

## **REVIEW : OPERATIONAL GUIDANCE NOTE VIETNAM**

### **1. Introduction**

This Review of the Operational Guidance Note Vietnam [OGN Vietnam] is requested by the IAGCI under the requirement to inspect any aspect of Country of Origin information. The Review focuses on two main commitments:

- 1. To make sure that OGNs refer to the most up-to-date information produced by COI service.*
- 2. To ensure that OGNs give an indication of the range of relevant material that should be considered.*

This Review finds that the OGN Vietnam gives a reasonably balanced summary of salient information related to its specific policy requirements. The OGN directs particular focus to main issues of key concern such as are related to ethnic minorities, religion and lack of freedom of expression within a context where there is a weak legal system and governance.

In this Review, comment is made referring to the most up-to-date information produced by the COI Service and an indication is given of the range of relevant material that should be considered. An attempt is made to separate policy guidance from the COI and to focus the Review on the latter. In addition, this Review suggests areas where the OGN might occasionally be providing inaccurate or biased information.

### **2. Reference to the most up to date information in relation to need for a balanced and unbiased OGN.**

#### **2.a. Up to date Information:**

The OGN was issued prior to the issue of the latest COI Service Country Report for Vietnam, [COIS Vietnam] and consequently references to the COI apply to the 2010-11 version, not to the 2012 version issued in April 2012. There follows examples of changes between versions 2011 and 2012:

1. In the latest version, '*Arbitrary Arrest and Detention*' is given a separate section [8.10].
2. Section 15.14 '*Internet Users and Bloggers*' has been added to reflect the recent arrests.
3. Trafficking is considered in more detail in COI Vietnam 2012 than in COI 2011. Version 2012 refers to the 5 Year Plan agreed in February 2012, where the coordinated Ministerial Meeting against Trafficking committed to the third sub regional plan of action signed by the governments of Cambodia, China, Lao PDR, Myanmar, Thailand and Vietnam and managed by UNIAP. By contrast, the OGN states in 3.9.4 that Vietnam had made significant efforts and refers to new national anti-trafficking legislation in 2011 but with lack of progress on prosecution.

## **2.b. Balance:**

Regarding balance, out of a total of 60 footnotes, 28 references are made to *COIS Vietnam 2011*. A further 25 footnotes are drawn from *the US State Department for Human Rights [2010], Religious Freedom [2010] and for Trafficking [2011]*. Of the remainder, three relate to quotations from *Human Rights Watch*, one from *Amnesty International* and three from the *Freedom House* Country Report on Vietnam. The 28 references from COIS Vietnam include material, approximately half of which is drawn from the above sources.

From these observations, the following inferences may be drawn.

- Some updating of the 2011 version will be missed, which means that the OGN, broadly speaking, can be presumed to be now out of date in some aspects.
- The balance of references is narrow with a heavy emphasis on US official sources.

## **3. Range of Information contained in the OGN in relation to balance and lack of bias.**

The range of information, being limited mainly to government sources does not necessarily mean a biased account. However, it is suggested that something is lost in terms of balance and nuance of understanding, if little or no reference is made to the media, newspapers, NGO and multi-lateral agency reports, testimonies, articles and books [references are given in the COI Review].

Nevertheless, the main points are made in the OGN relating to the connections that exist between religion, ethnic minority status and also to the struggle for land rights. [see e.g. 3.8.7. and 3.8.13].

More local detail and reporting can emphasise the links between these forms of opposition, and also balance with a Vietnam government viewpoint on utilisation of land for development and need for security. Additionally, more detail might challenge errors such as the use of the words *Degar* and *Montagnards*, as if they were distinct ethnic groups.

Given the full and useful information on religion and its links to resistance, the conclusion [3.8.14] seems a little unexpected, in stating that *'the treatment that individual members of officially registered religious groups suffer....does not generally amount to persecution'*. The conclusion goes on to point out that levels of ill treatment vary from region to region and do not amount to persecution. Whilst the variation is true, this Review suggests that the factors responsible for it relate more to local corruption, security levels and resettlement, and are random and spasmodic in their effects, rather than relating to a local policy that can be assured.

Para 3.9.12 is reassuring in summing up the problems related to trafficking, but is less clear in defining the evidence for safe relocation and protection by local authorities. This Review suggests that generally, the authorities do not appear to be known for their capacity to provide this kind of protection. Relocation can also be a difficult challenge if family is not involved and the location is not chosen.

Balance probably demands that more emphasis is given to the treatment of drug users and HIV aids victims. The reporting of drug treatment centres which operate on a prison and punishment regime

is well testified [See Review COI 2012]. Likewise, the HIV Aids programme whilst excellent still has a long way to go to respond to those affected by HIV and Aids. The UNAIDS organisation is estimating that 53% of the known affected population of approximately 249,000 [currently focused on drug users and sex workers], is now being reached with appropriate treatment. [p.48 *et al*: *Vietnam Aids Progress Report* December 2011].

#### **4. Recommendations/Conclusions**

1. It is recommended that the OGN is timed to coincide with the latest version of the COI so that the most up to date concerns may be considered from a policy viewpoint in the OGN.
2. The OGN is highlighting the main issues which are of concern from a policy viewpoint, but probably would benefit from a more broad reference base, in order to balance issues related to policy concerns.
3. Some topics related to medical issues and trafficking are currently under-emphasised and it is suggested that more attention is given to them in the OGN. However, this effect may be partly due to the fact that the COI 2011 is the main reference.