
Australia-Vietnam 2016 Human Rights Dialogue: Civil Society Consultation

Department of Foreign Affairs and Trade

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Table of Contents

Executive Summary	3
Vietnam’s legal framework	4
The Judiciary, the Legal Profession and Access to Justice	5
Death Penalty	6
Human trafficking, slavery and slavery-like conditions	9
International Law Obligations	9
Asylum seekers and refugees	10
Attachment A: Profile of the Law Council of Australia	12

Acknowledgement

The Law Council of Australia wishes to acknowledge the assistance of the National Human Rights Committee in the preparation of this submission.

Executive Summary

1. The Law Council of Australia thanks the Department of Foreign Affairs and Trade (**DFAT**) for the opportunity to again engage in the DFAT's Civil Society Consultation on 23 June 2016 and to provide a written submission ahead of the Australia-Vietnam Dialogue.
2. The Law Council is encouraged by the continuation of the Annual Dialogues, the willingness of representatives from the Government of the Socialist Republic of Vietnam to meet with civil society during the 2015 Dialogue, and DFAT's continued engagement with civil society organisations in respect of the Annual Dialogues. The Law Council considers such engagement with civil society allows for an exchange between Government and organisations that is vital to ensuring the respect, protection and fulfilment of human rights, with which States are obliged to comply under international law.
3. As set out in its previous submission,¹ the Law Council represents the Australian legal profession on national issues and promotes the administration of justice, access to justice and general improvement of the law. Through its constituent bodies – 16 Australian state and territory law societies and bar associations and Law Firms Australia – it represents over 60,000 lawyers. The Law Council's *Rule of Law Principles*² provides the framework under which the Law Council promotes and defends the legal profession's interests in the Asia-Pacific region, including in Vietnam.
4. The Law Council's comments in this submission are limited to the legal framework in Vietnam, the legal profession, the death penalty, human trafficking, slavery and slavery-like conditions and international obligations on both Australia and Vietnam. This submission addresses the developments since the Law Council's last submission, provided to DFAT on 5 August 2015.
5. The Law Council acknowledges that Vietnam has implemented a number of measures to improve consistency with the rule of law and human rights standards. However, the Law Council remains concerned by reports from United Nations (**UN**) bodies, the United States of America (**US**) Department of State, the United Kingdom (**UK**) Foreign and Commonwealth Office and international non-government organisations (**NGOs**) in respect of human rights violations that continue to take place in Vietnam, which contravene the rule of law and human rights standards.

¹ Law Council of Australia, *Australia-Vietnam 2015 Human Rights Dialogue: Civil Society Consultation*, 5 August 2015, available at: http://www.lawcouncil.asn.au/lawcouncil/images/3037_-_S_-_AU-Vietnam_Dialogue_2015.pdf.

² Law Council of Australia, *Policy Statement: Rule of Law Principles*, 19 March 2011, available at: <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/PolicyStatementRuleofLaw.pdf> ('LCA Rule of Law Principles').

Vietnam's legal framework

6. During the meeting between the Vietnamese Delegation and NGOs on 26 August 2015 as part of the Australia-Vietnam 2015 Human Rights Dialogue, the Delegation Head, Mr Vu Anh Quang, noted that six laws, including Vietnam's Penal Code, would be amended to bring these laws in line with human rights standards. In its previous submission, the Law Council expressed concern over the real risk that proposed legislative changes may further infringe upon human rights, particularly in respect of existing crimes related to national security.³
7. The Law Council regrets that its concerns appear to have been realised. For example, as the UK Foreign and Commonwealth Office has observed, the amended national security articles⁴ – commonly used by officials to limit freedom of expression and assembly – are reportedly 'more draconian' owing to the extension of the application of custodial sentences to people taking action in preparation of crimes against the State.⁵
8. While there appear to be positive developments in respect of the application of the Penal Code generally⁶, there has been an increasing trend towards harassment and detention of political activists.⁷ Furthermore, while there are reportedly fewer political activists arrested and charged than previous years, there remain instances of arrests significant enough to invite the criticism of UN human rights experts.⁸
9. The Law Council continues to encourage the Attorney-General's Department to assist Vietnam in the development of laws that are consistent with the rule of law,⁹ and encourages DFAT to persist in recommending that existing laws align with the human rights obligations articulated in Vietnam's Constitution.

³ In particular, the Law Council referred to Article 258 of the Penal Code – a crime infringing upon administrative management orders which, in serious circumstances, can lead to sentences of between two to four years imprisonment for: 'Those who abuse the rights to freedom of speech, freedom of press, freedom of belief, religion, assembly, association and other democratic freedoms to infringe upon the interests of the State, the legitimate rights and interests of organizations and/or citizens.'

⁴ Formerly Articles 29, 88 and 259; renumbered with the amendments to Articles 109, 117 and 330.

⁵ UK Foreign and Commonwealth Office, 'Corporate report: Vietnam - in-year update December 2015' 21 April 2016, available at: <https://www.gov.uk/government/publications/vietnam-in-year-update-december-2015/vietnam-in-year-update-december-2015> ('UK Government Report').

⁶ Ibid. See also: .S. Department of State, *Country Reports on Human Rights Practices for 2014*, 'Vietnam', available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper> ('US Government Report'). Both the UK Foreign and Commonwealth Office and US State Department have observed the reduction in arrests and prosecutions.

⁷ US Government Report, discussed under Sections 1(d) and 2(a). See also: UK Government Report.

⁸ For example, see: Office of the High Commissioner for Human Rights, 'UN experts urge Viet Nam to stop the persecution and torture of religious leaders and rights defenders' (Media Release, 2 June 2016), available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20054&LangID=E>.

⁹ Including that the Executive should be subject to the law and any action undertaken by the Executive should be authorised by law – LCA Rule of Law Principles, Principle 5; and the law must be readily known, available, certain and clear – LCA Rule of Law Principles, Principle 1.

The Judiciary, the Legal Profession and Access to Justice

10. The Law Council remains concerned by reports that human rights lawyers continue to be arrested on arbitrary grounds and that the judiciary, courts, the Vietnam Bar Federation and the local Bar Associations lack independence.¹⁰
11. While the Law Council welcomes the release in June 2015 of prominent human rights lawyer Le Quoc Quan, arrested on the grounds of tax evasion,¹¹ it appears that arrests of human rights lawyers continue to take place. For example, in December 2015 Nguyen Van Dai was arrested for allegedly conducting propaganda against the State, pursuant to the national security provisions of the Penal Code.¹² On 21 April 2016, it was also reported that Nguyen Van Dai, held in pre-trial detention, had to that date been refused visits from his family and lawyer.¹³ The Law Council notes with concern that in national security cases, it is statutorily permissible for authorities to refuse the accused access to counsel for up to 20 months.¹⁴
12. The Law Council also refers to several other significant shortcomings in respect of access to justice and the legal profession detailed in the US State Department Report, including the following:¹⁵
- Bureaucratic delays, which have the effect of denying timely legal advice to counsel;
 - Prohibiting access of defence lawyers to their clients in national security cases until a suspect has been investigated and a formal charge laid;
 - A shortage of well-trained lawyers and judges;
 - Defence lawyers:
 - have complained that judges often make a determination over the guilt of the accused before the matter has gone to trial;
 - have little access to their client before trial; and
 - are often unable to access the evidence used by the Government against their client ahead of the trial; and
 - The limited availability of legal assistance, such as where an accused is a juvenile, has a mental or physical disability, or the sentences available are life imprisonment or capital punishment.
13. The Law Council has also considered the Committee on the Elimination of Discrimination Against Women's July 2015 *Concluding observations on the combined*

¹⁰ US Government Report, at 1, 16 and 19.

¹¹ The assessment by the UK Foreign and Commonwealth Office is that the arrest was politically motivated in order to limit Quan's influence.

¹² Specifically, Article 88 (now 117). See, for example: Amnesty International, 'Viet Nam: arrest of human rights lawyer highlights spurious commitment to human rights' (Press Release, 16 December 2015), available at: <https://www.amnesty.org/en/press-releases/2015/12/viet-nam-arrest-of-human-rights-lawyer-highlights-spurious-commitment-to-human-rights/>.

¹³ UK Government Report.

¹⁴ US Government Report, 11.

¹⁵ Ibid at 11-19.

*seventh and eighth periodic reports of Vietnam*¹⁶. In respect of the legal framework and access to justice, the Committee's recommendations included:

- Harmonising certain laws with the *Convention on the Elimination of all Forms of Discrimination Against Women* and the Vietnamese Constitution in order to eliminate certain discriminatory provisions against women;
- Widely disseminating the Convention, Constitution and the Gender Equality Law, and translating these into minority languages;
- According priority to the judicial process over reconciliation and mediation for dispute resolution, as dispute resolution appears to favour men over women;
- Enshrining in statute a legal aid scheme to ensure access to the court by women, including in cases of discrimination and violence against women; and
- Enhancing women's awareness of their rights and legal literacy.¹⁷

14. The Law Council recommends that the Australian Government continue to raise these issues through its engagement with the Vietnamese Government, both at Ministerial and Departmental levels, emphasising the importance of the observation of the rule of law.

Death Penalty

15. There has been a recent reduction in the number of crimes subject to the death penalty in the Penal Code. On 27 November 2015, the National Assembly passed a revised Penal Code which will abolish the death penalty for seven crimes: surrendering to the enemy, opposing order, destruction of projects of national security importance, robbery, drug possession, drug appropriation and the production and trade of fake food.¹⁸ Additionally, death sentences imposed on Vietnamese officials convicted of corruption will now be commuted to life in prison if they pay back at least 75 percent of the illegal money they made. The amendments also required require the commutation of the death penalty for pregnant women, women with children under 36 months and people aged over 75.¹⁹ These changes will take effect from 1 July 2016. The Law Council welcomes and supports these amendments to the Penal Code.

16. However, despite such positive steps, concerns remain over the use of the death penalty in Vietnam. According to Amnesty International's 2015 Global Report on Death Sentences and Executions, at least 47 death sentences were imposed in 2015, including 27 for drug-related offences and two for economic crimes.²⁰ The Vietnamese Government does not provide accurate statistics on the use of the death penalty and the real statistics remain a state secret.²¹ As a result, and based upon information provided by the Vietnamese officials, Amnesty International has noted that the

¹⁶ Committee on the Elimination of Discrimination Against Women, *Concluding observations on the combined seventh and eighth periodic reports of Viet Nam*, UN Doc CEDAW/C/VN/CO/7-8 (29 July 2015).

¹⁷ *Ibid* at [8]-[11].

¹⁸ Ministry of Justice of the Socialist Republic of Vietnam, The National Assembly passed Penal Code (amended), 30 November 2015, available at: <http://www.moj.gov.vn/en/Pages/Ministry-of-Justices-Activities.aspx?ItemID=3167>.

¹⁹ *Ibid*.

²⁰ Amnesty International, *Amnesty International Global Report: death Sentences and Executions 2015*, 6 April 2016 at 42-43, available at: <https://www.amnesty.org/en/documents/act50/3487/2016/en/>.

²¹ *Ibid*.

numbers are likely to be an underrepresentation of the real extent of the use of the death penalty.²² An estimated 700 people were facing death sentences at the end of 2015. Additionally, despite the reforms to the Penal Code other offences not involving intentional killing, such as drug trafficking remain punishable by death.

17. The Law Council understands that DFAT makes representations to the Vietnamese Government on the death penalty. The Law Council has a long standing policy against the death penalty²³ and encourages DFAT to continue making representations, including working with like-minded countries, in advocating for the abolition of the death penalty in Vietnam.
18. Consistent with recommendation 6 of the Joint Standing Committee on Foreign Affairs, Defence and Trade's (**the Committee**) inquiry into Australia's advocacy for the abolition of the death penalty, the Law Council supports advocacy approaches by DFAT based on human rights law arguments, including highlighting the 'right to life' enshrined in the *Universal Declaration of Human Rights (UDHR)*, among others.²⁴ Application of the death penalty is inconsistent with international human rights law, which seeks to uphold a fundamental and inherent right to life.²⁵ Article 3 of the UDHR provides:

Everyone has the right to life, liberty and security of person.

19. Article 6 of the *International Covenant on Civil and Political Rights (ICCPR)* provides:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

20. Although neither the UDHR nor the ICCPR, expressly, ban the use of capital punishment, paragraph 2 of Article 6 of the ICCPR states that capital punishment may be imposed only for the 'most serious crimes' in countries that have not abolished the death penalty.²⁶ Execution for a drug crime, including drug trafficking, which continues to occur in Vietnam, amounts to a violation of international law and is an unlawful killing.²⁷

²² Ibid at 43.

²³ For more information, see: Law Council of Australia, *Policy Statement: The Death Penalty*, September 2007, available at: http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/LCA_death_penalty.pdf ('LCA Death Penalty Policy').

²⁴ Law Council of Australia and Australian Bar Association, Submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade, Inquiry into Australia's Advocacy for the Abolition of the Death Penalty, 9 October 2015, recommendation 11, available at: http://www.lawcouncil.asn.au/lawcouncil/images/3064_-_Sub_Auss_Advocacy_Abolition_Death_Penalty.pdf ('LCA and ABA Death Penalty submission').

²⁵ LCA Death Penalty Policy. Under the Second Optional Protocol, Australia, as a matter of international law, has undertaken to abolish the death penalty within its jurisdiction and also to prevent the execution of any person within the jurisdiction. Second Optional Protocol to the International Covenant on Civil and Political Rights, GA Res 44/128 (adopted on 15 December 1989). On 2 October 1990, Australia ratified the Second Optional Protocol to the ICCPR Aiming at the Abolition of the Death Penalty.

²⁶ As the United Nations Human Rights Committee noted in its General Comment 6:

The Committee is of the opinion that the expression "most serious crimes" must be read restrictively to mean that the death penalty should be a quite exceptional measure. It also follows from the express terms of article 6 that it can only be imposed in accordance with the law in force at the time of the commission of the crime and not contrary to the Covenant

See Human Rights Committee, General Comment No 6: Article 6 (The right to life), 16th session, (30 April 1982).

²⁷ Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, 'Using the death penalty to fight drug crimes violates international law', (Media Release, 7 October 2015), available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16581&LangID=E>.

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21. The Law Council and the Australian Bar Association engaged closely with the Committee's inquiry into Australia's advocacy for the abolition of the death penalty, providing a submission on 9 October 2015²⁸ and appearing at Committee hearings on 17 November 2015.²⁹ The Law Council welcomed the recommendations of the Committee's report, released on 5 May 2015.³⁰ In particular, the recommendation to develop, fund and implement a whole-of-government Strategy for the Abolition of the Death Penalty – with a focus on countries in the Indo-Pacific and the United States of America.³¹ The Law Council encourages the prompt development of the Strategy and would be pleased to continue to liaise with DFAT on this issue, should it assist.
22. In the interim DFAT should continue its long held support through bilateral and multilateral forums for the abolition of the death penalty in Vietnam. Some measures aimed at Vietnam, which may be components of existing advocacy, might include:
- Following up on the recommendations arising from Vietnam's second cycle Universal Periodic Review Appearance, including Australia's own recommendation.³² For example, this might involve using Direct Aid Program grants via Australia's Embassy in Hanoi and Consulate-General in Ho Chi Minh to fund specific death penalty abolition focused activities;
 - Working with like-minded countries and abolitionist organisations through annual events, such as World Day Against the Death Penalty (10 October), to mobilise support and apply pressure towards Vietnam;³³
 - Promoting greater transparency in the number of executions carried out in Vietnam, the crimes for which death sentences were imposed and the number of people under sentence of death in each country;³⁴
 - Promoting a further reduction in the number of crimes that attract the death penalty in Vietnam;³⁵
 - Intervening to oppose death sentences and executions of non-Australians in Vietnam, especially in cases where there are particular human rights

²⁸ LCA and ABA Death Penalty submission.

²⁹ Joint Standing Committee on Foreign Affairs, Defence and Trade, Public Hearing Transcript, 17 November 2015, p49-54, available at: <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommjnt%2Fb9928f88-5d04-4a43-8332-3be30d15069d%2F0000%22>.

³⁰ Report of the Joint Standing Committee on Foreign Affairs, Defence and Trade, *Australia's Advocacy for the Abolition of the Death Penalty*, 5 May 2016, available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Death_Penalty/Report ('Death Penalty Report').

³¹ Law Council of Australia, 'Recommendation of strategy for the abolition of the death penalty applauded' (Media Release, 5 May 2016), available at: http://www.lawcouncil.asn.au/lawcouncil/images/1622_-_Recommendation_of_strategy_for_the_abolition_of_the_death_penalty_applauded.pdf.

³² Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Viet Nam*, UN Doc A/HRC/26/6, 26th sess (2 April 2014), [8]. See recommendation 143.103 from Australia: 'Establish a moratorium on executions with a view to removing the death penalty from its criminal statutes and ratify the Second Optional Protocol to ICCPR'.

³³ Death Penalty Report, 127. See also: Department of Foreign Affairs and Trade, Submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade, Inquiry into Australia's Advocacy for the Abolition of the Death Penalty, October 2015, 12, available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Death_Penalty/Submissions. This could include countries with missions in Hanoi that utilised Vietnam's Second Cycle Universal Periodic Review to make recommendations with respect to the abolition of the death penalty. Such countries include Sweden, Belgium, Austria, France, Germany, United Kingdom and others.

³⁴ Death Penalty Report, recommendation 10.

³⁵ Ibid.

concerns, such as unfair trials, or when juveniles or the mentally ill are exposed to the death penalty; and³⁶

- Utilising the expertise of the Australian legal profession through the Law Council, where it may be of assistance, to help the Australian Government in advocating for the abolition of the death penalty in Vietnam.

Human trafficking, slavery and slavery-like conditions

23. The Law Council refers to the annual Trafficking in Persons Report by the US Department of State.³⁷ The Law Council has had a longstanding interest in combatting human trafficking and slavery, particularly in the Asia-Pacific region.

24. The Law Council notes that the report details the lack of protections and remedies available to victims of labour exploitation, and the absence of criminal prosecutions of traffickers. The Law Council recommends Australia work with the Vietnamese Government on its human trafficking strategy, for example, by assisting³⁸ and encouraging the Vietnamese Government to:

- Prosecute these traffickers under the existing criminal laws, rather than the current practice of pursuing traffickers under labour laws, which do not carry criminal sanctions;
- Train officials in identifying victims of trafficking; and
- Provide specific funding for the four year national anti-trafficking action plan.

International Law Obligations

25. The Law Council reiterates its call for the Australian Government to encourage Vietnam to comply with its obligations and to ratify the *Convention relating to the Status of Refugees* and comply with the *UN Basic Principles on the Role of Lawyers*.

26. The Law Council also recommends the Australian Government encourage Vietnam to:

- Ratify key international human rights instruments, such as the *Optional Protocol to the Convention against Torture*;
- Accept individual complaints procedures where Vietnam has ratified the relevant treaties;
- Accept the inquiry procedure where Vietnam has ratified the relevant treaties;
- Respond favourably to requests and reminders from the Special Procedures of the Human Rights Council to visit Vietnam, such as the Special Rapporteur on torture, and other cruel, inhuman or degrading treatment or punishment,

³⁶ Ibid, recommendation 11.

³⁷ US Department of State, *Trafficking in Persons Report*, (July 2015), 362-364, available at: <http://www.state.gov/documents/organization/243562.pdf>.

³⁸ This assistance could be provided by the specialist People Smuggling and Trafficking Section in the Attorney-General's Department.

the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences;³⁹

- Comply with the UN *Basic Principles on the Independence of the Judiciary* and the UN *Guidelines on the Role of Prosecutors*;
- Promptly implement the UN *Guiding Principles on Business and Human Rights*;⁴⁰ and
- Provide a standing invitation to all UN thematic special procedures.

Asylum seekers and refugees

27. In respect of asylum seekers and refugees, the Law Council refers to the return of a group of Vietnamese asylum seekers by Australian authorities to Vietnam in April 2015, an arrangement that reportedly took place subject to an undertaking by the Vietnamese Government that the asylum seekers would not be prosecuted once returned to Vietnam. The Law Council has observed the reports that some members of the crew have since been sentenced,⁴¹ and reiterates its longstanding position, articulated in its *Asylum Seeker Policy*, that:

*[a]ll rescues, interdictions, interceptions, 'push-backs', 'tow backs', and transfers of persons at sea by Australian Government personnel of vessels carrying suspected irregular arrivals must comply with the international law of the sea, international refugee law, and international human rights law.*⁴²

28. This includes the obligation to 'respect the obligation of *non-refoulement* under international refugee law and human rights law, namely, not to return a person at risk to a country of risk (including by transfers at sea to a vessel of the country of persecution).'⁴³

29. The Law Council considers that this report not only has potential implications for Australia's compliance with its international obligations, but also has possible implications for the Montagnard people that live in Cambodia, having fled Vietnam due to religious persecution and confiscation of their ancestral lands.⁴⁴ Vietnamese officials reportedly recently visited a group of Montagnard asylum seekers in Phnom

³⁹ A full list of the requests and reminders can be found at:

<http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en>.

⁴⁰ For recent conclusions and recommendations on business and human rights issues in an Asian context see the summary report from the 2016 Asia Regional Forum on Business and Human Rights: United Nations Human Rights Council, *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on the Asia Forum on Business and Human Rights*, 30 May 2016, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/107/05/PDF/G1610705.pdf?OpenElement>.

⁴¹ Samantha Hawley, 'Four asylum seekers behind boat journey to Australia sentenced to jail, Vietnamese group says', *ABC News Online*, 23 April 2016, available at: http://www.abc.net.au/news/2016-04-23/asylum-seekers-in-vietnam-sentenced-to-jail,-advocates-say/7352814?utm_source=Kaldor+Centre+Mailing+List&utm_campaign=5f0119ccf6-Weekly+News+Roundup+29+feb+2016&utm_medium=email&utm_term=0_c5bfc89936-5f0119ccf6-161639137.

⁴² Law Council of Australia, *Asylum Seeker Policy*, 6 September 2014, available at:

https://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/AsylumSeeker_Policy_web.pdf, [21].

⁴³ *Ibid.*, at [22(d)].

⁴⁴ Madeline Gleeson, 'In focus: Montagnard asylum seekers in Cambodia', 30 May 2016, *The Kaldor Centre for International Refugee Law*, available at: <http://www.kaldorcentre.unsw.edu.au/news/focus-montagnard-asylum-seekers-cambodia>.

Penh, informing them that they would not face punishment if they returned to their homeland in Vietnam's central highlands.⁴⁵ Based on the above reports regarding the returned Vietnamese asylum seekers, the Law Council is concerned that the Vietnamese Government may not guarantee the safety of the Montagnard asylum seekers. Furthermore, the Law Council notes that officials from the United Nations High Commissioner for Refugees expressed concern with this meeting, on the basis that the Montagnard asylum seekers were obliged to meet with officials from a Government from which they have fled.⁴⁶

30. The Australian Government should work with the Vietnamese Government to ensure that both governments comply with their international obligations, including the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, recently ratified by Vietnam.

⁴⁵ Phak Seangly, 'Vietnamese officials visit Montagnard refugees, promise safe return' 9 June 2016, *The Phnom Penh Post*, available at: http://www.phnompenhpost.com/national/vietnamese-officials-visit-montagnard-refugees-promise-safe-return?mc_cid=44b95315d0&mc_eid=83c174cde4.

⁴⁶ Ibid. UNHCR regional representative Vivian Tan stated '...no asylum-seeker should be obliged to meet representatives for a government from a country against which they have alleged a fear of persecution'.

Attachment A: Profile of the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and the Law Firms Australia, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- Law Firms Australia
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of more than 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the board of Directors.

Members of the 2016 Executive as at 1 January 2016 are:

- Mr S. Stuart Clark AM, President
- Ms Fiona McLeod SC, President-Elect
- Mr Morry Bailes, Treasurer
- Mr Arthur Moses SC, Executive Member
- Mr Konrad de Kerloy, Executive Member
- Mr Michael Fitzgerald, Executive Member

The Secretariat serves the Law Council nationally and is based in Canberra.