

EXECUTIVE SUMMARY OF THE VIETNAM COUNTRY RISK ASSESSMENT

The Vietnam Human Rights & Business Country Risk Assessment (CRA) provides a detailed assessment of Vietnam's human rights standards and practice, along with guidance to companies on how to evaluate and adjust their business practices to ensure compliance with international human rights standards when operating in Vietnam. The CRA focuses on documenting and assessing risks that are particularly relevant in a business context, and provides a systematic and in-depth overview of sensitive human rights areas within the legal, political, social and cultural fields in Vietnam. The CRA has been carried out as desk research using a wide range of recognised information and sources.

The CRA builds on twenty rights drawn from the Universal Declaration of Human Rights. Each right is examined from a corporate perspective in three different categories: i) Formal Law; ii) Societal Practice; and iii) Company Risk. The CRA is modelled on a red-light/green-light rating system and each right is assigned a rating in the Company Risk category, which determines the corporate risks for engaging in human rights violations. The CRA can be used as an independent tool, as well as in conjunction with the Human Rights & Compliance Assessment (HRCA) to help the company localise and streamline its internal compliance processes.

The results of the Vietnam CRA has produced the categorisation ten human rights as high-risk areas, eight human rights as medium-risk areas and two human rights as low-risk areas for companies operating in Vietnam. The following presents the overall results of the CRA, including a short description of each right. The full CRA offers a detailed, in-depth description of each right and its violations in law and practice.

COMPANY RISK

The following rights received a red rating in the company risk category in the CRA, which indicates that these human rights constitute high-risk areas for companies operating in Vietnam. A short assessment of each right follows below.

- Right to Freedom from Discrimination (art. 2)
- Right to Freedom From Forced Labour and Servitude (art.4)
- Right to Own Property (art. 17)
- Right to Take Part in Government (art. 21)
- Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)
- Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)
- Right to an Adequate Standard of Living (art. 22)
- Right to Health (art. 25)
- Right to Adequate Food (art.25)
- Right to Education (art. 26)

Right to Freedom from Discrimination (art. 2) constitutes a high-risk human rights area for companies operating in Vietnam. Women routinely experience labour discrimination in the form of lower pay, less skilled work, and higher unemployment. Ethnic minorities, often referred to as Montagnards, are underrepresented in the labour force and are subjected to harassment by government officials. Homosexuals, the disabled, and those with HIV/AIDS are also disadvantaged. Internal migrant workers are often employed on short-term contracts and forced to work long hours for low pay, often under unsafe conditions. Company proximity to the violations of this right is high due to its direct relationship to employment.

Right to Freedom from Forced Labour and Servitude (art. 4) is a high-risk human rights area in Vietnam. Forced industrial labour does not occur to be a commonplace problem in Vietnam, but trafficking and the use of forced prison labour are significant problems. Company proximity in this area is due to the severe problem of human trafficking.



Right to Own Property (art. 17) constitutes a high-risk area for company operations in Vietnam. This is due to the reported practice of confiscating property of Montagnard ethnic minorities, sometimes as a result of forced relocations, inadequate compensation, and resettlement schemes, as well as the property violations of ethnic minority Christians. Additionally, the procedures for purchasing property, establishing land ownership, and contract enforcement are slow and sometimes corrupt. Obtaining land title is an ongoing challenge for women, as land title deeds are often only given to men.

Right to Take Part in Government (art. 21) is a high-risk area due to Vietnam's lack of genuine democratic procedures, as well as widespread corruption. The Communist Party of Vietnam controls all three branches of government. Vietnam grants its citizens almost no civil and political rights, and the most recent elections were regarded as neither free nor fair. Corruption in Vietnam is widely acknowledged to be systematic, and occurs throughout government, law enforcement, and business. Vietnam's score on Transparency International's 2006 Corruption Perception Index was 2.6 on a scale of 0 to 10, with zero representing the most corrupt societies. Vietnam was ranked 111th out of 163 countries. The company's main risk of non-compliance with this right is if it engages in bribery of government officials.

Right to Peaceful Assembly and Freedom of Association (art. 20 and 23) constitutes a high-risk area in Vietnam. Independent trade unions are illegal in Vietnam, and religious or political gatherings are often forbidden or broken up violently. Only one union, the Vietnam General Confederation of Labour (VGCL), is allowed to organize workers but it is controlled by the Vietnam Communist Party and bestows few of the conventional benefits of union membership. The company risks non-compliance with this right if it (or its suppliers or affiliates) prohibit workers from organizing unions, criticising the employer or engaging in collective bargaining agreements.

Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25) poses a high company risk. In spite of comprehensive legislation in the area of labour, violations of this right are widespread. The working conditions at factories are often poor. In general terms, factory wages are inadequate, hours are long, and safety/hygiene is poor. Vietnamese migrant workers from rural areas constitute a particularly vulnerable group, and often labour under illegal and abusive conditions. Company risk in this area includes numerous dimensions of hiring practices and workplace conditions.

Right to an Adequate Standard of Living (art. 2) is a high-risk area for companies operating in Vietnam. Even though Vietnam has experienced significant economic growth in the last decade, the minimum wage (around US\$50 per month) is not sufficient to secure an adequate standard of living. Additionally, the Vietnamese government has added fees to many social services, making these services inaccessible to the poor, particularly in the rural areas.

Right to Health (art. 25) constitutes a high-risk area in Vietnam. In spite of funding advancements in recent years, access to health care, the quality of care, and medical costs all appear to be worsening. HIV/AIDS is a growing problem. Moreover, poor implementation of health and safety standards results in hundreds of deaths and thousands of injuries yearly. A survey in the Hai Phong region found that only 3 percent of businesses implemented occupational health and safety guidelines. A high proportion of Vietnamese workers suffer from chronic ailments due to unhygienic working conditions. Company risk for this right lies mostly in the area of occupational health and safety.

Right to Adequate Food (art.25) is a high-risk area for companies. Though Vietnam has comprehensive environmental legislation, enforcement is weak and environmental degradation is spreading, resulting in water and food that is unfit for human consumption. Industrial pollution, land degradation, deforestation, and poor waste management are also significant issues. Company risk in this area consists of pollution of air, soil and water, as well as waste management and food provision.

Right to Education (art. 26) is a high-risk area for companies operating in Vietnam. Child labour poses a direct threat to the right to education, and child labour in urban and rural areas is common in Vietnam. The number of children involved in drug trafficking, as well as pornography, prostitution, and other forms of sexual exploitation, appears to be on the rise.



Many children are exploited for labour with the permission and encouragement of their parents. Those companies who source from Vietnam or have operations in the country are at risk of child labour violations.

COMPANY RISK

The following rights received a yellow rating in the Company Risk category in the Vietnam CRA, indicating that these human rights constitute medium-risk areas for companies operating in Vietnam. A short description of each right follows below.

- Right to Life, Liberty and Security of Person (art. 3)
- Right to Privacy (art. 12)
- Right to Freedom of Movement (art. 13)
- Right to Family Life (art. 16)
- Right to Freedom of Opinion, Expression, Thought, Conscience, and Religion (art. 18 and 19)
- Right to Adequate Housing (art. 25)
- Right to Participate in Cultural Life (art. 26)
- Right to Intellectual Property (art. 26)

Right to Life, Liberty and Security of Person (art. 3) is a medium-risk area in Vietnam. Though this right is routinely violated in practice, proximity to company operations is generally low. Companies who use security forces to protect staff or property, however, will have a higher risk of proximity to human rights violations. Vietnamese security forces, both state and private, have been implicated in beatings and harassment, as well as arbitrary arrest and detention of dissidents and minorities. Corruption has also been reported in police and security forces.

Right to Privacy (art. 12) is categorised as a medium-risk human rights area in Vietnam. The Vietnamese government routinely monitors, detains and harasses political dissidents. The Vietnamese legal code includes some of the world's most restrictive Internet surveillance and censorship laws, and Internet cafe owners are required to keep logs of all user activity on their premises. Additionally, Vietnamese policies and practices on the treatment of HIV/AIDS routinely breach patient confidentiality. Company risk in this area mainly consists of the administration of company documents and communications, as well as relations with suppliers and contractors.

Right to Freedom of Movement (art. 13) is rated a medium-risk human rights area. Political dissidents, members of unregistered religious groups, and ethnic minorities are often monitored and forbidden to leave their home villages. Numerous political opposition members are under house arrest in rural areas of Vietnam, unable to leave or receive visitors. Migrants are subject to poor employment and economic conditions. Vietnamese outside of these vulnerable groups, however, do not often suffer violations of this right. Company risk in this area mainly concerns the hiring of Vietnamese migrants from rural areas.

Right to Family Life (art. 16) is a medium-risk area in Vietnam. Domestic violence against women is widespread, and children's right to family life is violated by the practice of child labour and the rising number of street children living under poor and vulnerable conditions. Vietnamese law and practice provide inadequate provision of maternity benefits. Company risk in this area concerns the areas of child labour and maternity benefits.

Right to Freedom of Opinion, Expression, Thought, Conscience, and Religion (art. 18 and 19) is a medium-risk area for companies in Vietnam. Human rights defenders, political dissidents and members of unregistered religious groups face severe harassment, including arrest and detention. Press freedom is restricted in Vietnam, with harsh penalties facing critics of the ruling Vietnam Communist Party or its policies. Company proximity to these violations is not high, but companies must take reasonable measures to avoid complicity in government-led violations.



Right to Adequate Housing (art. 25) is rated a medium-risk human right in Vietnam. Company risk in this area deals with forced relocations of ethnic minorities and substandard conditions of migrant workers. Company proximity to these violations, however, is isolated to instances where the company purchases or leases land in areas where there are ethnic minorities, or where the company provides housing to its employees.

Right to Participate in Cultural Life (art. 26) constitutes a medium-risk area in Vietnam. The government controls the content of all Vietnamese music, art, literature, and film, and violates the human rights of ethnic minority groups, particularly in rural areas. Ethnic minorities in the highlands areas are subject to martial law and other abuses such as harassment, detention, forced Vietnamisation, and the prohibition of cultural and religious practices.

Right to Intellectual Property (art. 26) is a medium-risk human rights area for company operations. The law does not sufficiently protect the intellectual property rights of indigenous people. Moreover, the sale of pirated and counterfeit goods is routine and widespread, with some estimates reporting that 90 percent of the music and business software sold in Vietnam are illegitimate.

COMPANY RISK

The following rights received a green rating in the company risk category in the Vietnam CRA, indicating that these human rights constitute low-risk risk areas for companies operating in Vietnam. A short description of each right follows below.

- Right to Freedom from Torture, Cruel, Inhuman, or Degrading Treatment or Punishment (art. 5)
- Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)

Right to Freedom from Torture, Cruel, Inhuman, or Degrading Treatment or Punishment (art. 5) is a low-risk human rights area for company operations. There is no explicit prohibition of torture in the Vietnamese constitution; no definition of torture in national legislation, and the Penal Code of Vietnam does explicitly prohibit torture. Though torture appears to occur regularly in prison facilities and during interrogations of subjects, company proximity to these violations is low. Companies should be aware, however, that violations of this right take place routinely in Vietnam.

Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11) is a low-risk human rights area for Vietnam. This right is violated at almost all levels, with poor access to legal counsel, secret trials, lack of judicial independence, corruption, and trial procedures that are slow and often unjust. The poorly-defined charge of 'espionage' is often used to detain political dissidents, sometimes for years, without charge or legal representation. Company proximity to these violations, however, remains low.

For specific recommendations on how to minimise these risk areas, please refer to the recommendations in the focal areas or in the particular right.



