction with SEDS, the government also released the Strategy for People's Health Care and Protection¹²⁹ and the National Strategy for Reproductive Health Care, among others.¹³⁰

Objectives

The Strategy for People's Health Care and Protection established the following key goals to be met by 2010:

- increase life expectancy to 71 years of age;
- improve the quality of life by reducing the spread of preventable infections and diseases;
- assure equal and effective access to health-care services for all citizens, especially for the treatment of disease;
- improve the quality of health care for disease prevention, treatment, and rehabilitation; and
- reorganize the health sector to reflect the country's new model of socioeconomic development.¹³¹

In 2002, the government introduced the Comprehensive Poverty Reduction and Growth Strategy,¹³² which outlines SEDS's specific goals and the steps that must be taken to realize them. They include the following:

- promote the grass-roots health system;

- maintain and develop community health services;
- prioritize protection from health problems that affect low-income communities, including child malnutrition, HIV/AIDS, diseases that affect reproductive health, and infectious diseases;
- improve the quality of health services;
- ensure that the poor have access to quality health services; and
- provide health-service subsidies to low-income populations.¹³³

Significant changes in the health system took place in 1986, when the Government of Vietnam launched *doi moi* reforms. The *doi moi* campaign shifted Vietnam from a centralized economy to a decentralized “socialist-oriented market economy” and sparked the development of the private sector.¹³⁴ As a result of privatization, fees for health-care services were introduced¹³⁵ and the quality of public health care declined due to the lack of funding by local governments.¹³⁶ Although these reforms have improved the general quality of life in Vietnam, 28 million people still live below the poverty line.¹³⁷ Furthermore, since the *doi moi* reforms, use of public health-care services has declined significantly, and there are increasing inequalities in health-care provision between geographical regions and population groups, mainly due to the high cost of health care and the lack of facilities in remote areas.¹³⁸

Infrastructure of health-care services

Government facilities

The public health-care system is divided into four tiers: the Ministry of Health, provincial health bureaus, district health centers, and commune health centers. The Ministry of Health formulates and implements national health policies and manages the public health-care system. The ministry’s policy department develops health policy in conjunction with the Committee on Health Strategies, a senior-level body chaired by the Minister of Health. In addition, the ministry works with several specialty institutes, such as the Institute for the Protection of Mothers and Newborns. These institutes function as tertiary care referral centers as well as professional training and medical research centers.¹³⁹ The Ministry of Health works with a number of committees, including the National Committees for the Prevention and Control of HIV/AIDS and for the Prevention and Control of Narcotics and Prostitution.¹⁴⁰ In addition, the ministry routinely issues norms and regulations on reproductive health and family planning services.¹⁴¹ It also regulates the conditions and norms of private medical practices, and administers medical licensing and certification for government-approved private, semipublic, nongovernmental, and foreign-financed medical facilities.¹⁴² The ministry oversees the manufacture and

distribution of pharmaceuticals, physician training, medical research, and the establishment of fee scales for private health-care facilities.¹⁴³

Occasionally, the Government of Vietnam addresses specific health concerns through specially created bodies that are separate from the Ministry of Health. For example, in 1993 the government created the National Committee for Population and Family Planning, which develops and implements national population and family planning strategies on behalf of the government.¹⁴⁴

Health bureaus are responsible for planning health services in the provinces. In 2001, there were 61 provincial health bureaus, each of which provided services for anywhere from 250,000 to 5 million people.¹⁴⁵

In 2000, there were a total of 698 general hospitals, 71 specialized hospitals, 10 research institutes, 45 traditional medicine hospitals, 1,009 specialized clinics, and 41 regional maternity homes.¹⁴⁶ Each province has one large general hospital with two hundred to one thousand beds¹⁴⁷ and in most cases seven departments: emergency care, internal medicine, obstetrics and gynecology, surgery, pediatrics, infectious diseases, and traditional medicine. The hospital serves as a referral center for the entire province.

A district health center serves each of the 631 towns or districts in Vietnam. Each district has one general hospital with a laboratory. Usually, a mother and child care and family planning unit is also attached to the hospital.¹⁴⁸ District hospitals accept referrals from commune health centers (CHCs), which are staffed by three to five people who are selected by the local community and trained by the hospital.¹⁴⁹ In 2002, Vietnam had 11,103 CHCs.¹⁵⁰ The head of the CHC may be an assistant physician or a nurse who in some centers may be assisted by a pharmacist. At times, the core team will include an assistant physician in traditional medicine, a public health worker, and another nurse. In exceptional cases, there will be a physician on staff.¹⁵¹

Government facilities are staffed by a large number of public health workers, with an average of 5.65 doctors and 22.37 beds per ten thousand people in 2002.¹⁵² In recent years, the government has promoted the use of village health workers in remote areas. These workers have no formal medical training, but receive basic training from provincial health bureaus that enables them to address the daily health care needs of the local community. Village health workers are also trained to provide basic health education and assist with antenatal care and family planning programs.¹⁵³

Privately run facilities

In 1986, the Government of Vietnam approved the use of private health-care facilities.¹⁵⁴ Private providers fall into two

categories: full time providers who own their practice facilities and part-time private providers who are also on staff at public health facilities.¹⁵⁵ In 1993, the government enacted the Ordinance on Private Medical and Pharmaceutical Practice, which governs the private practice of health-care services and establishes ethical requirements.¹⁵⁶ The Ministry of Health and provincial health bureaus oversee private health-care providers and facilities, including pharmacies.¹⁵⁷

There is limited information about the size of the private health-care sector. In 1998, the Ministry of Health reported a total of 34,018 privately run health-care facilities, 70% of which were in urban areas.¹⁵⁸ In 1999, the government estimated that 12% of private health-care facilities were unlicensed.¹⁵⁹ During the initial stage of the *doi moi* reform process, annual individual public use of medical services declined dramatically from 2.3 visits in 1984 to only one visit in 1990.¹⁶⁰ A number of factors contributed to the decline, including the poor quality of services, the rapid—and minimally regulated—growth of costly private health-care services, the widening gap between rich and poor, and the imposition of hospital fees.¹⁶¹ Since health-sector reforms were introduced in 1992,¹⁶² the quality of medical services has improved and rising living standards have led more people to seek health-care services.¹⁶³ The average number of visits to public medical facilities per capita increased from one visit per year in 1990 to 1.72 visits in 2000.¹⁶⁴ According to a 1998 government survey, wealthy individuals make the most use of both private and public health-care facilities.¹⁶⁵

Financing and cost of health-care services

Government financing

In addition to requiring the government to provide for health initiatives in both its budget and economic planning processes,¹⁶⁶ the constitution also enjoins the state to organize health insurance and create the necessary conditions for all citizens to enjoy health care.¹⁶⁷ In 2002, the estimated national total public health expenditure was 1.35% of the gross domestic product (GDP).¹⁶⁸ This is significantly lower than state expenditure for other areas, such as public education.¹⁶⁹ Similarly, state health-care expenditure as a percentage of GDP is also lacking compared with other areas.¹⁷⁰ According to experts, the lower state expenditure reflects the development of the private health-care sector following the 1986 *doi moi* reforms.¹⁷¹

The *doi moi* reforms that eliminated the fully subsidized health-care system also eliminated agricultural work brigades, which had been responsible for funding commune health centers and were long considered to be the backbone of the health-care system. With their demise, brigade nurses, who had been charged with assisting medical staff at commune

health centers, also disappeared. Commune health centers were forced to turn to less reliable sources of funding, which in turn lessened the quality of and limited the accessibility of health-care services. Meanwhile, the number of private health-care facilities and providers grew at a pace that surpassed the government's ability to regulate them.¹⁷²

As a result of these problems, the government tried to counteract the erosion of health care.¹⁷³ One of its first initiatives was the 1993 Ordinance on Private Medical and Pharmaceutical Practice, which entitled the government to collect user fees in public hospitals to help finance its health-care program.¹⁷⁴ In 1989, a system of user fees was introduced in national, provincial, and district health-care systems.¹⁷⁵ The fee structure was revised in 1995 to correspond to the type of facility and the nature of the service.¹⁷⁶

Vietnam finances health care in three ways:

- government financing based on general tax revenues;
- out-of-pocket payments; and
- government and private health insurance programs.¹⁷⁷

In 1992, the Vietnamese government introduced mandatory and voluntary health insurance schemes that are administered by Vietnam Health Insurance (VHI) under the supervision of the Ministry of Health. These insurance schemes cover 16% of the Vietnamese population;¹⁷⁸ of that group, 62% are members of the mandatory scheme, 30% are members of the voluntary scheme, and 8% are covered by government-subsidized programs.¹⁷⁹ The mandatory health insurance scheme covers all civil servants (active and retired) and salaried workers of businesses with ten or more employees. Employers pay a premium of 3% of total wages and employees pay 1% of total wages. However, only 13% of workers in the private sector are currently covered under the scheme, and their coverage remains inadequate, especially among self-employed people and informal sector workers and their families.¹⁸⁰ Voluntary insurance schemes include the School Health Insurance Scheme, which covers school children and higher education students and is administered by educational institutions and the provincial Ministries of Education; and the Farmer Voluntary Insurance Scheme, in which provincial governments pay 70% of the premiums while farmers contribute 30%.¹⁸¹ The government also provides fully subsidized schemes to people in poverty under the Free Health Card for the Poor program.¹⁸²

Private and international financing

Various national and international organizations, including United Nations agencies, provide significant assistance for many of Vietnam's health and family welfare programs. For instance, the World Health Organization (WHO), United Nations Children's Fund (UNICEF), and other bilateral donors

contribute to the country's Reproductive Health Programme and the HIV/AIDS Programme. Other major donors to the health sector include the governments of Australia, Belgium, France, Japan, the Netherlands, and Sweden.¹⁸³

Cost

Individual citizens have largely shouldered the costs of health care through out-of-pocket payments, which are fees that patients pay directly to health-care professionals at the time of treatment.¹⁸⁴ In 2001, out-of-pocket health payments represented 87.6% of health-care costs nationwide.¹⁸⁵ These payments covered public health-care user fees, informal charges at public health facilities, private payments, and drug costs.¹⁸⁶

Providers of public health facilities can decide what level of fees to charge, and because their salaries are subsidized by user fees, they often discriminate against patients who are exempted from fees or covered by health insurance.¹⁸⁷ In general, uninsured patients, or those who are not eligible for fee exemptions, must pay for services before they are rendered.¹⁸⁸ All patients are expected to purchase their own medications at a public or private pharmacy.¹⁸⁹ Those who cannot afford user fees, informal charges, or the cost of pharmaceuticals are denied access to health care.¹⁹⁰ The Ministry of Health recently submitted a proposal to the Government of Vietnam to increase user fees at state-run hospitals and clinics. If approved, the burden of patient spending is expected to increase by 30%.¹⁹¹

In 1989, the government began regulating the collection of hospital fees, including those for patient beds, sanatorium stays, medication, blood work, tests, X-ray films, and other technical services. Several key components of Decrees No. 95/CP and No. 33/CP address the allocation of hospital fees.

States are expected to use hospital fees as a source of revenue to be allocated as follows:

- The collector will receive 70% of fees to help cover expenses related to medicine, blood, transfusion solution, chemical products, X-ray film, and other material and equipment for patient care; and
- Thirty percent of fees will go to a reward fund for outstanding medical workers who have demonstrated a high degree of responsibility toward their patients;
- Two percent to five percent of this money will be set aside for hospitals that are unable to collect fees and for outstanding workers or establishments at the national level, such as at the Ministry of Health.¹⁹²

Since their introduction, the government has relied increasingly on user fees collected at public health facilities to finance the country's health care. Recent decrees No.10/2002/ND-CP and No. 25/2002/TT-BTC regarding financial regulations for revenue-raising public service facilities reflect

the government's intention to shift health-care costs from the state to the individual consumer.¹⁹³

The government has exempted certain groups from paying user fees, including the following:

- war veterans;
- indigent individuals;¹⁹⁴
- families or parents of children killed during the war who receive monthly allowances;
- minority groups living in the highland;
- government workers, army personnel and their dependents, and vocational school students;
- individuals with disabilities or mental illnesses;
- working people and their families who move to new economic zones;¹⁹⁵ and
- orphans and children under the age of five.¹⁹⁶

The Labour Code provides exemptions from hospital fees for the following individuals:

- persons with disabilities, orphans, or elders who have no means of support;
- children under the age of six;
- persons who suffer neurosis, epilepsy, leprosy, or tuberculosis;
- minority groups who live in the highlands; and
- patients who are extremely poor.¹⁹⁷

In addition to these exemptions, the government has established preferential health policies for migrant workers.¹⁹⁸

Regulation of drugs and medical equipment

The manufacture, sale, and distribution of drugs and medical devices are regulated by the Ministry of Health through the Vietnam Drug Administration Department. Foreign companies provide more than 60% of all prescription drugs in the country.¹⁹⁹ Between 2003 and 2004, the price of drugs went up by almost 10%.²⁰⁰ To counter unreasonable price increases that would make medical treatment unaffordable, the drug administration department in 2005 prohibited foreign companies that manufacture and trade drugs in Vietnam from raising drug prices without obtaining permission from the Ministry of Health.²⁰¹

Regulation of health-care providers

Several laws and corresponding statutory bodies regulate health-care providers in Vietnam, including their education and professional conduct. The 2003 Ordinance on Private Medical and Pharmaceutical Practice regulates private health-care professionals. Pursuant to the ordinance, practitioners are required to carry out their professional and technical responsibilities in accordance with regulations issued by the Ministry of Health and serve their patients with the utmost care.²⁰²

The ordinance prohibits these practitioners from doing the following:

- selling medicine or providing services that have not been approved by the Ministry of Health;
- selling medicine that is improperly packaged; and
- failing to comply with regulations outlined in the private medical practice or pharmacy certificates.²⁰³

The constitution obliges the Government of Vietnam to develop traditional medicine and to integrate it with modern medicine and pharmacology.²⁰⁴ One way the Government of Vietnam supports traditional medicine is through training. For example, there are three medical schools, two pharmaceutical colleges, and two secondary schools that focus on traditional medicine. Other government initiatives include training health workers at the community level to use traditional medicine and encouraging citizens to plant medicinal vegetables, fruits, and plants.²⁰⁵ Traditional medicine may be practiced by medical doctors who receive special training in medical school, or by traditional medicine practitioners who have no formal education or training.²⁰⁶

In 1989, the government first attempted to regulate practitioners of traditional medicine by passing public health legislation which subjects the practice of traditional medicine to government oversight and lays out guidelines for ensuring appropriate conditions in facilities where traditional medicine is practiced.²⁰⁷ Regulations enacted in 1991 specify qualifications for traditional medicine practitioners and detail the types of permissible treatment methods; they also contain criminal sanctions for breaches of the regulations that result in serious harm to a person's life or health.²⁰⁸ An assessing committee established by the government issues licenses to these practitioners.²⁰⁹ Practitioners are required to secure approval from the government and the Traditional Medicine Association before employing new, unapproved treatments.²¹⁰ In addition, licensed traditional medicine practitioners are restricted to practicing in certain geographical areas and health-care facilities.²¹¹ The practice of traditional medicine based on superstition is barred.²¹²

The 2003 Ordinance on Private Medical and Pharmaceutical Practice contains provisions for regulating the practice of traditional medicine by private practitioners.²¹³ Private practitioners must be medical doctors or assistant doctors specializing in traditional medicine and have practiced traditional medicine for a minimum of five years.²¹⁴ They may only engage in activities related to traditional medicine for which they have been certified and must obtain government permission before using new treatment methods or drugs.²¹⁵ They may not base their practice on superstition.²¹⁶ Administrative, disciplinary, and criminal sanctions may be imposed for breaches of the ordinance.²¹⁷

Patients' rights

Citizens of Vietnam are free to choose the treatment they wish to undergo.²¹⁸ Under the 2003 Ordinance on Private Medical and Pharmaceutical Practice, medical practitioners can be held liable for illegal acts resulting in injury to a patient and may be required to pay compensation.²¹⁹

Additionally, the Penal Code adopted in 2000 provides recourse for breaches of medical duty. Medical practitioners who violate regulations for medical examination and treatment, production, preparation, supply, sale of drugs, or other medical services and cause a loss of life or serious damage to another's health are punished with one to five years' imprisonment.²²⁰ Depending on the seriousness of the consequences of a wrongful act, the wrongdoer can be sentenced to three to ten years' imprisonment or seven to fifteen years' imprisonment.²²¹ A practitioner may also be required to pay a fine of up to VND 50 million (USD 3,306), and/or may be removed from his or her post or be barred from practicing his or her profession.²²²

B. REPRODUCTIVE HEALTH LAWS AND POLICIES

In 2001, the Ministry of Health formulated a National Strategy on Reproductive Health Care,²²³ which is the primary government policy on reproductive health.²²⁴ During the 1990s, the government's focus was on maternal and child health care. In the view of the ministry, Vietnam required "a reproductive health strategy to provide health care to the people, particularly to women, mothers, and children, in a broader sense and with a more comprehensive approach."²²⁵ The strategy, it was noted, had to be consistent with the principles set forth in the United Nations International Conference on Population and Development (ICPD) Programme of Action.²²⁶

The goal and objectives set out in the strategy are based on the following principles:

- Investment in health care, including reproductive health, is also an investment in the continuing development of the nation;
- All people should have equal access to information and services. In this regard, particular attention must be paid to disadvantaged groups, the poor, those who rendered meritorious services to the country, and inhabitants of mountainous, remote, and environmentally sensitive areas;
- Gender equality should be ensured. This involves an awareness of women's roles in making decisions about reproductive health issues and men's roles and responsibilities in family planning and reproductive health;
- A more active role should be taken with respect to preventive aspects of reproductive health and repro-

ductive health care;

- Modern medicine and traditional medicine should be combined; and
- Reproductive health care is a societal concern and a shared responsibility.²²⁷

To improve the reproductive health status of women and narrow the disparities between regions and certain groups,²²⁸ the strategy identifies the following tactics:

- generate a better understanding of the components and objectives of reproductive health care to secure more support and commitment from the general public and government officials;
- sustain declining fertility rates, reduce the number of unwanted pregnancies and abortion-related complications, and ensure the rights of women and couples to have children or choose contraceptive methods of good quality;
- improve the health status of women and mothers by continuing to reduce high rates of maternal mortality and morbidity, perinatal deaths, and infant mortality, particularly among low-income populations;
- reduce the incidence of reproductive tract infections and sexually transmissible infections through preventive methods and offer appropriate treatment when they occur;
- improve reproductive health care for the elderly, particularly for older women, and provide early diagnosis and treatment of breast cancer and other cancers of both male and female reproductive tracts;
- advance the sexual and reproductive health of adolescents through age-appropriate education, counseling, and health care; and
- educate men and women about sexual relations and sexuality so that they can fully exercise their rights and responsibilities in regard to fertility, have safe and responsible sexual relations based on equality and mutual respect, and generally improve their reproductive health and quality of life.²²⁹

The strategy contains the following targets for key health indicators:

- reduce the fertility rate to 2.0 children for women of reproductive age;
- reduce the maternal mortality rate to 70 per 100,000 live births;
- reduce the infant mortality rate to 25%;
- reduce the perinatal mortality rate to 18%;
- reduce the percentage of low birth weight babies (under 2500 grams) to 6%; and
- lower the malnutrition rate among children

under five to 20%.²³⁰

The strategy outlines a number of policies that the government may implement in pursuit of its goals, including those that:

- encourage the acceptance of small families;
- promote the equal treatment of children of both sexes;
- encourage the use of a wide range of contraceptive methods;
- provide incentives to health-care practitioners to work in underserved areas;
- increase subsidization of health-care services;
- promote reproductive health education for adults; and
- increase government regulation of reproductive health-care services.²³¹

The 2001–2010 National Strategy for the Advancement of Women, formulated by the Government of Vietnam, highlights the importance of advancing women's rights and health through education, investment in the health infrastructure of underserved communities, and full participation by men in family planning and women's health needs in general.²³²

Vietnam's 2003 Ordinance on Population also has specific objectives and policies related to reproductive health. Relevant strategies include the following:

- ensure that women have the right to decide when to have a child, the number of children and the spacing between births; and
- ensure that women have the freedom to choose contraceptive methods according to individual needs and preferences.²³³

The state has also developed policies intended to aid low-income ethnic minorities. These include programs for socioeconomic development, hunger eradication, and poverty alleviation as well as services intended to improve the community's reproductive health, family planning, and "population quality-raising services."²³⁴

Regulation of reproductive health technologies

Vietnam's first in vitro fertilization birth took place in 1998. By March 2003, 1,090 such births had occurred. In 2002, there were 86,279 infertile couples (0.63% of all couples) in Vietnam.²³⁵ Measures to prevent infertility and access to treatment through advanced technologies are very limited.²³⁶ In its National Strategy on Reproductive Health Care for the 2001–2010 Period, the government pledged to work towards the prevention and treatment of infertility, in part by introducing laws regulating the donation and reception of ova, sperm, and embryos, and other issues concerning in vitro fertilization.²³⁷

A decree issued on January 12, 2003, prescribes conduct for infertile couples and single women who seek to use assisted reproductive technologies (ART); sperm donors and recipients; ovum donors and recipients; embryo donors and recipients; and ART facilities.²³⁸ Sperm donors must be between 20 and 55 years of age and ovum donors must be between 18 and 35 years of age. Sperm, ovum, and embryo recipients must be between 20 and 45 years of age. Donors and recipients are required to be physically fit and free of disease.²³⁹ Foreigners can use in vitro fertilization services but are prohibited from donating or receiving ova, sperm, or embryos.²⁴⁰ The new law bans all human cloning and surrogate motherhood.²⁴¹ A population ordinance which came into effect in 2003, also obliges the government to invest in and to encourage organizations and individuals to devote resources to improving ART.²⁴² This ordinance also bans human cloning.²⁴³

Family planning

General policy framework

In 1989, the government enacted the Law on Protection of People's Health.²⁴⁴ Article 43(2) directs the state to use incentives, policies, and measures "to create the necessary conditions" to implement a reduced family size policy,²⁴⁵ but prohibits "all acts of preventing or forcing the implementation of family planning."²⁴⁶ It directs obstetric and gynecological care providers and facilities to "respect everyone's desire to use the method of birth control of their own choosing."²⁴⁷

In the past decade, the government has introduced a number of laws and policies regarding family planning. The government recently embraced a National Population Strategy for the Period 2001–2010, which replaces Vietnam's first population strategy, adopted in 1993.²⁴⁸ The current strategy is wider in scope than the earlier one and is linked to ICPD goals, identifying population issues as key to the country's social and economic development.²⁴⁹ The National Strategy for Reproductive Health Care for the Period 2001–2010 and the Comprehensive Poverty Reduction and Growth Strategy also detail the government's family planning strategies.²⁵⁰ (See "Population" for more information.)

Contraception

National-level data from 1997–1998 indicates that 99.48% of female respondents claim to have heard of or to know about contraceptive measures.²⁵¹ In 2003, 78.5% of Vietnamese women in the reproductive age group (15–49) used some kind of contraceptive method and 56.7% used modern contraceptive methods.²⁵² This is a notable increase in the use of contraceptive methods since 1990, when only 53.2% reported using some kind of birth control and 35.3%

reported using a modern method.²⁵³ Government sources estimate that 38.3% of women use IUDs, 17.42% practice withdrawal, 15.33% follow the "rhythm/safe period" method, 6.08% depend on condom use by their spouses, and 3.69% use oral contraceptives.²⁵⁴

Contraception laws and policies

All forms of contraception are legal in Vietnam. The Ordinance on Population prohibits activities involving "producing, dealing in, importing, and supplying contraceptive devices which are fake, fail to satisfy quality standards, have expired, or have not yet been" approved by the government.²⁵⁵

The ordinance further urges individuals and organizations to provide contraceptive devices and/or family planning services. Family planning providers are responsible for ensuring the safety and quality of their contraceptive devices and services, and must monitor and treat any adverse effects of their services.²⁵⁶

The 1989 Law on Protection of People's Health also contains provisions on family planning, and it recognizes the duty of all persons to implement the government's family planning program and choose their preferred method of contraception. The law also establishes a small family norm, stating that couples should have one to two children.²⁵⁷ It instructs the state to develop policies, introduce measures, and create the necessary conditions for proper implementation of the family planning program.²⁵⁸ It encourages public health, educational, and cultural facilities as well as the media and social organizations to widely disseminate family planning information.²⁵⁹

Sterilization is not a commonly used form of contraception in Vietnam.²⁶⁰ About 6.3% of females and 1% of males undergo sterilization.²⁶¹ The law provides incentives to people to undergo sterilization procedures.²⁶² Men are given an allowance equaling 40 kilos of rice and are exempted from public labor for one year. Male civil servants (*cadres*) receive a month's worth of salary and a leave of seven days with full pay.²⁶³

With their consent, women who have at least two children are eligible to have sterilization procedures provided free of charge by the government.²⁶⁴ Women who undergo sterilization are given an allowance equaling 40 kilos of rice and are exempted from public labor until the end of their working age. If the woman is a civil servant, she is entitled to a leave of 20 days with full payment.²⁶⁵ The use of IUDs is encouraged, and in some instances women are offered monetary incentives to use IUDs.²⁶⁶

Regulation of information on contraception

There are no formal restrictions on the advertisement of contraceptives.

Government delivery of family planning services

The constitution charges “the State, society, the family and the citizen to ensure care and protection for mothers and children; [and] to carry into effect the population program and family planning.”²⁶⁷ The government’s service network for family planning operates at these four levels:

- the “Basic Line,” composed of intercommune centers for family planning;
- the “District Line,” composed of family planning teams, obstetric facilities, and a central hospital;
- the “Provincial Line,” composed of maternal and child health-care centers, family planning offices, and obstetric and provincial hospitals; and
- the “Central Line,” composed of hospitals and centers for research and specialized technical training.²⁶⁸

The Ministry of Health organizes and guides the implementation of the program for reproductive health care and family planning, and strengthens the network that provides reproductive health care and family planning services to the wards and communes.²⁶⁹

Family planning services are delivered primarily through the family planning network and with the direct support of family, village, commune levels, maternity houses, clinics, and district hospitals.²⁷⁰

The 1989 Law on Protection of People’s Health requires the Ministry of Health to strengthen and expand “the network of obstetrics and newborn health care down to the grassroots in order to ensure medical care for women.”²⁷¹ Public health facilities and individual practitioners that provide obstetric and gynecological care are also directed by the law to respect the right of individuals to choose their preferred method of birth control.²⁷²

Family planning services are also provided in private clinics and by NGOs. However, according to a survey, 88% of those who use contraception rely on the state, not the private sector, to provide it.²⁷³

Maternal health

In 2003, Vietnam’s maternal mortality rate was 130 deaths per 100,000 live births.²⁷⁴ This is a significant decrease from the rate of 200 per 100,000 in 1990. Between 1990 and 1999, the percentage of obstetric complications during pregnancy decreased by 52%.²⁷⁵ However, there are studies that show that the percentage of pregnant women receiving prenatal care decreased from around 73% in 1990 to about 68% in 2003.²⁷⁶ Seventy percent of births in 2002 were attended by health professionals, down from 90% in 1990.²⁷⁷

The Ministry of Health recommends that pregnant women receive at least three prenatal checkups.²⁷⁸ However, women in urban areas generally receive prenatal checkups

more often than rural women, and women with higher levels of education receive checkups more frequently than those who are less educated.²⁷⁹

Laws and policies

A key objective of the National Reproductive Health Care Strategy for 2001–2010 is to reduce maternal mortality and morbidity. The strategy aims to achieve the following goals by the year 2010:

- increase the percentage of women who receive prenatal care to 90%;
- increase the percentage of pregnant women receiving at least one postnatal checkup to 60%;
- increase the percentage of deliveries at health facilities to 80%;
- reduce maternal mortality rate to 70 deaths per 100,000 live births; and
- reduce the rate of obstetric complications as a percentage of total deliveries by 50%.²⁸⁰

The National Strategy for Advancement of Women in Vietnam for the Period 2001–2010 also establishes the following targets for maternal health:

- increase the percentage of women receiving three prenatal checkups to 60%; and
- increase the percentage of medical establishments with obstetric nurses to 80%.²⁸¹

Delivery of services

The 1989 Law on Protection of People’s Health guarantees women the right to obstetric and gynecological care and obliges the Ministry of Health to strengthen and expand the network of obstetrics and newborn health care to the grassroots level to promote women’s health.²⁸²

Village health workers are responsible for identifying pregnancies, providing first aid for common obstetric conditions, instructing mothers about proper nutrition during pregnancy and breastfeeding, encouraging pregnant women to seek prenatal care and deliver in health facilities, assisting in normal deliveries, and making periodic visits to mothers and newborns.²⁸³ Commune Health Centers (CHCs) and maternity homes provide prenatal care, iron and folic acid supplements, tetanus toxoid vaccinations, breastfeeding and nutrition instructions, and neonatal care; perform normal deliveries and perineum surgeries; manage minor obstetric complications; and identify high-risk pregnancies for referral to higher level health facilities.²⁸⁴ District health centers offer further maternal health-care services including management of high-risk pregnancies, treatment of eclampsia, hemorrhages, and ectopic pregnancies, and cesarean sections. Provincial general and obstetric hospitals and national-level facilities have the

additional responsibility of diagnosing fetal abnormalities and treating serious obstetric conditions.²⁸⁵

Safe abortion

It is estimated that the average Vietnamese woman has 2.5 abortions during her lifetime.²⁸⁶ This rate of abortion is among the highest in the world and reflects the lack of adequate access to safe and affordable family planning services throughout Vietnam.²⁸⁷ For women aged 15–19, the rate of abortion is significant at 13.4%, and for those aged 25–29 it increases to 24.9%.²⁸⁸ The overall abortion rate declined from 14.8% in 1998 to 10.8% in 2002, most noticeably in urban areas. However, regional disparities exist: abortion rates remain high in the northwest part of the country (44.5%) and low along the south central coast (2.8%).²⁸⁹ In 2002, approximately 8% of women who had abortions—primarily those from rural areas—suffered some type of postoperative complication. The most common complications are bleeding (2.5%), infection (2%), and uterine rupture (0.5%).²⁹⁰

Abortion laws and policies

Abortion is legal in Vietnam. The 1989 Law on Protection of People's Health recognizes a woman's right to decide to have an abortion.²⁹¹ In an effort to better guarantee quality medical care for women, including access to safe abortion services, the law requires the Ministry of Health to standardize the quality of care and increase access to obstetric and newborn health-care centers throughout the country, even in the smallest communes.²⁹²

Under the Penal Code, any person who causes a pregnant woman to miscarry or whose conduct results in serious harm to a woman's health may be punished with imprisonment ranging from five to fifteen years.²⁹³ The offender can also be fined from 5 million to 50 million VND (USD 330 to USD 3,306), and may concurrently be removed from his or her position and/or banned from the practice of medicine for one to five years.²⁹⁴

One major goal of the National Reproductive Health Care Strategy for 2001–2010 is to reduce the number of unwanted pregnancies and to manage abortion-related complications effectively.²⁹⁵ The strategy states that qualified health personnel, medical equipment and other supplies, and counseling should be a standard part of post-abortion care.²⁹⁶

Local policies provide incentives such as allowances and maternity leave for women who terminate their pregnancies. A circular in Ho Chi Minh City, for example, entitles women who have terminated a pregnancy to a fully paid maternity leave of seven to thirty days and ten kilos of rice.²⁹⁷

Delivery of abortion services

Medical institutions and practitioners are forbidden to perform abortions unless they have been authorized to do so

by the Ministry of Health or local health bureau.²⁹⁸

Medical establishments and practitioners that terminate pregnancies are required to have professional certificates issued by the Ministry of Health.²⁹⁹ Failure to comply with this requirement is a violation of the Penal Code.³⁰⁰

Public health facilities at all levels provide counseling on safe abortion to women and adolescents. National, provincial, and district health facilities as well as maternity homes and intercommune polyclinics staffed with an obstetrician may perform abortions by D&C (Dilation and Curettage) or vacuum aspiration on women who are less than 12 weeks pregnant.³⁰¹

HIV/AIDS and other sexually transmissible infections (STIs)

The cumulative number of HIV infections at the end of 2003 was estimated at 220,000, of which 20,000 were children.³⁰² Between 2001 and 2003, the prevalence of HIV/AIDS among 15- to 49-year-olds increased from 0.3% to 0.4%.³⁰³ New HIV cases are also on the rise, especially among adolescents, intravenous drug users (IDUs), and sex workers.³⁰⁴ According to the Ministry of Health, there were 14,460 new cases reported in 2003 compared with 9,501 new cases in 2002,³⁰⁵ and 40 to 120 Vietnamese become HIV infected every day.³⁰⁶ The World Health Organization listed HIV/AIDS as the fifth leading cause of death in 2002.³⁰⁷ Almost 60% of new HIV infections in 2003 were among IDUs and 3% were among sex workers; since 1999, about 40% of all reported HIV cases have been reported among youths aged 15 to 24.³⁰⁸ Although the current incidence of HIV infection by sexual transmission is low compared with IDUs, who account for 57% of reported HIV cases, it is on the rise and is expected to become the dominant mode of HIV transmission in the next decade.³⁰⁹

Laws and policies

The principal national-level law relating to HIV/AIDS is the 1995 Ordinance on the Prevention and Fight Against HIV/AIDS Infection, which outlines the rights and responsibilities of the government as well as individuals with respect to people living with HIV/AIDS.³¹⁰

The ordinance prohibits discrimination against persons living with HIV/AIDS.³¹¹ Among its key provisions are the following:

- Individuals are responsible for protecting themselves from HIV/AIDS by employing preventive measures as well as by participating in preventive activities against the spread of HIV/AIDS in the family and community;
- A spouse who is aware that he or she is carrying the HIV virus or has AIDS should inform his or her spouse, otherwise the medical establishment will do so; and

- It is strictly prohibited to pass the HIV/AIDS virus to others intentionally.³¹²

Additionally, the Penal Code makes it a crime for anyone to infect others with HIV/AIDS knowingly and prescribes punishments including imprisonment for up to ten years. Transmission of the disease to adolescents or multiple persons is considered an aggravating circumstance and may result in a prison sentence of 20 years.³¹³ The primary policy to address HIV/AIDS is the Prevention of HIV/AIDS Strategy 2000, aimed at preventing transmission of the virus through sexual intercourse, blood transfusion, and from mother to child. The strategy also provides treatment and care for persons infected with HIV, including socioeconomic support for their families.³¹⁴ The government has also expressed concern over the high incidence of HIV infection in the National Strategy for Reproductive Health Care.³¹⁵

The first National Strategy on HIV/AIDS Prevention and Control up to 2010 with a vision to 2020 was launched in March 2004. The strategy promotes a multisectoral approach to reducing the stigma of HIV/AIDS and discrimination against people who have it; increasing the national and provincial capacity for preventing HIV/AIDS; and piloting community-based harm-reduction, treatment, and care programs in several cities.³¹⁶ The strategy is partially funded by a USD 35 million grant from the World Bank.³¹⁷

Adolescent reproductive health

In 2004, there were 24 million adolescents and youths (aged 10 to 24) in Vietnam, constituting about one-third of the Vietnamese population.³¹⁸ Despite the growing trend of marrying at a later age, the number of adolescents who give birth before the age of 20 remains high, and about one-fifth of women become mothers before age 19.³¹⁹ In rural areas up to 6.6 % of girls between the ages of 15 and 19 become mothers; in urban areas the rate is 1.6%.³²⁰

Studies reveal an increase in unprotected sex among adolescents.³²¹ Evidence shows that the rate of young people infected with HIV is also on the rise. According to the Ministry of Health, in 2001, 60.1% of HIV carriers were adolescents.³²² Those infected with HIV in the 13–19 age group increased from zero in 1992, to almost 10% in 2001.³²³ In 1997, Vietnam ranked 11th among 38 countries in the number of children under the age of 15 who lost a parent due to AIDS.³²⁴ The Ministry of Health estimates the number of children under five infected with HIV increased from 7 in 1997 to 210 in March 2002.³²⁵ Furthermore, a survey conducted in 1998 in Hanoi, Thai Binh, Binh Dinh, Binh Duong, and Ho Chi Minh City showed that of 4,675 adolescents in the 10–19 age group, 11.6% of females and 6.5% of males said they had suffered reproductive tract infections.³²⁶

Laws and policies

The Vietnam Population Strategy 2001–2010 calls for giving adolescents and youths both reproductive health information and access to reproductive health services.³²⁷ Government concern about adolescent reproductive health is also reflected in the National Strategy on Reproductive Health Care 2001–2010.³²⁸ The strategy aims to provide reproductive health information, education, and counseling (IEC) at 80% of the country's reproductive health-care facilities and to educate 70% of all adolescents about sexual development and sexuality.³²⁹ One of the strategy's goals is to create counseling centers that will provide adolescents with reproductive health-care services, including supplying contraceptive methods such as condoms for preventing STIs; provide safe abortions; and, where conditions permit, establish gynecological wards for young female patients.³³⁰

Delivery of information and services

Currently, reproductive and health education is provided through many channels, such as schools, family, mass media, community activities, youth organizations, and counseling centers. The Government of Vietnam, with the assistance and support of the United Nations Population Fund (UNFPA) and other international and nongovernmental organizations, introduced sex education into the curricula of selected schools in 1984.³³¹ However, important topics such as STIs, family planning methods, and abortion have yet to be included in these curricula.³³²

In Vietnam, a variety of television programs address reproductive and sexual health for adolescents and youths.³³³ *From Eye to Heart* is one such program, which features a group of ten youths who discuss issues such as sexuality, premarital sex, pregnancy, and abortion.³³⁴ There is also *Girls' Program*, a weekly show that targets 12- to 15-year-olds and focuses on physical and psychological sexual development and education.³³⁵

C. POPULATION

Since the 1960s, Vietnam has had several different population policies that have reflected the country's stages of development. From 1961 to 1975 a campaign to limit the family size to three children was targeted toward women in urban areas, rural areas in the Red River delta, the former fourth inter-zone, and the midland and highland provinces.³³⁶ From 1975 to 1984, there was a countrywide push to encourage the use of birth control, and the government issued specific instructions to promote and increase birth control use.³³⁷

Dramatic changes in family planning occurred between 1991 and 1996, when the government attempted to implement a two-child policy.³³⁸ This policy was abandoned in 2000³³⁹

and replaced the following year by the Vietnam Population Strategy 2001–2010, which emphasizes the benefits of small family size and voluntary family planning.³⁴⁰

Today, population growth remains a primary concern for the Government of Vietnam. With a population of just over 82 million in 2004, Vietnam is one of the most populous countries in South East Asia and in the world.³⁴¹ While the rate of population growth has decreased significantly in recent years, the large population size is viewed by the government as one of the “ongoing constraints that continue to fence Vietnam in the group of poor countries in the world.”³⁴²

Laws and policies

Vietnam’s current population policy is set forth in the Vietnam Population Strategy for the Period 2001–2010.³⁴³ The implementation of the strategy has been divided into two periods.

The first period (2001–2005) was supposed to focus on achieving a steady reduction of birth rates with special attention given to areas with high fertility rates. The goal was to balance the birth rate with the death rate countrywide by 2005. Additionally, pilot models and programs to improve the quality of the population were to be implemented, as were combined information campaigns designed to change reproductive behavior and to provide reproductive health care and family planning services in remote and poor regions with high birth rates. Finally, a national population database system was scheduled to be created to expand successful experimental models.³⁴⁴

For the second period (2006–2010), the goals of the strategy include maintaining a balance between the average birth and death rates through reproductive health and family planning services, perfecting and expanding intervention measures to “raise the quality of the population physically, intellectually and spiritually,” and consolidating the national population database system.³⁴⁵ The main objective of the strategy is to promote the concept of the small family to stabilize the population and improve the overall quality of life in the country. In the long run, the policy aims to improve people’s skills to meet the demands of industrialization and modernization in order to contribute to the rapid and sustainable development of the country.³⁴⁶ Other major objectives include achieving a stable population by 2005 (by 2010 in poor and rural areas) at a level consistent with the requirements of socioeconomic development; and improving the overall health and educational development of the population to achieve a more advanced human development index (HDI) by 2010.³⁴⁷

Implementing agencies

The National Committee on Population and Family

Planning is the government branch charged with carrying out the Vietnam Population Strategy and overseeing population planning.³⁴⁸ The committee has several important functions: it builds and implements programs to enhance the management capacity of civil servants working in the field; promotes behavioral change to ensure compliance with population laws and strategies; improves the quality of available information regarding population and family planning; integrates population and family development programs with credit and saving activities and economic development; strengthens population and family planning services in poor and remote areas; and works closely with the Ministry of Health to undertake reproductive health and family planning programs.³⁴⁹

The Ministry of Education and Training is responsible for implementing those parts of the strategy relevant to education and training in and outside of school, especially education about reproductive health, gender, and sex.³⁵⁰

The Government of Vietnam views the issue of ethnicity as one of special importance. The population and family planning policies pay particular attention to ethnic groups, and this commitment is reflected in two key documents:

- Resolution No. 04-NQ/HNTW of January 14, 1993, on population and family planning calls for the creation of policies for the protection and development of ethnic minorities with declining populations;
- Decision No. 270/TTg of June 3, 1993, on the Population and Family Planning Strategy requires the government to counter declining population rates and poor living conditions among certain ethnic minorities by expanding their access to and improving the quality of maternal and child health-care services, combating malnutrition, and fighting such ailments as malaria and goiter.³⁵¹

III. Legal Status of Women and Girls

The health and reproductive rights of women and girls cannot be fully understood without taking into account their legal and social status. Laws relating to their legal status not only reflect societal attitudes that shape the landscape of reproductive rights, they directly impact their ability to exercise these rights. A woman or adolescent girl’s marital status, her ability to own property and earn an independent income, her level of education, and her vulnerability to violence affect her ability to make decisions about her reproductive and sexual health and access to appropriate services. The following section

describes the legal status of women and girls in Vietnam.

A. RIGHTS TO EQUALITY AND NONDISCRIMINATION

The first Constitution of the Republic of Vietnam, approved by the National Assembly in 1946, provided that “all power in the country belongs to the Vietnamese people, irrespective of . . . sex . . . and that women are equal to men in all respects.”³⁵² Subsequent amendments have strengthened women’s legal status.³⁵³ The 2001 constitution includes several guarantees of the rights to equality and nondiscrimination. It provides that “[a]ll citizens are equal before the law”³⁵⁴ and that “[m]ale and female citizens have equal rights in all fields—political, economic, cultural, social, and the family.”³⁵⁵ The constitution strictly prohibits all acts of discrimination against women and all acts harmful to women’s dignity.³⁵⁶ Further, the constitution obliges the government and civil society to help women reach their full potential both within and outside of the home. It proposes a new social ethic that would relieve women of the sole responsibility for housework, enabling them to complete their education, advance their career, obtain access to health care, and enjoy periods of rest in addition to being able to fulfill their maternal obligations.³⁵⁷ Finally, the constitution prohibits discrimination between sons and daughters.³⁵⁸

The right to gender equality is also recognized in a number of national laws, including the Penal Code, the Civil Code, the Marriage and Family Law, the Labour Code, and the Education Law. The strongest and most sweeping of these laws is the Penal Code, which penalizes anyone who uses “force” or performs other “serious actions” in an attempt to keep women from participating in political, economic, scientific, or social activities with imprisonment ranging from three months to a year.³⁵⁹ The Marriage and Family Law prohibits discrimination on the basis of sex.³⁶⁰

Formal institutions and policies

The Government of Vietnam has created several institutions and a number of strategies designed to achieve gender equality.³⁶¹ National organizations committed to promoting women’s equality include the National Committee for the Advancement of Women in Vietnam (NCFAW), the Vietnamese Women’s Union (VWU), and the Board for Women’s Affairs under the Vietnam Labor Confederation.³⁶²

NCFAW was established in 1993 and serves as the principal coordinating and strategizing body for promoting women’s status and enhancing women’s roles in Vietnam.³⁶³ It oversees the creation and expansion of women’s subcommittees in agencies under the authority of ministries and administrations, and governing bodies in provinces, districts, towns,

communes, and wards.³⁶⁴ By 2001, all provinces and cities and most ministries had established subcommittees for the advancement of women, raising the total number of national ministries with such committees to 50 out of a total of 53.³⁶⁵ Women’s subcommittees at all levels are required to develop an action plan that sets forth concrete measures to implement the National Strategy for the Advancement of Women.³⁶⁶

The key responsibilities and roles for NCFAW are outlined in the National Strategy for the Advancement of Women in Vietnam 2001–2010 and its first implementing plan, the National Plan of Action for the Advancement of Women in Vietnam 2001–2005,³⁶⁷ and include the following:

- disseminate information on the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and other laws and policies concerning women;³⁶⁸
- integrate CEDAW into the current legal system;³⁶⁹
- conduct training courses to promote gender awareness among policy makers, civil servants, and those responsible for implementing government policies, especially men and high-ranking officers;³⁷⁰
- research and assess the impact of national laws and policies on women and develop a database of gender statistics;³⁷¹
- advise government officials and monitor government agencies that enforce laws, policies, and training activities relating to women’s rights;³⁷²
- conduct public information, education, and communication activities to promote gender equality in all sectors;³⁷³
- emphasize the importance of women’s full and equal participation in all aspects of social and family life;³⁷⁴ and
- advance the rights and interests of the girl-child.³⁷⁵

Other goals specified in the Strategy for the Advancement of Women and the Plan of Action for the Advancement of Women include the following:

- expand employment opportunities for women;
- improve women’s access to economic resources;³⁷⁶
- eradicate illiteracy and increase opportunities in education and training for women;³⁷⁷
- improve the quality of health care for women, including reproductive health services;³⁷⁸ and
- enhance the role and position of women leaders and increase the number of women in government.³⁷⁹

The VWU mobilizes women across socioeconomic divides to participate directly in drafting laws and policies relating to women and children.³⁸⁰ The VWU further collaborates with state ministries and administrations at all levels to implement

programs that satisfy the needs of women and children.³⁸¹ The VWU functions at the central, provincial, district, and commune administrative levels.³⁸²

B. CITIZENSHIP

The 1996 Civil Code guarantees every individual's right to citizenship and provides that "[t]he recognition, change, naturalization, and renunciation of Vietnamese citizenship shall be carried out in accordance with the conditions, orders, and procedures provided for by the law on citizenship."³⁸³

C. MARRIAGE

The Marriage and Family Law was endorsed by the National Assembly in June 2000 and took effect in January 2001. The law establishes marriage as a right and endorses the principle of monogamous union based on equal relations between a man and a woman.³⁸⁴

Marriages between Vietnamese citizens of different ethnicities and/or different religions, between religious and nonreligious people, and between Vietnamese citizens and foreigners are respected and protected by law.³⁸⁵ The state, society, and family have the duty to protect women and children, and to help mothers fulfill the functions of motherhood.³⁸⁶

Under the Marriage and Family Law, the minimum marriage age is 20 for men and 18 for women. The decision to marry must be made voluntarily by both parties; the use of force, deception, or obstruction is strictly prohibited.³⁸⁷

The law also stipulates conditions under which marriage is forbidden, some of which include the following:

- between people who are already married;
- between people who have lost their civil capacity to act;
- between family members within three generations;
- between current or former adoptive parents and their adopted children; and
- between people of the same sex.³⁸⁸

To protect the sanctity of marriage and the family, the Marriage and Family Law prohibits acts of false marriage, coercive marriage, marriage and divorce scams, cheating, and requiring dowry upon marriage.³⁸⁹ It guarantees equality between the husband and wife and endows each with "equal obligations and rights in all aspects of the family."³⁹⁰ The law further dictates that husband and wife must respect each other and must not mistreat one another, or injure the other's honor, dignity, or reputation in any way.³⁹¹

Women's rights in marriage are also protected by the 1996 Civil Code. According to the code, the wife and husband have equal rights and obligations in all aspects of their family and civil lives.³⁹² In addition, men and women have the right

to choose a family name and forename;³⁹³ the right to exercise full freedom of choice in marriage, including the right to choose a spouse of a different nationality or religion;³⁹⁴ and the right to request, for a legitimate reason, the termination of a marriage.³⁹⁵ Finally, the Civil Code also emphasizes the principle of monogamous marriage which is based on the union of one husband and one wife.³⁹⁶

The Marriage and Family Law stipulates that cohabiting couples without a marriage registration are not legally recognized as husband and wife.³⁹⁷

Laws governing marriages for ethnic minorities

The laws and customs of ethnic minority groups must conform to the Marriage and Family Law. Those customs not conflicting with national law are to be respected.³⁹⁸

Decrees No. 32/2002/ND-CP and No. 38/2002/ND-CP regarding the application of the Marriage and Family Law to ethnic minorities aim to eliminate customs that contravene the 2000 Marriage and Family Law.³⁹⁹ They include strict prohibitions on kidnapping girls and forcing them into marriage and on the use of superstition to hinder men and women from marrying freely.⁴⁰⁰ Additionally, they affirm the right of widows and widowers to remarry freely without having to compensate the families of the late spouse.⁴⁰¹

Other customs banned by Decree No. 32/2002/ND-CP include marriages to underage persons; marriages not registered at the communal People's Committee; marriages between relatives; and the prohibition of marriages on the basis of differences in ethnicity or religion.⁴⁰²

D. DIVORCE

The 2000 Marriage and Family Law also governs divorces in Vietnam.⁴⁰³ The law recognizes the right of a husband or wife to ask the court to settle a divorce case.⁴⁰⁴ Husbands are prohibited from seeking a divorce if the wife is pregnant or nursing a child under one year of age.⁴⁰⁵

According to the Marriage and Family Law, the court can review an application for divorce "when the situation is serious, the cohabitation can no longer exist, or the goal of the marriage fails."⁴⁰⁶ There are two types of divorces:

- Divorce requested by both parties with agreement on the division of property and child custody arrangements. In this instance, the court will review the agreement to ensure that the best interests of the wife and children are protected.⁴⁰⁷
- Divorce by request of one party following failed mandatory reconciliation attempts. In this case, the court determines whether divorce is appropriate.⁴⁰⁸

Maintenance and support laws

Vietnamese laws do not require financial support for

either the wife or the husband upon divorce. However, the Marriage and Family Law contains provisions that determine the division of property at the time of divorce.⁴⁰⁹

Upon divorce, property is to be divided according to the mutual wishes of the parties.⁴¹⁰ If the parties fail to agree, the court may divide the property.⁴¹¹ Each party retains his or her own property.⁴¹² Common property is to be divided so that each side obtains the same value amount.⁴¹³ If there is a difference in value, the side getting the higher value must pay the difference to the other.⁴¹⁴ When deciding how to divide the property, the law requires that the needs of each side as well as of each dependent be considered.⁴¹⁵

Parental rights

According to the Marriage and Family Law, a couple must agree at the time of divorce on who will have custody of the children and on each spouse's responsibilities towards the children.⁴¹⁶ If the couple cannot agree, the mother receives custody of children under three years old.⁴¹⁷ After the divorce, both the mother and father remain obligated to care for, educate, and raise their adolescent children and adult children with disabilities who are unable to support themselves.⁴¹⁸ The law also states that "those who do not take primary responsibility for the children shall have the obligation to provide financial assistance."⁴¹⁹

E. ECONOMIC AND SOCIAL RIGHTS

Ownership of property and inheritance

The constitution guarantees the right to enjoy property without interference from the government. However, it allows the state to forcibly purchase or requisition citizens' property for national security reasons.⁴²⁰

The Civil Code of the Socialist Republic of Vietnam approaches the right to enjoy private ownership in a nondiscriminatory way.⁴²¹ For instance, the code provides the right to inheritance in the following order: "the wife, husband, biological father, biological mother, adoptive father, adoptive mother, biological children adopted children of the decedent."⁴²² The 2000 Marriage and Family Law establishes that spouses have "the right to inherit each other's property as defined by laws on inheritance."⁴²³

Women are promised the same opportunities as men to participate independently in civil transactions, contracts, property management, and litigation to legally protect their interests.⁴²⁴ All civil transactions made in accordance with established law are valid and enforceable regardless of whether they are carried out by a man or a woman.⁴²⁵

The Marriage and Family Law requires that land use contracts for rural land be listed with the names of both spouses to indicate shared ownership.⁴²⁶ However, 80% of

land use contracts are registered in the name of the male head of household as stipulated by the 1993 Land Law.⁴²⁷ The Marriage and Family Law also provides that property be equitably and logically divided between the husband and wife upon divorce.⁴²⁸

Labor and employment

In 2001, almost 80% of Vietnamese women participated in the labor force,⁴²⁹ accounting for over 48% of the labor force.⁴³⁰ Only 38% of salaried workers are women.⁴³¹ Women earn on average only 78% of the wages earned by their male colleagues with similar qualifications in the same sector.⁴³² Women are disproportionately employed in the fields of education, sales, accounting, and industrial labor and are less likely than men to be employed in management positions and technical jobs.⁴³³ Since the *doi moi* reforms, there has been a 40% decline in the number of women hired by the state and as a result the number of women working in the private sector has risen substantially.⁴³⁴

The constitution states that men and women have equal rights in the labor force and should receive equal pay for equal work.⁴³⁵ It mandates maternity leave for all female workers and fully paid prenatal and postnatal leaves for female civil servants and salaried workers.⁴³⁶

Both the Civil Code and the Labour Code recognize the right to work.⁴³⁷ The Civil Code also confers the freedom to choose a job or occupation without discrimination on the basis of sex.⁴³⁸ The Labour Code, revised in 2002, articulates the rights and obligations of employees and employers and outlines labor standards.⁴³⁹ In addition to the right to work, the code guarantees the freedom to select a job or occupation, to learn a trade, and to receive vocational skills training irrespective of sex.⁴⁴⁰ The Labour Code stresses the right to gender equality in the workplace⁴⁴¹ and asserts that qualified female job applicants be given priority.⁴⁴² The state is urged to adopt a policy of "preferential treatment" (in the form of tax breaks) for businesses that employ many female workers,⁴⁴³ and it has the responsibility to develop "various forms of training in favor of female workers" that will enable them to increase their flexibility in the job market.⁴⁴⁴ Furthermore, the Labour Code prohibits employers "from conduct which is discriminatory toward a female employee or conduct which degrades the dignity and honor of a female employee."⁴⁴⁵ It maintains that women and men should receive equal pay for equal work and should be treated equally with respect to wage increases.⁴⁴⁶ In a workplace with women, the Labour Code states that there must be changing rooms, shower facilities, and toilets for women.⁴⁴⁷

Additional guidelines exist regarding the treatment of women in the workforce. Under the Labour Code, a woman

must not be assigned “heavy or dangerous work, or work requiring contact with toxic substances, which has adverse effects on her ability to bear and raise a child.”⁴⁴⁸ The Law of Protection of People’s Health stipulates that “organizations and individuals using women’s labor must follow regulations aimed at protecting women’s health, and implement policies toward pregnant women, women in childbirth, nursing mothers, and applied family-planning methods.”⁴⁴⁹ Employers may not hire women of any age for work in mines or for jobs that require constant immersion in water.⁴⁵⁰ Businesses that employ women in these restricted fields must adopt plans to train and gradually transfer female employees to jobs that are more appropriate for their health and must intensify measures to protect the health of female employees.⁴⁵¹

To help rural women advance their agricultural productivity and improve the quality of their lives, the VWU and the Ministry of Agriculture and Rural Development issued Joint Resolution No. 47/2000/NQLT/LHPN-BNN in April 2000.⁴⁵² The resolution sets forth concrete measures to implement an action plan adopted by the Ministry of Agriculture and Rural Development and the Vietnam Women’s Union Central Committee.⁴⁵³ These measures include encouraging women to apply technical advances to agricultural production, maintenance, processing, and the selling of farm produce; to assist each other in developing household, farm, and forestry economies; and to protect the environment.⁴⁵⁴

Circular 05/TT-TLD dated May 1, 1989, issued by the Vietnam General Federation of Trade Unions, lays out special allowances that can be granted to female employees who miscarry or undergo abortion, menstrual regulation, or the insertion of IUDs.⁴⁵⁵

These allowances are as follows:

- Female workers who have two or more children are entitled to 20 days of rest (including Sundays and holidays) after having an abortion that took place before the third month of pregnancy and 30 days of rest after having an abortion that took place after the third month of pregnancy, with allowances provided by a social security fund equivalent to 100% of their salary and bonus.
- Female workers who have two or more children are entitled to seven days of leave (including Sundays or holidays) following any procedure to regulate menstruation, or after they have been fitted with an IUD, with allowances provided by a social security fund equivalent to 100% of their salary and bonus.
- Female workers who have no children or who have one or two children are entitled to a sum of VND 2,500 (USD 0.16) toward their health allowance, after

undergoing a procedure to regulate menstruation.

This is in addition to a specified rest period and other standard allowances detailed in circulation 01/TLD dated January 1, 1989.⁴⁵⁶

Pregnant employees are legally entitled to unilaterally terminate their employment contract without penalty if a doctor concludes that their fetus will be harmed if they continue working.⁴⁵⁷ In such cases, the time limit provided by the doctor determines when the woman must notify her employer.⁴⁵⁸

The Labour Code states that female employees are entitled to pre- and postnatal leaves of absence that range from a total of four to six months “as determined by the government on the basis of working conditions and nature of the work, whether the work is heavy, harmful, or in remote locations.”⁴⁵⁹ At the end of her maternity leave, a woman can arrange with her employer to take additional unpaid leave.⁴⁶⁰

A female employee is also entitled to return to work after two months of maternity leave if her doctor approves.⁴⁶¹ Women who exercise this option must notify their employers in advance. They continue to receive maternity benefits in addition to their regular salaries for the days they work.⁴⁶² The Labour Code also stipulates that female workers employed in heavy manual labor who are seven or more months pregnant should be assigned to lighter jobs, or should have their daily work hours cut by one hour while continuing to receive full pay.⁴⁶³

In general, employers are not permitted to assign women who are seven or more months pregnant, or women who are nursing children under the age of one, to “work overtime, at night, or in distant places.”⁴⁶⁴ Furthermore, female employees are entitled to 30 minutes of rest per workday during their periods,⁴⁶⁵ and if they are nursing children under 12 months, they are entitled to 60 minutes off during working hours while continuing to receive full pay.⁴⁶⁶ In workplaces where the number of female employees is high, the employer is responsible for organizing a daycare center or preschool class, or for covering part of the kindergarten or preschool costs incurred by female employees with young children.⁴⁶⁷

The Labour Code identifies the following circumstances under which a female employee is entitled to receive social insurance benefits when taking leave:⁴⁶⁸ a prenatal examination; an abortion; caring for a sick child under seven years of age; or adopting a newborn. Under these circumstances, female employees are entitled to a social insurance benefit, or their employer must pay them a sum equivalent to the social insurance benefit.⁴⁶⁹ The length of time of the leave and the level of social benefit are determined by the government.⁴⁷⁰ After maternity leave, or even after

permitted unpaid leave, a female employee is assured of her job upon returning to work.⁴⁷¹

During her maternity leave, a female employee is entitled to receive a social insurance benefit equal to 100% of her salary, plus an additional benefit equal to one month's wages if she is giving birth to her first or second child and has paid her social insurance premium.⁴⁷²

Aside from the Labour Code, social insurance benefits are also discussed in the 1995 Regulations on Social Insurance.⁴⁷³ The regulations guarantee social insurance benefits for workers who take time off to attend to a sick child under the age of seven.⁴⁷⁴ The regulations also contain provisions for maternity benefits during pregnancy and childbirth,⁴⁷⁵ including three full days of paid leave for medical examinations.⁴⁷⁶ If an employee suffers a miscarriage, she is entitled to 20 days of paid leave if the miscarriage occurs before the third month of pregnancy and 30 days if the miscarriage occurs after the third month.⁴⁷⁷ The regulations also detail the time limits for maternity leave that were initially outlined in the Labour Code.⁴⁷⁸ They provide four months of prenatal and postnatal leave for women who work in "normal conditions."⁴⁷⁹ The leave is extended to five months or more for women engaged in harmful or special occupations as determined by the Ministry of Labour, Invalids, and Social Affairs.⁴⁸⁰

Special provisions exist for women in unique circumstances. For example, when an employee gives birth to twins or other multiples, she is entitled to an extra 30 days of leave per additional child.⁴⁸¹ In cases where a child is stillborn, or dies before the age of 60 days, the female employee is entitled to 75 days of leave after the date of delivery, with full benefits.⁴⁸² If the child dies after the age of 60 days, the female worker is entitled to 15 days of leave after the day the child dies.⁴⁸³

A number of policies articulated in the National Strategy for the Advancement of Women in Vietnam for the Period 2001–2010 and the National Plan of Action for the Advancement of Women in Vietnam 2001–2005 aim to improve women's economic status in labor and employment. These include the following:

- hire women for 50% out of the total 13.5 million new job placements;
- increase the rate of women receiving professional training to 40%;
- reduce the rate of urban women's unemployment to 5%; and
- increase the proportion of female participants in agricultural extension services to 50%.⁴⁸⁴

The policies seek to achieve these goals through the following actions:

- strengthening gender mainstreaming activities in all

social and economic programs;

- revising and strengthening the enforcement labor and employment policies to ensure gender equality in recruitment, maternity leave, labor safety, vocational training, income, retirement, and social insurance;⁴⁸⁵
- increasing women's access to economic resources including land, credit, technical training, and agricultural extension;⁴⁸⁶
- investing in professional, vocational, and technical training programs for women;⁴⁸⁷
- developing a database of women's status in the labor and employment market;⁴⁸⁸ and
- researching the impact of economic development and structure on female workers.⁴⁸⁹

The retirement age for Vietnamese women is generally five years younger than that of their male counterparts. Salaried women reach compulsory retirement by age 55, but men may work until age 60.⁴⁹⁰

Access to credit

A number of lending channels are available to women in both the formal and informal sectors. The majority of women borrow from private informal sources where interest rates are higher and funds are limited.⁴⁹¹ Women hold 41% of all loans in Vietnam, but only 29% of the loans are from formal institutions such as the Vietnam Bank for Agriculture and Rural Development (VBARD), the Vietnam Bank for the Poor (VBP), and the People's Credit Fund.⁴⁹²

Rural women constitute 10% of borrowers from the VBARD,⁴⁹³ and the number of rural women with access to loans has risen steadily in recent years.⁴⁹⁴ These institutions provide loans through savings borrowing groups, or with the guarantee of the commune people's committee, and do not ask for collateral security.⁴⁹⁵ In 1999, banks provided loans to 2,340 households with a total value of VND 4,086 billion (USD 270 million), an increase from 1998 of VND 797 billion (USD 53 million).⁴⁹⁶

The VWU manages a revolving credit scheme of VND 4,000 billion (USD 265 million) that provides small, low-interest loans to women.⁴⁹⁷ However, these loans are contingent upon participation in family planning, literacy, or other social programs.⁴⁹⁸ The VWU organizes more than 30% of the 197,000 saving groups in all provinces and cities nationwide.⁴⁹⁹

Education

Literacy rates in Vietnam are generally high. In 2003, the literacy rate for women above the age of 15 stood at 92%, while the rate for men above age 15 was 95%.⁵⁰⁰ Yet statistics reveal that the rate of illiterate women and girls living in remote and highland areas can be as high as 50% to 60%, particularly in

the Central Highlands and northern mountainous areas and among ethnic minorities.⁵⁰¹

Vietnam has an 89% primary education enrollment rate and is close to achieving gender balance in primary education.⁵⁰² In 2000, girls constituted 47.9% of primary school students, 46.9% of junior secondary school students, and 46.8% of senior secondary school students.⁵⁰³ The number of girls who drop out of primary education is disproportionately high (girls account for 70% of all dropouts), and girls receive an average of 1.1 fewer years of schooling than boys.⁵⁰⁴ The number of females in higher education is significantly lower (39%) than that of males, which the Vietnamese government considers one of the biggest constraints in education equality.⁵⁰⁵

The constitution affirms that “the citizen has both the right and the duty to receive training and instruction” and that “[p]rimary education is compulsory and dispensed free of charge.”⁵⁰⁶ Education and training are “top-priority policies” for the government.⁵⁰⁷

The 1998 Law on Education gives legal force to the guarantees to equal education outlined in the constitution.⁵⁰⁸ The law aims to strengthen the national education system, improve the quality and accessibility of education, and raise the education level and professional capacity of the population in order to complement the industrialization and modernization of the country.⁵⁰⁹ The national general education system comprises five years of compulsory primary education; four years of junior secondary education; and three years of senior secondary education or one to four years of vocational secondary school.⁵¹⁰ Under the law, the state must create conditions that ensure gender equality at all levels of education.⁵¹¹ Families are responsible for sending their children between the ages of six and fourteen to compulsory primary education facilities.⁵¹²

The Vietnamese Population Strategy 2001–2010 emphasizes gender equality in education, listing universal education for all girls of school age and job training for female workers as two of its primary goals.⁵¹³ It also establishes specific benchmarks for equal education, including raising the proportion of literate adults to 97%–98%, and increasing to 22%–25% the rate of people attaining a general school education by the year 2010.⁵¹⁴ Other long-term goals of the strategy include establishing universal junior secondary schooling by the year 2010.⁵¹⁵

The Education Development Strategy 2001–2010 and the Comprehensive Poverty Reduction and Growth Strategy 2001–2010 also address gender equality in education. Both strategies aimed to eliminate gender differentials in primary and secondary education by 2005 and at all levels of education by 2010.⁵¹⁶

F. PROTECTIONS AGAINST PHYSICAL AND SEXUAL VIOLENCE

Rape

The Penal Code provides the legal framework for prosecuting crimes of rape (*hiep dam*). The code defines the crime of rape as occurring when any person uses force or threatens to use force or coercion of any kind to have sexual intercourse with another person who either did not or could not (because of a physical or mental handicap) consent to the act.⁵¹⁷ A convicted rapist is subject to imprisonment from two to seven years.⁵¹⁸

The punishment for rape is increased to seven to fifteen years’ imprisonment when it is committed under some of the following circumstances:

- as part of organized crime;
- where the perpetrator is the victim’s guardian, caretaker, teacher, or medical provider;
- where the victim is raped by multiple persons or multiple times by one person;
- incest; or
- where the rape results in serious health problems for the victim.⁵¹⁹

Crimes of rape under other circumstances can result in 12 to 20 years’ imprisonment, life imprisonment, or the death penalty.⁵²⁰ These circumstances include the following:

- severely harming the health of the victim, resulting in a disability;
- knowledge by the rapist of his HIV-positive status; and
- causing the victim’s death or suicide.⁵²¹

The rape of adolescents between the ages of 16 and 18 is subject to higher terms of imprisonment, ranging from five to ten years.⁵²² Persons convicted of rape are prohibited from holding professional positions or accepting certain specific jobs for a period of one to five years.⁵²³ Marital rape is not explicitly mentioned as a criminal offense of the Vietnamese Penal Code.⁵²⁴ In theory, women may bring cases of marital rape to the court under the Penal Code’s provisions for crimes of sexual violation (*cuong dam*), which, depending on the circumstances, can be punishable by six months to eighteen years’ imprisonment.⁵²⁵

Domestic violence

No specific national legislation on domestic violence exists in Vietnam, and the government has not required officials dealing with this type of violence to undergo any special training. Several legal provisions provide relief to victims of physical or mental spousal abuse; nevertheless, domestic violence is widespread in Vietnam. One study found that 40% of women in a lowland village and 70% in a highland village reported being regularly subjected to physical violence.⁵²⁶

The constitution and the Civil Code protect the right of Vietnamese citizens to life, health, honor, and dignity.⁵²⁷ The Penal Code is the only source of law, however, that is directly relevant to domestic violence. It stipulates that repeat and first-time offenders who “ill-treat or persecute” family members and cause “serious consequences” may be given a formal warning, probation for up to two years, or imprisonment for three months to two years.⁵²⁸

The Marriage and Family Law similarly forbids “ill-treatment [or] persecution against grandparents, parents, spouses, children, grandchildren, siblings, or other family members.”⁵²⁹ It provides that “agencies, organizations, and individuals have the right to request the court or other competent bodies to take measures to promptly stop and handle” violators of the law.⁵³⁰ Violations of these provisions result in administrative sanctions, penal liability, or the payment of monetary compensation.⁵³¹

Sexual harassment

There is no specific law regarding sexual harassment in Vietnam. However, the constitution strictly prohibits all acts of discrimination against women and acts harmful to a woman’s dignity.⁵³² It obliges the state and society to “create all necessary conditions for women to raise their qualifications in all fields and fully play their roles in society,” including the workplace.⁵³³

Commercial sex work and sex-trafficking

Commercial sex work is prohibited in Vietnam. According to the Ministry of Labor, Invalids, and Social Affairs, two hundred thousand women are involved in the sex industry in Vietnam.⁵³⁴ The Penal Code prescribes punishment for persons harboring and procuring commercial sex workers.⁵³⁵ It also prohibits paid sexual intercourse with minors between the ages of 16 and 18 and punishes violators with up to eight years’ imprisonment.⁵³⁶ Any person convicted of organizing or encouraging commercial sex work will be imprisoned for six months to five years.⁵³⁷ Sex workers who are aware of their HIV status and knowingly spread the disease to others are held criminally liable.⁵³⁸

The 2003 Ordinance for Prevention and Control of Prostitution outlined a series of social and economic measures to prevent commercial sex work and to support the women who were involved in it. These measures include job training, job creation, medical assistance, and educational opportunities.⁵³⁹

The government enacted stiffer penalties for traffickers in the 2000 revisions to the Penal Code. The revised code criminalizes trafficking of women and prescribes prison sentences ranging from two to seven years for violators, as well as fines and probation.⁵⁴⁰ Additionally, persons found

guilty of organizing the illegal entry or exit of persons to or from Vietnam face prison terms of up to twenty years and a maximum fine of VND 50 million (USD 3,306).⁵⁴¹

Prime Minister’s Directive No.766/TTg outlines how various ministries and governmental agencies should collaborate and implement measures to prevent cross-border illegal trafficking of women and children and punish trafficking ringleaders. These ministries include Internal Affairs; Foreign Affairs; Labor, Invalids and Social Affairs; Justice; Trade; Culture and Information; Finance, Investment, and Planning; Tourism Administration; and the National Committee for the Care and Protection of Children.⁵⁴²

The directive instructs the Ministry of Internal Affairs to coordinate with Interpol and police forces of neighboring countries, especially China and Cambodia, to discover, prevent, and eradicate organized trafficking chains.⁵⁴³ Furthermore, the people’s committees at the province and district levels must guide and empower local police forces to strengthen border patrols, find missing persons, and spearhead efforts to end the trafficking of women and children.⁵⁴⁴ The VWU, with the support of the International Organization for Migration, has been a leading body in the implementation of the directive through its IEC antitrafficking campaigns in 14 provinces and cities, and in its provision of support to trafficked victims for community reintegration efforts.⁵⁴⁵

Sexual offenses against minors

According to the Ministry of Public Security, the rape of minors increased from 14.8% of total rape cases in 1993 to 31% in 1996.⁵⁴⁶ The percentage of juveniles involved in commercial sex work has also risen from 7% to 14% in recent years.⁵⁴⁷ The Ministry of Labor, Invalids, and Social Affairs estimates that there are at least twenty thousand girls involved in the sex industry.⁵⁴⁸ A 2000 survey of two thousand sex workers in Ha Noi and Ho Chi Minh shows 70% of commercial sex workers are under 25 years of age, and many of them are HIV-positive.⁵⁴⁹

The Vietnamese Penal Code addresses rape and other sexual offenses committed against minors. It defines sexual intercourse with a girl who is between the ages of 13 and 16, without her consent, as rape (*hiep dam tre em*).⁵⁵⁰ The crime is punishable by seven to twenty years’ imprisonment, or in serious circumstances, life imprisonment or death.⁵⁵¹ An adult who has consensual sexual intercourse with a girl who is between the ages of 13 and 16 is penalized by one to ten years’ imprisonment.⁵⁵² Sexual intercourse with a girl under the age of 13, regardless of consent, is considered statutory rape under the Penal Code.⁵⁵³ The code prescribes a minimum sentence of twenty years’ imprisonment, to life imprisonment, or the death penalty.⁵⁵⁴

Persons who have sexual intercourse with an adolescent sex worker between the ages of 16 and 18 may be subject to one to eight years' imprisonment.⁵⁵⁵ Sexual molestation of a minor is characterized as a crime of sexual violation (*cuong dam*) under the Penal Code. Where the act is committed against an adolescent between the ages of 16 to 18, imprisonment of two to seven years' is prescribed.⁵⁵⁶ If the victim is under 16, the perpetrator will be subject to a minimum sentence of five years' imprisonment or, at maximum, life imprisonment.⁵⁵⁷

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368. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 11.
369. NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, § 6.4.3, at 13.
370. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 10; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 6.1.4, 6.2.6, at 12.
371. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 10–11; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 1.1.5, at 2, 6.4.1, at 13.
372. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 10; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 5.1.4, at 10, 6.2.3, at 12.
373. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 7–8; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 5.1.4, at 10, 6.2.3, at 12.
374. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 9–10; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 5.1–4, at 9–11.
375. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 6; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 2.1, 2.1.3, 6, at 3–4, 2.3.2, at 5, 3.3.3, at 7, 5.4.3, at 11.
376. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 5–6; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 1.1–3, at 1–3.
377. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 6–7; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 2.1–4, at 3–5.
378. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 7; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, § 3.1, at 6–7.
379. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 8; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 4.1–5, at 7–9.
380. VIETNAM WOMEN’S UNION (VWU), DIEU LE HOI LIEN HIEP PHU NU VIET NAM [VWU CONSTITUTION], ch. I, arts. 1–2 (2002), http://www.phunu.hochiminhcity.gov.vn/web/tintuc/default.aspx?cat_id=489 (last visited July 25, 2005) (translation by Center for Reproductive Rights).
381. GOVERNMENT OF VIETNAM, DECREE ON REFORM AND STRENGTHENING OF THE MISSION TO MOBILIZE WOMEN IN THE NEW ENVIRONMENT, No. 04-NQ/TW (1993),

- http://www.phunu.hochiminhcity.gov.vn/web/tintuc/default.aspx?cat_id=428&news_id=52 (last visited Apr. 19, 2005).
382. VIETNAM WOMEN'S UNION (VWU), *supra* note 380, ch. III, art. 10.
383. Civil Code, art. 41 (1996) (Vietnam).
384. The Marriage and Family Law, Official Gazette No. 28, art. 2 (2000) (Vietnam).
385. *Id.* art. 2.2.
386. *Id.* art. 2.
387. *Id.* art. 9.
388. *Id.* art. 10.
389. *Id.* art. 4.
390. *Id.* art. 19.
391. *Id.* art. 21.
392. Civil Code, art. 36 (1996) (Vietnam).
393. *Id.* art. 28.1.
394. *Id.* art. 35.
395. *Id.* art. 38.
396. *Id.* art. 35.
397. VIETNAM: LAWS AND POLICIES AFFECTING REPRODUCTIVE LIVES OF WOMEN, *supra* note 169, at 43–45.
398. The Marriage and Family Law, art. 6 (2000) (Vietnam); *See* VIETNAM: LAWS AND POLICIES AFFECTING REPRODUCTIVE LIVES OF WOMEN, *supra* note 169, at 43–45.
399. VIETNAM: LAWS AND POLICIES AFFECTING REPRODUCTIVE LIVES OF WOMEN, *supra* note 169, at 43–45.
400. *Id.*
401. *Id.* (referring to art. 6.1 of Decree 32/2000/ND-CP).
402. *Id.*
403. The Marriage and Family Law, Official Gazette No. 28, ch. X, arts. 85–99 (2000) (Vietnam).
404. *Id.* art. 85.
405. *Id.*
406. *Id.* art. 89.
407. *Id.* art. 90.
408. *Id.* art. 91.
409. *Id.* art. 95(1)–(3).
410. *Id.* art. 95(1).
411. *Id.*
412. *Id.*
413. *Id.* art. 95(2)(a).
414. *Id.* art. 95(2)(d).
415. *Id.* art. 95(2)(a)–(b).
416. *Id.* arts. 92–94.
417. *Id.*
418. *Id.* art. 92.
419. *Id.*
420. VIETNAM CONST. art. 23.
421. Civil Code, art. 4 (1996) (Vietnam).
422. *Id.* art. 679.
423. The Marriage and Family Law, Official Gazette No. 28, art. 31 (2000) (Vietnam).
424. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, art. 15.1.
425. *Id.*
426. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 14.
427. *Id.* at viii–ix, 13–14.
428. The Marriage and Family Law, Gazette No. 28, art. 31 (2000) (Vietnam).
429. COUNTRY PROFILES FOR POPULATION AND REPRODUCTIVE HEALTH: POLICY DEVELOPMENTS AND INDICATORS 2003, VIETNAM, *supra* note 252.
430. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 1.
431. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 17.
432. UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP) & FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO), GENDER DIFFERENCES IN THE TRANSITIONAL ECONOMY OF VIETNAM 12–13 (2002).
433. *Id.*; ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 18.
434. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 21.
435. VIETNAM CONST. art. 63 (1992) (amended 2001).
436. *Id.* art. 63.
437. Labour Code of the Socialist Republic of Vietnam, art. 5.1 (1994); Civil Code, art. 45 (1996) (Vietnam).
438. Civil Code, art. 45 (1996) (Vietnam).
439. Labour Code of the Socialist Republic of Vietnam, pmlb. (2002).
440. *Id.* art. 5.1.
441. *Id.* arts. 109.1, 111.1.
442. *Id.* art. 111.2.
443. *Id.* art. 110.2.
444. *Id.* art. 110.1.
445. *Id.* art. 111.1.
446. *Id.*
447. *Id.* art. 116.1.
448. *Id.* art. 113.1.
449. Law on Protection of People's Health, art. 45 (1989) (Vietnam).
450. Labour Code of the Socialist Republic of Vietnam, art. 113.2 (2002).
451. *Id.* art. 113.1.
452. MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT VIETNAM & VIETNAM WOMEN'S UNION, INTER-MINISTERIAL RESOLUTION ON THE ASSISTANCE TO RURAL WOMEN TO DEVELOP PRODUCTION AND IMPROVE QUALITY OF LIFE, No. 47/2000/NQLT/LHPN-BNN, § 1(1) (2002); *See also* CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 44.
453. MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT VIETNAM & VIETNAM WOMEN'S UNION, *supra* note 452, § III(1); *See also* CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 44.
454. MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT VIETNAM & VIETNAM WOMEN'S UNION, *supra* note 452, § III(2); *See also* CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 44.
455. *See* VIETNAM: LAWS AND POLICIES AFFECTING REPRODUCTIVE LIVES OF WOMEN, *supra* note 169, at 31.
456. ANNALS OF VIETNAMESE POLICY FOR POPULATION AND FAMILY PLANNING, *supra* note 262, at 234.
457. Labour Code of the Socialist Republic of Vietnam, art. 112 (2002).
458. *Id.* art. 112.
459. *Id.* art. 114.1.
460. *Id.* art. 114.2.
461. *Id.*
462. *Id.*
463. *Id.* art. 115.2.
464. *Id.* art. 115.1.
465. *Id.* art. 115.3.
466. *Id.*
467. *Id.* art. 116.2.
468. *Id.* art. 117.1.
469. *Id.*
470. *Id.*
471. *Id.* art. 117.2.
472. *Id.* art. 144.
473. Regulations on Social Insurance (1995) (Vietnam), http://www.osh.netnam.vn/html/LUATPHAP/boluat/E_nd12.htm (last visited July 25, 2005).
474. *Id.* art. 8.1 (only applicable to compulsory social insurance scheme participants which include civil servants, workers of businesses with more than 10 employees, people under vocational training or practicum).
475. *Id.* arts. 11–14.
476. *Id.* art. 11.
477. *Id.* arts. 11, 14.
478. *Id.* art. 12; *See also* Labour Code of the Socialist Republic of Vietnam, art. 114.1 (2002).
479. Regulations on Social Insurance, art. 12.1 (1995) (Vietnam), http://www.osh.netnam.vn/html/LUATPHAP/boluat/E_nd12.htm (last visited July 25, 2005).
480. *Id.*
481. *Id.* art. 12.2.
482. *Id.*
483. *Id.*
484. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 5.
485. *Id.*; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, § 1.1.3, at 2.
486. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 5–6; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, §§ 1.1–3, at 1–3.
487. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 5; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, § 1.3.1–7, at 2–3.
488. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 6; NATIONAL PLAN OF ACTION FOR THE ADVANCEMENT OF WOMEN IN VIETNAM (2001–2005), *supra* note 366, pt. II, § 1.2.6, at 2.
489. NATIONAL STRATEGY FOR THE ADVANCEMENT OF WOMEN IN VIETNAM FOR THE PERIOD 2001–2010, *supra* note 232, at 5–6.
490. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 17; CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 31.
491. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 22.
492. *Id.*
493. *Id.*
494. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 38.
495. *Id.*; ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 22. In practice, women, particularly divorced and separated women, have great difficulty securing trustee-guarantees for loans due to a lack of influence in the commune people's committees. *Id.* at 22, 49.
496. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 38. Exchange rate of 1 USD to 15,121 VND.
497. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 22. Based on an

- exchange rate of 1 USD to 15,121 VND.
498. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 22.
499. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 38, 42.
500. See COUNTRY PROFILES FOR POPULATION AND REPRODUCTIVE HEALTH: POLICY DEVELOPMENTS AND INDICATORS 2003, VIETNAM, *supra* note 252.
501. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 28.
502. *Id.* at 27; UNITED NATIONS COUNTRY TEAM IN VIETNAM, MILLENNIUM DEVELOPMENT GOALS: BRINGING THE MDGs CLOSER TO THE PEOPLE 18 (2002) [hereinafter MILLENNIUM DEVELOPMENT GOALS: BRINGING THE MDGs CLOSER TO THE PEOPLE].
503. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 27 (figures for 2000).
504. MILLENNIUM DEVELOPMENT GOALS: BRINGING THE MDGs CLOSER TO THE PEOPLE, *supra* note 502, at 18; CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 27.
505. CEDAW Committee, *Combined third and fourth period reports of States parties: Vietnam*, *supra* note 361, at 27.
506. VIETNAM CONST. arts. 59, 63 (1992) (amended 2001).
507. *Id.* art. 35.
508. Law on Education, No. 11/1998/QH10, pmlb, art. 9 (1998) (Vietnam) (right and duty to education).
509. *Id.* pmlb, art. 2.
510. *Id.* arts. 22, 26.
511. *Id.* art. 9.
512. *Id.* arts. 10, 22.
513. VIETNAM POPULATION STRATEGY FOR THE PERIOD 2001-2010, *supra* note 248, at 21-22.
514. VIETNAM WOMEN'S UNION (VWU), VIETNAMESE WOMEN IN 21ST CENTURY (2003).
515. *Id.*
516. MILLENNIUM DEVELOPMENT GOALS: BRINGING THE MDGs CLOSER TO THE PEOPLE, *supra* note 502, at 13, 54.
517. Penal Code, art. 111.1 (2000) (Vietnam).
518. *Id.*
519. *Id.* art. 111.2.
520. *Id.* art. 111.3.
521. *Id.*
522. *Id.* art. 111.4.
523. *Id.* arts. 111.5, 112.5, 113.5, 114.5.
524. *Id.* art. 111.
525. BUI THI THANH MAI & HOANG TU ANH, CONSULTATION OF INVESTMENT IN HEALTH PROMOTION, JOINT EVALUATION: ADDRESSING REPRODUCTIVE RIGHTS AND HEALTH NEEDS OF YOUNG PEOPLE AFTER ICPD: THE CONTRIBUTION OF UNFPA AND IPPF 7 (2003).
526. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 15.
527. VIETNAM CONST. art. 71 (1992) (amended 2001); Civil Code, arts. 32-33 (1996) (Vietnam).
528. Penal Code, art. 151 (2000) (Vietnam).
529. The Marriage and Family Law, Official Gazette No. 28, art. 4 (2000) (Vietnam).
530. *Id.*
531. *Id.* art. 107.
532. VIETNAM CONST. art. 63 (1992) (amended 2001).
533. *Id.*
534. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 14.
535. Penal Code, arts. 254-255 (2000) (Vietnam).
536. *Id.* art. 256.
537. *Id.* art. 202.
538. Ordinance for Prevention and Control of Prostitution, No. 10/2003/PL-UBTVQH11, art. 23 (2003).
539. *Id.* art. 14.
540. Penal Code, art. 119 (2000) (Vietnam).
541. *Id.* Exchange rate of 1 USD to 15,121 VND.
542. Prime Minister's Directive on Responsibilities of Ministries to Take Measures to Prevent the Illicit Trafficking of Women and Children Abroad, No. 766/TTg, at 1 (1997); See also *Periodic reports of State parties due in 1997: Vietnam*, Committee on the Rights of the Child, U.N. Doc. CRC/C/65/Add.20, at 62-63 (2000).
543. Prime Minister's Directive on Responsibilities of Ministries to Take Measures to Prevent the Illicit Trafficking of Women and Children Abroad, No. 766/TTg, at 1 (1997).
544. *Id.* at 8 (1997).
545. Vietnam Women's Union (VWU), International Organization for Migration and Vietnam Women's Union in Prevention of Trafficking in Women and Children (2004), <http://hoilhpn.org.vn/newsdetail.asp?CatId=69&NewsId=246&lang=EN> (last visited July 25, 2005).
546. ADOLESCENT AND YOUTH IN VIETNAM, *supra* note 319, at 32.
547. *Id.*
548. ASIAN DEVELOPMENT BANK, WOMEN IN VIETNAM, *supra* note 363, at 14.
549. ADOLESCENT AND YOUTH IN VIETNAM, *supra* note 319, at 32.
550. Penal Code, art. 112.1 (2000) (Vietnam).
551. *Id.* art. 112.1-3 (circumstances include those outlined in adult rapes).
552. *Id.*
553. *Id.* art. 112.4.
554. *Id.*
555. *Id.* art. 256.1-2.
556. *Id.* art. 113.4.
557. *Id.* art. 114.1-3.

