

**Vietnamese male labour trafficking:
A sad reality that requires our attention**

Major Research Paper
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Table of Content

List of Acronyms	3
List of tables and figures	4
Abstract	5
Introduction	7
The importance of the research question	11
What is human trafficking?	15
Overview	18
Methodology	18
<i>Chapter I: The Context of Male Labour Trafficking in Vietnam</i>	20
Patterns of trafficking in Vietnam	20
The dynamics in Vietnam	22
Nature of the problem	25
Conditions that facilitate trafficking of men	30
<i>Chapter II: Vietnamese Solutions to Male Labour Trafficking</i>	33
Vietnamese legislation	34
Merits of the Vietnamese Trafficking in Persons Law	38
Limitations of the Vietnamese Trafficking in Persons Law	41
<i>Chapter III: Looking Ahead</i>	47
Key recommendations	49
The future of male labour trafficking in Vietnam	59
Conclusion	62
Glossary	65
Bibliography	68
<i>Appendix A: Palermo protocol</i>	71
<i>Appendix B: Penal Code 1999</i>	73
<i>Appendix C: Reviewed Penal Code 2010</i>	79
<i>Appendix D: Trafficking in Persons Law</i>	81
<i>Appendix E: Trafficking vs. Smuggling</i>	94
<i>Appendix F: Minimum standards as set per the Trafficking Victims Protection Act</i>	95

List of Acronyms

COMMIT	Coordinated Mekong Ministerial Initiative Against Trafficking
DOLAB	Department of Overseas Labour (Dept. of MOJ)
DOLISA	Department of Labour, Invalids and Social Affairs Vietnam
GMS	Greater Mekong Sub-region
ILO	International Labour Organization
INGO	International Non-Governmental Organization
IOM	International Organization for Migration
MoIC	Ministry of Information and Communication
MOJ	Ministry of Justice of Vietnam
MOLISA	Ministry of Labour, Invalids and Social Affairs
MoU	Memorandum of Understanding
MPS	Ministry of Public Security of Vietnam
NGOs	Non-Governmental Organizations
NPA	National Plan of Action
SPO	Supreme Prosecution Office of Vietnam
TIP	Trafficking in Persons
TVPA	Trafficking Victims Protection Act
UN	United Nations
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNODC	United Nations Office on Drugs and Crime
VWU	Vietnamese Women's Union

List of tables and figures

Table 1 – Criteria for trafficking 17

Table 2 – Individual and family factors that increase risk of being trafficked 21

Table 3 – Registered Vietnamese workers abroad since 2001 24

Figure 1 – Vietnam’s System of Legal Documents 42

Figure 2 – Vietnam Tier Ranking by Year 48

Figure 3 – Trafficking in Persons around the Globe 68

Abstract

One of the biggest myths of our world today is that slavery is a thing of the past and human trafficking occurs only in the third world. In fact, modern day slavery is a far more common occurrence than believed and it exists throughout both the developed and under developed world under the guise of human trafficking. Trafficking in persons is the third largest criminal industry in the world. It follows illegal drugs and arms trafficking. No country is immune to this problem, including Vietnam. Vietnam is one of the fastest growing economies in the world, yet employment opportunities are limited and so the Vietnamese seek work, wherever it can be found, even if it means having to work abroad. In Vietnamese culture, males are considered the breadwinner for the family and they will migrate legally, or illegally, in order to fulfill this role and provide for themselves and their families.

Most Vietnamese males lack understanding of migration laws and therefore turn to brokers or legitimate recruitment agencies for help in this process of finding work abroad. Many of these middlemen have unethical practices that lead to corruption and abuses within the system. Many Vietnamese dealing with middlemen are promised incredible salaries and jump on the offers not knowing what to expect. Once abroad, their human rights are often violated by their employers and they are caught in the middle of labour trafficking circles, unable to reach for help.

Gender issues compound the problem since in Vietnamese culture, men are expected to be strong. As a result, males often refuse to admit to being victimized and labelled as victims thereby placing themselves outside of the help that they need and might otherwise receive. This frequently ends with Vietnamese adult males being deported rather than securing justice for the abusers, thus perpetuating the problem of human trafficking.

This paper seeks to understand the issue of male labour trafficking in Vietnam, and puts forward potential solutions, as well as key recommendations, for addressing these issues in Vietnam.

The author is aware that the proposed solutions are by no means a complete remedy for the problem of trafficking of males for the purpose of labour in Vietnam. However, it is hoped that these recommendations might contribute to the dialogue and assist the organizations who have assumed the courageous task of solving this complex and abhorrent crime of our modern times.

Introduction

Human trafficking is a global issue of modern society but is definitively not a new phenomenon in this world. Trafficking first emerged as a global concern in the mid-1990s as a serious abuse of human rights and a violation of human dignity. Trafficking in persons imposes physical and/or mental hurt to trafficked victims as well as negative impacts on cultural and socio-

economic development of the global society. As no country in the world is immune to trafficking, we are all responsible for this inhumane crime. According to the United Nations Organization on Drugs and Crime (UNODC), human trafficking is the fastest growing international crime industry and the third largest industry after illegal drugs and arms trafficking.¹ The International Labour Organization (ILO) estimates that currently around 2.4 million people are exploited throughout the world and that human trafficking generates profits of around \$32 billion annually.² Global statistics also report that more than one third of the victims of human trafficking have set foot at some point in South-East Asia whether they originated from that region, passed through or ended up there.³ These numbers make the area of the Greater Mekong Sub-region (GMS) the world's hottest spot for trafficking. This area includes six countries: Burma, Cambodia, China, Lao PDR, Thailand and Vietnam. Yet, while the crime of human trafficking is widespread in the region, little is known about specific patterns and trends.

FACT:

Annual profits made from the exploitation of forced laborers is estimated at US\$32 billion annually.

¹ CNN Project Freedom: Ending Modern Day Slavery. <http://thecnnfreedomproject.blogs.cnn.com/category/the-facts/>

² "United Nations Office on Drugs and Crime." *General Assembly President Calls for Redoubling of Efforts to End Human Trafficking*. <http://www.unodc.org/unodc/en/frontpage/2012/April/un-general-assembly-president-calls-for-redoubled-efforts-to-end-human-trafficking.html?ref=fs1>

³ Bjork, Jenny. & Chalk, Katie. *10 Things You Need to Know about Human Trafficking*. Bangkok: World-vision Asia-Pacific, 2009.

After having worked on human trafficking and human rights for several months in Vietnam, the author found that there is a lack of knowledge on the topic of labour trafficking as well as a lack of awareness and recognition of male victims. Little is being done to address the problem of male labour trafficking in the region and worldwide. This paper will therefore explore this challenging topic and attempt to identify potential solutions and recommendations to eliminate male labour trafficking by posing the following question: *How can the problem of male labour trafficking in Vietnam be solved?*

The knowledge gap about human trafficking combined with the increasing numbers of reports, led the governments of the Mekong region in the early 2000s to discuss the possibility of cooperating to fight against trafficking in persons. In 2003, the Royal Thai Government raised the notion of creating a regional mechanism to fight against human trafficking. A year later, the six countries of the Mekong region (Burma, Cambodia, China, Laos PDR, Thailand, and Vietnam) signed a Memorandum of Understanding (MoU)⁴ thus creating the Coordinated Mekong Ministerial Initiative against Human Trafficking (COMMIT). This inter-ministerial and inter-governmental process is designed to approach and tackle the complex issue of human trafficking beyond the mandate of any one country.⁵ Representatives of each country meet at least twice a year to promote and strengthen regional cooperation; establish a holistic regional response, covering all aspects of the human trafficking problem, through the creation of various bilateral and multilateral MoUs; identify and adapt successful models in one country to be shared with other countries; and enhance national capacities to

FACT:

161 countries are either a source, transit or destination country for human trafficking. The GMS region is the world's hottest spot for trafficking in persons.

⁴ For more information on how the COMMIT process was created or on what it does, please consult the official website at: <http://www.no-trafficking.org/commit.html>

⁵ COMMIT Secretariat, comp. Proc. of COMMIT, 8th Senior Officials Meeting and 3rd Inter-Ministerial Meeting, "What is the COMMIT Process?", Sheraton Hotel, Hanoi, Vietnam.

address human trafficking in order to facilitate each country's engagement at the sub-regional level.⁶

Even with the efforts of the COMMIT countries, the lack of employment opportunities in many of the Mekong region countries causes inhabitants to seek employment abroad. Many are not aware of migration laws and migrate to countries through improper channels or with improper documentation. Some even seek the help of middlemen to help them transit to a foreign country. These brokers, legitimate and illegitimate, usually promise good employment opportunities abroad with high salaries and decent living conditions, in other words, they offer a better future. As a result, many tend to migrate. Labour migration is one, if not “the”, major reason for people to migrate as they seek to achieve a better economic status.⁷ The overall unemployment rate in Vietnam is 2.96% and while this rate might appear low compare to North America, it corresponds to approximately 1.05 million Vietnamese people who do not have jobs.⁸ Internal migration is significant from rural to urban areas but as urban unemployment is also relatively high at 3.60%, the figure of males unemployed is 3.02%,⁹ many Vietnamese men are forced to seek employment abroad. Most Vietnamese males end up going to Burma, Cambodia, China, Malaysia, Taiwan, or Thailand but some also go to countries in the European Union and to the Americas to get paid for their labour.¹⁰

In the last few years, Vietnam has been revising and altering its policies around human trafficking in order to increase unity with other Mekong countries. For example, it has amended its Penal Code and passed a new law which broadens the definition of human trafficking to one that is

⁶ COMMIT Secretariat, *“What is the COMMIT Process?”*

⁷ According to IOM, labour migration is one the most important global issues. Over 214 million of the world's population is categorized as international migrants which represents 3.1% of the population. See IOM website for more information.

⁸ The General Office of Statistics of Vietnam data for the size of the labour force of the country in 2011. The Labour Force of the whole country counted 50.35 million employed Vietnamese.

⁹ GSO, Report on the 2011 Vietnam Labour Force Survey, part III, 2: Major Findings, p. 37-38.

¹⁰ The Government of Vietnam has many bilateral agreements with foreign companies, Vietnamese companies abroad and foreign governments to ease the employment Vietnamese abroad. These agreements are closely monitored and are proper mechanisms for migration workers. Even though these channels exist and are successful, most opportunities are quickly filled up and many Vietnamese are not aware of their existence.

closer to international standards. This new Trafficking in Persons (TIP) Law defines human trafficking in the same terms as the Palermo Protocol.¹¹ Vietnam no longer defines trafficking to be an act imposed only on women and children, but an act imposed on all persons. Many governmental organizations, non-governmental organizations and members of the civil society are working together to understand and fight against human trafficking in Vietnam.

Since the 1990s, the major effort in the fight against trafficking, and the majority of the research done, has focused on women and children. Little to no attention has been given to the male situation. This persists today. Trafficking is often thought to be synonymous with commercial sex. This is perpetuated by the media, the film industry and televised crime series which tend to only address this aspect of human trafficking. Nevertheless, global statistics confirm that men and boys are also victims of trafficking. While statistics are not yet available for Vietnam, the international labour organization (ILO) recently published a global estimate report for forced labour in which 21 million people were victims of forced labour, 9.5 million of whom are males.¹² While males are now recognised on the international sphere as potential victims of trafficking, more research is needed to understand the patterns and reasons that are contributing to the growth of human trafficking in men and boys.

Little research has been done on the topic of male trafficking around the world, even less in Vietnam. There is therefore a need to further explore male trafficking patterns. It is important to note that data on human trafficking in Vietnam is a sensitive subject. The data is reported by the various ministries of the Government of Vietnam. These same ministries see these numbers as a

¹¹ The Palermo Protocol is also sometimes referred to as the Trafficking in Persons Protocol or the TIP Protocol. To ease the reading, I will refer to the Palermo Protocol when referring to the UN TIP law and to the TIP Law when talking about the new Vietnamese legislation about trafficking in persons.

¹² For complete data please consult the 2012 Global Estimate of Forced Labour published by the International Labour Organization at the following link: <http://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>

direct measure of their capability and capacity to deal with the issue. Some ministries therefore inflate their numbers while others may deflate them in order to improve the perception of their performances.¹³ Various international organizations such as IOM, ILO or UNIAP use the data from these ministries and are not independently creating their own statistics. This situation creates questions of data integrity on this subject; however, at present there are no other sources of information.

The Ministry of Public Security of Vietnam (MPS) is the principal agency in charge of human trafficking in Vietnam, although other ministries also participate in the efforts to combat human trafficking. The Ministry of Public Security of Vietnam has identified the main sectors of employment for Vietnamese victims of human trafficking as: sexual exploitation, domestic labour, forced labour in mining, construction or fishing industries, forced begging, selling of flowers and lottery tickets, and manufacturing.¹⁴

The Importance of the Research Question

This major research paper will address the issue of male trafficking for the purpose of labour

MYTH:

Trafficking and slavery are dying out and only take place in the third world.

as it is not as widely recognized as the trafficking of women and children. Even though males have been acknowledged as potential victims for more than a decade by the United Nations, to this day several countries still do not recognize male trafficking. It is only as recent as 2010 that Vietnam reviewed and amended articles 119 and 120 of its Penal Code¹⁵ to recognize

¹³ This reality is obvious in Vietnam and everyone is aware of it.

¹⁴ "Report by Office 30." Ministry of Public Security, National Review Workshop on the implementation of the National Plan of Action against trafficking crimes in women and children (2004-2009).

¹⁵ United States Department of State, *Trafficking in Persons Report 2010 – Vietnam*. Published on 14 June 2010. Accessed on May 03, 2012. URL: <http://www.unhcr.org/refworld/docid/4c1883b79.html>. The Penal Code of Vietnam is also available in Appendices B and C.

“trafficking in persons” rather than only trafficking in women and children, thus allowing for the recognition of men as victims. Since this time, several cases have been reported.

In addition, on December 29, 2011, Vietnam ratified the *United Nations Transnational Organized Crimes Convention* which is further supplemented by three protocols: the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Palermo Protocol); the *Protocol against the Smuggling of Migrants by Land, Sea and Air*, and the *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition*. Vietnam had to become a party to the convention before it could become party to any of the three Protocols, which explains why the ratification of this Convention was a big step for the Government of Vietnam.¹⁶ Finally, in January 2012 in response to internal pressure, as well as the combined pressure from the GMS countries and the international community, the Government of Vietnam enacted the first Trafficking in Persons Law (TIP Law)¹⁷.

The main focus of the research question is on labour trafficking rather than trafficking for other purposes. Vietnam is mainly a source country for traffickers rather than a host country. This means that Vietnamese are mostly victims of trafficking and that relatively few persons are trafficked into Vietnam.¹⁸ Labour trafficking is the main area of research for this paper for a number of reasons. First, most victims trafficked for labour are men. Second, the limited opportunities for safe and legal migration in the Mekong region create grounds for widespread irregular¹⁹ migration and

¹⁶ The UNTC has not yet listed Vietnam as a ratifying country. However this is due to the fact that there are still some gaps and limitations that remain to be dealt with in terms of its applicability but the convention was ratified by Vietnam 11 years after they signed it. URL: <http://treaties.un.org/>

¹⁷ The Anti-Trafficking in Persons Law can be found in Appendix D.

¹⁸ UNIAP: SIREN. *Mekong Region Country Datasheets - Human Trafficking 2010*. Bangkok: UNIAP Regional Management Office, 2010. Datasheet for Vietnam under Current Trafficking Data & Trends

¹⁹ The term *irregular* migration is used throughout the paper rather than *illegal* migration, as illegal migration carries a punitive or criminal connotation. According to the definitions set by the International Organization for Migration (IOM), irregular migrants are people that have either entered a country without the proper authorizations, have breached the conditions of entry or exit, have an expired visa, or lack proper legal status.

subsequently exploitation of workers. Third, even if mechanisms to monitor safe migration were in place, recruitment agencies often take advantage of the vulnerability and hopelessness of Vietnamese males. Finally, once abroad, victims lack protection from government and employers as their right to protection is often disregarded by authorities due to the lack of proper documentation and general misconceptions about migrant workers.²⁰

Trafficking is often said to be “the perfect business”²¹ as there is always a supply of victims (vulnerable people looking for work), little risk to be caught (punishment and arrests), and long-term rewards from the victims being exploited (exploitation can last for years).²² The International Organization for Migrations (IOM) recently published a study which demonstrated that from all of the cases of human trafficking where they intervened to assist victims throughout the world, 53% (2,906 out of 5,498) of all victims were trafficked for forced labour and that 37% (2,040 out of 5,498) of all victims helped were males.²³ World Vision points out that the majority of the victims of labour trafficking in the Greater Mekong Sub-region (GMS) end up in involuntary servitude, bonded labour, debt bondage and in slave-like conditions in the labour sector such as in farms, fishing boats, factories and private homes.²⁴

Since the adoption of the Palermo Protocol in 2000, a significant number of efforts have been made by regional and national governments, as well as non-governmental organizations and international organizations to fight against human trafficking. Looking at the GMS region, one can see that this hot spot has created the first regional group committed to combating human trafficking

²⁰ Bjork, Jenny & Gulzar, Abid. *10 Things You Need to Know about Labour Trafficking in the Greater Mekong Sub-region*. Bangkok: World Vision, 2010.

²¹ See Molland, S. *The perfect business? Traffickers, victims and anti-traffickers along the Mekong*. PhD thesis, Macquarie University (Sydney, 2008).

²² Bjork & Gulzar, p.5.

²³ HumanTrafficking.org. *IOM 2011 Case Data on Human Trafficking: Global Figures & Trends*. IOM, Published in Feb. 2012. Accessed on March 21, 2012. URL: <http://humantrafficking.org/uploads/publications/IOM-Global-Trafficking-Data-on-Assisted-Cases-2012.pdf>. Pages 15-16, 21-23.

²⁴ *Ibid.*, p. 4-5.

and that these efforts have been fruitful. Between 2004 and 2009, Vietnam identified 1,586 cases of trafficking in persons, 2,888 perpetrators were traced by MPS and the Supreme Prosecution Office (SPO).²⁵ In 2011, 454 cases of human trafficking were reported, 670 accused and 821 victims were identified. This represented an increase of 2% for the number of cases reported and a 9% increase in the total amount of victims from 2010.²⁶ Most of these cases were related to sexual exploitation and sexual labour of women and children. Mr. Nguyen Van Trang, Deputy Head of the Mission on Human Trafficking for the Ministry of Public Security explained that there are few cases of reported labour trafficking due to the hidden nature of the crime. Mr. Van Trang further stated that there are enterprises that recruit Vietnamese workers to send them abroad with the aim to deceive them. Nevertheless, this is hard to prove and the legal framework of the Vietnamese government did not provide punishments for labour trafficking crimes and consequently most offenders were accused and charged for administrative violations rather than for human trafficking violations.²⁷

The fact that labour trafficking failed to be addressed as a human trafficking issue puts pressure on the importance of the new legal framework in Vietnam and on the National Plan of Action that has been developed to guide the implementation of the new TIP Law. Trafficking for labour exploitation is generally not considered to be as severe as sexual exploitation, but it is not because it is seen as less severe that it is so and that it should be ignored. Vietnam needs to recognize the seriousness of the problem of male labour trafficking and begin to address the issue with the attention it requires and deserves. If males victim of labour exploitation continue to simply

²⁵ *Ibid.*, p. 5.

²⁶ Numbers were shared by MPS representative Mr Nguyen Van Trang, Deputy Head of Division on Human Trafficking and Minor related crimes, Dept of Criminal Police during a meeting at the IOM office in Hanoi on March 13, 2012.

²⁷ Interview with MPS representative Mr Nguyen Van Trang, Deputy Head of Division on Human Trafficking and Minor related crimes, Dept of Criminal Police on March 13, 2012.

be deported instead of being acknowledged for what they truly are, traffickers will remain free and this exploitation will never cease.

What is Human Trafficking?²⁸

In addressing the subject of human trafficking, it is crucial to understand the meaning of a few key concepts. While a glossary is provided at the end of the paper, overall essential notions are outlined below.

Before one can fully understand what is meant by labour trafficking, one must understand what is meant by human trafficking. Human trafficking is “a crime involving the cheating or deceiving of people into sexual servitude or labour for the purpose of their exploitation.”²⁹ The United Nations adopted several protocols and conventions to protect all of us in the new millennium from crimes that transcend borders. The UN General Assembly adopted the *Convention Against Transnational Organised Crime*, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Palermo Protocol) and the *Protocol Against the Smuggling of Migrants by Land Sea and Air*.^{30/31} All of these are relevant to human trafficking either if it is defining the issue, addressing the criminality of the issue or establishing a clear difference between trafficking and smuggling of persons.

Article 3 of the Palermo Protocol defines human trafficking or trafficking in persons as:

²⁸ Human trafficking and trafficking in persons are used interchangeably.

²⁹ UNIAP: SIREN. *Mekong Region Country Datasheets - Human Trafficking 2010*. Bangkok: UNIAP Regional Management Office, 2010, p. 1

³⁰ The Palermo Protocol is found in Appendix A while the *Convention Against Transnational Organised Crime* can be found at this link: http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/_TOCebook-e.pdf and the *Protocol Against the Smuggling of Migrants by Land Sea and Air* can be found here: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf

³¹ As Yi Wang from Oxfam-Québec pointed out in his 2005 study of the Anti-Human Trafficking Program in Vietnam, “[...] conventions are more important than protocols. This means that countries [such as Vietnam] need to sign and ratify the *Convention Against Organised Crime* before signing and ratifying the *Protocol to Prevent, Suppress and Punish Trafficking* and/or the *Protocol Against the Smuggling of Migrants*.” The truth is that it is a prerequisite from Article 37 of the Convention that States must be party to the Convention before joining either or both Protocols.

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”

“Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

“The consent of a victim of trafficking in persons to the intended exploitation [...] shall be irrelevant where any of the means [...] have been used.”

“The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means [listed above].”

““Child” shall mean any person under eighteen years of age.”

Many confuse human trafficking with human smuggling; hence article 3 of the *Protocol Against the Smuggling of Persons* is essential to understand how they differ.

““Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”

““Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State.”

In essence, the difference between trafficking and smuggling is that human trafficking is a crime against a person and their human rights whereas smuggling is a crime against a State’s sovereignty. The second major difference is that victims of human trafficking do not consent to be trafficked across borders (or within borders), whereas in the business of human smuggling, the migrants are typically aware of the immigration laws they are breaking and they give their consent to be smuggled into a foreign country.³²

³² For more details on the difference between trafficking and smuggling please consult Appendix E.

According to the United Nations, UNODC and the Palermo Protocol, human trafficking consists of three elements: the process, the means, and the purpose. In other words, this explains that we have to know what is done, how it is done and why it is done in order to be certain that trafficking has occurred.³³ Even if these criteria are set it is not always a one size fits all. Individual elements such as definitions of exploitation, forced labour or slavery-like practices, are not defined by the Palermo Protocol. This is a grey area which individual signatory States are obligated to further define under their domestic laws. This broad and unclear part of the Palermo Protocol poses problems as definitions differ slightly from country to country and invite debate, even though the Protocol has reached vast international consensus.³⁴ Thus, for the purposes of this paper, the definitions provided in the glossary are based on definitions from various international conventions, laws and protocols. While these concepts are not defined by the Palermo Protocol, they help in understanding what human trafficking can look like.

Act/Process What is done?	Means How it is done?	Purpose Why it is done?	
Recruitment Transportation Transfer Harbouring Receipt of persons	Threat of violence Use of force Coercion Abduction Fraud Deception Abuse of power Abuse of vulnerability Giving/Receiving payments or benefits	<i>Exploitation</i> , including: Sexual exploitation Prostitution of others Forced labour and services Slavery Involuntary servitude Removal of organs Other types of exploitation	= Trafficking

Table 1 - Criteria for trafficking

³³ For further details on the three elements of human trafficking, please consult UNODC's website at: <http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

³⁴ According to the United Nations Treaty Collection, the status of the Palermo Protocol United Nations, *Treaty Series*, vol. 2237, p. 319; Doc. A/55/383 had 117 signatories and 148 parties as of May 1st, 2012.

Overview

This paper will explore the question of how male labour trafficking in Vietnam can be solved. The paper is divided into three chapters. The first chapter will explore the context, the dynamics and the patterns that define the nature and scope of the problem of male labour trafficking in Vietnam.

The second chapter will explore the actions that have been taken by the Government of Vietnam in recent months and years that are contributing to solving the problem of male trafficking. In particular, it will examine the new Vietnamese “*Anti-Trafficking Law*” and explore its merits and limitations.

Finally, the last chapter will look at desirable next steps for Vietnam. It will offer an analysis of what could be done to solve the problem of male labour trafficking in Vietnam. While the author does not purport to have the full solution to solve human trafficking, this chapter offers insights on programmes or initiatives that could raise awareness of the issue of male trafficking and potentially contribute to the eventual elimination of male labour trafficking in Vietnam.

Methodology

This major research paper is based on the analysis of secondary sources as well as primary sources. The secondary sources include research projects from various institutions, as well as project reports from international organizations and non-governmental organizations. Other sources include media clippings and news from the Government of Vietnam as well as UN sources. Most of the research for this paper has been conducted in Vietnam during the author’s five months stay from January 2012 until May 2012. While working with the Embassy of Canada in Hanoi, the author was able to meet many influential people from institutions such as UNIAP, ILO, IOM, UNICEF, MPS,

MOJ, SPO, and foreign embassies in Hanoi. Through these meetings, the author obtained internal and unpublished information.

While in Vietnam, the author attended many conferences in Hanoi on the subject of human trafficking, labour trafficking and male/boy trafficking. The author also participated in various field trips to the northern provinces of Vietnam where human trafficking to China is prominent. Thanks to Oxfam-Québec, the author was invited to assist in a training session done jointly with the Women's Union in Mong Cai, Quang Ninh on interviewing victims of human trafficking. This training gave a unique opportunity to the writer to gather primary sources and to conduct many interviews which provided first hand information for this paper. These interviews were especially helpful in facilitating an understanding of the dynamics of male trafficking as well as the potential solutions to solve the problem of male labour trafficking in Vietnam. During the field trip to Mong Cai, interviews also included discussions about the new anti-trafficking Law in Vietnam.

Additional data and information on adult male trafficking in Vietnam was gathered by the author from various international organizations and local NGOs and also from the GMS region to facilitate a comparison. As many organizations did not have much data, the author was often provided with stories to supplement the limited data on labour migrants and labour exploitation of migrants. The information and data gathered from these various sources has been compiled and analyzed by the author. The opinions and recommendations presented in this paper are the result of this analysis and her direct observations.

“The alarming increase in the trade of human beings is one of the pressing social, political and economic problems associated with the process of globalization. It presents a serious threat to the security of individual nations, and is a question of international justice which cannot be deferred.”

- Letter of Pope John Paul II May 2002

Chapter I: The Context of Male Labour Trafficking in Vietnam

Many men are trafficked annually from Vietnam to foreign countries for the purpose of forced labour. Although statistics are scarce, there is a general consensus that the problem is significant and should not be ignored. Many NGOs and international organizations have been working on increasing awareness of male trafficking by providing reports and by publishing the stories of victims. For example, World Vision published a document entitled *10 things you need to know about labour trafficking in the Greater Mekong Sub-region*. The stories in this publication are heartbreaking. Many of them are stories of men who were cheated and/or deceived and who ended up as victims of traffickers in brick or other factories, boats and rice fields.

Once exposed, labour trafficking does not always take the same path as trafficking for sexual exploitation. One might argue that this is due to the general lack of recognition of the issue. Victims of labour trafficking are often not identified as victims but rather as criminals since many of them have unknowingly breached immigration laws or labour laws in their pursuit of work. As a result, many of these individuals are detained and deported from the countries where the exploitation took place. On the one hand, this is good because they are freed from the traffickers and the abusive situation but on the other hand they lose the chance to accuse their traffickers and to secure justice for what has happened to them. Furthermore, the traffickers remain free to continue exploiting others thus perpetuating this abhorrent, criminal activity.

Patterns of trafficking in Vietnam

Vietnam is primarily an origin country for migrant workers and trafficked persons. This is due to different factors such as uneven economic development, demographic imbalances, high unemployment, high poverty with insufficient household income and little hope for a better future.

With an average national unemployment rate of 2.9%, internal migration in Vietnam is common as more employment opportunities are found in urban areas. However, with relatively higher unemployment in urban centers, Vietnamese are forced to travel wherever employment is available. One common element among trafficked victims is that they are typically the more vulnerable members of the population. Traffickers usually recruit people that have physical or mental health issues, economic and social reintegration issues, little or no education, young people or people with no family. However, it is equally important to note that not all trafficked victims are poor and uneducated.³⁵ The table below indicates which factors increase the risks for Vietnamese people for being trafficked.³⁶

Individual & Family Factors	Significant Risk Factor	Not a risk factor
Age	Yes	
Sex	Yes	
Ethnicity	Yes	
Number and type of brokers used (known vs. strangers)	Yes	
Going into debt to pay migration cost	Yes	
Years of education		No
Marital status		No
Number of dependents		No
Household economic status		No
Previous job		No
Salary prior to migration		No

Table 2 - Individual and family factors that increase risk of being trafficked

According to the Ministry of Public Security of Vietnam (MPS) more than 60%³⁷ of all trafficked Vietnamese are sent to China. The remaining 40% are sent to either Cambodia, Korea,

³⁵ UNIAP. *Human Trafficking Sentinel Surveillance Viet Nam-China Border 2010 Lang Son | Lao Cai | Quang Ninh*. Bangkok: UNIAP Regional Management Office, 2011.p. xii, 31-36

³⁶ This table was compiled by UNIAP and was designed to represent the pattern of Vietnamese being trafficked to China. See UNIAP. *Human Trafficking Sentinel Surveillance Viet Nam-China Border 2010*. p. 31.

³⁷ *Ibid.*, p. x.

Chinese Taiwan, Lao PDR and beyond the GMS area into Europe or the Americas.³⁸ Internal trafficking is also widespread within Vietnam from rural to urban areas for both sexual exploitation and forced labour. While the problem of male labour trafficking is widespread internally this paper will focus mainly on the problem of males being trafficking from Vietnam to other countries. One key element to keep in mind is that while internal and external trafficking require quite distinct legal strategies, some strategies explored below could help improve anti-trafficking efforts for both aspects of trafficking.

The stories of many trafficked victims are similar and have been heard before. Yet, it is not because of this that we should be deaf to them. Furthermore, since traffickers have not dramatically changed their tactics to lure people into their grasp, why are we not able to stop them? For example, there are so many stories of desperate mothers who were told by strangers that by sending their sons or daughters with them, they would find work away from home that would allow them to make more money and lead better lives.³⁹ And many more stories from parents who were lured into giving their daughters away for marriage in exchange for money, only to learn later that their daughters were turned into domestic or sexual slaves. Unfortunately, stories where legal recruitment agencies are involved are not rare.

The dynamics in Vietnam

Vietnam is a country that has widespread migration, both internal and external. Vietnamese people who are seeking work will go wherever the work is. A study done by the Joint Programme on

³⁸ Destination countries and main reasons for trafficking can be found at http://www.no-trafficking.org/vietnam_who.html and at http://www.no-trafficking.org/content/SIREN/SIREN_pdf/vietnam%20datasheet%20final%20november%202008.pdf

³⁹ See story reported by Khuon Leakhena and Chrann Chamroeun about a *mother accused of sending minor to work* in The Phnom Penh Post, Cambodia, 24 August 2010. It was also reported by World Vision see Bjork & Gulzar, p. 16-18.

Gender Equality, the Government of Vietnam and the United Nations in Vietnam,⁴⁰ shows that the number one reason for migration in Vietnam is to be able to earn enough money to support the family.⁴¹ The last Census done by the General Office of Statistics in 2009, found that 80.1% of the total labour force, which equates to 47.7 million Vietnamese, are self-employed or work in household enterprises.⁴² This is the largest employment category and the GSO points out, it is indicative of the “low level of development of the [Vietnamese] labour market.” Of the total employed labour force, 48.1% are female and 51.9% are male.⁴³ Women and men primarily work in the agriculture⁴⁴ industry (53.9%) which has declined by 15.4% since the 1999 Census.⁴⁵ This can be attributed to the fact that agricultural land is being transformed from agricultural to commercial, residential or industrial⁴⁶ for the benefit of the country. As a result, more people are losing their jobs and have to relocate to find work. Since 12% of the Vietnamese population lives below the national poverty line,⁴⁷ it is important for many to find a source of income that will provide enough income for their entire family.

As men look to external work to provide for their families, many women work in the home. Women are typically in charge of the household and are responsible for the welfare of the family. This is true as the last Census shows. Of all the women who decided to stay and work at home and

⁴⁰ Findings were published within a conference at Prestige Hotel on February 28, 2012 by Mrs. Tran Nguyet Minh Thu. *Gender and Remittances From Internal Migrants*. Statistical Publishing House, IOM, UN Vietnam and GSO. Hanoi, 2012.

⁴¹ See this study also available online at http://www.iom.int.vn/joomla/files/Final_report_Gender_and_Remittances_ENG.pdf, pages 22-24.

⁴² General Statistics Office of Vietnam. *Major Findings Census 2009*. p. 111. Note: Self-employed and household enterprise is one category in the GSO Census.

⁴³ GSO, *Census 2009*. Chapter 8, p. 109.

⁴⁴ Agriculture industry also includes forestry and fishery.

⁴⁵ GSO, *Census 2009*. Chapter 8, p. 108-109.

⁴⁶ The topic of land issues in Vietnam is very controversial as land belongs to the State and is loaned out to the People. The State can reclaim agricultural land at its discretion and transform it into industrial land. Once agricultural land has changed purpose it can no longer be agricultural land ever again. During the period 2001-2010, 0.9 million ha of agricultural land (4% of total agricultural land in the year 2000) were converted to land for residential use, commercial non-agricultural establishments use, public works and other non-agricultural purposes. During the same period of time, 5.4 million ha of unused land (62% of total unused land in the year 2000) were converted into land for various purposes. See the Ministry of Natural Resources and Environment's website at www.monre.gov.vn

⁴⁷ GSO, *Census 2009*. UN Data, 2010.

not for someone else (i.e. of women who are self-employed), 94.4% claim that the reason they chose to not go away from the house is to take care of the family.⁴⁸

The increased pressure on males resulting from the demand to be the breadwinner of the family often takes its toll and force males to look for work abroad. Various legitimate organizations and government departments are there to help and facilitate their search. According to Dao Cong Hai and Tran Anh Thu from the Inspectorate Department of Overseas Labour (DOLAB), in 2011 there were more than 500,000 registered Vietnamese working abroad in over 40 countries.⁴⁹ The Government of Vietnam only collects information for registered Vietnamese abroad. This means that all Vietnamese people who are living abroad without proper contracts or legitimate paperwork are not registered and are therefore not reflected in the Government’s data, nor are they protected by DOLAB. Since there is no data available that includes the unregistered Vietnamese people living abroad, the numbers presented below from DOLAB are inaccurate and likely grossly under report the reality.

Year	Vietnamese sent abroad	Year	Vietnamese sent abroad
2001	37,000	2007	85,020
2002	46,122	2008	86,990
2003	75,000	2009	73,028
2004	67,500	2010	85,564
2005	70,594	2011	88,298
2006	78,855	Total (10 yrs)	793,971

Table 3 - Registered Vietnamese workers abroad since 2001

For many Vietnamese workers, being abroad offers a chance to earn significantly more money than they would earn at home. This allows them to send back money to their families and improve their livelihood. An example of this is the DOLAB agreement with Japan. This agreement has been

⁴⁸ GSO, *Census 2009*. p. 114.

⁴⁹ Presentation made by DOLAB in IOM Vietnam Office on March 13, 2012. A power point presentation is available upon request.

in place since 2002 and offers Vietnamese people an opportunity to participate in skill improvement internships in various fields of manual labour. Each year, approximately 30,000 internships are available with each one offering an income of US\$800-1,300/month. This said, since the beginning of the program around US\$300 million has been sent back to Vietnam.⁵⁰ Even though the DOLAB has formal agreements with the receiving employers, some registered workers were still exploited abroad. Violations were often not reported by workers until the end of the agreement since they did not want to lose their source of income and risk being repatriated home. Violations were mainly uncovered through inspections done by the responsible agencies during the agreement period. If the Government itself cannot fully ensure that its programs abroad are free from abuse, one might easily argue that the risks for individuals engaging in business directly with strangers, or through placement agencies, are very high.

Nature of the problem

Human trafficking is a problem that touches upon various levels of society and affects the community as a whole. It is therefore necessary to address “spatial, economic and social exclusion processes” that makes males vulnerable to trafficking.⁵¹ Clert *et al.* noted that “the causes of trafficking are not only at the individual level, but also at the household, community, regional, institutional, and systematic levels that give rise to trafficking and allow it to flourish in specific localities and among specific groups.”⁵² High levels of poverty, and limited opportunities for work force Vietnamese men to seek employment abroad. Many are simply unaware of the risks and as a result, they fall prey to traffickers and brokers whose promises are too good to pass up. With the

⁵⁰ *Ibid.*

⁵¹ Makisaka, Megumi. *Human Trafficking: A Brief Overview*. Social Development Notes: Conflict, Crime and Violence. World Bank Publication, No. 122, Dec. 2009. Accessed on April 12, 2012. URL:http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1239390842422/6012763-1239905793229/Human_Trafficking.pdf

⁵² *Ibid.*, p. 12.

average monthly salary in Vietnam being VND đ3.84 million (US \$185), the highest salaries being VND đ5.61 million (US \$270) in finance and insurance industries and the lowest salaries in agriculture and fisheries (VND đ3.78 million or US \$ 180) it little wonder that males look for better opportunities abroad.⁵³

Studies demonstrate that most male migrant workers who have been victims of forced labour often do not report it. As victims of forced labour, these men experience various types of abuse such as wages being withheld, arbitrary deductions being made, not receiving any wages and even physical and mental abuse. These are all aspects of trafficking yet the data does not always support this conclusion. The reasons for this are many, including lack of victim identification and gender issues. However, it is not because the data is lacking that one should ignore the problem of male labour trafficking and move on. In the Mekong region, it is estimated that there are about three traffickers per 1,000 inhabitants. Furthermore it is estimated that for every victim of forced prostitution there are 9 people who are victims of forced labour.⁵⁴ This data alone is enough to show that labour trafficking is a serious problem.

The extent of the problem of trafficking in males is not well understood because many males⁵⁵ are deported as irregular migrants rather than being identified as persons being trafficked for the purpose of labour. Males that have entered countries irregularly (without proper papers) or those whose entry has been facilitated through recruitment agencies, are considered by the host countries to be irregular migrants. As irregular migrants, these men are considered to have violated migration laws and are therefore subject to punishment, including deportation. After they are arrested, these

⁵³ Vietnam Latest News - Thanh Nien Daily. *Vietnam Average Monthly Wage Rises to \$185*. Published on January 25, 2012. Accessed on March 16, 2012. URL: <http://www.thanhniennews.com/2010/pages/20120125-salaries-rise-in-vietnam-income-gap-still-wide.aspx>. These numbers were reported by Thanh Nien News from a study done by the Ministry of Labour and Social Affairs.

⁵⁴ Bjork & Gulzar, p. 4.

⁵⁵ This is also, to a certain extent, true for women.

men are often unwilling to talk with authorities since they are unaware of the laws that could offer them protection as victims of trafficking. Furthermore, if their papers were confiscated by their employers or if they do not have proper documents, they are even less likely to report the exploitation for they fear the consequences of being detained or deported for insufficient documentation. The end result for both irregular migrants, documented or not, and victims of trafficking is almost the same. The men are detained for a period of time and are then deported to their country of origin. Once they have returned home, most are unable to identify the location they were sent or who their traffickers or employers were; therefore, traffickers remain unpunished and free to continue exploiting other men.

In some cases, instances of trafficking are covered up by local authorities as the laws designed to protect victims of labour trafficking are often overlooked and ignored. Victims are often classified as criminals for having violated migration laws when they should be classified as victims of trafficking. Authorities are often unable or unwilling to listen to the stories and victims are too afraid of the consequences if they tell their stories so unfortunately, the truth is not revealed and not appropriately captured in the reporting the data.

A second key issue that contributes to low awareness of the problem of male labour trafficking can be attributed to gender and the preconceived notions of most societies, including the Vietnamese, towards trafficking. Trafficking in women and children is acknowledged to be widespread and is recognized as a serious crime by most, if not all. The Government of Vietnam has established various policies to help women and girls victim of trafficking, both internally and externally, to get help from their traumatizing experiences. Many shelters were established by the Government with the help of the Women's Union of Vietnam (WUV) and many sponsoring NGOs. The WUV also contributes to the training of police officials and border police in order to

understand and combat this issue on all fronts. Along with NGOs such as World Vision, Oxfam Québec, and Save the Children, many women and girls are reintegrated into their communities or with family at their pace and they are offered special training so that they can move on with their lives and grow to be successful women. The help offered to women needs to also be offered to males and this lack clearly needs to be addressed as male trafficking is now recognized by the Government.

One reason why trafficking in males and boys is less recognized is that societal stereotypes of masculinity identify men as being strong, hard, active, dominant, tough and powerful whereas stereotypes of femininity identify women as being submissive, vulnerable, passive, weak and soft.⁵⁶ These stereotypes hurt the cause of male victims of trafficking. Even when males have been severely exploited, societies all over the world are more likely to consider a man as a criminal rather than a victim. If there are any indications that laws have been breached, males are more likely to be reported as irregular migrants rather than as victims of trafficking even when exploitation is obvious.⁵⁷

Adding to this gender related issue and support of generally accepted notions of masculinity, males that have been victims of trafficking often resist being labelled as a “victim”. To imply that they have fallen prey to traffickers is an insult to their masculinity and being labelled a victim does not fall within socially accepted norms of being a man. As mentioned previously, men are expected to be strong and dominant, to take care of and provide for their families. If a man is not able to provide for his family, or if he is identified as a “victim”, this may cause him to feel inferior to other men. It may also contribute to opposing stereotypes that attack him and identify him as being weak,

⁵⁶ Jhally, Sut. *The Codes of Gender*. YouTube. Media Education Foundation, Free Speech TV. Published on 20 Dec. 2011. Accessed on April 10, 2012. URL: <http://www.youtube.com/watch?v=6o9AYI79bb4> .

⁵⁷ See the USAID report on Trafficking of Adult Men in the Europe and Eurasia Region, July 2010 written by Ruth Rosenberg.

a wimp or a sissy and therefore, not measuring up to the popular notion of being a “real man”. As a result, being categorized as a victim stands in contrast to social norms and cannot be accepted.⁵⁸

Another interesting aspect of the problem associated with identifying male labour trafficking is that, many males that have been victims of human trafficking consider themselves simply as unlucky rather than victims of a serious crime involving the violation of human rights.⁵⁹ As Jenny Bjork and Abid Gulzar have pointed out in their World Vision study, many migrants within the GMS region consider themselves as *lucky* or *unlucky* migrants rather than *legal, irregular, exploited* or *trafficked* migrants. This reality is very much still alive as was demonstrated by the frequent use of this vocabulary by various country representatives as recent as the COMMIT SOM-8 conference in February 2012.⁶⁰ One explanation for the use of this language might be the fact that many males who migrate within the GMS region make the choice to migrate freely and therefore consider themselves masters of their own fate.

Whether or not these men have chosen to migrate, if trafficking occurs it is unquestionably a violation of their human rights and should never be seen as simple misfortune. Human trafficking is a serious crime that needs to be identified and punished accordingly. Trafficking can happen regardless of how the victim ended up in a country as long as the criteria set forth by the Palermo Protocol has been met (act/process, means, purpose). Victims should not be afraid to speak up. On the contrary, men should be encouraged to speak up and tell their stories as much as girls and women are encouraged to do so. Furthermore, since trafficking is known to occur across borders, the lack of proper documents and language barriers should not be reasons for why the authorities do

⁵⁸ Katz, Jason. *Tough Guise: Violence, Media & the Crisis in Masculinity*. YouTube, Published on October 04, 2006. Accessed on April 10, 2012. <http://www.youtube.com/watch?v=3exzMPt4nGI>.

⁵⁹ Bjork & Gulzar, p.42.

⁶⁰ *Ibid.*, p.42-43; COMMIT SOM-8 Conference took place at the Sheraton Hotel in Hanoi from February 14-16, 2012 and the vocabulary was used all throughout the conference by the various member States representatives.

not investigate all possibilities since these issues are known to work against identifying occurrences of exploitation of males. Once they are deported and returned home, males should also be entitled to the same support services and counselling as other victims of trafficking since no one type of trafficking can be considered to be worse than another.

“I had to work to support my family. Since [I] wanted and agreed to work [...] it was not exploitation.”

– young male victim of labour trafficking

Finally, the overall lack of data on male labour trafficking is a significant problem. Most of the efforts to combat trafficking in persons focus on women and children and on sexual exploitation. This raises a problem as most efforts such as public awareness campaigns, training officials and information sharing do not include labour trafficking and especially not male trafficking. Recent studies as well as increased attention from different local, national and international organizations are helping to raise awareness of male trafficking. As a result, this is increasing the number of identified male victims.⁶¹ Gathering information and raising awareness in the public sphere is needed to bring the problem of male labour trafficking into the mainstream. This issue can no longer remain hidden and underreported.

Conditions that facilitate trafficking of men

Now that victims of male trafficking are beginning to be identified in increasing numbers and that the matter is gaining attention throughout the world, governments in the GMS region are starting to pass laws aimed at protecting male victims of trafficking. With the introduction of better laws and the increased attention, we can now finally begin to understand some of the conditions that facilitate male trafficking.

⁶¹ Rosenberg, Ruth. *Trafficking of Adult Men in the Europe and Eurasia Region*. USAID, July 2010.

As Ruth Rosenberg points out, labour trafficking is facilitated by the fact that it is less visible than commercial sexual exploitation. Moreover, labour trafficking does not require a constant consumer demand but rather needs a constant supply. The industries that require male labour are often hidden away from the public's eyes: factories in remote areas or farms, boats, and mines. Rosenberg argues that the hidden nature of the work is not the only factor that facilitates the trafficking of men. Males who are forced to work on construction sites are often in plain sight and nonetheless they remain unidentified.⁶² This might be due to the fact that even when trafficking is visible it is widely accepted. It is not uncommon to see boys shine shoes, sell chewing gum or beg in the streets of Hanoi yet this is often ignored. These boys, girls, teenagers and young adults all have stories, some are not trafficked victims, but many are and yet we do not help – they get lost in the crowd. Bjork and Chalk argue that is due to the fact that the lines of exploitations are too “blurred between child labour, migrant labour, exploitative labour, illegal labour, and trafficking [that we] lose sight of the issue at hand.”⁶³

The often hidden nature of the work also keeps many males from accepting the reality of their situation. Rather than admitting that they are in a situation of trafficking, many men would rather think that they are being cheated by the employer as this is easier to accept. A study done by IOM Vietnam shows that many boys and men that were victims of exploitation did not consider themselves as trafficked victims. Here are a few of their reasons:

“I think, it’s not exploitation, it is business, right? According to me, it’s [the recruiters business and] everyone has to comply [to their requirements].”⁶⁴

⁶² Rosenberg, p. 7

⁶³ Bjork & Chalk, p.12.

⁶⁴ Hoang Yen, Nguyen & Huong Giang, Nguyen. *Exploratory Research on Trafficking in Boys in Viet Nam*. Hanoi: International Organization for Migration, January 2012. p. 30.

“I never thought I was being exploited since I voluntarily accepted the work. No one forced me to come there to work. So when they set the rule to work until 11, 12pm ... It is the rule so everybody has to follow.”⁶⁵

“[...]children dropped out of school. The factory owner brought them South and gave them a job[.] As a result there would be fewer social evils. The owner employed [...] demanded overtime time house, we call it child work rather than “labour exploitation” as it seems too serious.”⁶⁶

“I had to work to support my family. Since we wanted and agreed to work [...] it was not exploitation.”⁶⁷

Another issue that causes men to get caught in labour trafficking is debt bondage. Since many are not aware of immigration laws, they turn to recruitment agencies or brokers to help them facilitate their passage across the border. Passage is not free but the fee expected by many agencies and brokers is overwhelmingly high and can lead to years of servitude to repay their debt.⁶⁸ Victims are caught between a rock and a hard place. They need to repay the broker and/or the agency either by paying back their dues or by serving the broker or employer. If they refuse either of these options, their families risk being caught in the middle. Males in this situation end up stuck and typically accept their fate and do the work that is asked of them without questioning the employer or the broker since they do not want to bring harm to their families. Moreover, by being abroad without proper documentation these men fear the authorities and often are not allowed to leave the premises without the employer’s permission.

⁶⁵ Hoang Yen & Huong Giang, p. 31.

⁶⁶ *Ibid.*, p. 26.

⁶⁷ *Ibid.*, p. 39.

⁶⁸ Many were given exploitative loans for their passage and were expected to repay their debt by paying up the recruitment agency their monthly salaries. See Bjork & Gulzar p. 14-15 for stories.

In addition to these conditions, males often are not willing to admit to themselves what is really happening to them. As previously stated, they prefer to consider themselves as unlucky rather than as victims. They may see their work situation as misfortunate but since it is work and they are getting paid (even though it was less than expected) they do not see a reason to complain. Another way that they look at it is from the perspective that working no matter what the condition, is better than not working.⁶⁹

Trafficking in males is being facilitated by debt bondage, the hidden nature of the work and

the fact that males do not admit to themselves what is happening to them.

Traffickers are not being reported by their victims and can therefore continue to exploit males for years without the fear of consequences.

Traffickers are remarkably good at playing mind games with their victims and making them believe that if they do not do as they are told they will be deported and that this will have serious consequences for their families.

The “*new TIP law is a milestone for the Vietnamese anti-trafficking movement*”

– Mrs. Pratibha Mehta, UN Resident Coordinator to Vietnam

In summary, it can be concluded that if Vietnamese men were more aware of the dangers of migration and if they were more knowledgeable of migration law and of workers’ rights in foreign countries, male labour trafficking would not be as prominent as it is today.

“*[S]ome of these workers have debts that exceed the earnings they expect in the first year of the [...] contract.*”
- TIP Report 2012

Chapter II: Vietnamese Solutions to Male Labour Trafficking

Given that labour trafficking is beginning to be more and more recognized in Vietnam and in many other Mekong countries, it is important to identify the solutions or steps that are being taken or that could be taken in order to fight against

⁶⁹ Interview in Mong Cai with Police Border Officer Nguyen C. Hoang. *Name withheld for privacy purpose.

this crime. This chapter will examine the actions taken by the Government of Vietnam to date that could contribute to solving the problem of male labour trafficking in Vietnam and will explore, in particular, the new trafficking in persons Law. A thorough assessment of the merits and limitations of this law will be explored. The elements presented in this chapter speak to solutions that have already been implemented by the Vietnamese Government that could help to fight the problem of male trafficking. In the next two chapters, it is not the author's intent to provide the full solution to the problem of male labour trafficking in Vietnam. This would be unrealistic. Rather, the author's goal is to present an analysis of the nature and extent of the problem and to identify potential future steps that could aid in the fight against male labour trafficking in Vietnam.

Vietnamese legislation

Since 2010, Vietnam has achieved significant progress in introducing measures directed at eliminating trafficking in persons. Prior to the enactment of the new Trafficking In Persons (TIP) Law in 2012, Vietnam had been revising and adapting its legislation to comply more with anti-trafficking laws that were implemented by other COMMIT⁷⁰ countries. In 2010, Vietnam officially amended its Penal Code; in 2011 it ratified the *UN Transnational Organised Crimes Convention* and on January 1, 2012 it established the first Trafficking in Persons Law.

Prior to the TIP Law, the Vietnamese Penal Code, introduced in 1999, had been the main instrument used to fight against human trafficking and to prosecute offenders in Vietnam. Of the dozen articles that were amended in 2009-2010, two were specific to human trafficking: articles 119 and 120. The major change was the amendment of the terms "trafficking in women" and "trafficking in children" to now state "trafficking in persons."⁷¹ While this increased the coverage of

⁷⁰ COMMIT countries: Burma, Cambodia, China, Lao PDR, Thailand, Vietnam

⁷¹ See Appendix B for the 1999 Penal Code and Appendix C for the amended Penal Code in 2010.

the Code to include male trafficking, the Code still does not explicitly define what human trafficking consists of. As the Penal Code is not in line with the Palermo Protocol, the Supreme Prosecution Office of Vietnam has to deconstruct offenses in order to deem them as criminal and to find the penalties that are explicitly delegated for each criminal act.

An example of this deconstruction is the trafficking of women for sexual exploitation. The Prosecution's Office would argue that article 119 of the 1999 Penal Code forbids the trafficking of women for various purposes such as prostitution and they would sentence the offenders to a possible two to seven years of imprisonment. Then again if the offense was done in an organized and professional manner, article 119 combined with articles 113, 143, 254 and 255 would apply even more serious penalties as they pertain to acts of forced marriage or sexual intercourse, buying and/or selling of women, damaging property and owning a brothel.⁷² This is how trafficking is managed by the Vietnamese authorities even today.

Along with penalties for the trafficking of women, the 1999 Penal Code also prohibits similar offenses against children. Different articles of the Code outline the penalties for the trafficking of children for the purpose of sexual exploitation, stealing (kidnapping), buying, selling, exchanging children and more. Children are even more protected than women in Vietnam as a result of the *Law on Child Protection Care and Education*, which was enacted by the National Assembly in 2004.⁷³

The 1999 Penal Code articles did not address trafficking for forced marriage, sexual exploitation, sexual slave, servitude, or labour exploitation as clearly as they addressed these types of abuses of women and children outside the specific context of trafficking. Furthermore, it did not address the possibility of male exploitation and did not consider that males could be victims of

⁷² Articles 113, 119, 120, 143, 254 and 255 of the 1999 Penal Code can be found in Appendix B.

⁷³ Law on Child Protection, Care and Education can be found online at: www.hsph.harvard.edu/population/trafficking/vietnam.child.04.doc

trafficking crimes. The 2010 amendments to the Penal Code were a big improvement on the issue. Even though the definitions of trafficking remained unchanged, males were finally recognized as a potential target group despite the fact that no articles in the Code could support the prosecution of offenders. The few offenders who were prosecuted were prosecuted under the Labour Code. Significant improvements were made in this area with the introduction of the new TIP Law.

Mrs. Pratibha Mehta, UN Resident Humanitarian Coordinator said that “[t]his new TIP law is a milestone for the Vietnamese anti-trafficking movement, with government and non-government partners working hard towards this achievement.”⁷⁴ It is a milestone not only because it finally recognizes and provides male victims with support and the chance to obtain justice, but also because it defines certain terms that are necessary for the prosecution of offenders. Article 2 of the new TIP Law defines four central terms: sexual exploitation, sexual slave, forced labour and victim as follows:

“**Sexual exploitation**” means the coercion of a person (or multiple) to prostitution, for being the subject of pornographic materials, for erotic performance (or show), or for sexual slavery.

“**Sexual slave**” means persons who, under dependent situation, are forced to serve other persons to satisfy the sexual demands of the latter.

“**Forced labor**” means the use of the force or the threat of the use of force, or other means such as using other tricks to coerce a person or persons to work against their will.

“**Victim**” means a person who is infringed upon by an act or acts stipulated in Clause 1, 2 and 3 of Article 3 of this Law.⁷⁵

The TIP Law has both merits and limitations which will be explored further in the next section. It is also important to note however that in addition to the Penal Code, the Criminal Code⁷⁶ and the TIP Law, Vietnam also has a Labour Code. This latter legislation prohibits forced labour

⁷⁴ Opening Speech during the COMMIT SOM-8 Conference. Speech made on February 12, 2012 at the Sheraton Hotel by Mrs. Pratibha Mehta.

⁷⁵ See Appendix D for the full text. The language was modified and combined with the language used by UNIAP in the research document UNIAP. *Human Trafficking Sentinel Surveillance Viet Nam-China Border 2010*. p. 7.

⁷⁶ The criminal code is the code used by the prosecution in order to sentence criminals to appropriate punishments, the criminal code and its amendments can be found at this link: <http://www.wipo.int/wipolex/en/details.jsp?id=5025>

and condemns labour trafficking and it extends its protection to include Vietnamese workers overseas. Article 5 of the Labour Code stands for equality of work and states that “ill-treatment and forced labour are prohibited in any form.”⁷⁷ The Code does not discriminate against gender. Since 1994, it has offered protection for male labour exploitation and it also includes two chapters that are dedicated to the rights of female and minor workers. Even though this Code protects labourers overseas, there is a grey area with respect to offenders and criminals who cheat and deceive workers while they are abroad. This is why sub-laws and Memorandum of Understanding (MoUs) were developed to better protect Vietnamese workers on foreign soil.⁷⁸ The most important sub-law is the *Law on Vietnamese Workers Working Abroad Under Contract* (2006). It prohibits human smuggling, recruitment and training of labourers for profit. It also includes bans on sending workers without prior registration and proper documentation, unauthorised illegal stay and deceiving workers for illegal post-term stay.⁷⁹

In summary, these various laws provide a safety net for Vietnamese labourers in the work place and also offer protection from negligent and abusive employers whether they are in Vietnam or abroad. In addition to these laws, the COMMIT process, to which Vietnam is a member State, is the first and most successful regional initiative to counter trafficking in persons. This process is constituted of six member countries and together they promote and strengthen regional cooperation of systems and ensure that there is a holistic regional response to the problem of trafficking. COMMIT is more than six countries working together to fight against trafficking in the region. It is overseen by UNIAP and works closely with 12 UN agencies and 8 international NGOs. The COMMIT countries work closely with these organizations in order to identify and adapt successful

⁷⁷ Article 5 of the Vietnam Labour Code is available online; UNIAP. *Human Trafficking Sentinel Surveillance Viet Nam-China Border 2010*. p. 8-9.

⁷⁸ UNIAP. *Human Trafficking Sentinel Surveillance Viet Nam-China Border 2010*. p. 8 offers a list of 8 laws, decrees, decisions, circulars that complete the labour code and further protect labourers overseas.

⁷⁹ Article 7 of the Law on Vietnamese workers working abroad under contract No. 72/2006/QH11 at www.moj.gov.vn

models of combating trafficking in one country to others, as appropriate. They do so through workshops and regular meetings. The COMMIT process seeks to enhance national capabilities by building on the existing strengths of each country and at increasing legal cooperation and applying frameworks that are compatible.⁸⁰ All these efforts have been instrumental in leading the Governments of the region, but most recently, the Government of Vietnam to enact its new TIP Law, a critical new legislation that further protects its citizens from the dangers of trafficking.

Merits of the Vietnamese Trafficking in Persons Law

The *Law on Prevention, Suppression Against Human Trafficking*, commonly referred to as the *Trafficking in Persons Law* (TIP Law), was passed by the National Assembly of Vietnam on March 29, 2011 after months of drafting. This Law was recently enacted on January 1st, 2012. While it is too early to determine whether or not the new Law is effective in terms of helping combat male trafficking in Vietnam, it is possible to identify its potential merits and limitations. The positive implications of this Law include: a more thorough legal framework with provisions for enhanced cooperation and coordination between the different ministries, institutions and organizations in the country; an increased emphasis on prevention and awareness; a broader scope of victim identification and assistance; as well as international compatibility.

Firstly, the Vietnamese TIP Law goes further than most anti-trafficking laws, including the Palermo Protocol. While this new Vietnamese Law is consistent with the Palermo Protocol and the *UN Transnational Organised Crime Convention*, and is in accordance with international standards, it goes beyond in that it specifically defines crimes of trafficking. The international community has been silent on the definition of specific crimes of trafficking choosing instead to leave the definitions up to individual nations. Vietnam has done this in their new Trafficking in Persons Law.

⁸⁰ COMMIT Secretariat, *What is the COMMIT Process?*, p. 1-2.

The fact that Vietnam now has a law in place that is fully committed to combating the trafficking in persons is quite significant. It demonstrates the initiative taken by the Vietnamese Government and firmly delegates increased responsibilities to government authorities such as Ministry of Public Security, Ministry of Justice, and Border authorities. Despite implementation, cooperation and enforcement challenges, this new Law will help Vietnam take a more systematic approach to eliminating trafficking in persons.

The Vietnamese legal system is fairly complex and as with most laws, the TIP Law requires specific sub-laws to establish guidelines on implementation.⁸¹ Without these sub-laws, the TIP Law will be subject to interpretation by the various prosecuting authorities and might be interpreted differently in different provinces or different cases.⁸² Hence, the TIP Law is currently being supplemented by the National Plan of Action (NPA, 2011-2015). This Plan of Action sets out specific responsibilities for central ministries and local governments and other organizations. The NPA notes the need for enhanced international cooperation especially between countries of the GMS region, through greater exchange of information, mobilization of financial and technical resources, and the implementation of coordinated projects to fight trafficking in persons. It is important to note that the law may be too general and the NPA may be too specific for adequate cooperation amongst all stakeholders. Even if the legislative framework was ideal, cooperation and coordination amongst all agencies is a major risk to the effective implementation of complex policy matters for combating human trafficking. New policies and plans are often hard to implement yet, this does not mean that this Plan is doomed to fail. Rather, it will eventually be a challenging success.

⁸¹ Vietnam's legal document system is described in greater details on page 42 through figure 1 and through a thorough explanation of how this system limits the effectiveness new law at least in the short term.

⁸² Court rulings and preceding interpretations are often irrelevant for new cases in this country.

As previously stated, many Vietnamese people are unaware of human trafficking laws and their corresponding penalties. As such, prevention and increased awareness are major priorities within the new Law. The supporting NPA charges the Ministry of Information and Communication (MoIC)⁸³ with coordinating efforts to strengthen education to combat human trafficking via mass media at the national and local levels. Direct awareness through community work and events will also be created with the assistance of the Vietnamese Women's Union (VWU). While insufficient capacity and ability, as well as poor coordination, represent potential barriers to effective prevention and awareness strategies, the Government of Vietnam has at least developed a plan of action under the new Law aimed at increasing education and awareness. This same plan of action could, and should be, revisited and revised over the coming years to address any areas that may be ineffective.

Another benefit of the new TIP Law is that for the first time, this new legislation includes provisions for men who are internally or externally trafficked and foreign victims trafficked into Vietnam for the purpose of sexual exploitation as well as forced labour. While most of the attention is still focused on women and children, the recognition that human trafficking is a widespread and multifaceted problem, is positive. Together, the TIP Law and the National Plan of Action provide much needed support for Vietnamese males. The challenge will be whether or not males identify themselves as victims and take advantage of the services and support now at their disposal. According to the new Law, all victims will be able to receive support, protection and assistance as long as they present themselves as such to any government authority. Obtaining protection will not be granted to victims immediately as they will need to prove that they were trafficked. This obviously remains a key challenge to be faced in implementing the new TIP Law. If victims do not self-identify, or communicate with the authorities out of fear, this challenge will be difficult to

⁸³ Thu Trang, Pham Thi, ed. *The National Plan of Action on Anti-Human Trafficking Period 2011-2015*. Hanoi: Hanoi House, 2012.

overcome and the exploitation will remain underground. It should be recognized however, that the increased awareness of male trafficking that will be achieved over time, through the implementation of the new anti-trafficking in persons Law, will eventually help in overcoming this and other challenges associated with eliminating the trafficking of males in Vietnam.

Limitations of the Vietnamese Trafficking in Persons Law

Vietnam's new Law against human trafficking consists of 8 chapters and 58 articles. As with most new laws in Vietnam, the Law itself is vague and requires various sub-laws, decrees, resolutions and circulars. The Vietnamese legal system is quite complex and this is one of the limitations that the TIP Law faces. While the implementation of the new Law remains a key challenge, other limitations include inconsistencies and overlap between the TIP Law, the Penal Code and the Criminal Procedure Code; the potential for continued criminalization of male victims; gender bias; human rights violation of victims; and low enforcement capability.

Before we can explore the challenges and limitations that the new anti-trafficking Law will face, it is crucial to understand the Vietnamese system of legal documents as instituted by the 1992 Constitution and the *Law on Promulgation of Legal Documents* (2008). The Vietnamese legal system works as a pyramid. Similar to Canada, the top legal document is the Vietnamese Constitution. The Constitution however is only a legal framework for all other legal documents to be approved. The National Assembly is responsible for passing and amending three types of legal documents: the Constitution, Code Law, and Resolutions. These three are referred to as legal frameworks as they are only guidelines for the actual decisions, decrees, circulars, etc., that are enacted by the appropriate ministries, councils and committees. For example, the TIP Law is a Code Law from the National Assembly and therefore acts as a framework to establish the guidelines of the Law that lays down the basic framework for the Law. The various ministries, as stated by the Code Law itself, are

responsible for further developing, implementing and interpreting the meaning of words articulated in the TIP Law. The chart below explains the system of legal documents for Vietnam⁸⁴.

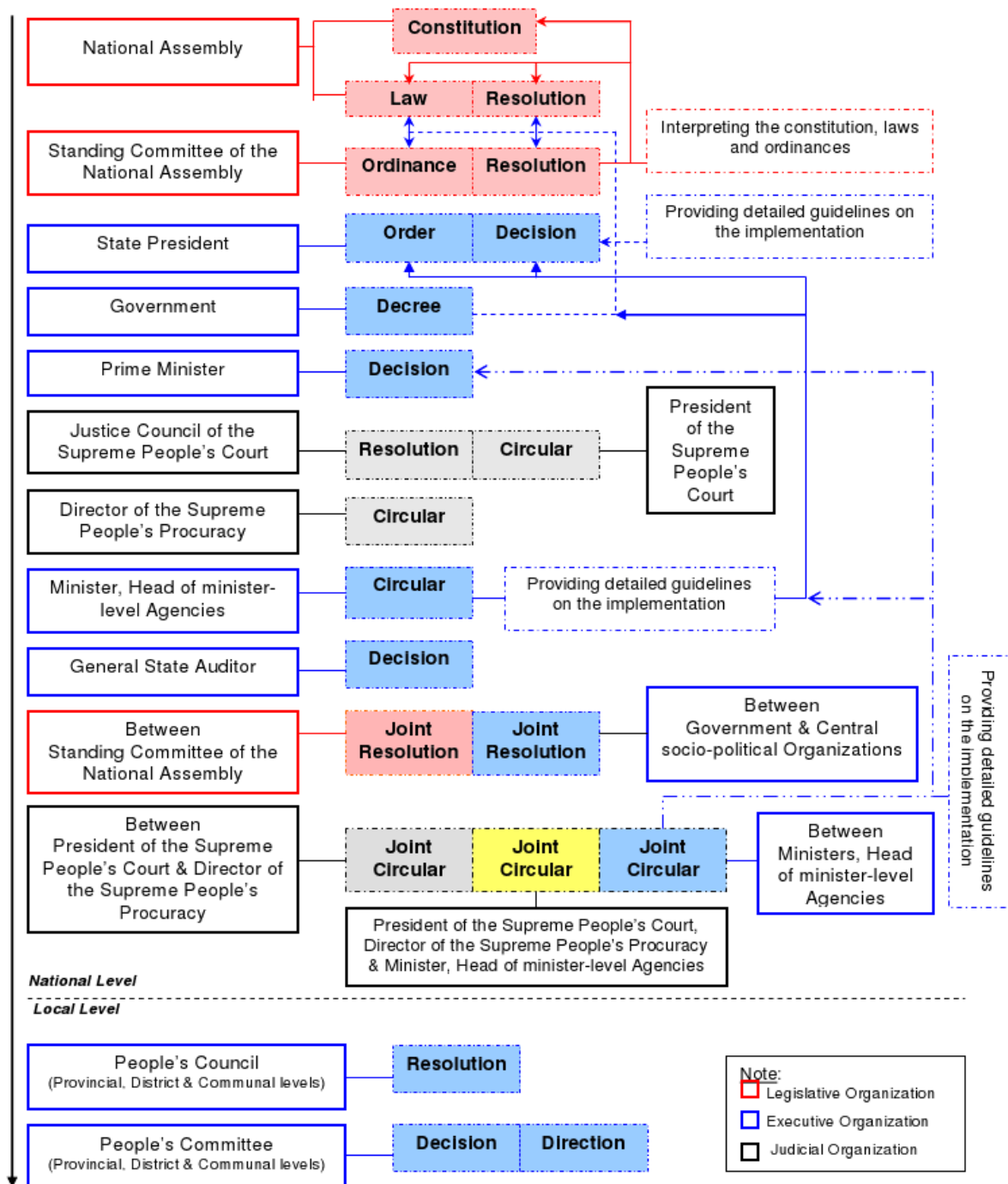


Figure 1 – Vietnam's System of Legal Documents

⁸⁴ Hierarchy of Legal Documents in Vietnam. Based on the 1992 Constitution, the Law on Promulgation of Legal Documents (No. 17/2008/QH12), and the Law on Promulgation of Legal Documents of People's Council and People's Committees (No. 31/2004/QH11 in force)

A key challenge to the implementation of the new TIP Law is the overlap between the Law itself and the various sub-laws, which can lead to inconsistencies. This is the direct result of the challenges associated with the complex Vietnamese legal document system. The new Law defines certain terms of trafficking but refers to articles 119 and 120 of the Penal Code to define the notion of human trafficking. Moreover, penalties for committing crimes of trafficking in persons are not defined by the new Law. This means that there is no prosecuting function within the new Law for trafficking in persons. This lack of precision within the new Law means that authorities, as well as the prosecution, will still need to refer to the Penal Code and the Criminal Procedure in applying justice to abusers. It could also lead to challenges in enforcing the Law since various documents will be required in order to arrest and punish offenders and to help and support victims.

While these numerous pieces of legislation attempt to combat the same issue, they could also lead to duplication of tasks and responsibilities and cause overall confusion in the application of the new Law. For this reason, if the new Law is to be enforced consistently, more must be done to streamline the Vietnamese legislation and reduce the overlap among the related legal documents. This being said, the legal framework of the TIP Law attempts to eliminate this problem through the National Plan of Action (NPA). One way to streamline the legislation would be to create laws that are complete from the beginning and where the plan of action is a part of the legislation rather than an à côté. The NPA assigns specific responsibilities to various ministries and goes further than the Law itself (articles 41 to 52). For example, the Ministry of Public Security is responsible for strengthening the effectiveness of combating and suppressing trafficking criminals (Component #2)⁸⁵. The NPA suggests that MPS has specific indicators to meet such as: 1) 95 percent of cases proposed are prosecuted annually; or, 2) that the rate of detection and prosecution of trafficking

⁸⁵ NPA 2011-2015, p. 12-16.

cases is increased by at least 2 percent annually. The NPA does not specify how the Ministry has to carry out its task but does allocate specific budget allotments for each project. In other words, this Plan of Action is a tool for the Government of Vietnam to spread the task of combating trafficking across several ministries in order to fulfill the requirements of the TIP Law which are to prevent and suppress trafficking in persons. This tool is beneficial since it delineates which ministry is responsible for what, and it assigns them a budget. On the other hand, it also contributes to a communication gap between government agencies leads to inconsistencies. This happens as ministries work on their particular tasks and fail to see, or deliberately choose not to see, what is being done by other agencies. Vietnamese agencies can be self-fish. For example, there are many agencies involved in gathering data about trafficking cases, but none of their numbers are consistent. This is a duplication of tasks. If all of the responsible agencies came together and assigned this task to one office, perhaps the data would be more accurate. As of now, the NPA 2011-2015 seems to have done a good job at delineating tasks to multiple agencies but the real challenge remains in the carrying out of the Plan. It is only once all of the related policies are in place that the effectiveness of the NPA will become obvious and improvements can be identified as part of the next plan of action in 2015.

An additional challenge to the new TIP Law is the potential for continued criminalization of victims. In theory, the new Law offers protection to the victims of trafficking but it could potentially lead to ongoing criminalization of victims if they are not able to prove that they were, in fact, trafficked. There is an ongoing risk that victims of trafficking could continue to be charged as irregular migrants. Moreover, since victims still have little or no education on migration laws, exploitation and trafficking, it might be difficult for them to draw the distinction between exploitation and trafficking. Also, authorities may have a hard time trying to classify the type of

victims they encounter. As a result, victims of exploitation in the workplace and of labour trafficking face continued disincentives to seek out assistance from authorities. In order to address this challenge, the third component of the NPA assigned MOLISA the task of establishing a clear process of victim identification. With a budget of VND đ16 billion (US\$800,000) allocated to MOLISA and its coordinating agencies, victims should be better received, identified and protected.⁸⁶

A third challenge to the new TIP Law is gender related. As discussed previously, males are reticent to be labelled as victims since it implies weakness. Furthermore, once they do come forward and identify themselves as victims, they must comply wholeheartedly with the officials, including providing them with sensitive information. This in itself is a discouragement for victims to identify themselves since this sensitive information may include how they got caught, what abuses they suffered, what was done to them and by whom. In other words, in the telling of their stories to officials, victims not only risk embarrassment and shame, they are also forced to re-live their experiences. While officials typically take these steps gradually and at the victim's pace, this remains an infringement upon the victim's life and possibly a violation of their privacy. Along with this continued abuse of personal rights, this could potentially lead to a disproportionate power struggle between officials, victims and the organizations there to help them.

Given that males are reticent in the first place to talk about and identify themselves as victims, trying to process them rapidly as either victim or criminal status could cause the opposite response and lead males to keep exploitation hidden for longer periods of time. Also, a further gender related issue is that the new Law does not establish separate shelters and services specifically for trafficked men. Men are welcomed in some centers but these are not solely for males. Housing men and women together poses a cultural and societal problem. The NPA attempts to address this problem.

⁸⁶ Thu Trang, p. 16-18.

The Women's Union along with the Ministry of Labour, Invalids and Social Affairs, the Ministry of Public Security, and the Ministry of Information and Communication are working together to increase awareness through messaging around trafficking that pertains to both males and females. In fact, funding has been allocated by the NPA to this ministry to create separate campaigns, resources and networks for males but the plans have yet to be launched.

Finally, given that both central government agencies and local authorities are responsible for enforcing the Law, this may lead to power struggles. Local authorities rely on central government for resources; however, more often than not, the central government is not able to provide adequate resources. This makes the enforceability of the Law at the local level very difficult. It results in a disincentive at the local level to enforce the Law based on the fact that the central government is unable to provide sufficient help. Added to this is the widespread corruption amongst all government officials which increases the challenge associated with enforcing the Law against trafficking in persons, particularly with respect to criminalization of and appropriate identification of victims. Most experts suggest however, that the creation of a comprehensive set of sub-laws and a strong National Plan of Action will be the key to being able to overcome these problems and implement and enforce the TIP Law accordingly.⁸⁷

Overall, the Government of Vietnam has established this new Law and has reviewed its legislation so as to combat trafficking in persons not only on its own soil, but also to protect all Vietnamese who go abroad. Even though the new anti-trafficking Law faces certain challenges, the merits of this Law outweigh its limitations and it represents a great step forward in the fight against trafficking in persons, including the trafficking of males. The next chapter will discuss desirable next

⁸⁷ IOM Conference with MPS, MOLISA, SPO, and multiple foreign embassies held on March 13, 2012.

steps for the Vietnamese Government and the Vietnamese people in their increasing efforts to combat male labour trafficking.

Chapter III: Looking Ahead

For a decade now, the United States Department of State has published an annual report on the trafficking of persons globally. This Trafficking in Persons (TIP) Report reviews the status of all countries on the issue and gives each one a ranking. This Report is one of the U.S. Government's principal diplomatic tools to engage foreign governments in discussions about human trafficking worldwide.⁸⁸ Countries are ranked according to four different Tiers as described by the USA Trafficking Victims Protection Act (TVPA) of 2000 (P.L. 106-386; TVPA):⁸⁹

Tier 1: Countries whose governments *fully comply* with the TVPA's minimum standards⁹⁰ for the elimination of trafficking.

Tier 2: Countries whose governments *do not fully comply* with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

Tier 2 Watch List: Countries whose governments *do not fully comply* with the TVPA's minimum standards, but are *making significant efforts* to bring themselves into compliance with those standards AND:

- a) the **absolute number of victims** of severe forms of trafficking is very significant or is significantly increasing;
- b) there is a failure to provide evidence of **increasing efforts** to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and **decreasing evidence of complicity** in severe forms of trafficking by government officials; or
- c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take **additional steps over the next year.**

Tier 3: Countries whose governments *do not fully comply* with the TVPA's minimum standards and *are not making significant efforts* to do so.⁹¹

⁸⁸ U.S. Department of State. *Trafficking in Persons Report 2011*. U.S. Department of State, Accessed on March 9, 2012. <http://www.state.gov/j/tip/rls/tiprpt/>

⁸⁹ For more details on the TVPA of the U.S. Department of State please consult: <http://www.state.gov/j/tip/laws/>

⁹⁰ To see what the minimum standards of the TVPA are please refer to Appendix F.

Vietnam has mostly been a Tier 2 country since the publication of the first TIP Reports in 2001; however it slipped to a Tier 2 Watch List country in 2010 and only regained its Tier 2 ranking in 2012. While the reporting is recent, trafficking of course has been an issue that predates the turn of the century. Before the new millennium, not many countries considered human trafficking to be a threat to the world order, nor to the well-being of citizens. With the creation of the COMMIT process in 2004, GMS countries began cooperating for the first time in the fight against human trafficking within the region. In 2010, Vietnam slipped in status to a Tier 2 Watch List country because the Government did not fully comply with the minimum standards set forth by the TVPA to eliminate trafficking but still made some significant efforts to do so. Although the Vietnamese Government took steps to improve their status, specifically the review and amendment of the Penal Code, including the change in the wording of articles 119 and 120 to expand its scope to protect males, it was not enough since this language change did not include any provisions to help male victims. Furthermore, with the number of male victims, as well as total victims, increasing from 2010 to 2011, Vietnam remained a Tier 2 Watch List country in 2011.

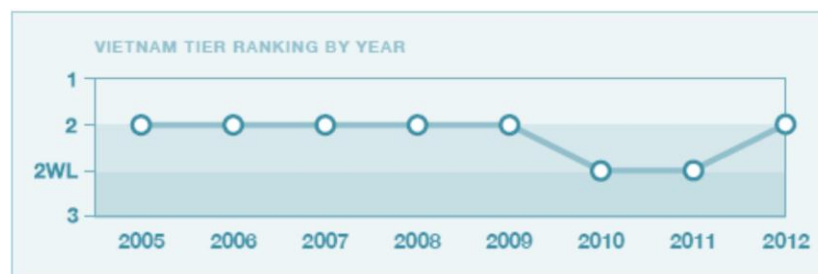


Figure 2 - Vietnam Tier Ranking by Year

By being on the Watch List, Vietnam received increased attention from the international community, as well as other GMS countries and its own citizens. As a result of this scrutiny and pressure, the Government of Vietnam made some significant changes in 2011/2012 including; establishing the new TIP Law; being involved and keeping up its cooperation across the GMS

⁹¹ U.S. Department of State. *Trafficking in Persons Report 2012*. U.S. Department of State, Published on June 19, 2012. Accessed on June 19, 2012. URL: <http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm>, p. 40, 43. Emphasis added.

region; signing new MoUs with its COMMIT counterparts; reinforcing previous agreements; fighting for male trafficked victims and more. As a result of these interventions, and after two years of being on the Tier 2 Watch List, Vietnam was recently put back on the Tier 2 list in the 2012 TIP Report published on June 19, 2012. This does not imply necessarily that Vietnam is combating human trafficking to the best of its capability, but it is at least making significant efforts. While it would be unlikely to see Vietnam become a Tier 1 country in the upcoming years, due the prevalence of human trafficking in the country, if Vietnam keeps up its efforts and persists in the fight, it will slowly but surely contribute, in its own way, to the global efforts to eliminate trafficking in persons.

Key Recommendations

Moving forward, Vietnam needs to continue to address all forms of trafficking but there is a requirement to pay particular attention to male labour trafficking as this has not been given sufficient attention to date. The broader scope of the TIP Law is a step in the right direction, but by itself, it does not make a real difference for male victims. As indicated earlier, the recommendations below do not propose to provide the full solution to the problem but rather represent a set of steps that are desirable to help solve the issue of male labour trafficking, and by consequence all types of trafficking. Proposed solutions that will contribute to solving the problem of male labour trafficking in Vietnam include: training; proactive identification; increased awareness – including gender neutral messages; education of migration laws and dangers; increased prosecution of labour trafficking cases through more active investigations; tailoring assistance to meet the needs of men; enforcing punishments; and, establishing prevention measures.

Many of these solutions are inherent in the National Plan of Action 2011-2015 which has five main objective: (1) strengthen education to raise awareness of human trafficking and encourage

community participation in prevention, (2) strengthen the effectiveness of investigations, prosecutions and trials of human trafficking cases, (3) strengthen the effectiveness of victim identification, reception, protection and reintegration, (4) finalise the legislative framework on counter trafficking measures as set by the anti-trafficking in persons law, and (5) promote international cooperation and collaboration on counter trafficking efforts.⁹² If all of these objectives are taken seriously and implemented according to the Plan, there should be no reason for Vietnam to go back on the Watch List in the years to come. However, despite progress to date, including the intent of the NPA, there are additional actions that the Vietnamese Government could take that would go even further towards the eventual elimination of trafficking in general and trafficking in males in particular.

Since the victims of trafficking are primarily identified by police officials, training these officials to recognize and properly identify situations involving trafficking is key. Moreover, these law enforcement officials need to be trained specifically to recognise the trafficking of men for various purposes, but especially for labour trafficking as this type of crime is more subtle. By being properly trained, including learning to ask the right questions, officials will be better able to identify male victims of trafficking and better positioned to provide these men with assistance. This will also aid in building cases against traffickers, bringing them to justice and saving male victims from the claws of labour exploitation.

One way to increase the effectiveness of the identification process would be to increase labour, and health and safety inspections. Providing training on labour exploitation and labour trafficking to these inspectors would be extremely valuable as they are often in a position to help authorities first uncover trafficking in persons cases. Routine or regular inspections where many

⁹² NPA 2011-2015. p.7

migrant workers are staying on site would be beneficial, especially if inspectors are trained to conduct interviews with potential victims in a respectful and timely manner. Increased and more careful inspections could have a secondary deterrent effect and actually lower the incidents of abuse as traffickers and employers would know that they were being watched more carefully. On the other hand, routine inspections might also increase problems associated with trafficking by driving abuses even further underground. Given previously identified issues of corruption in Vietnam, and throughout the GMS region, these routine interviews might be a set up and the workers might suffer negative consequences if the inspections do not go as planned. Despite these risks, the increased use of these inspections would give potential victims a chance to expose situations of exploitation and traffickers and abusive employers, could be caught on the spot.

Along the same lines, if inspectors were appropriately trained themselves, they could use inspections as opportunities to educate these male migrant workers by sharing information on human rights in the workplace, different types of exploitation and even on the issue of trafficking itself. It would be an effective way of raising awareness among these workers who are often ignorant of their rights and unacquainted with the law.

“Some of the policemen were laughing at us, saying that we were idiots, that only fools would end up in a situation of exploitation like that ...”

- male labour trafficking victim

In order for any training to be successful, whether it is the training of officials or migrants, it would be critical to address gender issues, particularly the notion of masculinity and the pressure that this creates for Vietnamese men. Males will forever be reluctant to accept help from authorities if the underlying gender issues and the concept of “what it means to be a man” in Vietnamese culture are not properly addressed. For officials, this means that they would need to respect the reluctance of male victims to talk and therefore take more time and be more patient in their categorization. Officials

would also need to respect the fact that these male victims have been cheated and deceived in the first place and that they do not need to be judged but rather, they need a listening ear and practical assistance that could help them secure justice for their traffickers. For both migrants and citizens in general, it would be important to remove the notion of shame that currently exists around admitting that males can be victims of trafficking. Males need to understand that being trafficked is a crime. It is a violation of human rights and it has nothing to do with masculinity. Furthermore, traffickers deserve to be punished for committing this crime. If male victims do not speak out, traffickers will continue to perpetuate this abuse on others and what the victims have experienced will never stop until these people are prosecuted for their crimes.

Another potential solution that could be beneficial in addressing male labour trafficking in Vietnam would be the creation of a special police unit that would deal specifically with human trafficking cases. Currently, it is the Ministry of Public Security of Vietnam (MPS) who acts as the main agency responsible for trafficking in persons cases.⁹³ This police force has many other responsibilities and tasks and therefore cannot be fully devoted to cases related to the trafficking in persons. As pointed out in a study done by USAID, specialized police have been quite effective in rescuing and assisting women that were sexually exploited since these units were aware of the situation and had been trained for the reality they were facing.⁹⁴ Creating a similar specialized police unit in Vietnam that would be responsible for both male and female trafficking could prove to be equally as effective. This unit could also be tasked with the inspections of factories, farms, construction sites, etc. Consequently, this specialized police unit could contribute to the overall prevention of trafficking in persons by assisting with protection of the victims and in the prosecution of traffickers.

⁹³ See TIP Law, chapter 6 in Appendix E.

⁹⁴ Rosenberg, p.35.

Given that many Vietnamese males are recruited through brokers or recruitment agencies before they go abroad, these agencies and brokers are partly responsible for the end result, which is the trafficking and exploitation of their “clients”. The Government of Vietnam should increase the regulation governing these recruiting agencies. In the fact, they should be required to keep a precise accounting of all the people they have sent abroad and where they have been sent. Furthermore, they should have a way to communicate with these workers and know who is hiring them and for what purpose. In addition, these agencies should be required to cooperate with DOLAB and MPS to ensure that all migrants are registered for overseas work. Even this would not be enough. Recruitment agencies and brokers should be jointly liable for trafficking crimes if it can be proven that one of their clients has been a victim of trafficking. For example, if a Vietnamese man finds work abroad through a recruitment agency and goes to another country such as China where he ends up being trafficked, the agency should be jointly liable for the trafficking crime and punished accordingly. With these consequences in place, recruiting agencies would be more prone to respect the law and hopefully fewer of these agencies would be complicit in the act of trafficking.⁹⁵

Along with increasing liability for recruitment agencies and brokers, countries in which trafficking occurs need to ensure that employers can be held liable for trafficking if such a crime is committed.⁹⁶ Employers that hire irregular migrants are often short of labour and/or do not want to pay full price for workers.⁹⁷ They expect these workers to work longer hours and accept a lower pay. If the workers do not accept these exploiting conditions and complain, the employer can simply report them as irregular migrants or not hire them at all. In many cases, the employer will arbitrarily

⁹⁵ In a World Vision study by Bjork & Gulzar, it was proven that legal recruitment agencies are sometimes complicit of trafficking and make a good profit, p. 14-18.

⁹⁶ For more information please read article by Rosenberg, Ruth (2008). Best Practices for Programming to Protect and Assist Victims of Trafficking in Europe and Eurasia. Creative Associates International, Inc. & Aguirre Division of JBS International: Washington, D.C.; Bjork & Gulzar, p. 47.

⁹⁷ Rosenberg, p. 36.

reduce the salary and sometimes withhold pay without reasons. Trafficked men, including irregular migrants, are entitled to their salary and should be compensated at the same level as non-migrant workers. In international law, victims are entitled to pursue compensation and legal mechanisms are in place to assist victims in getting appropriate compensations.

Another recommendation that would help solve the problem of male labour trafficking would be to encourage authorities to investigate and prosecute cases in the country where the trafficking and related abuses take place. Every person on earth, whether they are migrants or not, legal or irregular, black or white, handicapped or able bodied, female or male, are entitled to certain inalienable rights and to justice when they have been abused. This justice is difficult to obtain once the victim has returned to his or her home country. One way to ensure that prosecution happens in the countries in which the violations take place would be to adopt a universal level law that defines trafficking in persons as a universal crime and that would guide courts around the world in determining appropriate punishments. Since regional cooperation through the COMMIT process has been proven effective thus far in introducing measures to combat trafficking an even broader cooperation on this matter is the logical next step. This could be achieved through the establishment of a stronger law, perhaps within the UN framework. While it is acknowledged that a UN law would not be fully universal, it would be the closest to a universal context currently in existence. It is recommended that the first step towards such a universal law be undertaken by the Vietnamese Government through a motion at the next COMMIT conference to introduce a common legislation for all GMS countries. Such a law would ensure that all crimes are prosecuted in the same way throughout the GMS region thus reducing escape routes for traffickers. More importantly perhaps, it would ensure that victims are able to see their traffickers punished for their crimes wherever they are.

A discussion of potential solutions to eliminate male labour trafficking in Vietnam would not be complete without addressing the issue of corruption. In the GMS region, corruption is widespread and it is, unfortunately, part of the daily life of the Vietnamese people. Corruption appears almost to be innate and it is common through the political and power structures of the country. For decades, Vietnam has been among the most corrupt countries in the world.⁹⁸ Corruption is found at every level of government, from the top senior officials to the traffic police officers on the street. Corruption needs to be addressed, especially where it contributes to exploitation.⁹⁹ The *Anti-Corruption Law* of Vietnam needs to be applied and officials who forge documents for bribes should be further punished for having contributed to trafficking.

Many other challenges will undermine the efforts to bring the problem of male labour trafficking but all aspects of human trafficking to light and hold government accountable for solving this problem include restrictions on media freedom, a lack of independent civil society, the inadequate independence of courts, police and prosecutors as well as inadequate resources, and finally corruption. These issues are present in Vietnam but also in other countries where males and females are commonly trafficked (China, Cambodia). The institutional weaknesses of the Vietnamese Government have been pointed out several times by various international organizations such as ASEAN, UN, World Bank, Freedom House and more. Vietnamese officials have repeatedly stressed that actions will be taken to combat corruption among all levels of government but rarely address the other issues put forth.

Vietnam's judicial system is comprised of several organizations divided into three distinct levels: district courts, provincial courts and Supreme People's Courts. Judges are either appointed by

⁹⁸ Please consult the Corruption Perception Index at <http://cpi.transparency.org/cpi2011/results/> Vietnam has a score of 2.9 out of 10 (10 being less corrupt) and is ranked 112 out of 182 countries.

⁹⁹ Bjork, Chalk, p. 19.

the President of the State or elected by the National Assembly sometimes at the recommendation of the Central Selection Council, the Fatherland Front or the Ministry of Justice. According to ASEAN, even if the standards of the criminal procedures appear to be improving corruption within the legislative, executive branch of Government and the inadequate independence of the judicial system are inherent to injustices.¹⁰⁰ The 1992 Constitution grants all Vietnamese with a freedom of expression but prohibits speech that criticizes government officials or that threatens national security. The Communist Party of Vietnam (the ruling party) has set up censorship, propaganda and training departments which control all media and sets press guidelines. Since 2000, the Government has increased the meaning of what constitutes a threat to national security by adding over 2,000 violations in the area of culture and information.¹⁰¹ Since the judiciary is not fully independent, many trials related to the freedom of the press are silenced.

The media plays a crucial role in exposing corruption practices in Vietnam but also everywhere else in the world. As it is being silenced by the government or the courts other solutions must be found to expose the truth. Civil society is another medium to engage in change. Civil society Organizations in Vietnam are also lacking independence as most are in one way or another related to the state either through the Fatherland Front or other central/provincial organizations. However, UNDP and the World Bank developed many INGOs now promote civil society in Vietnam through partnerships. They engage in mass organizations to support many causes such as increased government accountability and human rights which extends to human trafficking.¹⁰²

¹⁰⁰ For more information about Vietnam's Judicial System: http://www.aseanlawassociation.org/papers/viet_chp2.pdf

¹⁰¹ Freedom House. *Vietnam – Freedom of the Press 2011*. Published in 2011. Accessed in June 2012. URL: <http://www.freedomhouse.org/report/freedom-press/2011/vietnam>

¹⁰² Thayer, Carlyle A. *One-Party Rule and the Challenge of Civil Society in Vietnam*. Presentation to Remaking the Vietnamese State: Implications for Vietnam and the Region, Vietnam Workshop, City University of Hong Kong, Hong Kong, August 21-22, 2008. URL: http://www.viet-studies.info/kinhte/CivilSociety_Thayer.pdf

The final recommendation offered by the author that could assist in solving the problem of male labour trafficking would be to educate Vietnamese men about the risks and dangers of labour migration and to tailor assistance to their particular needs. Most studies prove that many migrants are unaware of the risks of migration and further, that they are unaware of their rights and the organizations that exist throughout the world that are available to assist and support them.¹⁰³

The initial step in such a proposed education program would be to educate all citizens including men, women and children about safe migration and about exploitation. For example, World Vision has put forward a program in the GMS region to help raise awareness about safe migration and to prevent human trafficking in target areas. Education alone is insufficient but through the teaching of practical life skills, children seemed to have reacted quickly and recognized specific traps and dangers of exploitation and trafficking. In one year alone, in specified target areas, World Vision has reached 20,416 children.¹⁰⁴ If the government of Vietnam established this practice in all elementary schools throughout the country it could make a significant difference, especially since elementary school is the most attended of all of the educational years. In Canada, similar programs exist in our schools as teachers warn children about potential dangers from an early age. A common example of the messaging used in these types of programs includes “do not talk to strangers”. This same type of educational messaging could be implemented in Vietnam and throughout the GMS region.

Education and awareness campaigns in Vietnam would need to modify existing messages and images to ensure that they include references to all known types of trafficking in persons. This would mean that images of men and boys would need to be included in addition to those of women and girls and that references should be made to labour exploitation in addition to sexual

¹⁰³ Rosenberg, p. 5, 16; UNIAP. *Human Trafficking Sentinel Surveillance Viet Nam-China Border 2010*. p. x-xi

¹⁰⁴ World Vision Vietnam, *Annual Review 2011*. Hanoi: World Vision, 2011.

exploitation. Media campaigns should be sure to include such images as boys working in brick factories, men working on ships, on construction sites. These images should be accurate and represent the reality of what has happened to real victims. All citizens should be made aware that males are also a target group for trafficking, that this is a crime and that they are equally entitled to justice.

With respect to the tailoring of assistance to meet the specific needs of men, this would require further research to understand what is needed, what works and what does not work. The current gender mixed shelters are not a good solution since most males are not willing to be a part of this vulnerable environment nor are they willing to mingle with women. Shelters for men could be a good option. Such shelters could offer vocational training so that men could acquire new skills and gain back some lost confidence. Alternatively, “drop-in” centres could be established where males could come and go as they feel the need. Men who are victims of trafficking are always in need of counselling, medical attention, food, money and legal aid and these centres could be one way of meeting these needs. Perhaps the establishment of a different kind of shelter, a house of help, would be the solution. Rosenberg pointed out that in Belarus, IOM worked alongside with the Red Cross to help in the prevention of trafficking and that together they helped victims by offering services to men as they needed and this was successful.¹⁰⁵ This example offers additional ideas.

The recommendations presented in this paper represent only a few potential solutions that could help with solving the problem of male labour trafficking in Vietnam. In identifying these recommendations, the author has attempted to respect the 3“P” approach as set by international standards and the TIP Report: Prevention, Protection and Prosecution.¹⁰⁶ If Vietnam increased its

¹⁰⁵ Rosenberg, p. 39.

¹⁰⁶ For more information on the 3“P” approach please consult: <http://www.state.gov/j/tip/rls/fs/2011/167228.htm> or <http://www.un.org/wcm/content/site/chronicle/home/archive/issues2010/empoweringwomen/humantraffickingppp>

efforts to raise awareness, this would have a significant impact on the prevention aspect of male labour trafficking and would mean that the problem would, in some respects, already be easier to solve. In other words, if traffickers were less successful in luring males, the extent of the problem would start to diminish and efforts could be directed at identifying and protecting existing victims and prosecuting offenders. In other words, once the supply of labour is shut down or reduced, the demand would have to adapt and employers would have to find other ways to achieve their ends. Once could hope that they might even resort to legitimate means, including obeying labour and human rights law.

The future of male labour trafficking in Vietnam

On one level, it could be argued that we are all responsible for crimes committed against other human beings and that it is in our best interest to raise our voices to stop this type of abuse. Given that human trafficking is often described as the perfect business (due to its continuous supply and demand) it is essential for businesses around the world to engage in this fight. Both businesses and individuals should be held accountable for the mistreatment of workers. Trafficking and exploitation should not be permissible in the world we live in today.

FACT:

Trafficking victims most often “rescue” themselves.

Vietnamese people simply want to earn enough money to support their families. Poor villagers in particular, are often desperate to find work and will go to various extremes to find a job that assures them of good pay. The costs associated with seeking work abroad are often exorbitant. As the U.S. Department of State’s Trafficking in Persons Report points out, “[t]he cost of a job [abroad] for a Vietnamese migrant worker [...] may be the equivalent of \$4,250 or 3 times the [...] per capita income.”¹⁰⁷ While promises of extremely high pay lures a lot of poor Vietnamese into the

¹⁰⁷ U.S. Department of State, TIP Report 2012, p. 11

jaws of exploitation, “when they go abroad, some of these workers have debts that exceed the earnings they expect [to earn] in the first year of the [...] contract.”¹⁰⁸

Even though Vietnam has been one of the fastest growing economies in the world in recent years, with an average annual growth of 7.5%, and is projected to be the 5th fastest growing economy in the next 40 years, the Vietnamese people are still very poor.¹⁰⁹ Given this economic reality, Vietnamese males will continue to struggle to find work. When opportunities are identified therefore, particularly if these opportunities are interesting enough, job seekers will take them without hesitation, and go wherever they have to go and do whatever work is asked of them so that they can earn a living. It is up to employers to insure that the labour and human rights of all workers – migrants or not – are respected and protected at all times.

An important fact to acknowledge is that a significant percentage of victims of trafficking actually save themselves.¹¹⁰ Many escape from their exploitive situation and find their way back home. As a result, many men return home without having ever been identified as a victim of labour trafficking and without receiving any help or protection, let alone achieving justice for the abuse they suffered.

In the coming years, the data on male labour trafficking may actually reflect increases, yet this may not represent an actual increase in the number of males being trafficked. Rather, it is anticipated that the data will change in response to the fact that males will finally be taken into account by the ministries responsible for collecting data on human trafficking. Another reason for the increased in data could be attributed to changes in attitude towards trafficking due to the awareness campaigns led by the Government.

¹⁰⁸ *Ibid.*, p. 11.

¹⁰⁹ Economist Intelligence Agency, country report: Vietnam. Embassy resource.

¹¹⁰ Bjork & Chalk, p. 24-27

Because of awareness raising efforts, education campaigns outlined by the NPA and the enactment of the new anti-trafficking Law in Vietnam, male victims will be receiving more attention from many fronts. This will have positive effects as hopefully more and more males will be properly identified as victims of trafficking rather than irregular migrants, meaning that, they will receive appropriate protection and will have the chance to see their abusers punished under the judicial system. The Law, coupled with the raising of attention within the community, will most likely be the change that is needed to reduce the shame associated with this crime and to encourage males to accept being categorized as victims so that they can receive the help they need and deserve. Public campaigns will make it increasingly easier for citizens to acknowledge that trafficking exists and to accept the fact that males can be victims of such a crime. This broader awareness and acceptance will likely result in an increase in the data.

A further reason for the potential increase in data is the fact that the new Law now allows for the identification of men as potential victims by defining the crimes of labour trafficking and by broadening the scope of trafficking. Thus, government authorities, international organizations, NGOs, and foreign governments will start taking this into account in reporting the data. As a consequence, this will also contribute to a likely increase in the data for male labour (and sexual) trafficking. While the data may start to reflect increases, it does not mean that it will be a more reliable indicator of the extent of male labour trafficking in Vietnam than in the past. It will likely take several years before the Government's efforts will be truly reflected in the data and to know the true status of trafficking in Vietnam, including the status of male labour trafficking.

Traffickers need to be brought to justice. No country will be successful in eliminating human trafficking until all traffickers are brought in front of the law to face the consequences of their actions. To this day, too few traffickers are punished. This needs to change. People need to find the

courage to voice their concerns and to fight their fears. Only then will there truly be hope for eliminating this problem.

Conclusion

Every country is affected by trafficking in persons. As long as this crime is allowed to continue, no country can claim to have truly eliminated slavery. Nor can any country claim to have done enough to bring this crime to an end. As a global society, we must ensure that we all continue to fight together to eradicate this modern plague.

FACT:
 No country is freed of trafficking, everyone is affected by trafficking in persons.

The map below shows clearly¹¹¹ that every region of the world is affected by trafficking in persons. Because the GMS region is clearly the most vulnerable to exploitation in persons it is essential for this region to take this matter into its own hands and combat this harsh truth.

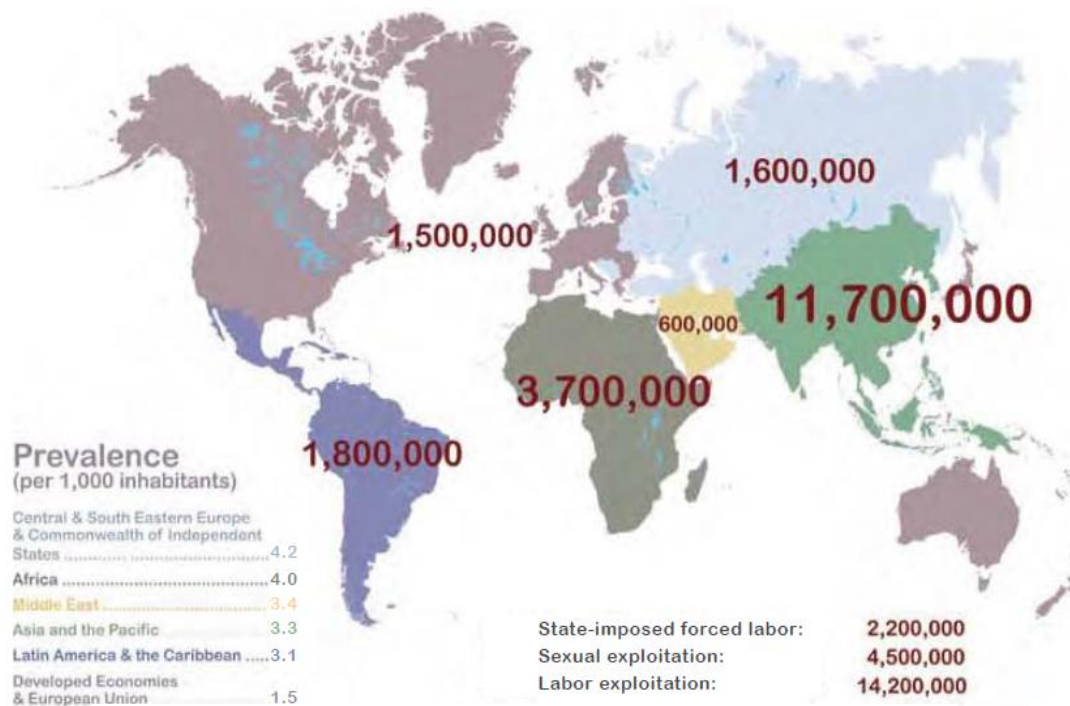


Figure 3 - Trafficking in Persons around the Globe

¹¹¹ U.S. Department of State, TIP Report 2012, p. 45.

The problem of male labour trafficking in Vietnam is challenging from the perspective that most citizens and authorities are unaware of the problem. When situations of male trafficking are exposed, authorities typically move quickly through the categorization process and identify the men involved as irregular migrants. If authorities were to take the time to properly identify victims against the three elements of trafficking as defined by the Palermo Protocol: process, means and purpose, rather than making assumptions based solely on the victims' stories they would be more likely to recognize the truth of this reality.

Given that Vietnam is primarily an origin country, it is critically important for the people to: understand and accept that males can be victims of trafficking; that this is not a crime that affects women and children only; that what happens abroad does not have to remain abroad; that there is legislation to provide victims with assistance; and, finally, that traffickers can, and should be, held accountable for their actions, even when these have occurred abroad. Due to increasing migratory

“One of the biggest impediments to anti-trafficking efforts is a lack of understanding of the issue. Trafficking is often entangled with people smuggling, immigration and asylum, prostitution and other forms of organized crime.”

- Ruth Dearnley & Steve Chalke, UN Chronicle

movements in Vietnam, it is essential that the new programs established by the National Plan of Action, aimed at raising awareness through education and national campaigns, take place as soon as possible. All Vietnamese people, including males, need to be aware of their rights and the dangers of migration. More importantly, they need to know that they can get protection and help if they are victims of trafficking, whether this happens within their own country or on foreign soil.

Addressing current gender issues associated with the concept of masculinity within Vietnamese society and focusing instead on how male labour trafficking is a violation of human and labour rights, would

be a great accomplishment. It is, in fact, an essential component in any efforts aimed at eliminating the problem of male labour trafficking, not only in Vietnam, but elsewhere.

For almost a decade, Vietnam has been committed to combating both trafficking within its borders and beyond. This year it was rewarded for its efforts by being removed from the Tier 2 Watch List of the USA TIP Report. The Vietnamese Government's efforts within the COMMIT process have been helping to tackle the problem of trafficking throughout the GMS region. Together, all COMMIT countries will need to continue this work and to be a strong, unified force against trafficking in persons in the region.

It was not the intent of this paper to provide a complete remedy for solving the problem of male labour trafficking in Vietnam. This would have been unrealistic. It is hoped, rather, that the paper was successful in identifying a number of potential solutions and recommendations that could contribute to the international dialogue and assist those organizations and governments who have assumed the courageous task of solving this complex and abhorrent crime of our modern times.

Sadly, slavery is not a thing of the past – it is very much alive today, in both the developed and underdeveloped world, under the guise of human trafficking. It is incumbent upon all of us, as fellow human beings and as citizens of our global society, to do all that we can to raise awareness of this issue and to bring an end to the tragedy and abuse suffered by those who fall victim to this crime.

“Trafficking in persons, in which men, women and children from all over the globe are transported to other countries for the purpose of forced prostitution or labor, inherently rejects the dignity of the human person, and exploits conditions of global poverty.”

- Strangers No Longer: Document of US and Mexico Bishops – November 2002

Glossary

- Brokers** Brokers are the middlemen or intermediaries who facilitate employment for migrant workers. Typically referred to as recruiters or labor brokers. This widespread system of labor brokerage is often opaque, sometimes corrupt, and largely lacking in accountability. The debt and deception that brokers use in the recruiting and hiring process can create critical vulnerabilities to trafficking and forced labor for migrant workers. Labor brokers are typically subcontracted middlemen and act as facilitators between workers and employers and assume functions ranging from matching aspiring workers to jobs, arranging for visas, making travel arrangements, providing pre-departure orientation or training, or even negotiating contracts. While brokers play a legitimate – perhaps indispensable – role in the smooth and efficient functioning of global supply chain production, their presence makes workers more vulnerable to forced labor. When there are problems in outsourced recruitment and hiring workers may be trapped in debt-bondage. (<http://www.verite.org/node/696>)
- Debt bondage** According to Article 1a. of the *UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery (1956)*, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
- Deportation** The term deportation means the removal or sending back of a foreign national to their country of origin because of his or her presence is deemed inconsistent or illegal under domestic law.
- Forced labour** According to the *ILO Forced Labour Convention No. 29 (1930)* the term “forced or compulsory labour” shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (Article 2.1)
- Gender** Gender means the differences between women and men within and between cultures that are socially and culturally constructed and change over time. These differences are reflected in: roles, responsibilities, access to resources, constraints, opportunities, needs, perceptions, views, etc. held by both women and men. Thus, gender is not a synonym for women, but considers both women and men and their interdependent relationships. (Caroline Moser, *Gender Planning and Development: Theory, Practice and Training*, 1993).
- Irregular migrant** An irregular migrant is someone who migrates from one country to another without obtaining the destination’s country legal authorisation to stay or a person

who has migrated with legal authorisation, but remains longer than allowed by the legal authorisation.

Labour exploitation Is considered a form of forced labour but with the added dimension of trafficking (i.e. recruitment and transportation).

Repatriation The term repatriation means to return an individual to his or her country of origin or citizenship. Though the end result of repatriation is the same as deportation, return to home country, repatriation is done in coordination with the embassy and sometimes with the assistance of NOGs. Official repatriation is presumably done with the best interests of the individual in mind.

Servitude According to Article 1b. of the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)* the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.

Slavery According to Article 1 of the *UN Slavery Convention (1926)*, slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. According to the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, n. 226 (1956)* institutions and practices, such as debt bondage, serfdom, forced marriage, exploitation of children, should be abolished, whether or not covered by the definition of slavery contained in article 1 of the *Slavery Convention (1926)*.

Smuggling According to the *UN Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organized Crime (2000)* “Smuggling of migrants” shall mean: The procurement to obtain, directly, or indirectly, a financial or other material benefit, of the illegal entry of a person into a State party of which the person is not a national or a permanent resident. (Article 3 (a)).

Trafficking in persons According to the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime (2000)* “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or

other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (Article 3 (a)).The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking persons” even if this does not involve any of the means set forth subparagraph (a) of this article; (Article 3 (c)).“Child” shall mean any person less than eighteen years of age. (Article 3 (d))

Victim

According to the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)* “Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. (Para 1.).A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization (Para 2).

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Appendix A: Palermo “TIP” Protocol

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

(also known as the Palermo Protocol, 2000 entered into force in 2003)

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons, Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1: Relation with the United Nations Convention against Transnational Organized Crime

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, mutatis mutandis, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2: Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3: Use of terms

For the purposes of this Protocol:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age.

Appendix B: Vietnam's Penal Code

The Vietnamese Penal Code is not reproduced in its entirety in this paper. Only the articles relevant to human trafficking before and after the amendments are available here. To consult the Penal Code of the Socialist Republic of Vietnam in full please consult the Ministry of Justice of Vietnam's website at: <http://moj.gov.vn>

THE NATIONAL ASSEMBLY

No: 15/1999/QH10

PENAL CODE
(No. 15/1999/QH10)

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom - Happiness
Ha Noi, day 21 month 12 year 1999

FOREWORD

Criminal law constitutes one of the sharp and effective instruments to prevent and combat crime, actively contributing to the defense of independence, sovereignty, unity and territorial integrity of the socialist Vietnamese Fatherland, the protection of the interests of the State as well as the legitimate rights and interests of citizens and organizations. It also contributes to the maintenance of social order and security and economic management order and provides security for all people to live in a safe, healthy and highly humane social and ecological environment. At the same time the criminal law actively contributes to doing away with elements which obstruct the process of renewal and national industrialization and modernization for a prosperous people, a strong country and an equitable and civilized society.

This Penal Code has been made on the basis of inheriting and promoting the principles and institutions of Vietnam's criminal legislation, particularly the 1985 Penal Code, as well as experiences drawn from the reality of the struggle to prevent and combat crimes over many decades of the process of national construction and defense.

The Penal Code demonstrates the spirit of active prevention and resolute combat against crimes through penalties in order to deter, educate, convert and reform offenders into honest people; thereby to imbue every citizen with the spirit and sense of being masters of the society, the sense of law observance and active participation in crime prevention and combat.

To strictly implement the Penal Code is the common task of all agencies, organizations and the entire population.

GENERAL PART

Chapter I

FUNDAMENTAL PROVISIONS

Article 1.- The tasks of the Penal Code

The Penal Code has the tasks of protecting the socialist regime, the people's mastership, equality among people of various nationalities, the interests of the State, the legitimate rights and interests of citizens and

organizations, protecting the socialist law order, opposing all acts of criminal offense; at the same time educating people in the sense of law observance and struggle to prevent and combat crime.

In order to carry out such tasks, the Penal Code defines crimes and the penalties for offenders.

Article 2.- Basis of penal liabilities

Only those persons who have committed crimes defined by the Penal Code shall bear the penal liabilities therefore.

Article 3.- Handling principles

1. All acts of criminal offenses must be timely detected and handled in a prompt, just and enlightened manner in strict accordance with laws.

2. All offenders are equal before the law, regardless of their sex, nationality, beliefs, religion, social class and status.

To severely penalize conspirators, ringleaders, commanders, die-hard opposers, wrong-doers, hooligans, dangerous recidivists, those who have abused their positions and powers to commit crimes and those who have committed crimes with treacherous ploys, in an organized and professional manner, with intention to cause serious consequences.

To grant leniency to persons who make confessions, make honest declarations, denounce accomplices, redeem their faults with achievements, show repentance, voluntarily right themselves or make compensation for damage they have caused.

3. For first-time offenders of less serious crimes, who have shown their repentance, penalties lighter than imprisonment may be imposed, and they may be placed under the supervision and education of agencies, organizations or families.

4. For persons sentenced to imprisonment, they must be compelled to serve their sentences in detention camps, to labor and study so as to become persons useful to society; if they make marked progress, they shall be considered for commutation of their penalties.

5. Persons who have completely served their sentences shall be given conditions to work and live honestly, to integrate themselves into the community, and when they fully meet the conditions prescribed by law, their criminal records shall be wiped.

Article 4.- Responsibility to struggle for crime prevention and combat

1. The police, procuracy, court, judicial and inspection bodies and other concerned agencies shall fulfill their respective functions and tasks and at the same time guide and assist other State bodies, organizations and citizens in preventing and combating crime as well as in supervising and educating offenders at community level.

2. The agencies and organizations have a duty to educate people under their respective management in raising their vigilance, the sense of law protection and observance, and respect for the regulations of socialist life; to

take timely measures to eliminate the causes of and conditions for committing crimes in their respective agencies and organizations.

3. All citizens have the obligation to actively participate in the struggle to prevent and combat crimes.

Chapter XII

CRIMES OF INFRINGING UPON HUMAN LIFE, HEALTH, DIGNITY AND HONOR

Article 113.- Forcible sexual intercourse

1. Those who employ trickery to induce persons dependent on them or persons being in dire straits to have sexual intercourse with them against their will shall be sentenced to between six months and five years of imprisonment.

2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between three and ten years of imprisonment:

- a) Many persons compel one person to have sexual intercourse with them;
- b) Committing forcible sexual intercourses more than once;
- c) Committing forcible sexual intercourses against more than one person;
- d) Being of incestuous nature;
- e) Making the victim pregnant;
- f) Causing harms to the victim's health with an infirmity rate of between 31% and 60%;
- g) Dangerous recidivism.

3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and eighteen years of imprisonment:

- a) Causing harms to the victim's health with an infirmity rate of 61% or higher;
- b) Committing the crime even though the offenders know that they are infected with HIV;
- c) Causing death to the victim or causing the victim to commit suicide.

4. Committing forcible sexual intercourses against juveniles aged over 16 years and under 18 years old, the offenders shall be sentenced to between two and seven years of imprisonment.

Committing the crime in one of the circumstances stipulated in Clause 2 or Clause 3 of this Article, the offenders shall be subject to the penalties specified in such clauses.

5. The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years

Article 119.- Trafficking in women

1. Those who traffic in women shall be sentenced to between two and seven years of imprisonment.

2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between five and twenty years of imprisonment:

- a) Trading in women for the purpose of prostitution;
- b) In an organized manner;
- c) Being of professional characters;
- d) For the purpose of sending them overseas;
- e) Trafficking in more than one person;

f) Trafficking more than once.

3. The offenders may also be subject to a fine of between five million and fifty million dong, to probation or residence ban for one to five years.

Article 120.- Trading in, fraudulently exchanging or appropriating children

1. Those who trade in, fraudulently exchange or appropriate children in any form shall be sentenced to between three and ten years of imprisonment.

2. Committing such crimes in one of the following circumstances, the offenders shall be sentenced to between ten and twenty years of imprisonment or life imprisonment:

- a) In an organized manner;
- b) Being of professional character;
- c) For despicable motivation;
- d) Trading in, fraudulently exchanging or appropriating more than one child;
- e) For the purpose of sending them abroad;
- f) For use for inhumane purposes;
- g) For use for prostitution purposes;
- h) Dangerous recidivism;
- i) Causing serious consequences.

3. The offenders may also be subject to a fine of between five million and fifty million dong, a ban from holding certain posts, practicing certain occupations or doing certain jobs for one to five years or subject to probation for one to five years

**Chapter XIV
CRIMES OF INFRINGING UPON OWNERSHIP RIGHTS**

Article 143.- Destroying or deliberately damaging property

1. Those who destroy or deliberately damage other persons property, causing damage of between five hundred thousand dong and under fifty million dong, or under five hundred thousand dong but causing serious consequences, or who have already been administratively sanctioned for such act or sentenced for such offense and not yet entitled to criminal record remission but repeat their violations shall be subject to non-custodial reform for up to three years or to a prison term of between six months and three years.

2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between two and seven years of imprisonment:

- a) In an organized manner;
- b) Employing explosives, inflammables or other dangerous means;
- c) Causing serious consequences;
- d) To conceal other crimes;
- e) For the reasons of the victims official duties;
- f) Dangerous recidivism;
- g) Causing damage to property valued between fifty million dong and under two hundred million dong.

3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:

- a) Causing damage to property valued between two hundred million dong and under five hundred million dong;
- b) Causing very serious consequences.

4. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve and twenty years of imprisonment or life imprisonment:

- a) Causing damage to property valued at five hundred million dong or higher;
- b) Causing particularly serious consequences.

5. The offenders may also be subject to a fine of between ten million dong and one hundred million dong, to a ban from holding certain posts, practicing certain occupations or doing certain jobs for one to five years.

Chapter XIX

CRIMES OF INFRINGEMENT UPON PUBLIC SAFETY, PUBLIC ORDER

Article 254.- Harboring prostitutes

1. Those who harbor prostitutes shall be sentenced to between one and seven years of imprisonment.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between five and fifteen years of imprisonment:
 - a) In an organized manner;
 - b) Coercing other persons into prostitution;
 - c) Committing the crime more than once;
 - d) Against juveniles aged between full 16 years and under 18 years;
 - e) Causing serious consequences;
 - f) Constituting a case of dangerous recidivism.
3. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve years and twenty years of imprisonment:
 - a) Against children aged between full 13 years and under 16 years;
 - b) Causing very serious consequences.
4. Committing the crime and causing particularly serious consequences, the offenders shall be sentenced to twenty years of imprisonment or life imprisonment.
5. The offenders may also be subject to a fine of between five million dong and one hundred million dong, the confiscation of part or whole of property, probation for one to five years.

Article 255.- Procuring prostitutes

1. Those who entice or procure prostitutes shall be sentenced to between six months and five years of imprisonment.

2. Committing the offenses in one of the following circumstances, the offenders shall be sentenced to between three and ten years of imprisonment:
 - a) Against juveniles aged between full 16 years and under 18 years;
 - b) In an organized manner;
 - c) Being of professional character;
 - d) Committing the offense more than once;
 - e) Constituting a case of dangerous recidivism;
 - f) Against more than one person;
 - g) Causing other serious consequences.
3. Committing the offense in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:
 - a) Against children aged between full 13 years and under 16 years;
 - b) Causing very serious consequences.
4. Committing the crime and causing particularly serious consequences, the offenders shall be sentenced to between twelve and twenty years of imprisonment.
5. The offenders may also be subject to a fine of between one million and ten million dong.

Chapter XX

CRIMES OF INFRINGING UPON ADMINISTRATIVE MANAGEMENT ORDER

Article 267.- Forging seals and/or documents of agencies and/or organizations.

1. Those who forge seals, documents or other papers of agencies and/or organizations or use such seals, documents or papers to deceive agencies, organizations and/or citizens, shall be subject to a fine of between five million dong and fifty million dong or a prison term of between six months and three years.
2. Committing the crime in one of the following circumstances, the offenders shall be sentenced to between two and five years of imprisonment:
 - a) In an organized manner;
 - b) Committing the offense more than once;
 - c) Causing serious consequences;
 - d) Constituting a case of dangerous recidivism.
3. Committing the crime and causing very serious or particularly serious consequences, the offenders shall be sentenced to between four and seven years of imprisonment.
4. The offenders may also be subject to a fine of between five million dong and fifty million dong.

This Code was passed by the National Assembly of the Socialist Republic of Vietnam, 10th Legislature, at its 6th session on December 21, 1999.

THE NATIONAL ASSEMBLY
CHAIRMAN
(signed)
Nong Duc Manh

Appendix C: Amendments to the Penal Code

THE NATIONAL ASSEMBLY

No: 37/2009/QH12

AMENDING AND SUPPLEMENTING A
NUMBER OF ARTICLES OF THE PENAL
CODE
(No. 37/2009/QH12)

SOCIALIST REPUBLIC OF VIET NAM
Independence - Freedom - Happiness
Ha Noi, day 19 month 06 year 2009

LAW

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law Amending and Supplementing a Number of Articles of Penal Code No. 15/1999/QH10.

Article 1. To amend, supplement and annul a number of articles of the Penal Code

5. To amend and supplement Article 119 as follows:

“Article 119. Trafficking in humans

1. Those who traffic in humans shall be sentenced to between two and seven years of imprisonment.
2. Committing the crime in any of the following circumstances, offenders shall be sentenced to between five and twenty years of imprisonment:
 - a/ For prostitution purposes;
 - b/ In an organized manner;
 - c/ In a professional manner;
 - d/ For taking victims’ bodily organs;
 - e/ For bringing abroad;
 - f/ Trafficking in more than one person;
 - g/ Committing the crime more than once.
3. Offenders may be imposed a fine of between five million and fifty million dong, subject to probation or residence ban for one to five years.”

6. To amend and supplement Clause 2, Article 120 as follows:

“2. Committing the crime in any of the following circumstances, offenders shall be sentenced to between ten and twenty years of imprisonment or life imprisonment:

- a/ In an organized manner;
- b/ In a professional manner;
- c/ For a despicable motive;
- d/ Against more than one child;
- e/ For taking victims' bodily organs;
- f/ For bringing abroad;

- g/ For inhuman purposes;
- h/ For prostitution purposes;
- i/ Dangerous recidivism;
- j/ Causing serious consequences.”

Article 2. To amend and supplement some phrases in Clause 1. Article 313 as follows:

1. To amend the phrase “Clause 2, Article 119 (Trafficking in women)” into “Clause 2. Article 119 “Trafficking in humans”;

Article 3.

1. This Law takes effect on January 1, 2010.
2. The Government, the Supreme People’s Court and the Supreme People’s Procuracy shall, within the ambit of their respective tasks and powers, guide the implementation of this Law.
2. This Law was passed on June 19, 2009, by the 12th National Assembly of the Socialist Republic of Vietnam at its 5 session.

THE NATIONAL ASSEMBLY
CHAIRMAN

(signed)

Nguyen Phu Trong

Appendix D : Anti-Trafficking Law of Vietnam

The Anti-Trafficking Law No. 66/2011/QH12 of the Socialist Republic of Vietnam was translated by UNIAP in English.

NATIONAL ASSEMBLY
Law No66/2011/QH12

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom - Happiness
Hanoi, March 29, 2011

LAW ON PREVENTION, SUPPRESSION AGAINST HUMAN TRAFFICKING

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10;

The National Assembly promulgates the Law on Human Trafficking Prevention and Combat.

Chapter I GENERAL PROVISIONS

Article 1. Scope of regulation

This Law provides the prevention, detection and handling of human trafficking acts and other acts in violation of the law on human trafficking prevention and combat: receipt, verification and protection of and support for victims; international cooperation in human trafficking prevention and combat: and responsibilities of the Government, ministries, sectors and localities for human trafficking prevention and combat.

Article 2. Interpretation of terms

In this Law, the terms below are construed as follows:

1. Sexual exploitation means forcing a person to prostitution or to be the subject of a pornographic publication or show or to sexual slavery.
2. Sexual slavery means forcing a person, due to his/her dependence, to satisfy the sexual demand of another person.
3. Forced labor means using force or threatening to use force or using other tricks to force a person to work against his/her will.
4. Victim means a person who is infringed upon by an act specified in Clause I. 2 or 3. Article 3 of this Law.

Article 3. Prohibited acts

1. Trafficking in persons under Articles 119 and 120 of the Penal Code.
2. Transferring or receiving persons for sexual exploitation, forced labor or removal of human organs or other inhuman purposes.
3. Recruiting, transporting or harboring persons for sexual exploitation, forced labor, removal of human organs or other inhuman purposes or for committing an act specified in Clause 1 or 2 of this Article.
4. Forcing others to commit an act specified in Clause 1. 2 or 3 of this Article.
5. Acting as a broker for others to commit an act specified in Clause 1.2 or 3 of this Article.
6. Taking revenge or threatening to take revenge on victims, witnesses, reporting persons, denunciators or their relatives or persons stopping the acts specified in this Article.
7. Taking advantage of human trafficking prevention and combat activities for self-seeking purposes or for committing unlawful acts.
8. Obstructing the reporting, denunciation and handling of the acts specified in this Article.

9. Stigmatizing or discriminating against victims.
10. Disclosing information on victims without their consent or their lawful representatives'.
11. Impersonating victims.
12. Committing other violations of this Law.

Article 4. Principles of human trafficking prevention and combat

1. To comprehensively take measures to prevent, detect and handle the acts specified in Article 3 of this Law.
2. To promptly rescue, protect and receive, accurately verify, and support victims. To respect the rights and legitimate interests of victims and neither stigmatize nor discriminate against them.
3. To bring into play the roles and responsibilities of individuals, families, communities, agencies and organizations for human trafficking prevention and combat.
4. To prevent, detect and strictly, promptly and properly handle the acts specified in Article 3 of this Law.
5. To promote international cooperation in human trafficking prevention and combat in accordance with the Constitution and laws of Vietnam and international laws and practices.

Article 5. State policies on human trafficking prevention and combat

1. Human trafficking prevention and combat are part of the program on prevention and combat of crimes and social evils and are combined in the implementation of other socio-economic development programs.
2. To encourage domestic and overseas agencies, organizations and individuals to participate and cooperate in and finance activities to prevent and combat human trafficking and support victims: to encourage domestic individuals and organizations to set up victim support establishments under law.
3. To commend and reward agencies, organizations and persons with outstanding performance in human trafficking prevention and combat: to ensure regimes and policies under law for persons who die or suffer health or property damage when participating in human trafficking prevention and combat activities.
4. The State shall annually allocate budget funds for human trafficking prevention and combat work.

Article 6. Rights and obligations of victims

1. To request competent agencies, organizations or persons to take measures to protect them or their relatives when they have or are threatened to have their life, health, honor, dignity or property infringed upon.
2. To receive support and protection under this Law.
3. To be compensated for damage under law.
4. To provide information relating to violations of the law on human trafficking prevention and combat to competent agencies, organizations and persons.
5. To comply with requests made by competent authorities concerning human trafficking cases.

Chapter II

HUMAN TRAFFICKING PREVENTION

Article 7. Information, communication and education about human trafficking prevention and combat

1. Information, communication and education about human trafficking prevention and combat aim to raise awareness and responsibilities of individuals, families, agencies, organizations and communities for human trafficking prevention and combat; to enhance their vigilance against human trafficking and active participation in human trafficking prevention and combat.
2. Information, communication and education cover:
 - a/ Policies and laws on human trafficking prevention and combat;
 - b/ Tricks and harms of the acts specified in Article 3 of this Law;
 - c/ How to behave in cases suspected of human trafficking;
 - d/ Measures for and experience in human trafficking prevention and combat;
 - e/ Responsibilities of individuals, families, agencies and organizations for human trafficking prevention and combat;
 - f/ Anti-stigmatization and discrimination against victims;

- g/ Other contents related to human trafficking prevention and combat.
- 3. Information, communication and education are carried out through:
 - a/ Face-to-face meetings and talks;
 - b/ Provision of written materials;
 - c/ The mass media;
 - d/ Activities at educational institutions;
 - e/ Literary, arts, community and other cultural activities;
 - f/ Other lawful forms.
- 4. To develop a network of grassroots communicators: to mobilize active participation of mass and social organizations.
- 5. To increase information, communication and education for women, young people, teenagers, children, pupils, students and inhabitants of border, island, deep-lying and remote areas, areas with socio-economic difficulties and areas with lots of human trafficking cases.

Article 8. Counseling on human trafficking prevention

1. To provide legal knowledge on human trafficking prevention and combat.
2. To provide information on human trafficking tricks and train in behaviors in cases suspected of human trafficking.
3. To provide information on rights and obligations of victims and perform how to perform these rights and obligations.

Article 9. Management of security and order

1. To monitor demographic and household registration status through residence administration, increasingly examine permanent and temporary residence, stay and temporary absence stains in localities.
2. To supervise persons with previous criminal records on human trafficking and others showing signs of committing the acts specified in Clauses 1. 2. 3. 4 and 5. Article 3 of this Law.
3. To effectively manage and use information on personal archives, identity and judicial records in service of human trafficking prevention and combat.
4. To increase patrol and combat at border gates, in border and island areas and at sea to promptly detect and stop the acts specified in Clauses 1. 2. 3, 4 and 5. Article 3 of this Law.
5. To furnish technical devices at international border gates for identifying persons and promptly and precisely detecting forged papers and documents: to upgrade control and inspection equipment and devices at control posts and border gates.
6. To manage the grant of personal and entry-exit papers: to apply advanced technologies to making, granting, managing and controlling personal and entry-exit papers.
7. To coordinate with functional agencies of bordering countries in border patrol and control in order to prevent, detect and stop the acts specified in Clauses 1. 2. 3, 4 and 5. Article 3 of this Law.

Article 10. Management of business and service activities

Support in marriage between Vietnamese citizens and foreigners: child adoption, job recommendation, sending of Vietnamese workers or learners abroad, recruitment of foreigners to work in Vietnam, cultural and tourist services and other conditional business and service activities vulnerable to abuse must be regular!} and closely managed and inspected to promptly detect and stop the abuse of these activities to commit the acts specified in Clauses 1. 2. 3. 4 and 5. Article 3 of this Law.

Article 11. Incorporation of human trafficking prevention into socio-economic development programs

The Government, ministries, sectors and localities should incorporate human trafficking prevention into programs on prevention and combat of crimes and social evils, vocational training, employment generation, poverty reduction, gender equality and child protection, program for the advancement of women and other socio-economic development programs.

Article 12. Human trafficking prevention by individuals

1. To participate in human trafficking prevention activities.
2. To promptly report and denounce the acts specified in Article 3 of this Law.

Article 13. Human trafficking prevention by families

1. To provide family members with information on human trafficking tricks and human trafficking prevention and combat measures.
2. To collaborate with schools, agencies, organizations and mass and social organizations in human trafficking prevention and combat.
3. To care for and assist victim family members to integrate into families and communities.
4. To encourage victim family members to cooperate with competent agencies in human trafficking prevention and combat.

Article 14. Human trafficking prevention by schools and educational and training institutions

1. To closely manage learning and other activities of pupils, students and trainees.
2. To carry out extra-curricular activities to communicate and educate about human trafficking prevention and combat appropriate to each educational level and discipline.
3. To create favorable conditions for victim pupils, students and trainees to follow general education or vocational training and integrate into the community.
4. To coordinate with families, agencies and organizations in taking measures to prevent and combat human trafficking.

Article 15. Human trafficking prevention at business and service organizations and establishments

1. Organizations and establishments doing business or providing services in marriage between Vietnamese citizens and foreigners, child adoption, job recommendation and sending of Vietnamese workers and trainees abroad, recruitment of foreigners to work in Vietnam, cultural and tourist services and other conditional business and service activities vulnerable to abuse for committing the acts specified in Clauses 1, 2, 3, 4 and 5, Article 3 of this Law, shall:
 - a/ Sign labor contracts with employees; register employees with local labor management agencies;
 - b/ Get information on those receiving their services and report it to competent authorities at their request for coordinated management;
 - c/ Commit to observing the law on human trafficking prevention and combat;
 - d/ Coordinate with and create conditions for competent agencies to inspect and examine their activities.
2. Employees of the business and service establishments specified in Clause 1 of this Article shall observe regulations on residence administration and commit not to violating the law on human trafficking prevention and combat.

Article 16. Human trafficking prevention by mass media agencies

1. To promptly and accurately cover policies and laws on human trafficking prevention and combat; to truthfully reflect the situation of human trafficking and human trafficking prevention and combat; to praise persons with outstanding performance in human trafficking prevention and combat and effective models of human trafficking prevention and combat.
2. To keep confidential information on victims.
3. To incorporate human trafficking prevention and combat into other information, communication programs.

Article 17. Human trafficking prevention by the Vietnam Fatherland Front and its member organizations

1. To organize, and coordinate with concerned agencies and organizations in, public information work to disseminate policies and laws on human trafficking prevention and combat; to mobilize people to observe the

law on human trafficking prevention and combat and actively detect, report, denounce and stop the acts specified in Article 3 of this Law.

2. To recommend to competent state agencies necessary measures to prevent, detect and handle the acts specified in Article 3 of this Law.
3. To counsel on human trafficking prevention and combat.
4. To participate in vocational training, employment generation and other support activities to assist victims to integrate into the community.
5. To oversee the observance of the law on human trafficking prevention and combat.

Article 18. Human trafficking prevention by the Vietnam Women's Union

1. To conduct communication and education to mobilize women and children to raise their sense of observance of the law on human trafficking prevention and combat.
2. To develop a network of grassroots communicators for human trafficking prevention and combat.
3. To perform the responsibilities provided in Article 17 of this Law.

Chapter III

DETECTION AND HANDLING OF VIOLATIONS OF THE LAW ON HUMAN TRAFFICKING PREVENTION AND COMBAT

Article 19. Reporting and denouncing violations

1. Individuals shall report and denounce the acts specified in Article 3 of this Law to police offices and People's Committees of communes, wards and townships (below referred to as commune-level People's Committees) or to any agencies or organizations.
2. Agencies or organizations which detect or receive information on the acts specified in Article 3 of this Law shall process such information according to their competence or promptly report it to competent agencies under law.

Article 20. Detecting violations through examination and inspection

1. An agency or organization shall regularly examine the performance of its own functions and tasks, when detecting an act specified in Article 3 of this Law, it shall handle such act according to its competence, or propose to handle it under law.
2. A competent agency or organization which detects through examination or inspection an act specified in Article 3 of this Law shall handle such act according to its competence or propose to handle it under law.

Article 21. Detecting and stopping violations through professional crime prevention and combat

Agencies, units and persons under the People's Police and the People's Army assigned to prevent and combat human trafficking shall:

1. Assume the prime responsibility for, and coordinate with concerned agencies and units in, detecting, stopping and handling the acts specified in Clauses 1, 2, 3, 4 and 5, Article 3 of this Law in areas assigned to them;
2. Take professional reconnaissance measures under law to detect and stop the acts specified in Clauses 1, 2, 3, 4 and 5, Article 3 of this Law;
3. Request individuals, agencies and organizations to provide related information and documents for detecting, investigating and handling the acts specified in Clauses 1, 2, 3, 4 and 5, Article 3 of this Law;
4. Take necessary measures to protect victims, reporting persons and witnesses and their relatives when these persons have or are threatened to have their life, health, honor, dignity or property infringed upon.

Article 22. Processing reported information on and denunciations about violations

1. Reported information on human trafficking crimes shall be processed under the Criminal Procedure Code.
2. Denunciations about violations of the law on human trafficking prevention and combat shall be settled under the law on denunciations.

Article 23. Handling violations

1. A person who commits an act specified in Article 3 of this Article shall, depending on the nature and severity of his/her violation, be administratively handled or examined for penal liability. If causing damage, he/she shall compensate under law.
2. A person who takes advantage of his/her position or powers to cover up, tolerate, improperly handle or not to handle the acts specified in Article 3 of this Law shall, depending on the nature and severity of his/her violation, be disciplined or examined for penal liability. If causing damage, he/she shall compensate under law.
3. A person who impersonates a victim shall, apart from being handled under law, repay the funds he/she has received as a victim.

Chapter IV**RECEIPT, VERIFICATION AND PROTECTION OF VICTIMS****Section I: RECEIPT AND VERIFICATION OF VICTIMS****Article 24. Receipt and verification of domestically trafficked victims**

1. A victim or his/her lawful representative may report on his/her trafficking to the commune-level People's Committee of the nearest locality or the nearest agency or organization. The receiving agency or organization shall promptly send this person to the commune-level People's Committee of the locality in which it is headquartered. The commune-level People's Committee shall promptly report such to the district-level Labor, War Invalids and Social Affairs Division. When necessary, the receiving commune-level People's Committee shall provide support to meet essential needs of the victim.
2. Within 3 days after receiving a notice of a commune-level People's Committee, a district level Labor, War Invalids and Social Affairs Division shall receive and assist the victim and coordinate with the police office of the same level in checking initial information on the victim when such person does not have any papers and documents specified in Article 28 of this Law.
3. After receiving the victim, based on the papers and documents specified in Article 28 of this Law or verifications on the victim, the district level Labor, War Invalids and Social Affairs Division shall consider paying travel expenses for the victim to return to his/her place of residence by himself/herself. For a child victim, it shall notify a relative to receive the victim or assign a person to take the victim to his/her place of residence. For a victim who needs medical or psychological care and wishes to stay at a social security or victim support establishment or who is a helpless child, it shall carry out procedures to transfer the victim to the social security or victim support establishment. For a person who does not have papers or documents proving he/she is a victim, the district-level Labor, War Invalids and Social Affairs Division shall request the police office of the same level to make verification.
4. Within 20 days after receiving a request of the district-level Labor, War Invalids and Social Affairs Division, the district-level police office shall make verification and issue a written reply to the former. For a complicated case, the verification duration may be extended, but for not more than 2 months. If having sufficient grounds to determine the person as victim, the verifying agency shall grant a certificate of victim to such person.

Article 25. Receipt and verification of rescued victims

1. The police office, border guard or marine police which has rescued a victim shall provide support to meet essential needs of the victim when necessary and promptly send him/her to the district-level Labor, War Invalids and Social Affairs Division of the locality near the place the victim is rescued.

The rescue agency shall grant a certificate of victim to the rescued person before the transfer. When the rescued person has not been certified as victim due to lack of grounds, the district-level Labor, War Invalids and Social Affairs Division shall request the police office of the same level to make verification under Clause 4, Article 24 of this Law.

2. After receiving the victim, the district-level Labor, War Invalids and Social Affairs Division shall comply with Clause 3, Article 24 of this Law. If the rescued person has not been certified as victim by the rescue agency, before paying travel expenses or transferring him/her to a social security or victim support establishment, the district-level Labor, War Invalids and Social Affairs Division shall coordinate with the police office of the same level in checking initial information on such person.

Article 26. Receipt and verification of victims returning from abroad

1. The receipt and verification of a victim returning from abroad through an overseas Vietnamese diplomatic mission, consulate or another agency authorized to perform consular functions (below referred to as overseas Vietnamese representative agency) are conducted as follows:

a/ The overseas Vietnam representative agency shall receive and process information and documents on the victim and coordinate with the Ministry of Public Security in verifying the victim, grant necessary papers and carry out procedures to send him/her home;

b/ The competent agency of the Ministry of Public Security or the Ministry of National Defense shall receive the victim and pay travel and food expenses for him/her to return to his/ her place of residence by himself/herself, and guide the victim in carrying out procedures to receive the supports provided in Articles 34 thru 38 of this Law. If the victim has no place of residence or wishes to stay at a social security or victim support establishment, it shall transfer the victim to such establishment. For a child victim, it shall notify a relative to receive the victim or assign a person to take the victim to the relative's place of residence. If the victim is a helpless child, it shall carry out procedures to transfer the victim to a social security or victim support establishment.

2. The receipt of a victim who is trafficked abroad and fully meets the conditions to return Vietnam under a bilateral international agreement complies with that agreement.

3. The receipt and verification of a victim who is trafficked abroad and returns home by himself/herself complies with Article 24 of this Law.

Article 27. Bases for identifying victims

1. A person may be identified as victim when:

a/ He/she is trafficked or transferred or received under Clause 1 or 2, Article 3 of this Law; or

b/ He/she is recruited, transported or harbored under Clause 3, Article 3 of this Law.

2. The Government shall detail Clause 1 of this Article.

Article 28. Papers and documents proving victims

1. Certificates of police offices of rural districts, urban districts, towns and provincial cities provided in Clause 4, Article 24 of this Law.

2. Certificates of rescue agencies provided in Article 25 of this Law.

3. Certificates of investigation agencies, agencies assigned to conduct investigation. People's Procuracies and People's Courts.

4. Papers and documents proving victim status issued by foreign authorities which are consularly legalized by overseas Vietnamese representative agencies or the Vietnamese Ministry of Foreign Affairs.

Section 2 PROTECTION OF VICTIMS

Article 29. Rescue and protection of victims

When having grounds to believe that a person is trafficked, an agency, unit or person specified in Article 21 of this Law shall take necessary measures to rescue that person. When that person has or is threatened to have his/her life, health, honor, dignity or property infringed upon, protection measures shall be taken.

Article 30. Safety protection of victims and their relatives

1. Safety protection measures for victims and their relatives include:

a/ Providing temporary shelter for victims and their relatives when they are threatened to have their life or health infringed upon;

- b/ Keeping confidential places of residence, working and learning of victims and their relatives;
 - c/ Measures to prevent acts of infringing upon or threatening to infringe upon the life, health, honor, dignity and property of victims and their relatives under law;
 - d/ Other protection measures under the criminal procedure law.
2. The Government shall detail the safety protection of victims and their relatives.

Article 31. Protection of confidentiality of information on victims

1. Agencies, organizations and individuals shall keep confidential information on victims, unless otherwise provided by law.
2. Courts shall consider and decide on behind-closed-door trial of human trafficking cases at the request of victims or their lawful representatives.

Chapter V

SUPPORT FOR VICTIMS

Article 32. Support beneficiaries and regimes

1. Victims who are Vietnamese citizens or stateless persons permanently residing in Vietnam may, depending on the cases specified in Articles 33 thru 38 of this Law, enjoy the following regimes:
 - a/ Support to meet essential needs and for travel expenses;
 - b/ Medical support;
 - c/ Psychological support;
 - d/ Legal aid;
 - e/ Support in general education and vocational training;
 - f/ Initial difficulty allowance, support in loan borrowing.
2. Victims who are foreigners trafficked in Vietnam may, depending on the cases specified in Articles 33 thru 36 of this Law, enjoy the supports specified at Points a. b. c and d. Clause 1 of this Article.
3. Accompanying minors of victims may, depending on the cases specified in Articles 33, 34 and 35 of this Law, enjoy the supports specified at Points a. b and c. Clause 1 of this Article.
4. The Government shall detail support regimes and the order and procedures for providing supports to victims.

Article 33. Support to meet essential needs and for travel expenses

When necessary, victims may be provided with temporary shelter, clothes, food and other essential personal articles based on practical conditions and the age, gender and health status of victims. Victims who wish to return to their places of residence but cannot afford travel and food expenses may receive support for these expenses.

Article 34. Medical support

During their stay at social security or victim support establishments, victims who need healthcare for recovery may be considered for receiving support for healthcare expenses.

Article 35. Psychological support

Victims may receive support for psychological stabilization during their stay at social security or victim support establishments.

Article 36. Legal aid

1. Victims may receive legal counseling to avoid being trafficked again and legal aid to register residence and civil status, receive supports, claim compensation, participate in judicial proceedings and carry out other legal procedures related to human trafficking cases.
2. The order and procedures for legal aid comply with the law on legal aid.

Article 37. Support in general education and vocational training

1. Victims who are minors of poor households and continue their schooling may be provided with school fees and expenses for textbooks and learning aids in the first school year.
2. Victims returning to their localities who are members of poor families may be considered for vocational training support.

Article 38. Initial difficulty allowance and loan borrowing support

1. Victims who are members of poor households returning to their localities may receive a lump-sum initial difficulty allowance.
2. Victims who wish to take loans for production and business may be considered and created conditions for taking loans under law.

Article 39. Victim support agencies and organizations

1. Commune-level People's Committees which receive victims and police offices, border guard and marine police which rescue victims shall provide support to meet essential needs of victims.
2. District-level Labor, War Invalids and Social Affairs Divisions shall support travel expenses for victims who return home by themselves.
3. Social security and victim support establishments shall provide support to meet essential needs of and psychological and medical support for victims.
4. State legal aid centers and organizations engaged in legal aid shall provide legal aid for victims.
5. Provincial-level Labor, War Invalids and Social Affairs Departments shall provide initial difficulty allowances for victims; and coordinate with provincial-level Health Departments and Education and Training Departments in providing medical support and general education and vocational training support for victims.

Article 40. Social security and victim support establishments

1. Public social security establishments shall provide the following supports to victims:
 - a/ Receiving and providing lodging for victims;
 - b/ Providing support to meet essential needs and medical and psychological support suitable to the age, gender and expectations of victims and the establishments' capacity;
 - c/ Training in living skills and providing vocational orientations for victims;
 - d/ Assessing victims' ability to integrate into the community; providing information on support policies, regimes and services for victims in the community;
 - e/ Providing necessary information for functional agencies to prevent and tight the acts specified in Article 3 of this Law;
 - f/ Coordinating with concerned agencies in sending victims to their places of residence;
 - g/ Coordinating with police offices in verifying, victims.
2. Victim support establishments shall be set up by Vietnamese organizations or individuals to perform the jobs specified in Clause 1 of this Article in accordance With their establishment licenses. The setting up and operations of these establishments are not funded by the state budget.

The Government shall specify conditions, order and procedures for setting up victim support establishments.

Chapter VI**RESPONSIBILITIES OF THE GOVERNMENT, MINISTRIES, SECTORS AND LOCALITIES FOR HUMAN TRAFFICKING PREVENTION AND COMBAT****Article 41. State management responsibilities for human trafficking prevention and combat**

1. The Government shall uniformly perform the state management of human trafficking prevention and combat.
2. The Ministry of Public Security shall assist the Government in performing the state management of human trafficking prevention and combat and perform the tasks and powers provided in Article 42 of this Law.

3. The Ministry of National Defense, the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Health, the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Culture, Sports and Tourism, the Ministry of Education and Training, the Ministry of Information and Communications and other ministries and ministerial-level agencies shall, within the ambit of their tasks and powers, coordinate with the Ministry of Public Security in performing the state management of human trafficking prevention and combat, and perform the tasks and powers under Articles 43 thru 50 of this Law and related laws.
4. People's Committees of all levels shall, within the ambit of their tasks and powers, perform the state management of human trafficking prevention and combat in their localities and perform the tasks and powers provided in Article 52 of this Law.

Article 42. Responsibilities of the Ministry of Public Security

1. In performing the state management of human trafficking prevention and combat, the Ministry of Public Security shall:
 - a/ Propose the Government to elaborate and improve the law on human trafficking prevention and combat and sign or accede to treaties concerning human trafficking prevention and combat;
 - b/ Formulate and propose competent agencies to promulgate or promulgate according to its competence legal documents, programs and plans on human trafficking prevention and combat;
 - c/ Assume the prime responsibility for, and coordinate with concerned ministries and sectors and direct provincial level People's Committees in implementing legal documents, programs and plans on human trafficking prevention and combat;
 - d/ Assume the prime responsibility for, and coordinate with concerned agencies and organizations in promulgating and implementing regulations on training and retraining of personnel in charge of human trafficking prevention and combat;
 - e/ Assume the prime responsibility for, and coordinate with concerned agencies and organizations in making statistical reports on human trafficking prevention and combat; summarize practical experience in and expand models of human trafficking prevention and combat;
 - f/ Inspect and examine the implementation of the law on human trafficking prevention and combat;
 - g/ Carry out international cooperation in human trafficking prevention and combat according to its competence.
2. In preventing and combating human trafficking, the Ministry of Public Security shall:
 - a/ Arrange forces to prevent and combat human trafficking;
 - b/ Manage security and order to prevent human trafficking;
 - c/ Direct police offices in receiving, verifying and supporting victims under Articles 24, 25 and 26 of this Law;
 - d/ Launch campaigns for all people to participate in the crime prevention, detection and combat to maintain social order and safety.

Article 43. Responsibilities of the Ministry of National Defense

1. To assume the prime responsibility for, and coordinate with concerned ministries and sectors in conducting information, communication work to mobilize inhabitants of border areas and islands to participate in human trafficking prevention and combat activities.
2. To direct border guard and marine police forces in preventing and combating human trafficking in border areas and at sea under law. to receive and support victims under Articles 25 and 26 of this Law.
3. To manage security and order in border areas and islands and at sea to prevent human trafficking.
4. To carry out international cooperation in human trafficking prevention and combat according to its competence.

Article 44. Responsibilities of the Ministry of Labor, War Invalids and Social Affairs

1. To formulate and propose competent authorities to promulgate victim support policies; to guide victim support measures according to its competence.
2. To manage, guide, examine and inspect victim support activities.

3. To direct the incorporation of human trafficking prevention and combat into programs on poverty reduction, vocational training, employment generation, social evil prevention and combat, gender equality and child protection.
4. To guide social security and victim support establishments in supporting victims.
5. To coordinate with the Ministry of Health and the Ministry of Education and Training in supporting victims in health, general education and vocational training.
6. To manage, guide, examine and inspect activities related to job recommendation, sending of Vietnamese workers abroad and recruitment of foreigners to work in Vietnam to prevent and combat the abuse of these activities for human trafficking.
7. To carry out international cooperation in human trafficking prevention and combat according to its competence.

Article 45. Responsibilities of the Ministry of Health

To direct and guide health establishments in coordinating with social security and victim support establishments in providing medical support for victims.

Article 46. Responsibilities of the Ministry of Foreign Affairs

1. To direct and guide overseas Vietnamese representative agencies in protecting Vietnamese citizens who are trafficked abroad: to coordinate with competent Vietnamese and foreign agencies in making verifications and carrying out necessary procedures to send Vietnamese victims home.
2. To coordinate with the Ministry of Public Security and other competent agencies in carrying out international cooperation in human trafficking prevention and combat.

Article 47. Responsibilities of the Ministry of Justice

1. To coordinate with the Ministry of Public Security and concerned agencies in formulating, improving, and monitoring the implementation of, the law on human trafficking prevention and combat.
2. To organize and guide the popularization of and education about the law on human trafficking prevention and combat.
3. To manage, guide, examine and inspect marriage support and child adoption activities in order to prevent and combat the abuse of these activities for human trafficking.
4. To guide state legal aid centers and organizations engaged in legal aid in providing legal aid for trafficking victims under law.
5. To coordinate with the Ministry of Public Security and other competent agencies in carrying out international cooperation in human trafficking prevention and combat.

Article 48. Responsibilities of the Ministry of Culture, Sports and Tourism

1. To direct the incorporation of human trafficking prevention and combat into cultural, tourist and family programs.
2. To manage, guide, examine and inspect domestic and overseas tourist activities, activities of tourist lodging and tourist service establishments in order to prevent and combat the abuse of these activities for human trafficking.
3. To organize and guide information, communication on human trafficking prevention and combat and in business activities of tourist lodging and tourist service establishments.

Article 49. Responsibilities of the Ministry of Education and Training

1. To direct the incorporation of knowledge on human trafficking prevention and combat into extra-curricular programs appropriate to each education level and discipline and communication on and education about human trafficking prevention and combat for pupils, students and trainees.
2. To direct schools and other educational institutions of the national education system in performing the tasks provided in Article 14 of this Law.
3. To manage, guide, examine and inspect the sending of trainees abroad in order to prevent and combat the abuse of this activity for human trafficking.

Article 50. Responsibilities of the Ministry of Information and Communications

1. To direct mass media agencies in performing the tasks provided in Article 16 of this Law.
2. To closely manage and regularly examine and inspect Internet service providers in order to prevent and combat the abuse of this service for human trafficking.

Article 51. Responsibilities of People's Procuracies and People's Courts

1. People's Procuracies and People's Courts shall, within the ambit of their functions, tasks and powers, promptly and strictly handle violations of the law on human trafficking prevention and combat: and coordinate with concerned agencies and organizations in preventing and combating human trafficking.
2. The Supreme People's Procuracy shall make statistics on human trafficking crimes.

Article 52. Responsibilities of People's Committees of all levels

1. Within the ambit of their functions, tasks and powers. People's Committees of all levels shall:
 - a/ Incorporate human trafficking prevention and combat into socio-economic development programs;
 - b/ Organize human trafficking prevention and combat work;
 - c/ Allocate budget funds for human trafficking prevention and combat;
 - d/ Promptly and strictly handle violations of the law on human trafficking prevention and combat;
 - e/ Manage security and order to prevent and combat human trafficking.
2. In addition to the responsibilities provided in Clause I of this Article, commune-level People's Committees shall:
 - a/ Assume the prime responsibility for. and coordinate with commune-level Vietnam Fatherland Front Committees and their member organizations in. organizing and facilitating the counseling on human trafficking prevention and combat at grassroots level;
 - b/ Receive and support victims under Clause 1, Article 24 of this Law:
 - c/ Create conditions for victims to integrate into the community.

Chapter VIIINTERNATIONAL COOPERATION IN HUMAN TRAFFICKING PREVENTION AND COMBAT**Article 53. International cooperation principles**

The Vietnamese State implements the policy on international cooperation in human trafficking prevention and combat on the principles of equality, voluntariness and respect for independence and sovereignty.

Article 54. International cooperation

1. Pursuant to this Law and related treaties to which the Socialist Republic of Vietnam is a contracting party, competent Vietnamese agencies shall cooperate with concerned agencies of other countries, international organizations and foreign organizations and individuals in improving legal capacity, communication, technology and training in human trafficking prevention and combat.
2. Coordination among concerned agencies of Vietnam and other countries in settling human trafficking cases complies with treaties to which the Socialist Republic of Vietnam is a contracting party.

When Vietnam and an involved country are not concurrently contracting parties to a treaty, competent Vietnamese agencies shall carry out international cooperation on the reciprocity principle and in accordance with Vietnamese laws and international laws and practices.

Article 55. International cooperation in rescue and repatriation of victims

1. The Vietnamese State shall create conditions for Vietnamese functional agencies to cooperate with concerned foreign agencies in rescuing and protecting victims.
2. The Vietnamese State shall create favorable conditions for foreign victims to repatriate to their countries of citizenship or countries of last residence; and take measures to ensure repatriation of victims in accordance

with law and treaties between Vietnam and other countries and assure safety of life, health, honor and dignity of victims.

Article 56. Mutual legal assistance

Mutual legal assistance between Vietnam and an involved country complies with treaties to which Vietnam and that country are contracting parties or the reciprocity principle in accordance with Vietnamese laws and international laws and practices.

The Vietnamese State shall prioritize mutual legal assistance in human trafficking prevention and combat to countries which sign bilateral agreements with Vietnam.

Chapter VIII
IMPLEMENTATION PROVISIONS

Article 57. Effect

This Law takes effect on January 1, 2012.

Article 58. Implementation guidance

The Government shall detail articles and clauses of this Law as assigned; and guide other necessary contents of this Law to meet state management requirements.

This Law was passed on March 29, 2011, by the XIIth National Assembly of the Socialist Republic of Vietnam at its 9th session. -

CHAIRMAN OF THE NATIONAL ASSEMBLY

Nguyen Phu Trong

Appendix E: Trafficking versus Smuggling

Most of the elements of table below comes from the International Center for Migration Policy Development but was supplemented UNODC elements and explains the difference between Human Smuggling and Human Trafficking.

Element	Smuggling	Trafficking
Type of crime	Crime against State – no victim by the crime of smuggling as such (violation of immigration laws/public order; the crime of smuggling by definition does not require violations of the rights of the smuggled migrants)	Crime against person – victim; violation of the rights of the victim of trafficking by definition (violation of person’s human rights; victim of coercion and exploitation that give rise to duties by the State to treat the individual as a victim of a crime and human rights violation)
Why do we fight it?	To protect sovereignty of the state	To protect a person against human rights violations; obligation of the State to provide adequate protection to its citizens
Nature of crime and duration of customer relationship	Commercial; relationship between smuggler and migrant ends after illegal border crossing achieved and fee paid	Exploitative; relationship between trafficker and victim continues in order to maximise economic and/or other gains from exploitation
Purpose	For financial or other material benefits	For exploitation: prostitution or other forms of sexual exploitation, forced labour and services, slavery and similar practices, involuntary servitude and removal of organs.
Rationale	Organised movement of persons for profit	Organised recruitment/movement and (continuous) exploitation of the victim for profit
Border crossing	Illegal border crossing is a defining element. Transnationality is required.	Purpose of exploitation is the defining element, border crossing is not an element of the crime. Transnationality is <i>not</i> required
Consent	Migrant’s consent to illegal border crossing	Either no consent, or initial consent made irrelevant because of use of force, coercion, at any stage of the process

International Center for Migration Policy Development. *Difference between Smuggling and Trafficking*.
<http://www.anti-trafficking.net/differencebetweensmugglingand.html>.

Appendix F: Trafficking Victims Protection Act of 2000

H.R.3244

One Hundred Sixth Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fourth day of January, two thousand

An Act

To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[...]

DIVISION A--TRAFFICKING VICTIMS PROTECTION ACT OF 2000

SEC. 108. MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

(a) **MINIMUM STANDARDS-** For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

- (1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.
- (2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
- (3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
- (4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) **CRITERIA-** In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

- (1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country.
- (2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.
- (3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

- (4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.
- (5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).
- (6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.
- (7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.