Violence, Exploitation, and Abuse and Discrimination in Migration

Affecting Women and Children in ASEAN:
A Baseline Study
Vietnam

Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study
Violence, Exploitation, and Abuse and Discrimination in Migration Affecting Women and Children in ASEAN: A Baseline Study

by

Huong Le Thu
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<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Population</strong></td>
<td>Male: 42,036,891</td>
</tr>
<tr>
<td></td>
<td>Female: 43,752,682</td>
</tr>
<tr>
<td></td>
<td>Both sexes: 85,789,573 (2010 projections)</td>
</tr>
<tr>
<td><strong>Life expectancy</strong></td>
<td>Male: 69.72</td>
</tr>
<tr>
<td></td>
<td>Female: 74.92</td>
</tr>
<tr>
<td></td>
<td>Both sexes: 72.18 (2011)</td>
</tr>
<tr>
<td><strong>Age structure</strong></td>
<td>Children (0-14 years): 25.2%</td>
</tr>
<tr>
<td></td>
<td>Working age (15-64 years): 69.3%</td>
</tr>
<tr>
<td></td>
<td>Elderly (65 years and over): 5.5%</td>
</tr>
<tr>
<td><strong>Sex ratio</strong></td>
<td>At birth: 1.117 male(s)/female</td>
</tr>
<tr>
<td></td>
<td>Under 1.1 male(s)/female</td>
</tr>
<tr>
<td></td>
<td>15-64 years: 0.99 male(s)/female</td>
</tr>
<tr>
<td></td>
<td>65-over: 0.62 male(s)/female</td>
</tr>
<tr>
<td></td>
<td>Total: 0.99 male(s)/female</td>
</tr>
<tr>
<td><strong>Religions</strong></td>
<td>Buddhist (9.3%), Catholic (6.7%), HoaHao (1.5%), Cao Dai (1.1%), Protestant (0.5%), Muslim (0.1%), none (80.8%)</td>
</tr>
<tr>
<td><strong>Ethnic groups</strong></td>
<td>Kinh [Viet] (85.7%), Tay (1.9%), Thai (1.8%), Muong (1.5%), Khmer (1.5%), Mong (1.2%), Nung (1.1%), others (5.3%)</td>
</tr>
<tr>
<td><strong>Functional literacy rate</strong></td>
<td>Male: 96.1%</td>
</tr>
<tr>
<td></td>
<td>Female: 92%</td>
</tr>
<tr>
<td></td>
<td>Both sexes: 94% (2009 census)</td>
</tr>
<tr>
<td><strong>Net enrolment ratio in secondary schools</strong></td>
<td>Male: 70%</td>
</tr>
<tr>
<td></td>
<td>Female: 64%</td>
</tr>
<tr>
<td><strong>Migration rate</strong></td>
<td>Net: -0.35 migrant(s)/1,000 population (2011)</td>
</tr>
<tr>
<td><strong>Number of citizens working overseas</strong></td>
<td>3,700,000 (2001-2007)</td>
</tr>
<tr>
<td><strong>Number of foreign workers in country</strong></td>
<td>74,000 (2011)</td>
</tr>
<tr>
<td><strong>Percentage of female-headed households</strong></td>
<td>26.8 % (2004)</td>
</tr>
</tbody>
</table>

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| **Labor force participation rate** | Male: 76%  
Female: 68%  
Both sexes: 71.90% (2009) |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unemployment rate</strong></td>
<td>4.4% (2010)</td>
</tr>
<tr>
<td><strong>Proportion of unpaid family workers</strong></td>
<td>4.3% (as of July 2010)</td>
</tr>
<tr>
<td><strong>Fertility rate</strong></td>
<td>1.91 children born/woman (2011)</td>
</tr>
<tr>
<td><strong>Maternal mortality rate</strong></td>
<td>56 deaths/100,000 live births (2008)</td>
</tr>
</tbody>
</table>
| **Infant mortality rate** | Male: 21.27 deaths/1,000 live births  
Female: 20.48 deaths/1,000 live births  
Both sexes: 20.9 deaths/1,000 live births (2011) |
| **Legal definition of “child”** | Vietnam’s 2004 Law on Child Protection, Care and Education (Law on Child Protection) defines children as under 16 years of age.  
Vietnam’s Civil Code (article 20) defines a child as anyone under 18. |
| **Age of majority** | Eighteen (18) years of age. |
| **Marriageable age** | The legal age for marriage in Vietnam is 18 years old for women and 20 years old for men. |
| **Age of consent (also referred to as legal age for sexual activities)** | Eighteen (18) years of age. |
| **Age of criminal responsibility** | Vietnam’s Penal Code of 1997 (revised in 1999) defines the age of criminal responsibility to be 14 (for criminal offenses) but 12 for administrative offenses. |
| **Minimum age of employment** | According to Vietnam’s Labor Law, 18 years old is the minimum age for employment; however, children as young as 15 can be employed under certain circumstances. |
| **Minimum age for military recruitment and participation** | There is a compulsory military service for all males that are 18 years of age and above. Females who have reached this age may volunteer for any duty military service.  
The conscript military service obligation is 2 years. For navy, it would be 3 to 4 years. |
| **National poverty line (in thousand dongs per capita per month)** | Urban areas: 500  
Rural areas: 400 (2010) |

17 Ibid.  
18 Ibid.  
National/government poverty lines are in the Note below Table 9.4.  
Population poverty rate is found in Table 9.4 itself.  
### Table 2: Relevant UN Conventions and Reports which Vietnam Acceded or Ratified

<table>
<thead>
<tr>
<th>UN Conventions and Reports</th>
<th>Signature</th>
<th>Ratification or Accession</th>
<th>Last Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention on Rights of the Child</td>
<td>26/02/1990</td>
<td>28/02/1990</td>
<td>10/05/2000</td>
</tr>
<tr>
<td>Convention on Elimination of All Forms of Discrimination against Women</td>
<td>29/07/1980/</td>
<td>12/02/1982</td>
<td>15/06/2005</td>
</tr>
<tr>
<td>Convention Concerning the Minimum Age for Admission to Employment (ILO 138)</td>
<td>29/07/1980</td>
<td>24/06/2003</td>
<td></td>
</tr>
<tr>
<td>International Covenant on Civil and Political Rights</td>
<td>24/09/1982</td>
<td>03/04/2001</td>
<td></td>
</tr>
<tr>
<td>Convention Against Trans-national Organized Crime</td>
<td>13/12/2000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: UNICEF

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Vietnam is divided into 56 provinces; 5 centrally-governed cities are at the same level as provinces. Measuring 2,000 km from North to South, Vietnam has a long coastline and ¾ of the country made up of hills and mountainous areas. The geography of Vietnam plays an important role in terms of ethnic diversity and the standard of living across the country. Geographical conditions affect not only national development, (e.g. distribution of wealth and opportunities), but also are significant factors for certain phenomena, such as migration, trafficking, and marriage migration.
A. OVERVIEW

“Women are half of the society. If women are not liberated, then half of humankind is not liberated.”

Vietnam is situated in the Indochinese Peninsula and is a member of the Association of Southeast Asian Nations (ASEAN). Due to the geographical length of the country, Vietnam is very diverse in terms of climate, geographical features, culture, and social customs. With multi-ethnic structure and multi-religious practices, Vietnam boasts of cultural richness, but also faces challenges of equality in protection and implementation of human rights across the country.  

Vietnam went through many centuries of wars and conflicts. In fact, the Indochinese war was one of the longest conflicts in contemporary history. In 1975, North Vietnam and South Vietnam were unified and formed the Socialistic Republic of Vietnam. The post-war period was marked with economic hardship and under-development. The after-math of the war shattered the country’s economy and infrastructure. It left behind tremendous problems with Agent Orange victims, unexploded landmines, and bombs. Increasing poverty and hunger made the Government adopt a reform policy. The Doi Moi (Renovation) reforms were introduced in 1986, bringing significant economic, social, and cultural changes starting with development of a market economy.  

Positive Trends after the Reforms

In recent years, Vietnamese efforts in poverty reduction and achieving other Millennium Development Goals have been recognized and praised internationally. From ranking as one of the poorest countries in the world in the 1980s, Vietnam in the 1990s managed to sustain national economic growth at 6-7%. It managed to reduce poverty from 70% in the mid-1980s to 58% in 1993 and down to 14% in 2008. It has maintained growth rate at 5-7% throughout the last decade. Most of the changes that Doi Moi brought, such as economic and social empowerment, participation in economic activities, political life, mobility, internationalization by acceding to international Conventions, had a positive effect on gender equality.  

Vietnam was one of the first countries that ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and one of few countries that actually completed the 5th and 6th CEDAW reports. The Second Periodic Report on CEDAW concluded, “the Government of Vietnam has exerted great efforts to implement its commitment to the Convention. The efforts have been clearly reflected in the renovation of the political system and the development of its legal system in order to create an appropriate and sustainable political and legal basis as well as effective institutions to ensure women’s enjoyment of their rights as enshrined in the Convention.”

Negative Impacts of Modernization

Although formidable progress in socio-economic development has occurred due to modernization reforms, some groups, such as children, women, and, particularly, ethnic minorities, have become more vulnerable due to growing gaps.  

Open borders and mobility of human resources increase vulnerability of women and children to trafficking, both cross-border, as well as internally. Social transformation has also created more opportunities for men to be mobile and engage in sexual relationships outside of marriage than in the pre-Doi Moi era. A number of social problems such as trafficking in persons, forced labour, sexual exploitation, child prostitution, child pornography, and even drug abuse have been reported as alarmingly increasing in recent years. Observers agree

30 Ho Chi Minh.
34 "CEDAW 2nd Periodic Review","P.65
that the reforms along, with the Asian economic down turn, have had a negative impact on the status of women in Vietnam. Due to rising demands for double income in households, women are expected to contribute financially to the family's economy. Increasing participation of women in formal employment has created a competitive professional environment for women. At the same time, they are still regarded as primary care givers of the children and family. While working hours outside of home have increased for women, hours spent on chores have not proportionally decreased or been equally distributed with their husbands. Facing double expectations of full-time professionals and housewives is burdensome and lead to stress, as well as challenges to women's health.

Gender Perspective

Historical conditions have built a certain national character and specific conditions for women's development. The wars in fact empowered women, as they had to take leadership in decision-making in their own households as well as in society while men were on the battlefields. Therefore, female participation in country's economy has been impactful throughout the history of Vietnam. At the foundation of the Socialist Republic of Viet Nam, women's role in society was recognized as equal to men in all respects. President Ho Chi Minh said: "Women are half of society. If women are not liberated, then half of humankind is not liberated." Hence, both 1946 and 1992 Constitutions reaffirmed women's rights equally in political life and society.36

However, gender equality remains a concern for Vietnam, despite the rapid social and economic development. Although, the Vietnamese legal system has guaranteed gender equality in all forms, gender discrimination still occurs on the cultural and societal basis. In fact, deeply rooted gender bias in favour for men is still true regardless of region, religion, ethnicity or marital status. A study conducted by the Vietnamese Women's Union on the perception of gender equality showed that 76.4% of respondents of Kinh ethnicity (the main ethnic group in Vietnam) agreed on male superiority over female. That perception involves such issues as preference of boy over girl babies, more investment in education for boys than girls, property inheritance favouring sons than daughters, preference of male employees over female, and gender-based disparity in salaries, as well as household division of chores etc.

Economic and Political Participation

An assessment by the Asian Development Bank on the gender situation concluded that "in many areas, Viet Nam leads the Asia Pacific region on gender equality indicators."38 In terms of economic participation, Vietnam not only ranks one of the highest in the region, but also in the world, with 85% of men and 83% of women between age of 15 and 60 participating in economic activities in 2002.39

In the comparative context within the region, some Vietnamese indicators on gender equality (e.g. political participation in national parliaments) are optimistic. According to the UN Human Development Index (HDI) and Gender Development Index (GDI), Viet Nam ranks 105/177 and 91/157 respectively. Vietnam is also in the list of countries that have established the Gender Empowerment Measure (GEM) and ranks 52/93 on it.40

In terms of proportion of wage between men and women, Vietnam also presents positively in comparison to certain Asian countries:

Table 3: Ratio of female to male earning for selected Asian countries:

<table>
<thead>
<tr>
<th></th>
<th>Vietnam</th>
<th>China</th>
<th>Indonesia</th>
<th>Thailand</th>
<th>Malaysia</th>
<th>Japan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated earned</td>
<td>2,964</td>
<td>2,026</td>
<td>3,961</td>
<td>2,289</td>
<td>6,075</td>
<td>38,612</td>
</tr>
<tr>
<td>income in 2002</td>
<td>(PPP $US) Male</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated earned</td>
<td>663</td>
<td>663</td>
<td>516</td>
<td>472</td>
<td>46.1</td>
<td></td>
</tr>
<tr>
<td>income in 2002</td>
<td>(PPP $US) Female</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ratio of female to male income (%)</td>
<td>17,795</td>
<td>12,869</td>
<td>8,784</td>
<td>2,964</td>
<td>4,202</td>
<td>38,612</td>
</tr>
</tbody>
</table>

Source: ADB, “Viet Nam: Gender Situation Analysis,” citing UNDP Human Development Report, 200541

36 “CEDAW 2nd Periodic Review.” P. 29
39 Ibid. Pii
41 ADB, “Viet Nam: Gender Situation Analysis.” P.4
Yet, there are still evidences of gender gap. Despite relatively high participation in national bodies, women rarely reach the highest position in the top leadership. This is due to the cultural and social context, which designates women as home-keepers who thus bear a heavier burden of coping with both professional work and domestic work at the same time. Many women indicate themselves that they do not aspire for top leadership positions, because family matters would distract them from their professional responsibilities.

Table 4: Female participation in national parliaments in East Asia and Pacific

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country</th>
<th>%women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Viet Nam</td>
<td>27</td>
</tr>
<tr>
<td>2</td>
<td>Timor - Leste</td>
<td>25</td>
</tr>
<tr>
<td>3</td>
<td>Lao’s People’s Dem. Rep</td>
<td>23</td>
</tr>
<tr>
<td>4</td>
<td>China</td>
<td>20</td>
</tr>
<tr>
<td>5</td>
<td>Singapore</td>
<td>16</td>
</tr>
<tr>
<td>6</td>
<td>Philippines</td>
<td>15</td>
</tr>
<tr>
<td>7</td>
<td>Korea, Rep. of</td>
<td>13</td>
</tr>
<tr>
<td>8</td>
<td>Indonesia</td>
<td>11</td>
</tr>
<tr>
<td>9</td>
<td>Cambodia</td>
<td>10</td>
</tr>
<tr>
<td>10</td>
<td>Malaysia</td>
<td>9</td>
</tr>
<tr>
<td>11</td>
<td>Thailand</td>
<td>7</td>
</tr>
<tr>
<td>12</td>
<td>Mongolia</td>
<td>7</td>
</tr>
<tr>
<td>13</td>
<td>Samoa (western)</td>
<td>6</td>
</tr>
<tr>
<td>14</td>
<td>Fiji</td>
<td>6</td>
</tr>
<tr>
<td>15</td>
<td>Vanuatu</td>
<td>4</td>
</tr>
<tr>
<td>16</td>
<td>Papua New Guinea</td>
<td>1</td>
</tr>
<tr>
<td>17</td>
<td>Tonga</td>
<td>0</td>
</tr>
<tr>
<td>18</td>
<td>Solomon Island</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: ADB, Viet Nam: Gender Situation Analysis, February 2005

Despite efforts in education about gender equality principles, a history of multiple wars that empowered women, and some influences of matrilineal tradition, Vietnam remains a male-oriented society under influence of Confucian values. It is reflected in political participation scheme. The number of women in politics is relatively high, and they occupy different levels of representation. Nevertheless, the top level of decision makers (Secretary of Party, Chairperson of People’s Committee, Chairman of People’s Council) is 100% reserved for men.

Gender and Population

Vietnam faced the problem of a baby boom after the end of the war in 1975. Coupled with economic difficulties as a result of post-war conditions, the government came up with a strategy on population and family planning in 1993. Due to the birth rate reduction policy, each family is recommended to limit itself to two children. The Vietnamese government has been effective in achieving its goals of population control and as a matter of fact, Vietnam received in 1999 the UN Population Award. Currently, under Clause 10 of Vietnam’s Population Ordinance 09/2008/UBTVQH12, families should be limited to one or two children only.

While Vietnam has been recognized as a leader in the region in policy and legislation to promote gender equality and to end violence against women, the issues remain a serious problem due to traditional perceptions and patriarchal values. Patrilineal and patrilocal traditions in Vietnam cause a variety of gender-based issues, and produce deeply rooted discrimination in terms of sex preference of babies, land ownership, and inheritance law. Son preference remains strong not only in rural areas. Statistics show the imbalance of sexual rate at birth, proving that son preference over daughter is still common. A study showed that, in 2000, there were 104-106 boys to every 100 girls; in 2007 the number of boys were 111 to every 100 girls; in 2008 the ratio was 112 to 100; and in 2009, 111 boys to 100 girls.

Table 5: A comparison of sex ratio at birth in selected years

<table>
<thead>
<tr>
<th>Year</th>
<th>Female</th>
<th>Male</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>100</td>
<td>104-106</td>
</tr>
<tr>
<td>2007</td>
<td>100</td>
<td>111</td>
</tr>
<tr>
<td>2008</td>
<td>100</td>
<td>112</td>
</tr>
<tr>
<td>2009</td>
<td>100</td>
<td>111</td>
</tr>
</tbody>
</table>

Source: Researcher’s compilation based on UNFPA Viet Nam: “Recent Change in the Sex Ratio at birth in Vietnam: a Review of Evidence”

42 Ibid. P. 53
Abortion and Reproductive Rights

Some reports have drawn attention to the birth control campaigns as a violation of women's reproductive rights. "Abortion is provided free of charge in cases where women become pregnant whilst using clinical contraceptive measures (IUSs, sterilization, contraceptive injections or implants) and if they have family planning cards." It is difficult to obtain complete data about the abortion rate, the data from the Ministry of Health from 2002 indicated that 46% of total pregnancies were terminated.

The State provides subsidies for abortion, demanding relevant details about women's contraceptive methods. Vietnam is listed among five countries with the highest rate of abortion, with an official rate of 500,000 to 600,000 cases annually. Teenage abortion accounts for 20% of total cases. Maternal health is a serious issue, as statistics show that on average seven women die from pregnancy or childbirth per day, although the data varies greatly depending on the region. Highlands and remote areas, including ethnic minorities regions have significantly higher number of such incidences. Gender-based violence, violation of women's reproductive rights, marital rape, and other exploitation of women and girls are often "unacknowledged or unpunished, sending a message that these forms of discrimination against women are socially acceptable." Population regulation and son preference leads to abortion practices. Furthermore, abortion, often conducted in para-medical services, can lead to serious health threats or even death to the mothers. While abortion is not legally prosecuted, the law does underline and punish gender preferences of new-born babies:

Any mother who, due to strong influence of backward ideology or special objective circumstances, kills her new-born or abandons such baby to death, shall be sentenced to non-custodial reform for up to two years or to between three months and two years of imprisonment.

Country's Legal Basis

The Universal Periodic Review stated that “[t]hroughout the history of struggles for national independence and freedom, the people of Viet Nam have always treasured the sacred value of human rights, notably the rights to self-determination, the freedom to decide one’s own fate and the right to live in dignity." The Constitutions from 1946, 1959, 1980, and 1992 (amended in 2001) fully recognized and guaranteed human rights. Since 1986, Vietnam has promulgated and amended around 13,000 laws and by-law documents, in which civil and political rights are elaborated.

The legislation of the Socialist Republic of Vietnam envisions equality between men and women. There is no legal justification for gender discrimination, and the government has paid attention to legally provide women with equal rights. In fact, the legal base for gender equality is relatively strong. Not only does Vietnam have the Law on Gender Equality and various policies addressing the issue, but any act that would hamper women and discriminate them in any way can be punished according to Article 130 of the Penal Code, “Those who use violence or commit serious acts to prevent women from participating in political, economic, scientific, cultural and social activities shall be subject to warning, non-custodial reform for up to one year or a prison term of between three months and one year.”

In terms of children’s rights, Vietnam has shown commitments as reflected in its major legal documents like the Constitution, Civil Code, Penal Code, Labour Code, Education Law, Land law, Law on HIV/AIDS Prevention and Control. Vietnam is a party of the Convention on the Rights of the Child (CRC). Specifically, art. 65 of the Constitution says: “The State, society and the family play a leading role in ensuring children’s rights in all aspects of their lives, in order to protect and promote their development and happiness.”

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48 ADB, "Viet Nam: Gender Situation Analysis." P. 38. Following UNDP data
are responsible for the protection, care and education of children.” The protection and promotion of children’s rights have been also incorporated into economic and social development strategies and plans, such as the 2001-2010 National Plan of Action for Vietnamese Children.55

The Gap between Policy and Reality

While recognizing the Government’s commitment to human rights issue, the UPR also identified difficulties and challenges that the legal system needs to meet. “The Vietnamese legal system in general, and in the field of human rights in particular, still contains inconsistencies and overlapping and conflicting at several points, leading to difficulties, even misinterpretation in application and enforcement at the grass-roots level.”56

Moreover, as UPRs observed, Vietnam does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). Neither has Vietnam established a monitoring body on human rights, nor a child’s rights monitoring body as recommended by the Convention on Child’s Rights.57

While the Socialist Republic of Vietnam has a strong base of legal provision for gender equality, in practice, “there is a critical gap between policy and implementation.”58 This gap is reflected in the budget limitations, limited human resources in gender equality analysis, and also by the persistence of gender stereotypes, which are still strong in Vietnamese communities.

Although Vietnam has received substantial help from international organizations and NGOs related to the gender mainstreaming programs, there is a “general feeling that the lack of cohesion between different government, donor and civil society stakeholders about the priority issues is causing gender to fall off the policy agenda in Vietnam.”59

Furthermore, societal discrimination still occurs and women do not always receive equal treatment. Some cultural factors contribute to the continuing gender inequality or practices that could be seen as violating women’s rights from the international perspective. For example, despite Constitutional provisions for equality both in public and private spheres, gender-based discrimination is still frequent. Education is one apparent example, where school drop-out rate is disproportionate for girls. This is a particularly serious problem for the children of ethnic minorities. Their enrolment rate for primary education is 80%, while for secondary is only 45%.60 In terms of land ownership, in theory, women are entitled to have the same rights of inheritance; however, in practice they often depend upon their male relatives to access the land. That creates difficulties in the cases of divorce or widowhood. Culturally-rooted practices are also a factor. In some ethnic groups, such as Hmong, arranged marriages (often of very young girls), and even marriage by kidnapping, still occur.61 The Law on Marriage and the Family determines that the minimum age for women is 18 and 20 for men. In some ethnic minorities, there are cases of girls getting married at the age of 15. Ethnic minorities require more attention, as they often suffer from isolation, following traditional customs and practices, rather than enjoying the equal opportunities that urban women have. Ethnic women often are more exposed to such discrimination because of limited access to education, employment, or less legal assistance in cases of domestic violence.62

Character of the Country Report

This Country Report recognizes positive trends in developing gender equality in Vietnam. However, to serve its purpose, it focuses on highlighting the existing challenges and short comings in our knowledge required for comprehensively assessing women’s and children’s rights. It aims at drawing attention to the cases where legislative frameworks are not comprehensive, and protection and prevention mechanisms are not tailored to the existing needs. An identification of existing gaps in the legislative framework and its implementation, and in the available data and analysis of the situation of women and children in Vietnam is necessary to formulate recommendations for further research and data collection.

55 Ibid. P. 10
56 Ibid. P. 16
58 ADB, “Viet Nam: Gender Situation Analysis.” P. iv
59 Ibid. P. 1
60 UNICEF, “UNICEF & The Children of Viet Nam.”
61 Bourke-Martignoni, "Violence against Women in Vietnam." P. 13
62 Ibid. P. 14
While noting the short comings in national policies, legal loopholes, as well as gender-biased social and cultural practices, it is important to bear in mind that the Vietnamese government has made serious efforts to overcome them. According to the Review on the Implementation of the Beijing Platform for Action, from 2000-2003, Vietnam issued 52 laws, ordinances and other legal documents with consideration of the gender perspective, (which includes the Law on Election of Deputies to the National Assembly, Law on Election of Deputies to the People’s Council, Labour Code, Ordinance on Population and Ordinance on Prevention of Prostitution etc.). A UN Women assessment of best practices in domestic violence legislation in ASEAN countries, indicated: “A good example is to be found in the Vietnamese law that includes forced child marriages in its definition of domestic violence.

In many cases, abuses and discrimination are repercussions of a lack of common awareness of existing laws and provisions or of incomplete implementation. This suggests a serious gap existing between the legislative provision and collective knowledge about them. Apart from the legal knowledge gap, available statistics and studies on the issues of violence, exploitation, trafficking, and migration pose a challenge to information dissemination and raising awareness about these issues.

Some NGOs, particularly international ones, find it difficult to collaborate with local authorities in obtaining relevant information for dissemination.

Studies before 2000 indicated that the statistical system in Vietnam is unsynchronized, not systematic, and lacks technical equipment, human resources and funding. After over a decade, synchronized statistics and their availability still pose challenges to the researcher; however there has been certain progress in systematizing the research. This report hopes to contribute to knowledge-dissemination for relevant stakeholders.

The Communist Party has “revolutionized the role of women in family and society and accorded Vietnamese women many rights that women in many developing and developed countries are still fighting for, including provisions for participation in government, generous maternity benefits and the right to make reproductive decisions.”

Previously, Vietnamese legal system was based on feudal system, which embraced Confucianism spirit of patriarchal values. Given such gender-biased context, the Communist Party emancipated women, guaranteeing them equal rights with men in all aspects of social and family life in the Constitution of 1945, later confirmed in the Constitution of 1992. Despite the legal base of equality, there are still gaps that remain. Across this study, poverty is found at the root base for many social issues, including domestic violence, exploitation, human trafficking, and labour or marriage migration. While Vietnam has made remarkable improvements in poverty reduction, the issue still remains a severe problem, particularly in rural areas, where 90% of Vietnam’s poor live.

This report has been compiled based on available resources from governmental database, reports from United Nations agencies, World Bank, Asian Development Bank, NGOs reports, and academic publications. The Baseline Study reveals an insufficient current understanding of many issues due to incomplete accessibility of data, particularly in terms of accurate and aggregated statistics. This difficulty highlights the call for further studies.

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64 UN Women, “Domestic Violence Legislation and its Implementation An analysis for ASEAN countries based on international standards and good practices,” (Bangkok: UN Women East and Southeast Asian Regional Office, 2011). P. 17


66 United Nations, "Gender Briefing Kit,” (Hano2002).

B. VIOLENCE

1. Description of the Problem

Violence, be it physical, economic, emotional, or sexual, against women and children poses a serious problem in Vietnam. Violence against women, particularly in the context of domestic violence, “is one of the most important causes of family break-downs, separations, divorces, infidelity, homelessness, prostitution, and trafficking in women and children.”68 Although the government has recognized the issue and made commitments to promote gender equality and end violence against women by ratifying several core international human rights treaties, there is still much to be done.

Statistical studies on domestic violence have been conducted, but there is no comprehensive nationwide study on domestic violence and violence against women.”No nationally representative study dedicated to GBV with internationally validated methodology had been done before 2010.”69 To date, most studies about Gender-based Violence (GBV) in Vietnam addressed the context of domestic violence (DV). These studies indicate that there is strong linkage between the prevalence of DV and the level of education and economic status. A study from 1999, with representative samples from an urban and a rural area each from Hanoi (the North), Hue (the Central) and Ho Chi Minh City (the South), came up with the following findings:

Table 6: Frequency of abuse by self-ranked income levels

<table>
<thead>
<tr>
<th>Self-Assessed Income Ranking</th>
<th>Verbal Abuse</th>
<th>Beating</th>
<th>Forced Sex</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worse off</td>
<td>86%</td>
<td>25%</td>
<td>25%</td>
</tr>
<tr>
<td>Average</td>
<td>82%</td>
<td>13%</td>
<td>16%</td>
</tr>
<tr>
<td>Better off</td>
<td>74%</td>
<td>10%</td>
<td>18%</td>
</tr>
</tbody>
</table>

Source: “Gender-based Violence: the Case of Vietnam”70

From late 2009 to mid-2010, a study conducted by the General Statistics Office of Vietnam and the United Nations–Government Joint Programme on Gender Equality (UN JP) found that 32% of ever-married women aged 15-49 had experienced physical violence by a partner, and 10% had experienced sexual violence. The lifetime prevalence of physical violence was 34%. Emotional abuse was as high as 54%. The statistical data show that violence varies among the regions and education levels of studied groups. Gender-based violence (GBV) is present both in the cities and rural areas. Women of Kinh, Muong and Hoa ethnicity faced the highest rates of GBV.71

GBV remains a serious and complex problem due to the burden of social norms. Unwillingness of women to report it makes the issue “silent”, and therefore, even more dangerous, as no assistance can reach the un-reported cases. Eighty-seven per cent (87%) of the studied sample never sought any legal or formal services in regards of experienced abuse.72 Moreover, the domestic nature of the problem makes it more sensitive to deal with. Traditional values of harmonious family and also the perception of male superiority add to the difficulty in addressing the issue.

Violence is reported to occur both to women (in many cases, even when they are pregnant) and to children in the family. It occurs in different ways, for example when a husband uses acid to punishment his out of jealousy or simply vents his anger upon her due to alcohol abuse, frustration, indebtedness, aggression etc.

Most of the literature on both GBV and DV in Vietnam distinguish the three prevailing types of violence: physical, sexual, and emotional violence. In practice, however, they rarely occur separately from each other. The following graph shows the result of overlapping forms of abuses from a survey in 2010.

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71 Rasanathan and Bhushan, “Gender-based violence in Viet Nam: Strengthening the response by measuring and acting on the social determinants of health.” P. 1
Gender-based violence occurs not only in the context of family. It might take collective forms of violence, e.g. in some rural communities, women are punished in public by the community for alleged adultery. Despite the fact that such practices are illegal, women accused of unfaithfulness are publicly humiliated or even marked to suffer public shame.

The following section focuses on gender-based violence in the context of the family. Domestic violence is discussed in the categories of physical, emotional and sexual abuse. As the statistics suggest, the GBV and DV remain a serious problem in Vietnam, to such an extent that 50-70% of divorces are linked to the domestic violence. In 2005, for example, 60.3% of divorces (39,730 cases) were caused by domestic violence.

Existing statistics are believed to be under-estimations. Moreover, GBV is often not a focus for health officials and policymakers. The traditional perception of keeping “harmony” in the family prevents women from recognizing, exposing the problem, and seeking legal (considered “external”) assistance. Also because of that social stigma, cases of violence remain under-reported.

In addition to the problem of under-reporting, statistics are incomplete, and available studies offer different estimations over various periods of time and various groups, often without specification on the criteria or nature of violence. One study over the period of 1990 to 1998 quotes 11,630 cases of domestic violence in 18 provinces and cities of Vietnam. A national study and several small-scale studies indicate relatively high numbers of recorded abuses. It needs to be underlined, that available records do not represent the actual situation due to the “silent nature” of the problem, as well as due to the lack of access to many groups, particularly minorities and people inhabiting mountainous areas.

A study conducted by the UN Gender Programme Coordination Group (Gender PCG) showed that physical abuse is the most frequently reported, with 16-37% women experiencing physical violence. Emotional violence is as high as 19-55%. While sexual violence was recognized as a serious problem in Vietnam, that study did not provide data on it. Another source presented a slightly different, but equally alarming, statistics. A National Study on Domestic Violence against Women in Vietnam released on 25 November 2010 found that 32% of ever-married women reported having experienced physical violence in their life and 6% of them indicated experience within past 12 months. Ten per cent reported physical violence from family members other than a partner. Sexual violence by husbands was reported by 10% of studied women, 4% experienced it within past 12 months.

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73 Ibid. P. 18
78 Rasanathan and Bhushan, “Gender-based violence in Viet Nam: Strengthening the response by measuring and acting on the social determinants of health.”
When combining data for physical and sexual violence, 34% of women reported that they experienced both types of violence by their husbands in their lifetime, and 9% within past 12 months. Prevalence of emotional violence is as high as 54% experienced in their lifetime, and 27% in past 12 months. All women who experienced physical and sexual violence also reported emotional violence. Hence, all three kind of violence yield a high rate of 58% in their lifetime, and 27% in past 12 months. One in four women with children under 15 years old reported that their children have been physically abused by her partner and more than half of abused women reported their children witnessed the violence. Half of the domestic violence survivors never told anyone about the violence before the research.80

Figure 2: Prevalence of physical violence by husbands among ever-married women; by age. Vietnam 2010

![Figure 2: Prevalence of physical violence by husbands among ever-married women; by age. Vietnam 2010](image)

Source: *Keeping Silent is Dying*”81

Emotional and psychological violence is recognized to occur, but it is in fact the hardest to measure, particularly in Vietnamese traditional society. A study from 2006 over 2000 married women showed that 25% of them experienced emotional violence in their families. Another study from 2009 indicated that 55% of 883 married women experienced emotional abuse.82 Criteria included within the definition of emotional or psychological violence may vary from being belittled, verbal insults, humiliation, intimidation, frightening on purpose, to threats of being hurt/punished etc. Thus, there appears to be a difficulty in identifying emotional abuse because of the social acceptability of certain behaviours of husbands towards wives, such as shouting, swearing, threatening, or cursing; hence, they are not reported as abuse.

In the Vietnamese patriarchal tradition, a married woman moves in with the husband’s family after the wedding. Therefore, often, she needs to deal with the pressure from living with in-laws. Emotional abuse from parents in law, or even the husband’s extended family, is reportedly common. Her behaviour, habits, and household skills are often the source of criticism from the entire family. Particularly if a woman has not succeeded in delivering a son, she is likely to face severe emotional mistreatment. Some economic factors have been included into emotional violence. These include the husband’s negligence to contribute to the care of the family, prohibiting the wife from participating in decision-making on financial expenses, or demanding his permission to make expenditures.83

Available studies about domestic violence indicate that the prevalence of marital violence. It was noted that a significant rate of violence occurred during women’s pregnancy. The proportion of women ever-pregnant who experienced physical violence at least in one pregnancy was 5%, and the highest number was among those who had no schooling.85 Statistics from the same study indicated that about 60% of women who experienced

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80 Diane Gardsbane, "Gender-Based Violence. Issue Paper." P. 56

81 General Statistics Office of Viet Nam, "Keeping silent is dying: Results from the National Study on Domestic Violence against Women in Vietnam." P. 15

82 Mai, "Why the silence? Reason why women who experience domestic violence in Viet Nam do not seek outside support." P. 18

83 Ibid. P. 18

84 Diane Gardsbane, "Gender-Based Violence. Issue Paper." P. 56

85 General Statistics Office of Viet Nam, "Keeping silent is dying: Results from the National Study on Domestic Violence against Women in Vietnam." P. 18

Huong Le Thu
physical or sexual violence by husbands had heard about the law on domestic violence. However, the qualitative interviews showed that the knowledge they had about that law is very limited, and even local authorities did not have enough information about the law on domestic violence or about the problem in general.\textsuperscript{86}

While traditionally prescribed roles for women and men are often pointed out to be the explanation for domestic violence, abuses also occur in situations beyond cultural stereotypes. The statistics from 1999, quoted above, which assessed representative groups from each of three regions in Vietnam, showed that women who are the main breadwinners in the families are often victims of DV as well.

<table>
<thead>
<tr>
<th>The main income earner is:</th>
<th>Wife n=67</th>
<th>Husband n=224</th>
<th>Both n=310</th>
</tr>
</thead>
<tbody>
<tr>
<td>Husband neglects wife</td>
<td>84</td>
<td>75</td>
<td>73</td>
</tr>
<tr>
<td>Husband uses strong words</td>
<td>81</td>
<td>75</td>
<td>63</td>
</tr>
<tr>
<td>Husband yells at wife</td>
<td>69</td>
<td>57</td>
<td>42</td>
</tr>
<tr>
<td>Husband prohibits wife</td>
<td>15</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>Husband uses forced sex</td>
<td>24</td>
<td>19</td>
<td>15</td>
</tr>
<tr>
<td>Husband beats wife</td>
<td>16</td>
<td>20</td>
<td>12</td>
</tr>
</tbody>
</table>

Source: “Gender-Based Violence: The Case of Vietnam”\textsuperscript{87}

In general, women who are the main income earners in the family, according to this study, suffer more frequently from abuse by their husbands. This might be interpreted that men have difficulty in accepting new roles, which cause them frustration when women are the main economic power in the family. The above data are from 1999 and might not reflect current reality or be representative for the whole country due to the selective sample. It is recommended that further detailed studies on the prevalence of domestic violence in the context of main income provider in the household be conducted to have a better understanding on the matter.

Sexual Violence

A survey from 2006 in 8 provinces and cities conducted by the Parliamentary Committee for Social Affairs in Vietnam showed that up to 30% of female respondents said their husbands had forced them into unwanted sex.\textsuperscript{88} While it is common to condemn men forcing sex on their wives, it is also generally accepted that women should please their husbands’ sexual needs. Women are unwilling to report when it happens. Moreover, there is a perception among majority of women that they are obliged to fulfil husband’s sexual demands, as if sex is his right.\textsuperscript{89}

Sexual harassment within family and in the workplace remains a shameful issue and few studies indicate its prevalence. Sexual harassment in schools is beginning to be explored, mostly though media coverage. A study conducted by CSAGA, the Institute for Social Development Studies (ISDS) and Action Aid, found that 15.6% of high school pupils from three schools surveyed were touched in a way that made them uncomfortable and afraid. 4.3% of pupils were forced to have sex within the previous 12 months and perpetrators included their classmates, schoolmates, strangers, neighbours and acquaintances.\textsuperscript{90}

Violation Against Commercial Sex Workers

Prostitution is criminalized in Vietnam. Sex workers are often in conflict with policemen who repeatedly arrest them and force them to undertake rehabilitation in state-run centres. Such conflict prevents sex workers from turning to the police for protection in cases when they become victims of rape. In other words, sex workers often face the situation of having no protection whatsoever, be it legal, social or healthcare.\textsuperscript{91}

Acid Attacks

Although there are numerous news reports on acts of acid splashing, no integrated study or country-wide statistics has been found. Acid attack has been reported as a form of punishment of women for alleged adultery. HCM City hospital recorded 114 acid burn victims between 1994-1997. According to hospitals, about 90% of acid attacks are reported to occur in the context of domestic violence.

\textsuperscript{86} Ibi d. P. 25
\textsuperscript{88} After: Mai, “Why the silence? Reason why women who experience domestic violence in Viet Nam do not seek outside support.”
\textsuperscript{89} United Nations, “Platform of Action and the Beijing Declaration, Fourth World Conference on Women,” ed. UN (Beijing: UN, 1995). P. 2
\textsuperscript{90} Mai, “Why the silence? Reason why women who experience domestic violence in Viet Nam do not seek outside support.”P.17-18
\textsuperscript{91} Bourke-Martignoni, “Violence against Women in Vietnam.” P. 21-25
Many victims suffer serious permanent damage on their faces and bodies. Some of them committed suicide as a result of psychological and physical trauma from acid attack. No more recent data have been gathered. Little information is also available regarding the prosecution and conviction rates or sentencing for these crimes.

**Violence Against Children**

There is abundant literature concentrating on violence against women in comparison to violence against children in the Vietnam. However, it is essential to bear in mind that domestic violence also affects children. UN Vietnam identified that DV is a major reason for children and adolescents to run away from home, leading to homelessness, “street children” and other related dangers.

UN Vietnam also indicated that one in four abused women reported that their children under 15 years old were also physically abused by their husbands. Children of violent couples are often victims of physical and emotional abuse: “More than half of the women who experience physical violence by husbands also report that their children witnessed it at least once.” If a mother does not decide to report violence occurring on her, automatically the cases on her children remain unreported as well. No literature has recorded cases of children independently reporting domestic violence to the authorities. Such a situation creates two fold dangers: 1.) children are not given assistance, be it legal, medical, social or emotional; 2.) childhood experience of parents’ violence raises the risk of having a violent partner in adult life. Statistics show that women, whose mothers were beaten at home, are three times as likely to have husbands who abuse them.

**Figure 4: Prevalence of child abuse by husband, among women with children under 15 years old. (by region, 2010)**

The average age of the child victims of sexual abuse is 12 years old; it is believed that the issue is under-reported. As one source indicates, sexual abuse of girl children has become “a burning issue in Vietnam with the move toward a market economy.” The incidence of child rape among total reported rapes in 1995 was 30%; it grew to 40% in 1997, and 54% in 2000 (865 cases). Sufficient data is not available to evaluate changes in relative reporting rates of sexual violence directed against children and adults.

**Corporal Punishment**

According to a statistical review by UNICEF, 61% of children aged 2-14 experienced minor physical punishment in the home in 2005-2006. Some mothers or caretakers (46%) were found to believe that children need to be physically punished.

More serious violence has also been reported, for example in a comparative study into the views and experiences of children and adults in 8 countries in Southeast Asia and the Pacific, which showed the following results for Vietnam:

At home, punishment by family members included: arm broken, beaten on the buttocks until raw then a mixture of

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92 Ibid. P. 21
93 General Statistics Office of Viet Nam, “Keeping silent is dying: Results from the National Study on Domestic Violence against Women in Vietnam.” P. 22
94 Ibid. P. 22
95 Ibid. P. 22
salt and chilli rubbed on the wounds, beaten with a thick stick, ear twisted until torn and bleeding, electrocution with wires, excess labour, kneeling on the spiky peel of durian fruit, standing naked outside the house, standing under the weight of a buffalo yoke, head repeatedly submerged in water, hanging on a tree and beaten until unconscious, hung on an electricity pole, hung on a wall by the hands, hung upside down from a tree, tied next to an ants nest, tied to a bicycle and forced to run along side it, whipped while hanging from a tree.

Punishments by teachers at school included: being confined under a bed, standing in front of class and being denounced by classmates, hit on forehead by a ruler thrown by teacher, hit on head by a box of chalk, not being allowed to eat, stripped naked and beaten on the back, two children forced to slap each other on their cheeks. Of those who were hit, 50% were hit with an implement (34.8% with sticks etc., 15.2% with a whip, lash or belt), 45.5% were slapped with the hand, 4.5% kicked. Of those children who mentioned body parts where they were hit, 26% reported being hit on the head and neck, 27% on the limbs, 11% on the back, 13% buttocks, 5% chest, 4% stomach, and 1% genitalia.

In terms of the settings in which children experienced punishment, the research found that in the home 81% of children experienced physical punishment, 19% emotional punishment, while in school 69% experienced physical punishment and 31% emotional.99

Violence was also reported to have been inflicted against children detained in drug rehabilitation centres. A Human Rights Watch publication claimed that, aside from not being separated from adults and being subjected to forced labour, children were physically punished. A child narrates his experience as follows:

I was beaten and put into a punishment room for fighting. The staff beat me on the arm and back with a truncheon.... Then I went to the punishment room. It was about 6 by 12 meters and when I was in there 41 others were too. It was locked. There was no work and no school. We had no contact with other detainees or relatives.... I was kept there for three months and seven days.100

b. Root Causes of Violence

Root causes of Domestic Violence can be categorized into three groups: (i) socio-economic factors, (ii) cultural-traditional factors, and (iii) issues of sexuality. Violence occurring related to sexuality issues arises due to one of the three major reasons: jealousy, adultery and sexual incompatibility. Economic hardship and cultural-traditional factors are discussed below.

Socio-Economic Factors

Socio-economic hardship is often blamed for the frustration and aggression of men towards their wives. Unfortunately, traditional perceptions of the roles of men and women justify or passively accept such behaviours. Due to deeply rooted patriarchal values, gender inequality is socially accepted, despite the fact that Vietnamese women have always played significant role in building the nation. According to common perception, once a woman is married, she belongs to the husband’s family and the man is regarded as the head of a family. A husband is supposed to be responsible for his wife; a husband can punish a woman. Hence, domestic violence is often regarded as an internal family matter. In majority of cases, women do not speak out, considering it shameful and embarrassing. According to the joint study of the UN and Vietnamese Government on Domestic Violence, half of the respondents never told anyone about the physical, sexual and emotional violence they experienced before the interviews.101 Eighty-seven (87%) of abused women respondents never sought any legal or formal help, although a majority (60%) of them was aware of the law on domestic violence.102

Alcohol, gambling, or other substance abuse, are often linked to economic hardship, and are frequent reasons of men’s aggression towards their wives. These “social evils” are inter-connected to other root causes of violence (such as indebtedness) in a vicious circle of frustration and anger.


101 General Statistics Office of Viet Nam, “Keeping silent is dying: Results from the National Study on Domestic Violence against Women in Vietnam.”P.24

102 Ibid. P. 25
Although GBV occurs in all levels of income there appears a strong correlation between economic hardship and violence. As a study sponsored by the World Bank showed, the percentage of verbal abuse, beating and forced sex are higher in the lower-income families. The tendency of decreasing occurrences of abuse is proportional to the rise of family income level. Moreover, although women participate equally in the family income, their economic empowerment does not equal equality in the family. Cases of verbal, emotional, sexual abuse, and prohibitions are noted higher among the families where women are main income earners. Only beating was an exception in this study: the highest number of cases were noted in families where men were the main bread winners.103

Cultural-Traditional Factors

Many studies have indicated traditional Confucian values are at the root of gender injustice. The CEDAW Report also indicated that “maltreatment of women also takes roots in male chauvinism.”104

It might be unfair to say that Confucianism tradition is the root cause of gender-based violence. Rather, the misinterpretation of values is used to justify non-action against such abuse. However, as recognized in the Beijing Declaration, “violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement.”105

In the Vietnamese context, there are some cultural patterns that give base to such gender-biased concepts. A Vietnamese researcher, Le Thi Quy, stated that “underlying domestic violence, as well as other forms of inequity between men and women in Vietnam, is a more than 1000 years history of patriarchy that privileges men over women.”106 Another culturally-rooted reason is frustration from not having a son for inheritance, differences in interests and personality are also listed as the causes for occurring domestic violence.107

Such socio-cultural conditions are not favourable for women to seek for help in the occurrence of violence. Social stigma does not encourage them to report or publicize the matter. In one study on domestic violence in 456 couples, 50% of the men admitted they beat their wives, while only 37% women reported being abused.108 In traditional societies, women are expected to endure the fact of being abused, and even to accept their husbands’ behaviour. Sadly, to the extreme, women are sometimes even blamed for provoking violence, regarding them as having done something wrong, or not having done things they were supposed to do, which caused their husbands’ anger.

c. Impact of Violence

A statistical health study of women who experienced violence from their partner, shows that their general condition, and mental and reproductive health is “poor” or “very poor” when compared to those who did not experience violence from their partner. Apart from physical discomfort and pain, injuries, and memory problems, and reproductive problems, a relatively high percentage (close to 30%) of abused women had suicidal thoughts.109 There is an apparent disparity (almost 20%) in suicidal thoughts between women who never experienced violence and those who have experienced abuse.

103 Loi et al., “Gender-based Violence: the Case of Vietnam.” P. 8
105 Nations, “Platform of Action and the Beijing Declaration, Fourth World Conference on Women.”
107 See Helle Rydstrom, “Encountering "Hot" Anger Domestic Violence in Contemporary Vietnam,” available at http://www.detcivilasam-hallet.se/pages/dokument/rydstrom_encountering_hot_anger.pdf (accessed 13 July 2012), 1. “Domestic violence is tied to a complex field of cultural forces that consists of a patrilineal tradition of ancestor worship, assumptions about females' versus males' character, Confucian virtues, and a history of war. Females are expected to encourage household harmony by adjusting themselves and, in so doing, make social life smooth. Males, on the other hand, are assumed to have a hot character, meaning that a male might fly into a rage and even behave violently.”
108 Mai, "Why the silence? Reason why women who experience domestic violence in Viet Nam do not seek outside support.”
Although most available statistics underline that abused women are often beaten when pregnant, there is no data on the impact of violence on the babies’ health.

No nation-wide statistics on women committing suicide as a result of DV have been compiled. However, a 2011 UNODC Working Paper states as follows:

A report from the Health Department in Cuu Long (Mekong River Delta) indicates that in 2005, 1,011 patients (out of 1,319) attempted or committed suicide due to domestic violence, resulting in 30 deaths. A report from the Health Department in Tay Nguyen indicates that among 3,944 patients, 715 people attempted or committed suicide, resulting in 27 deaths. Finally, according to the statistics from the Department of Burns in Cho Ray Hospital, for the period from 1994 to 1997, they received 114 cases of burns due to acid splashes, of which 90% cases concerned marital and family problems.111

While the Vietnamese Centre for Reproductive and Family Health has noted that no cases of marital rape have been brought before the Vietnamese courts, it found that most documented cases of marital rape have been collected while conducting investigations for divorce proceedings. As a matter of fact, according to the divorce lawyers, marital rape is the underlying but unspoken reason behind many divorces.112 A high percentage of divorces, although regarded as the worst scenario, are due to domestic violence. Usually, economic uncertainty and social constraints are the main reasons hampering women from deciding to divorce. The US State Department’s Report estimated that approximately two-thirds of divorces were due in part to domestic violence.113 However, the information does not provide the exact time frame using the geographical scope of the results quoted.

The following statistics are quoted from the Report of NGOs on the Implementation of CEDAW in Vietnam, which based data on the numbers provided by the Supreme People’s Court and the National Assembly Committee of Social Affairs.

Table 8: Domestic Violence as the reason for divorce.

<table>
<thead>
<tr>
<th>Time-frame</th>
<th>Number of cases</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2005</td>
<td>186,954</td>
<td>51.3%</td>
</tr>
<tr>
<td>2005</td>
<td>39,730</td>
<td>60.3%</td>
</tr>
</tbody>
</table>

Source: Researcher’s compilation following the “Report of NGOs on the Implementation of the CEDAW in Vietnam”114

2. De Jure State Responses

a. Bases of State Responsibility

Vietnam is asignatory to a number of core international human rights instruments:

- Convention on the Elimination of All Forms of Discrimination against Women (1982) and a number of core international human rights treaties that refer to gender-based violence as well as trafficking in persons

110 Ibid. P 21
• Declaration on the Elimination of Violence against Women in the ASEAN Region (2004).
• Law on Domestic Violence Prevention and Control (2007)

b. National Policies against Violence

Gender-based violence (GBV) is defined by the UN as actions that result in “physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life.”115 Vietnam, as a party of the Declaration on the Elimination of Violence Against Women, has demonstrated commitments towards implementing the same.

As previously discussed, the Constitution made gender equality an institutional right since 1946. The Marriage and Family Law (1960) abolished concubinage, polygamy, and forced marriages. The government approved the Law on Gender Equality in 2006, and the Law on Domestic Violence Prevention and Control (DV Law) in 2007. Further Article 12 of the Population Ordinance (2003) stipulates that the Government and authorities at various levels have the responsibility to “implement policies and measures to ensure equality between men and women in all fields… take preventive and reactive measures to eliminate discrimination against women and the violation of women’s dignity.”116 Besides these laws, provisions of the Penal Code and the Civil Code may also be applied to protect women and children from violence.

Specific Provisions of Law:

The Constitution 1992

• Article 63 states that “Male and female citizens have equal rights in all fields: political, economic, cultural, social and the family” (…). “All acts of discrimination against women and all acts damaging women’s dignity are strictly banned.”
• Article 71 guarantees citizens the right to “physical inviolability and legal protection of their life, health, honour and dignity.”
• Article 74 provides that the citizens have the right to lodge complaints and denunciation with competent

State authorities against illegal acts of State organs, economic bodies, social organizations, units of the people's armed forces, or any individual.117

Penal Code (Criminal Code) 1999, 2009

• Article 6 of the Law on Criminal Procedure stipulates that “any act causing danger to the life, health, property, honour and dignity of citizens shall be strictly punished by law.”118
• Article 151 of the Penal Code says “ill-treating or persecuting grand-parents, parents, spouses, children, grandchildren and/or fosterers (…) and causing serious consequences or who have already been administratively sanctioned for such acts but repeat their violations, shall be subject to warning, non-custodial reform for up to two years or a prison term of between three months and two years.”119
• Article 110 punishes those who cruelly treat persons dependent on them or commits crimes against aged persons, children, pregnant women or disabled persons; or against more than one person.120

Law on Marriage and Family, 2000,

• Article 19 provides for quality in obligations and rights between husband and wife
• Article 21 provides for respect for honour, dignity and prestige of husband and wife and forbids them from committing acts of ill-treatment, persecution or hurting the honour, dignity or prestige of each other.121

Civil Code 1995,

• Article 33 protects the individual’s right to protection of honour, dignity and reputation
• Article 36 states that husbands and wives are equal in their relations and have the same rights and obligations in all respects within the family and in

119 Ibid. P. 17
civil intercourse and shall together build a plentiful, durable, harmonious and happy family.\textsuperscript{122}

Legal Definitions of Rape, Forced Sex and Sex with Children:

Article 111, Penal Code- Rape

- Those who use violence, threaten to use violence or take advantage of the victims’ state of being unable for self-defence or resort to other tricks in order to have sexual intercourse with the victims against the latter’s will shall be sentenced to between two and seven years of imprisonment.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:
  - In an organized manner;
  - Against a person whom the offender has the responsibility to look after, educate and/or medically treat;
  - More than one person rapes a person;
  - Committing the crime more than once;
  - Against more than one person;
  - Being of an incestuous nature;
  - Making the victim pregnant;
  - Causing harm to the health of the victim with an infirmity rate of between 31% and 60%;
  - Dangerous recidivism.
- Committing the crime in one of the following circumstances, the offender shall be subject to between twelve and twenty years of imprisonment, life imprisonment or capital punishment:
  - Causing harm to the health of the victim with an infirmity rate of 61% or higher;
  - Committing the crime even though the offenders know that they are infected with HIV;
  - Causing death to the victim or causing the victim to commit suicide.
- Committing rape against a juvenile aged between full 16 and under 18 years old, the offenders shall be sentenced to between five and ten years of imprisonment.
- The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years.\textsuperscript{123}

Article 112 - Rape against children

- Those who rape children aged between full 13 years and under 16 years shall be sentenced to between seven and fifteen years of imprisonment.
- Committing the crime in one of the following circumstances, the offender shall be sentenced to between twelve and twenty years of imprisonment:
  - Being of incestuous nature;
  - Making the victim pregnant;
  - Causing harms to the victim’s health with an infirmity rate of between 31% and 60%;
  - Against a person whom the offender has the responsibility to look after, educate or medically treat;
  - Dangerous recidivism.
- Committing the crime in one of the following circumstances, the offender shall be sentenced to twenty years of imprisonment, life imprisonment or capital punishment:
  - In an organized manner;
  - More than one person rapes a person;
  - Committing the crime against more than one person;
  - Causing harms to the victim’s health with an infirmity rate of 61% or higher;
  - Committing the crime though the offenders know that they are infected with HIV;
  - Causing death to the victim or causing the victim to commit suicide.
- All cases of having sexual intercourse with children under 13 years old are considered rape against children and the offenders shall be sentenced to between twelve and twenty years of imprisonment, life imprisonment or capital punishment.
- The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for from one to five years.\textsuperscript{124}


Article 113 - Forcible sexual intercourse

- 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.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between three and ten years of imprisonment:
  - Many persons compel one person to have sexual intercourse with them;
  - Committing forcible sexual intercourses more than once;
  - Committing forcible sexual intercourses against more than one person;
  - Being of incestuous nature;
  - Making the victim pregnant;
  - Causing harms to the victim's health with an infirmity rate of between 31% and 60%;
  - Dangerous recidivism.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between seven and eighteen years of imprisonment:
  - Causing harms to the victim's health with an infirmity rate of 61% or higher;
  - Committing the crime even though the offenders know that they are infected with HIV;
  - Causing death to the victim or causing the victim to commit suicide.
- The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years.126

Article 114 - Forcible sexual intercourse with children

- Those who have forcible sexual intercourse with children aged from full 13 years to under 16 years shall be sentenced to between five and ten years of imprisonment.
- Committing the crime in one of the following circumstances, the offender shall be sentenced to between seven and fifteen years of imprisonment:
  - Incest;
  - Making the victim pregnant;
  - Causing harms to the victim's health with an infirmity rate of between 31% and 60%;
  - Dangerous recidivism.
- Committing the crime in one of the following circumstances, the offender shall be sentenced to between twelve and twenty years of imprisonment or life imprisonment:
  - More than one person commits forcible sexual intercourse against one person;
  - Committing the crime more than once;
  - Committing the crime against more than one person;
  - Causing harm to the victim's health with an infirmity rate of 61% or higher;
  - Committing the crime even though the offenders know that they are infected with HIV;
  - Causing death to the victim or causing the victim to commit suicide.

Article 115 - Having sexual intercourse with children

- Any adult having sexual intercourse with children aged from full 13 to under 16 shall be sentenced to between one and five years of imprisonment.
- Committing the crime in one of the following circumstances, the offender shall be sentenced to between three and ten years of imprisonment:
  - Committing the crime more than once;
  - Against more than one person;
  - Being of an incestuous nature;
  - Making the victim pregnant;
  - Causing harms to the victim's health with an infirmity rate of from 31% to 60%.
- Committing the crime in one of the following circumstances, the offender shall be sentenced to between seven and fifteen years of imprisonment:
  - Causing harm to the victim's health with an infirmity rate of 61% or higher;
  - Committing the crime even though the offenders

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126 Ibid.
know that they are infected with HIV.\textsuperscript{127}

**Article 256 - Sexual intercourse with juveniles**

- Those who have paid sexual intercourse with juveniles aged between full 16 years and under 18 years shall be sentenced to between one and five years of imprisonment.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between three and eight years of imprisonment:
  - Committing the offense more than once;
  - Having paid sexual intercourse with children aged between full 13 years and under 16 years;
- Causing harm to the victims’ health with an infirmity rate of between 31\% and 60\%.
- Committing the offense in one of the following circumstances, the offenders shall be sentenced to between seven and fifteen years of imprisonment:
  - The offense is committed more than once against children aged between full 13 years and under 16 years;
  - The offense is committed even though the offenders know that they have been infected with HIV;
  - Harms are caused to the health of the victim with an infirmity rate of 61\% or higher.
- The offenders shall also be subject to a fine of between five million dong and ten million dong.

**Article 116 - Obscenity against children**

- Those adults who commit obscene acts against children shall be sentenced to between six months and three years of imprisonment.
  - Committing the crime in one of the following circumstances, the offenders shall be sentenced to between three and seven years of imprisonment:
  - Committing the crime more than once;
  - Against more than one child;
  - Against a child whom the offender has the responsibility to take care of, educate or medically treat;
  - Causing serious consequences;
  - Serious recidivism.
- Committing the crime with serious consequences or particularly serious consequences, the offenders shall be sentenced to between seven and twelve years of imprisonment.
- The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years\textsuperscript{128}.

**Sexual Harassment**

There is no definition of “sexual harassment” in Vietnamese law. Instead, offences on sexual grounds can be prosecuted under the Penal Code under:

**Penal Code**

- **Article 121 - Humiliating other persons:**
  - Those who seriously infringe upon the dignity or honour of other persons shall be subject to warning, non-custodial reform for up to two years or a prison term of between three months and two years.
  - Committing the crime in one of the following circumstances, the offenders shall be sentenced to between one and three years of imprisonment:
    - Committing the crime more than once;
    - Against more than one person
    - Abusing positions and/or powers;
    - Against persons who are performing their official duties;
    - Against persons who educate, nurture, look after or medically treat them.
  - The offenders may also be banned from holding certain posts, practicing certain occupations or doing certain jobs for one to five years.\textsuperscript{129}

Moreover, the Government addressed the cultural practices that discriminate or hamper empowerment of women. Decree 23/2002/ND-CP, promulgated in 2002, on the application of the Marriage and Family Law to ethnic minorities, provides that backward customs and practices that have bad effects on ensuring equal rights for husbands and wives must be eliminated gradually through flexible and strict ways. Methods include encouraging people to erase certain customs and practices that discriminate between son and daughter; forbidding forced marriages between a widow or a widower with another member of the family of the ex-husband or ex-wife without agreement of that person;\textsuperscript{130} strictly

\textsuperscript{127} Ibid. \url{http://www.worldlii.org/vn/legis/pc66/s115.html} (last retrieved on March 7th, 2012)

\textsuperscript{128} Ibid. \url{http://www.worldlii.org/vn/legis/pc66/s116.html} (last retrieved on March 7th, 2012)

\textsuperscript{129} Ibid. English translation provided by the World Legal Information Institute: \url{http://www.worldlii.org/vn/legis/pc66/s121.html} (last retrieved on March 7th, 2012).

\textsuperscript{130} In some ethnic groups, such practice is still common. E.g. in Brau ethnic groups a younger brother who is single or whose wife is dead is entitled to getting married with his sister-in-law if his older
prohibiting commercially motivated wedding requests and acts that hinder marriage or violate women's dignity; and disallowing customs and practices that allow the man to reclaim property or impose a penalty when divorced.\textsuperscript{131}

The National Strategy and Plan of Action for the Advancement of Women to 2010 follows the first National Strategy to 2000. It has five objectives: (1) achieve women's equal rights in labour and employment; (2) achieve women's equal rights in education; (3) achieve women's equal rights in health care; (4) enhance quality and efficiency of women's performance in the political, economic, cultural and social fields resulting in more women being recommended for and elected to leadership positions at all levels and in all sectors; (5) strengthen efforts to build the capacity of the machinery for the advancement of women.\textsuperscript{132}

Other policies and strategy documents addressing gender equality and GBV include:
\begin{itemize}
  \item Directive on the Implementation of the Law on Domestic Violence Prevention and Control No. 16/2008/CT-TTG
  \item Decree 08/2009/ ND-CP on Implementing Several Articles of the Law DV Prevention and Control
  \item Circular for DVL 16/2009/TT-BTY-2009 by MOH
  \item Circular for DVL 02/2010/TT-BVHTTDL-2010
  \item Plan of Action on Domestic Violence Prevention and Control of the Ministry of Culture, Sports and Tourism in the 2008-2015
  \item National Plan of Action for Domestic Violence Prevention and Control, 2010-20 (draft)
  \item National Targeted Programme on Gender Equality 2011-2015\textsuperscript{133}
\end{itemize}

c. Assessment of State Policies

Gender equality has been actively promoted in national policies in recent years. It is also one of Millennium Development Goals towards which Vietnam is aiming. State-level legislation addressing gender-based discrimination and violence has been passed. However there are still remaining loopholes to be filled.

A 2009 US State Department report states that there are no known instances of prosecution for spousal rape or sexual harassment.\textsuperscript{134} Although the Law on Domestic Violence Prevention and Control was enforced in 2008, sexual harassment has not yet been addressed in terms of law. Although there is a certain degree of public awareness about the problem of sexual harassment, particularly in the context of the workplace, neither specific legal definitions nor juridical responses were noted on the issue. The act of sexual harassment is not clearly defined, and the prevention of it is not specified in legal documents. There have been some cases reported where women experiencing sexual harassment would approach the Vietnamese Women's Union for assistance. In serious instances, Art. 121 of the Penal Code, which relates to the “humiliating other persons”, may be used for legal prosecution. However, lawsuits on sexual harassment remain uncommon.

While there is no specific clause defining the term “marital rape” or “spousal rape” in the Vietnamese criminal law, there is a term “forced sex” in the context of marriage in the Penal Code. Article 113 of Penal Code relates to rape in the context of dependency or other forms of relational context, when the perpetrator takes advantage of his position and forces a sexual contact on the person under his care or in other ways dependent on him. Article 2 of the Law on Domestic Violence Prevention and Control also includes “forced sex” as an act of domestic violence. However, women, generally, are said to not be comfortable with reporting sexual violence, especially to male police officers.\textsuperscript{135}

Assessments of the domestic violence law, particularly those by UN Women, are readily available. It has been said that among ASEAN countries, the “widest coverage is provided by the Vietnamese law, which does not include any clause defining survivors or coverage and is gender

\begin{itemize}
  \item \textsuperscript{131} Ibid. P. 52
  \item \textsuperscript{132} ADB, “Viet Nam: Gender Situation Analysis.” P. 63
  \item \textsuperscript{133} Rasathanan and Bhushan, “Gender-based violence in Viet Nam: Strenghtening the response by measuring and acting on the social determinants of health.”
\end{itemize}
neutral." Article 19(1)(d) of the law provides for the measure of forbidding the person exerting the violence from contacting the victim. UN Women observed that there “appears to be an emphasis on reconciliation in this law” and that it allows community criticism before and after reconciliation by grassroots reconciliation teams. While this may be useful in preventing violence in the long term, “it is not clear how this law allows for the provision of immediate reliefs to survivors of violence.”

Under Article 104 of the Penal Code, husbands who physically injure wives can be charged with the intentional infliction of injury. To raise such a charge, a woman, however, has to be suffering injuries with “infirmity rate” of 11%-30%. Furthermore, criminal sanctions would be applied for repeated acts of violence causing serious consequences; singular cases of violence do not reach the required threshold of seriousness and may go unpunished, or “punished” in a form of warning. As one source indicates, the police would not arrest the perpetrator regardless of the degree of injury the woman suffers, unless the woman makes an explicit request.

There are cases where during proceedings pending divorce the woman still lives in the same house with her violent husband. The new law has included provisions on the grant of immediate interim or temporary relief.

According to the law, divorce for reasons of domestic violence may be granted to women in cases where they have been victims of repeated and severe physical violence. The Law on Marriage and the Family includes a compulsory conciliation process before a divorce can be granted. At that process, many couples are reported to change their minds. Such a system may impede women from asserting their rights.

Children Specific Issues

Vietnamese laws prohibit inflicting harm on children in the domestic setting. In the education setting, there are legal provisions regarding protection of students' honour and dignity. Corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. Ordinance No. 33/CP (1997) on residential schools, which cover children in conflict with the law, provides for children's honour and dignity. However, there is no explicit prohibition against corporal punishment in childrearing, in schools, or as a disciplinary measure. Neither is there an explicit prohibition of corporal punishment in alternative care settings.

It is particularly difficult to address the issue of punishment on children. It is socially accepted that parents have the right and obligation to educate their children. Education is understood also as including physical punishment. Beating disobedient children is commonly regarded as an act of discipline and as a domestic matter; therefore it is difficult to provide intervention. The loophole ought to be filled and definition setting clear boundaries between disciplinary acts and abusive violence should be clarified.

The term “sexual abuse” is not specifically defined by Vietnamese law; however the Law on Protection, Care and Education of Children does state that “all acts of infringing upon children's rights, causing harms to the normal development of children shall be severely punished by law, including maltreating or raping a child.” Any sexual act on a child under 13 years old is considered rape. It is prohibited for adults to have any sexual intercourse with children between 13-16 years old.


140 *Ibid.* P. 19


144 Applicable laws are: Decree No. 163/2003/ND-CP regulating education in commune, ward and town, the Primary Universal Education Law, and Decree 338-HDBT 26/10/1991 on the implementation of the Primary Universal Education Law.

145 Applicable laws are: Law on the Protection, Care and Education of Children (article 7), the Penal Code (article 298), the Code of Criminal Procedure (article 6) and Decree No.114/2006/ND-CP on punishment of administrative violations on population and children (article 21).

Child pornography, along with child prostitution and child sex-tourism has appeared in recent years, being perceived as a result of the greater opening of the borders to tourism and other foreign visitors. They are dealt with by the Department of Social Evils together with other social problems. However, each of the mentioned issues requires more specific and specifically targeting response mechanisms. Specific legal provisions addressing sex tourism and child pornography have yet to be developed.

3. Implementation, Monitoring and Prevention

a. Implementing and Monitoring Mechanisms

CEDAW welcomed the adoption of the National Strategy for the Advancement of Women 2001-2010, which was drawn up in accordance with the Beijing Platform for Action. It also welcomed the Action Plan for the Prevention and Suppression of Trafficking in Women and Girls. The implementation of The Law on Gender Equality (2006) is being coordinated by the Ministry of Labor, Invalids and Social Affairs (MOLISA). The Ministry of Culture, Sports and Tourism (MOCST) coordinates the implementation of the Law on Domestic Violence Prevention and Control (2007).

However, implementing mechanisms of existing laws, state policies, and other programs remain relatively under developed. Capacity building and training is necessary to implement protection measures at the local levels. There is little available literature on actual assessment and monitoring mechanisms.

b. Complaints Process

Most women experiencing violence do not know whom to approach. A 2010 study indicates that 87% never sought help from formal services or people in authority. Usually, they first turn to their family or community members, who are neither trained nor better informed in many cases. Often, even representatives of the police or legal aid are not familiar with the delicate procedure of domestic violence. Only some women reach out to the local representatives of Vietnamese Women’s Union, who assist them with the legal procedure for filing complaints.

Some hotlines have been launched to assist women in urgent matters, but it is reported that victims from rural or remote areas have limited access to such mechanisms. Most of awareness campaigns address the issue of domestic violence and encourage women to publicize the matter rather than suffering silently. However, even those educational programs often do not provide clear step-by-step guidance regarding the complaint process.

In terms of assistance to children, there are even less available reassuring data. The UN factsheet stated: “There is a lack of referral services for abused children and young people as well as services for out-of-home care in Viet Nam.”

Vietnamese law on Domestic Violence mandates that the state shall encourage individuals and organizations to establish domestic violence support and counselling facilities and other services such as health care, legal advice, and provision of shelter. It obliges the state to provide for recording reliable addresses in the community that will render assistance to survivors as well as provide guidance and training on the prevention and control of domestic violence. Finally, this law also obligates the state to allocate budgets to ensure implementation.

In 2002, the Centre for Women and Development (CWD) was established by the Vietnamese Women’s Union to offer counselling, raise awareness, as well as provide shelters for DV survivors. CWD also operates hot lines for DV victims in major cities.

There are “Reconciliation Groups” at the community level consisting of local People’s committee, representatives of mass organizations, such as the Women Union and Fatherland Front and the head of villages to assist victims of violence and abuse. However, the existing social stigma still intimidates women from seeking such kind of counselling services, especially as the potential

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148 General Statistics Office of Viet Nam, "Keeping silent is dying: Results from the National Study on Domestic Violence against Women in Vietnam." P 25
clients might know or interact with counsellors in other contexts and occasions due to their membership in their communities. As the name of these groups indicates itself, it leans towards reconciliation. It advises women on how to keep “family happiness” even when there is violence occurring. There must be a clearer understanding of the distinction between counselling and reconciliation. Vietnamese law on Domestic Violence has an entire chapter entitled “Reconciliation of Conflicts among Family Members”, which reflects traditional concepts of counselling as leading to reconciliation. It is important that the legal system ensures incorporation of provisions on mediation, settlement, and reconciliation to ensure that the security and position of the complainant is not adversely affected. The counsellors, however, do not have professional psychological training; rather they give advice and suggestions based on their own experience and common sense. Therefore, counselling services need to be effectively professionalized and trainings are required to reach out.

**d. Prevention Strategy**

Prevention strategies have been mostly the domain of quasi-governmental mass organizations, such as the Vietnamese Women’s Union and the National Committee for the Advancement of Women, apart from initiatives by international organizations and donors.

The Vietnamese Women’s Union (VWU), established in 1930, is a mass organization dedicated to the advancement of women. It works on four governmental levels: national, provincial, district, and commune. “Although not strictly a government organization, the VWU has close links with government.” It is estimated that more than 50% of Vietnamese women aged 18 and above are members of the VWU. In 1998 the Government recognized and institutionalized the VWU by stating in Decree 163 that policies related to women and children at all levels should be consulted and involve the VWU. It has been claimed that the VWU plays an “extremely positive role in protecting their members’ legitimate rights and interests.”

The Vietnamese Women’s Union is involved in most activities regarding protection, prevention, education, training, rehabilitation, and other forms of support for victims in violence, trafficking, or exploitation. VWU’s activities include poverty alleviation, enterprise development, infrastructure construction, health care, HIV/AIDS prevention, environment, and legal support.

The VWU plays an important role in dissemination of knowledge, taking initiatives on research and publication. For example, its publications include: “Domestic Violence Against Women in Vietnam: Findings of a study in Thai Binh, Lang Son and Tien Giang,” in collaboration with the Market Development Research Centre in 2001; and “A Guide to Assist Trafficked Women and Children” in 2001. It also launched a workshop entitled “For a life without violence against women” in 2002.

The National Committee for the Advancement of Women (NCFAW), an advisory body of the government, was established in 1993 (previously called the Committee for the United Nations Decade on Women). It is a network of the Committees for the Advancement of Women (CFAWs) in all ministries and agencies in 64 provinces of Vietnam. It has consulted with the government on the construction and enforcement of strategies, as well as on the National Action Plan for the Advancement of Vietnamese Women in 2010. Among its mandates are the following:

- Advise the Prime Minister on the formulation of laws and policies related to gender equality and women’s advancement;
- Collaborate with relevant agencies to promote and monitor the implementation of laws and policies related to women at ministries, branches and provinces;
- Collaborate with concerned agencies to disseminate and advocate implementation of laws and policies related to women and CEDAW in Vietnam;
- Act as a focal point in the international cooperation on gender equality and women’s advancement.

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152 Women, “Domestic Violence Legislation and its Implementation: An analysis for ASEAN countries based on international standards and good practices.” P 29
153 ADB, “Viet Nam: Gender Situation Analysis.” P 61
155 “CEDAW 2nd Periodic Review.” P 13
156 “CEDAW Combined fifth and sixth Periodic Reviews of State Parties.”

*Huong Le Thu*
The National Assembly has passed a resolution “Fighting against Domestic Violence” to be a part of the Plan for Socio-Economic Development 2006-2010. Also, the Prime Minister’s Strategy for Vietnamese Family Planning for 2005-2010 includes goals to strengthen programs against domestic violence, aiming at reduction of DV by 10-15%.160

4. Role of Non-State Actors

a. Assistance to Victims

Due to limited collaboration among sectors, effectiveness in providing assistance to victims is limited. Police and hospital are not forthcoming in sharing data on victims. Moreover, the shortage of social workers poses a challenge to follow-up on and support survivors.161 Most of available assistance services are ad-hoc rather than sustainable. Reported initiatives indicate counselling as the main form of assistance to the victims.

b. Prevention Programs

Bearing in mind that women’s empowerment is one of the Millennium Development Goals, it is not surprising that most gender equality programs in Vietnam involve United Nations agencies’ participation in various forms: from initiating, funding, research, expertise sharing, training and providing capacity. UN Women, UNFPA, and UNDP actively promote gender programs through education targeted at multiple sectors. In most cases, UN agencies are behind the initiatives on data collection, research and publishing of gender-related studies.

Several other international NGOs provide activities that support women’s empowerment, economic security, and the prevention of trafficking by offering vocational training. The Asia Foundation and Oxfam GB, for example, have organized capacity building for women’s clubs in certain provinces (An Giang). The UN JP on Gender Equality for 2009-2011 in Viet Nam was an innovative collaboration of 12 UN agencies, three national ministerial partners and civil society organizations working at the local and national levels towards collective goals. It aims to “improve the capacity of national and provincial authorities, institutions and other duty bearers to effectively implement, monitor, evaluate and report on the Law on Gender Equality and Law on Domestic Violence Prevention and Control.”162 Among its objectives is also to strengthen the compilation of evidence-based data and the creation of data collection systems for promoting gender equality. Its biggest contribution was conducting a first nation-wide quantitative and qualitative research study on domestic violence. It disseminated the results of its studies to policy-makers, health care professionals, program implementers, NGOs, and the general public.

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In 2009 Viet Nam launched the nation-wide campaign promoting gender equality and challenging traditional gender-bias perceptions called “I’m a Man, I’m against Violence”. The campaign was co-chaired by the Ministry of Culture, Sport and Tourism and Peace and Development. It partnered with 25 organizations, with INGOs, LNGOs, the UN and AECID contributing expertise and funding. It targeted men aged between 18-45 years-old in 16 provinces and aimed at preventing domestic violence. Programs targeting men are increasingly becoming popular. Since 2008, a national radio station has been broadcasting the program “Window of Love”, which addresses domestic violence. Within a few months of the start of the program, there were over 1 million signatures collected for the campaign “Say No to Violence against Women”. In 2009, the TV program “Breaking the Silence” started to be aired nationally, targeting at raising awareness for gender-based violence and the role of the community and justice sector in addressing the issue.\textsuperscript{163}

The National Strategy to Promote Gender Equality 2011-202 developed in collaboration with UN-Women is focused on gender mainstreaming. It is expected to prevent GBV by acting on key determinants of gender inequality, and through the dissemination of research results.\textsuperscript{164}

### Table 9: Selected non-state actors engaged in action against violence

<table>
<thead>
<tr>
<th>Organization</th>
<th>Scope of activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>National</td>
<td></td>
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<tr>
<td>VWU</td>
<td>Awareness raising programs, protection and prevention, counselling services</td>
</tr>
<tr>
<td>Centre for Women and Development</td>
<td>Research and dissemination, Statistical collection</td>
</tr>
<tr>
<td>HCM Youth Union</td>
<td>Awareness programs, women empowerment training programs</td>
</tr>
<tr>
<td>International</td>
<td></td>
</tr>
<tr>
<td>UN Agencies</td>
<td>Research and dissemination, training programs, gender mainstreaming trainings for governmental agencies, provide technical assistance, policy recommendation, engage stakeholders</td>
</tr>
<tr>
<td>ADB</td>
<td>Funding research and dissemination</td>
</tr>
<tr>
<td>WHO</td>
<td>Research on health and domestic violence, research on HIV and abuse children, produce reports, organize workshops and press conferences, dissemination of studies</td>
</tr>
<tr>
<td>Swiss Agency for Development for Family and Gender Studies</td>
<td>Funding gender mainstreaming programs</td>
</tr>
<tr>
<td>The Asia Foundation</td>
<td>Capacity building programs, vocational trainings,</td>
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<tr>
<td>Oxfam GB</td>
<td>Capacity building programs, vocational trainings,</td>
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<tr>
<td>Australian Agency for International Development (AusAID)</td>
<td>Funding gender mainstreaming programs</td>
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<td>Spanish Agency for International Development Cooperation (SDC)</td>
<td>Funding gender mainstreaming programs</td>
</tr>
<tr>
<td>World Organization Against Torture</td>
<td>Research and Dissemination, awareness campaigns</td>
</tr>
</tbody>
</table>

Source: Researcher’s compilation

\textsuperscript{163} Diane Gardsbane, “Gender-Based Violence. Issue Paper.” P. 37-38

\textsuperscript{164} Rasanathan and Bhushan, “Gender-based violence in Viet Nam: Strenghtening the response by measuring and acting on the social determinants of heal.” P.2

\textsuperscript{165} Diane Gardsbane, “Gender-Based Violence. Issue Paper.” P.36
Allocation of funds nation-wide poses an issue of disproportionate distribution, as low-income provinces often lack the necessary budget. While it is a positive sign that Vietnamese development indicators show advancing results, reaching middle-income status can also result in reduction of international funding. Whether in such a case national funding will be available to sustain or create programs in the absence of international support is an open question.

One of the main gaps within Vietnam is that there is no multi-sectoral approach to preventing and addressing GBV. As ADB has assessed, domestic violence remains largely a private matter; and it is addressed by NGOs, INGOs, and the VWU rather than the government. The problem of violence in Vietnam still requires a lot of juridical attention. Difficulty in defining forms of domestic violence, sensitivity of the issue, as well as social norms that tolerate or encourage domestic violence make the situation more complicated. Inadequate training or insufficient knowledge about gender-based violence was found within the legal aid providers according to a report from the National Legal Aid Agency from 2009. The study noted that only legal aid centres in 5 of 63 provinces were mainstreaming gender. Under-trained in psychological skills, police and legal providers in many cases are unable to provide adequate assistance to the female victims.

Lack of trust in the judicial system may also impede effectiveness in solving problems associated with domestic violence. The government is recognized to have made many efforts to fight corruption; it passed the Law on Corruption Prevention and Control in 2005 and discussed the issue in several National Assembly meetings. However, a report said that there are still survivors of gender-based who are concerned about the “transparency of police, local authorities and the courts, and whether court decisions do enough to punish perpetrators or decide child custody and property rights fairly.” The same report mentioned that a survivor of violence was worried because she heard a rumour that her husband is using money to try to influence the court.

More data is however needed to gauge the progress of the government’s program against corruption and how much it has impacted on cases of gender-based violence.

As pertains particularly to children, while Vietnamese laws restrict harming children, the enforcement of these regulations has still been a big challenge. One of the problems is attributed to influences of Confucianism and the belief that it is acceptable, in line with the saying: “Spare the Rod, Spoil the Child”. People do not interfere with physical punishment, as they believe that is a way of educating domestically within the family.

Perception Change

It is worth taking into consideration that prior to 1994, the issue of domestic violence was not a topic of public debate. Before that only “a few isolated articles had addressed some extreme forms of gender-based violence.” No in-depth studies on DV from before 1986 have been found. Although there was media coverage of the problem, cases of domestic abuse were referred to as “husband’s bad temper”. It was not until 1994 that Le Thu Quy first used the terminology of “domestic violence” as it is in English. This shows that the public perception on the issue of “invisible violence at home”, as it used to be referred to, is still relatively new.

The situation of violence against women in Vietnam was summarized by the 5th and 6th CEDAW Report: “Efforts have been made to eliminate gender prejudices and change the perception of the roles of women and men. Yet, the impacts differ from field to field, from region to region. This is largely due to the lack of comprehensive measure to remove the old paradigm of male chauvinism, which has been existence for thousands of years.” The report recognized that domestic work, and care of family and children are still considered primarily the woman’s duty. Further, some obsolete customs are still practiced, particularly in ethnic minorities groups (e.g. child marriages), impeding women’s advancement.

166 Ibid. P. 31
167 Ibid. P. 35
168 ADB, “Viet Nam: Gender Situation Analysis.”
170 Ibid.
171 Ibid. P. 47

173 Ibid.
175 Nations, “Platform of Action and the Beijing Declaration, Fourth World Conference on Women.” P. 14
176 “CEDAW Combined fifth and sixth Periodic Reviews of State Parties.” P. 18
6. Recommendations

1. More integrated research and accessibility to data on the issues of concern is needed. Insufficient general knowledge about the existing problem of gender-based violence, as well as little understanding of legal rights, remain the main challenges that should be targeted. Education at all levels, as well as all sectors should be implemented. The key for preventing GBV and DV is raising awareness about the fact that violence is a crime liable to legal punishment, not only a domestic issue. The state authorities should pay increased efforts to erase traditional perceptions that stigmatize the problem and to collect reliable data on prevalence and trends of different forms of violence that would also enable research to overcome the issue of under-reporting cases of occurring violence due to prevailing sense of shame among the victims. Vietnam faces the parallel challenge of reaching out to the victims and delivering necessary assistance services, as well as preventing the occurrence of the problem and raising awareness of the issue with both men and women.

2. There is an urgent need for coordination and further development of state policies to promote greater gender equality. It is also necessary to educate all social groups that gender-based violence is not acceptable in any case. Although Vietnam has enacted the law on domestic violence, there is a need to strengthen national policies and legal frameworks in compliance with documents. There are three such fields that need to be strengthened simultaneously:

1. Educating people about gender equality, and specifically that gender-based violence is a criminal act, not only a domestic matter, and it is legally punishable; and erasing the social stigma attached to, and isolation of abused women;

2. Promoting the legal and formal instruments assisting abused women and increasing the availability of such assistance;

3. Committing to prevention measures and supporting research and data collection in order to raise awareness of the issue.

Efforts at changing general perceptions should be targeted at gender stereotypes. The CEDAW 5th and 6th Report recognized that some school textbooks remain gender-biased. Traditional image of women are depicted with the four Confucian virtues attributed to women. Primary school children learn from early age that women and girls do house chores, take care of children, perform manual work, do farming etc. Boys and men are depicted as scholars, explorers, engineers or skill-workers. Such education contributes to gender prejudice and the social roles based on gender.177

In other words, national strategies and international initiatives should consider methods combating violence against women and children that would:

- Improve data collection, support research and dissemination on all forms of violence against women.
- Engage men into the campaigns of raising awareness on gender equality.
- Wide-spreading the legal knowledge about the legal mechanisms: for women to know their rights, for men to know that any act of violence is a subject of criminal prosecution.
- More integrated mechanisms should be adopted at state level.
- Education strategies should be incorporated, including eradicating gender stereotypes in the textbooks.
- Increase media campaign to condemn the violence and change the perception that DV is not a matter to be ashamed of and encourage women to break the silence.

177 Ibid. P. 31

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C. EXPLOITATION

1. Description of the Problem

   a. Prevalence of Exploitation

Among the forms of exploitation of women and children, a substantial prevalence of human trafficking, cases of sexual exploitation, forced labour, and forced marriage have all been reported. Vietnam remains a source country of labour abroad, mainly to Taiwan, Malaysia, South Korea and Japan. At the same time, it is also a source of trafficked women and children for sexual exploitation to those countries, as well as to Cambodia, China, Laos, Thailand, and also Europe (particularly Czech Republic). Incidences of exploitation, such as forced prostitution, child labour, and forced labour are also reported in the national contexts.

**Trafficking**

Vietnam was listed in the Tier 2 Watch List in 2012 by the U.S. Department of State's Trafficking in Persons Report for not fully complying with the Trafficking Victims Protection Act’s minimum standard for the elimination of trafficking, although it made significant efforts to do so.\(^{178}\)

Vietnam is mainly a source country, but also to a lesser extent a destination country. From available literature, the current situation indicates that the Vietnamese Government is not reacting sufficiently. Available data on trafficking mostly focus on women and children. Reports tend to range over a period of time with varying statistics, including those provided by national agencies. The problem with such available data is that they tend to be rather approximate rather than accurate, due to poor facilitation in tracking concrete documentation as well as the difficulty in reaching all cases. As in the case of domestic and sexual violence, problems in assessing the accuracy of existing data and the extent of unreported cases problematize the assessment of reports.

The difficulty lies in the lack of precise monitoring mechanisms, the lack of exact figures, and the chronic problem of underreporting found in other countries as well. Various studies offer different data, but in most of the cases it is believed that actual numbers of trafficked people exceed by far the available statistics. For example, The British Embassy in Hanoi, in conjunction with the Child Exploitation and Online Protection Centre reported that within 2005-2009, there were 6,000\(^{179}\) trafficking victims—resulting in 3,190 court cases. However, there were approximately 40,000 women and children reported missing during this period of time, and there was a high suspicion that they may have been trafficked. Due to the lack of a nationwide record of missing people, it is difficult to track exact figures.\(^{180}\)

The criminal nature of trafficking and the extensive efforts reported to by perpetrators to disguise or hide their activities makes accurate estimates of exact data impossible to obtain. Available reports, often from the same period of time, suggest different statistics, making the issue confusing to grasp and the scope of the problem difficult to measure. The Strategic Information Response Network (SIREN) Report quotes another number of estimated victims of human trafficking in the period of 2004-2009: 1,586 cases and 2,888 perpetrators recorded.\(^{181}\) This number of cases is almost certainly far too low.

<table>
<thead>
<tr>
<th>Source of data</th>
<th>Period of time</th>
<th>Number of trafficked persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vietnamese Border Guard</td>
<td>2010</td>
<td>183</td>
</tr>
<tr>
<td>The Asia Foundation</td>
<td>2007</td>
<td>862</td>
</tr>
<tr>
<td>TuoiTre Newspaper</td>
<td>2006</td>
<td>6,000</td>
</tr>
<tr>
<td>The British Embassy in Hanoi and Child Exploitation and Online Protection Centre</td>
<td>2005-2009</td>
<td>6,000</td>
</tr>
<tr>
<td>Vietnamese Ministry of Justice</td>
<td>2004-2010</td>
<td>4,973</td>
</tr>
<tr>
<td>Vietnamese Ministry of Public Security</td>
<td>2004-2009</td>
<td>2,935</td>
</tr>
</tbody>
</table>

\(^{178}\) U.S. State Department, “TRAFFICKING IN PERSONS REPORT 2012,” (U.S. State Department, 2012).


\(^{180}\) “The Trafficking of Women and children from Vietnam,” (Hanoi: Child Exploitation and Online Protection Centre in association with the British Embassy, 2011). P.10

\(^{181}\) UNIAP, “Mekong Region Country Datasheets Human Trafficking,” in SIREN (Bangkok: UNIAP, 2010). P.32

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they experience forced labour, forced marriage or sexual exploitation. Threats and violence are commonly employed on women to make them comply with the exploitation. In worse cases victims are enslaved, e.g. certain brothels tattoo the women and girls as a sign of ownership. Alliance Anti-Traffic (AAT) reported inhuman treatment of the victims, including physical maiming to prevent escapes and even organ harvesting. There are also suspicions of murder cases of non-compliant victims.

Another powerful tool used by the traffickers is the Internet, especially when targeting children and teenagers. The rising access to Internet and popularity among the young provides traffickers a convenient means to reach the potential victims with whom they establish contact first via online chat rooms. Newspapers have collected a number of cases where young girls are recruited by ”friends” they made online. Some assistants to traffickers of girls appear not much older than the victims, giving her family an impression of a good ”older sister”. They become friends with the victim and offer ”a shopping trip to city”, from which the victims do not come back home.

Another common strategy is debt bondage of the victims who are duped into thinking they are going abroad to work. Upon arrival they are told that they need to pay back the inflated costs of transportation, which usually takes a couple of years of slavery. Only in some cases do victims receive some payment and are able to send money back to their families. The majority of victims are not familiar with the language, geography, law or other relevant information of the destination country, therefore they feel they have no choice but to comply with the traffickers’ rules, which are typically buttressed by force and coercion.

The 2012 Trafficking in Persons Report of the U.S. Department of State confirms that such a practice is commonly adopted.

A study on migration trends conducted in 2010 of 1,265 Vietnamese migrants from three northern districts who

<table>
<thead>
<tr>
<th>Source of data</th>
<th>Period of time</th>
<th>Number of trafficked persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIREN</td>
<td>2004-2009</td>
<td>1,586 cases</td>
</tr>
<tr>
<td>Vietnamese Ministry of Police</td>
<td>2003</td>
<td>1,758</td>
</tr>
<tr>
<td>Vietnamese Ministry of Public Security</td>
<td>1991-1999</td>
<td>22,000 women and children trafficked to China only</td>
</tr>
<tr>
<td>TuoiTre Newspaper</td>
<td>1991-1999</td>
<td>Women and children trafficked for sexual exploitation 22,000 to China 12,000 to Cambodia</td>
</tr>
</tbody>
</table>

Source: Compiled by the researcher based on various literature

Although, a recent law amendment re-phrased “trafficking in women and children” into “trafficking in persons”, in Vietnam human trafficking is still mainly addressed as trafficking in women and children, without including men (or boys above 16). A number of reports mention men, particularly from ethnic minority groups, being trafficked for labour exploitation mainly in mines, farms and factories, but trafficking in men was not found as the main focus of any available research.

Means Employed

There are certain patterns used by trafficking networks. Among the recruitment mechanisms are recommendations or introductions by a friend or villager, illegal recruitment agencies, or other un-official channels.

It is common that victims are aware of the illegality of crossing borders, but in doing so they assume that they would get unauthorized employment for better pay. Certain cases show that some trafficking victims agree on illegal crossing border and cooperate with the traffickers. However, upon arrival they are deprived of travel and identification documents. Instead of getting employment, they experience forced labour, forced marriage or sexual exploitation. Threats and violence are commonly employed on women to make them comply with the exploitation. In worse cases victims are enslaved, e.g. certain brothels tattoo the women and girls as a sign of ownership. Alliance Anti-Traffic (AAT) reported inhuman treatment of the victims, including physical maiming to prevent escapes and even organ harvesting. There are also suspicions of murder cases of non-compliant victims.

Another powerful tool used by the traffickers is the Internet, especially when targeting children and teenagers. The rising access to Internet and popularity among the young provides traffickers a convenient means to reach the potential victims, with whom they establish contact first via online chat rooms. Newspapers have collected a number of cases where young girls are recruited by “friends” they made online. Some assistants to traffickers of girls appear not much older than the victims, giving her family an impression of a good “older sister”. They become friends with the victim and offer “a shopping trip to city”, from which the victims do not come back home.

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183 UNIAP, “Mekong Region Country Datosheers Human Trafficking.”

184 “The Trafficking of Women and children from Vietnam.” P. 13-17

185 Ibid. P. 21-22


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had gone abroad for work found that nearly all faced high recruitment fees that put them in a state of debt bondage for years; the majority of those that had to return to Vietnam early – after one to two years – were not able to earn enough to pay off those debts. Upon arrival in destination countries, some workers find themselves compelled to work in substandard conditions for little or no pay despite large debts and with no credible avenues of legal recourse. Some of Vietnam's recruitment companies reportedly did not allow workers to read their contracts until the day before they were scheduled to depart the country, after the workers had already paid significant recruitment fees, often incurring debt. Some workers reported signing contracts in languages they could not read. There also have been documented cases of recruitment companies being unresponsive to workers’ requests for assistance in situations of exploitation.\(^{187}\)

Common Routes of Trafficking

According to the General Report of Activities of Vietnamese citizens migrating abroad presented at the First Conference on International Migration co-organized by the IOM in 2011, the National Duty Office 130 Against trafficking women and children has identified 89 key routes often used by trafficking gangs.\(^{188}\) The Report, however, did not provide a specific list of those key routes.

According to the SIREN Human Trafficking Report, there are prevailing four routes of trafficking in persons from Vietnam:

Map 2: Common routes of trafficking

![Map 2: Common routes of trafficking](source)

**Route number one: China, mainly southern provinces.**

Vietnam shares with China a border of 1,463km, with six provinces on the Vietnamese side (Lai Chau, Ha Giang, Lao Cai, Cao Bang, Lang Son and Quanh Ninh) and two on Chinese side (Yunnan and Guangxi). The borderline is porous. With an imbalanced gender ratio in China, as well as strong demand for male child in a one-child policy country, trafficking in women and children from Vietnam to China is a predominant trend.

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187 Department, "TRAFFICKING IN PERSONS REPORT 2012."
188 "Báo cáo tổng quan hoạt động di cư của công dân Việt Nam ra nước ngoài - [General Report of Activities of Vietnamese citizens migrating abroad]."
189 UNIAP, "Mekong Region Country Datasehts Human Trafficking." P.31
Vietnamese women, children, even new born-babies are trafficked for marriage, sex exploitation, forced labour as well as adoption purposes. “According to official estimates, trafficked women into China account for 70% of the total number of trafficked women abroad.”\textsuperscript{191} Vietnamese women are in high demand as brides in China due to the gender imbalance in the country and heavy societal pressure for marriage and having children. Next to forced marriage, women are trafficked for the purpose of prostitution. Within the range of the Southern China-Northern Vietnam border alone,\textsuperscript{177} 177 brothels have been identified.\textsuperscript{192} Traffickers do not only target single women, often married women are trafficked together with their children, who are later either sold for adoption or to brothels. Another common purpose of trafficking is exploitation in domestic servitude.

The incidence of crossing the borders with China grew tenfold in recent years. A study of the Institute of Labour Science and Social Affairs with the support of the ILO estimated that 4,000 Vietnamese workers enter China on daily basis through Lao Cai province alone. In 2008, there were 2,500 trafficked persons from Lao Cai that were rescued. Estimates indicated that the traffickers operating in this area received VND 3-40 million (approximately USD 160-2,500) per each person they manage to sell to the mines, brick kilns, plantations, the entertainment industry and domestic work.\textsuperscript{193}

\textit{Route number two: Cambodia.}

In Cambodia, common perception about the beauty of Vietnamese women raises a demand for Vietnamese migrants, as well prostitutes. Estimations say that there are 15-32\% Vietnamese women working in the sex industry in Cambodia.\textsuperscript{194} They enter the sex industry either voluntarily or by force, but there is prevalence of bonded labour of migrant workers. Often women are trafficked further to Thailand. The majority of sending communities are around the Mekong delta. Vietnam is also a destination for trafficked persons from Cambodia for sexual exploitation and also for forced begging.\textsuperscript{195}

\textit{Route number three: Taiwan and South Korea.}

Increasing numbers have been reported of arranged marriages and agencies that mediate in sending brides to Taiwan and South Korea, as well as Japan. Higher income and the opportunity of marrying a man from a more developed country lure rural women; however, some end up in domestic slavery.\textsuperscript{196}

\textit{Route number four: Beyond the Greater Mekong Sub-region.}

Vietnamese women and children are also trafficked beyond the neighbouring countries to Hong Kong, Macau, Malaysia, and even Europe. Thailand is reported as the transit point due to logistic convenience.\textsuperscript{197}

\textit{Other destinations: Trafficking to the UK}

While most available literature identify trafficking operating from Vietnam to neighbouring countries, the report by the British Embassy in Hanoi and the Child Exploitation and Online Protection Centre detected a rising trend of trafficking of Vietnamese children into the UK. Fifty-eight children were trafficked to the United Kingdom over a period of 12 months for purposes of labour, sexual exploitation and street crimes.\textsuperscript{198} Another emerging trend was reported when a number of children (mainly girls) were found to be “flying into UK undocumented, claiming asylum and subsequently going missing from care.”\textsuperscript{199} It is believed that these girls, before being trafficked into UK, were previously exploited in brothels in China. Trafficking in children and youth is predominantly for sexual abuse. Girls are targeted by traffickers because they are easier to manipulate and on account of the expectation that they can generate higher earnings. There is higher demand in the sex industry for young girls for their virginity. Seventy per cent of all Vietnamese victims of trafficking recorded by the UK National Referral Mechanism from April 1st 2009 to December 31\textsuperscript{st} 2009 were children.\textsuperscript{200}

\textsuperscript{191} Ibid.
\textsuperscript{192} “The Trafficking of Women and children from Vietnam.”
\textsuperscript{195} Ibid.
\textsuperscript{196} Ibid.
\textsuperscript{197} Ibid.
\textsuperscript{198} Ibid. P. 3
\textsuperscript{199} Ibid. P. 3
\textsuperscript{200} Ibid. P. 13
Trafficking Returnees

In terms of information on survivors returning, the official data from Vietnamese Office of Migration from 2010 provides the following numbers:

Table 11: Number of human trafficking returnees in 2010 by destination countries

| Returning from | Number of children returnees | Number of women returnees | Returning | | |
|----------------|-------------------------------|---------------------------|----------|-----|-----|-----|-----|-----|
|                | Returned on their own | Rescued | Exchanged | Expelled |
| China          | 53 333                      | 32 80   | 253       | 21      |
| Laos           | 2 52                        | 16 28   | 10        | -       |
| Cambodia       | 5 -                         | - -     | 5         | -       |
| Total          | 60 385                      | 48 108  | 268       | 21      |

Source: Translated by the researcher, data from Official website for Information on Migration by the Ministry of Foreign Affairs, IOM and EU201

Cross-Border Marriages/Mail Order Brides

In recent years, a significant number of Vietnamese women married Taiwanese, Chinese, South Korean and Japanese men, the majority of them through arrangements of matchmaking agencies. Cross-border marriages carry a risk of exploitation or sale of women. Brokers and matchmaking agencies’ activities often break norms of human rights by launching advertising campaigns, which treat potential brides as commodities for sale. In the early 1990s, TV advertisements in Taiwan showed Vietnamese women on a runway with numbers for Taiwanese men to pick from by giving them a call. Later such ads have been banned.202 However, there have been practices reported of Taiwanese men coming to Vietnamese matchmaking agencies and choosing a bride from a group of presented candidates.203 Official data provided by the Ministry of Justice shows that, in 2005 to 2010, there were 133,289 Vietnamese registered marriages with foreigners.204

The push-and-pull factors for such “mail-order-brides” remain strong. Among the reasons given for marriage migration is the need to escape from poverty and rural reality. One of the surveys conducted on the experience of 630 women who married Taiwanese men indicated that 61.6% stated “to help the family” as the reason, another 10.8% stated “for a better life.”205 The prevalence of economic motivation determines the trend of cross-border arranged marriages.

Another factor is the existing imbalance of sex ratio in the marriageable ages the so called “marriage squeeze”. According to David Goodkind, Vietnam faced the phenomenon of “double marriage squeeze”. Domestically speaking, due to the impact of long years of war, the women outnumber men; at the same time Vietnamese overseas are dominated by males and have a shortage of females.206 Marriage squeeze is problematic for women, particularly in Vietnamese society where non-marriage is both rare and somehow stigmatized.

International marriages often take one of two forms: arranged marriages and marriages brokered through ethnic ties. Marriage migration involves the question of the legality of the activities of existing matchmaking agencies and brokers. Although they may differ from what is traditionally regarded as kidnapping or human trafficking, in many cases, the activities and practices performed by certain brokers do carry a trafficking component as they verge on deceiving, misleading or trapping women into making decisions when they are not fully aware of the conditions. Many women who register with such agencies are not given precise information about the potential husband or the exact destination or future address.207 Fraudulent misrepresentation or deliberate denial of accurate information lends brokered marriages the quality of trafficking.

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203 Ibid.

204 “Báo cáo toàn quốc đối với cuộc cuộc công dân Việt Nam nhập cư, di cư - [General Report of Activities of Vietnamese citizens migrating abroad].” P. 4


207 Nguyen, “Marriage migration between Vietnam and Taiwan: A view from Vietnam.” P. 13

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Lack of sufficient information before departing to marry in a foreign country may result in disillusion. The term “Taiwan disillusionment” as coined by Vietnamese media, reflects a phenomenon of some Vietnamese women married into problematic marriages. Before entering the marriage, those women expected a positive change, particularly in economic terms, for their lives. However, the reality never met their expectations. In the worst cases they were abused, forced to be the “wife” for their husband’s brothers and relatives, bearing children for his family, forced into farm labour, or even sold into the entertainment industry. Such cases clearly fall within the category of trafficking and exploitation.

**Sale of Children**

Reports indicate that the sale of children and youth poses a serious problem for Vietnam. The Pacific Link Foundation has reported cases where poor families have sold their own children, often to couples in China. The one-child Policy in China creates a demand for buying children, in particular males. Other cases involve Chinese men buying Vietnamese women to produce a male baby. Often, once a son is born, the mother, sometimes together with daughter or daughters born prior to the son, are returned to Vietnam or sold to a Chinese brothel.

Kidnapping for trafficking purposes is serious, particularly in the border regions with Cambodia and China. The Post-Yokohama Report estimated that there were 60 kidnapped children from 14 provinces, 29 of them under 16 years old; 26 of them were sold for sexual exploitation. Yet the data does not specify the timeline or source of information. It is of common perception that Vietnamese boys are trafficked to China for illegal adoption; however, no specific statistics are available at the moment.

Vietnamese women are also reportedly exploited as surrogate mothers. A Taiwanese surrogacy service was found to have exploited 14 Vietnamese women by forcibly impregnating them and selling the babies to wealthy Taiwanese couples for $32,000.

International adoption as a mean of trafficking children abroad has become a matter of closer scrutiny. Some data on the number of international adoptions have been compiled. According to data from the Ministry of Justice, during 2008-2010 there were 2,420 children from Vietnam adopted mainly by citizens of Canada, Switzerland, Denmark, Spain, France, and Italy. More detailed information as to the prevalence, nature, and monitoring of such incidences would be helpful.

**Internal Trafficking**

Trafficking, particularly for sexual exploitation is not limited to cross-border movements. Within Vietnam, women and children are kidnapped, forced or deceived into working in sexual enterprises. Predominantly, the movement occurs from rural to urban areas. Major cities are the main destinations for trafficked women forced into prostitution, karaoke bars, forced labour at factories, or domestic service. Men are also often victims for forced labour in agriculture, construction and factories.

Internal trafficking is a complex issue and still needs more clarification, both in terms of legislation as well as in conceptualizing. There is a thin boundary between trafficking and irregular or illegal migration that ends in exploitation. Victims in most cases are unprepared for migration and lack legal and situational awareness. Many forms of exploitation occur, including forced labour, being forced or tricked into working in the sex industry, or partial deprivation of freedom.

Although no accurate number of internally trafficked people can be reached at the moment, the government has provided some estimates. The following table indicates estimated numbers of people who left their home communities for employment purposes, but disappeared or whose status is unrecorded. Estimates of number of suspected trafficked victims were organized by the government in the first edition of the Trafficking of Women and Children in Vietnam: From 1995 to 2003, the government estimated that approximately 25,000 people were trafficked annually.

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208 Ibid. 19-20.
209 “The Trafficking of Women and children from Vietnam.” P. 12
212 “The Trafficking of Women and children from Vietnam.” P.12
213 Data quoted from the Official website on Migration Information, “Information on Migration”. (last retrieved on March 6th, 2012)
provinces in each of 64 provinces. For the convenience of this study, the researcher has summarized the data into the nation-wide numbers accordingly:

Table 12: Number of missing people across the country by the duration of missing (2010)

<table>
<thead>
<tr>
<th>Gender</th>
<th>Missing time</th>
<th>Total number across the country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>Under 5 years</td>
<td>2,321</td>
</tr>
<tr>
<td></td>
<td>5 - 10 years</td>
<td>6,633</td>
</tr>
<tr>
<td></td>
<td>Over 10 years</td>
<td>249</td>
</tr>
<tr>
<td>Men</td>
<td>Under 5 years</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>5 - 10 years</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Over 10 years</td>
<td>2</td>
</tr>
<tr>
<td>Women under 25</td>
<td>Under 5 years</td>
<td>600</td>
</tr>
<tr>
<td></td>
<td>5 - 10 years</td>
<td>1,169</td>
</tr>
<tr>
<td></td>
<td>Over 10 years</td>
<td>18</td>
</tr>
<tr>
<td>Women above 25</td>
<td>Under 5 years</td>
<td>677</td>
</tr>
<tr>
<td></td>
<td>5 - 10 years</td>
<td>2,077</td>
</tr>
<tr>
<td></td>
<td>Over 10 years</td>
<td>121</td>
</tr>
<tr>
<td>Children - boys</td>
<td>Under 5 years</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>5 - 10 years</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Over 10 years</td>
<td>2</td>
</tr>
<tr>
<td>Children - girls</td>
<td>Under 5 years</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>5 - 10 years</td>
<td>697</td>
</tr>
<tr>
<td></td>
<td>Over 10 years</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: Compiled by the researcher based on the data from the Official website on Information on Migration by the Ministry of Foreign Affairs, IOM and EU.

Child Prostitution

The 2012 TIP Report described Vietnam as a destination country for child prostitution, with exploiters coming mainly from Japan, South Korea, China, Taiwan, the UK, Australia, Europe, and United States. "Although this problem is not believed to be widespread."

The World Children Organization in 2006 estimated that there are 200,000 sex workers in Vietnam, 7.5% - 10% of whom are children. Even more worrisome is the growing tendency of children's percentage in the sexual industry. According to the Tien Phong magazine, child prostitution is estimated at 13.4%, which is 5 times higher in comparison to 2000.

Child prostitution has been an increasing problem within Vietnam since the opening of the country. UNICEF and ECPAT data quoted in the Post-Yokohama Report estimated 27,000 Vietnamese prostitutes working in Cambodia, 20-25% of whom are aged between 14-18. However, it is impossible to determine the actual number of young people engage in prostitution due to the covert nature of the practice. A report about child prostitution co-sponsored by ILO indicated that there is a tendency towards an increase in numbers of child prostitution: in 1989 2.5% commercial sex workers were children; in 1994 – it was 11%; in 1995 – 11.42%. This data is, of course, now very out of date. The figures are believed to vary significantly from 5-20% depending on the region. In the South of Vietnam, the number of children engaged in prostitution is higher than in the North. Also, there is a variance in the age tendency of child prostitutes between North (prevalence of 15-17 years old) and South (prevalence of 13-17 years old).

Figure 7: Percentage of children in commercial sex industry according to ILO estimations

Source: Researcher’s compilation following the data from "Children in Prostitution in Hanoi, HaiPhong, HCMC and Can Tho- Rapid Assessment"

The recruitment process, as the ILO study showed, is mostly based on four scenarios. In the first type of scenario, children are either persuaded by friends or people from their home communities to follow them to the city in search of legitimate jobs, but upon arrival they find themselves in exploitative environment, were they are often beaten, threatened and locked in the rooms/brothels. The second form of recruitment involves children being deceived by the friends of fellow villagers who force them into the sex industry, by promising high paid jobs. Sometimes,

215 Ibid. (last retrieved on March 6th, 2012)
216 U.S. Deparment, "TRAFFICKING IN PERSONS REPORT 2012."
families receive money in advance to convince them that their children can have equal or even higher earnings. In the third scenario, children, upon arrival at the city, face difficulty making ends meet and volunteer to work in prostitution once they are offered the higher-income job. The last type of recruitment, and the rarest one according to the report, is when they deliberately seek such work for personal or family reasons.

Children in Special Circumstances

A report published in 2009 describes the situation of vulnerable children as follows:218

MOLISA reports that, in 2004, there were over 2.5 million219 children in special circumstances...220 According to MOLISA and other government agencies, there are over 1.2 million children with disabilities, 263,000 children affected by HIV/AIDS221 (8,500 of whom are infected), 150,000 orphans, 23,000 child labourers, 20,000 child sex workers, 21,000 street children, 13,000 children in conflict with the law, 8,000 drug users, and 126,309 children who were deprived of the care of their biological parents. In addition, there are also 1.2 million children living in poverty situations, 86% of whom are Kinh (Kinh is one of the 54 ethnic groups in Vietnam). Many children in special circumstances are struggling to survive on their own; some are forced to work and live on the streets, and a small number are living in institutions.222

Street Children

Street children are exposed to all dangers of society, and have little protection, if any. In the eyes of law, they are often petit criminals, guilty of theft, involved in drugs, or vandalism. There have been reported instances of brutality by the police against street children, or children in detention.223

The issue of street children has been linked to the “negative phenomena arising from the revival of state-sanctioned capitalism.”224 “Street children” refers to the children who live or work on the streets, called in Vietnamese as “bụidôi”, which translates to English as “dust of the life,” referring to “children of the dust”.225 Human Rights Watch estimated that there are 1,500 street children in Hanoi and 23,000 street children throughout.226 Most of them work as shoe-shiners or chewing-gum sellers. Most children in Hanoi earn about 20,000 VND (approximately 1 USD) or less per day.227

The government has recognized the concern relating to street children. In 1999 the Prime Minister issued Decision No. 134 on “Ratification of the Program of Action for Protection of Children with Special Circumstances in the 1999-2002 Period”.228 Several ministries and departments are responsible for protection of street children, namely the MOLISA, the Ministry of Public Security (police) and the Committee for Population, Family and Children.

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219 The source indicated that “in 2004, there were over 2.5 million children in special circumstances - over 3 percent of the total child population.” Ibid, 12. This study is of the opinion that what may have been referred to was the total population of Vietnam in 2004, which was 81,436,400. General Statistics Office of Vietnam, “Population and Employment: Average Population by Sex and Residence,” http://www.gso.gov.vn/default_en.aspx?tabid=467&itemid=3&ItemID=D=12940 (accessed 8 November 2012).


221 “Children affected by HIV/AIDS: Children “affected” by HIV/AIDS are broader than just children infected with HIV/AIDS. It is defined by the international instruments as: children who are HIV positive; children who are affected by HIV/AIDS because of the loss of a parental caregiver and/or because their families are severely strained by its consequences (orphans and children living in affected families); and children who are most prone to be infected.” Ibid.


225 Ibid.

226 Data quoted in ibid. P.10

227 Ibid. P. 11

228 Ibid. P. 13
Child Labour

Forced labour of men, women, and, particularly, children is a persisting challenge. The Vietnamese law sets the minimum employable age as 18 and prohibits child labour, with certain exceptions. If hiring companies obtain permission from the parents and the Ministry of Labour, Invalids and Social Affairs (MOLISA), children from 15 to 18 can be employed. The practice of engaging children in work is particularly serious in rural areas.

According to the data from 2006 provided by the ILO, 6.7% (930,000) of children between the ages of 6 and 17 participated in some economic activity, usually in the family farms or businesses not within the scope of law. Because their work is not legally registered, children often suffer exploitation and/or are exposed to hazardous conditions in the workplace. In HCM City alone, in 2009, 62 of 173 production factories were inspected and found to use illegal child labour. Official inspections reported that 96% of all child labour is not documented, 75% of them were found in the central coast and Mekong Delta provinces.229 Children often work in the farms, mines, factories, or in domestic service.

Table 13: A comparison of available statistics on children involved in economic activities

<table>
<thead>
<tr>
<th>Source of information</th>
<th>Year</th>
<th>Estimation</th>
<th>Age group</th>
</tr>
</thead>
<tbody>
<tr>
<td>MOLISA</td>
<td>2010</td>
<td>15% (26,000)</td>
<td>Not specified</td>
</tr>
<tr>
<td>ILO</td>
<td>2006</td>
<td>6.7%</td>
<td>6-17</td>
</tr>
<tr>
<td>US State Department</td>
<td>1990s</td>
<td>30%</td>
<td>6-17</td>
</tr>
</tbody>
</table>

Source: Compiled by the researcher based on literature quoted in the report.

The actual number of children participating in economic activities is problematic to assess due to the irregular nature of employment, often regarded as help in the family business. As seen from the below compilation, the available statistics are far from precise on the criteria of obtained estimates.

Table 14: Children’s participation in economic activities

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-17</td>
<td>62.3%</td>
</tr>
<tr>
<td>11-14</td>
<td>36.7%</td>
</tr>
<tr>
<td>6-10</td>
<td>7.4%</td>
</tr>
</tbody>
</table>

Source: VWU and some NGOs Alternative Report. [Numbers were released without specific date, geographical range, and job criteria (Researcher’s comment)]

In response, the government has approved the Programme for Prevention of Street Children, Child Sexual Abuse and Child Labour in hard, hazardous and dangerous jobs between 2004-2010. The program was aimed at a “reduction by 90% the number of street children, of whom 70% shall be provided support to reintegrate with their families.”230 Sources seem to show that the number of street children in Vietnam have reduced since 2004. A report by UNICEF mentions that “The estimated number of street children in Viet Nam varies, and was put at about 12,000 in 2007.”231 A news article indicated that, “according to data by the Street Educators’ Club, the number of street children has dropped from 21,000 in 2003 to 8,000 in 2007. In particular, the number went from 1,507 to 113 in Hanoi and from 8,507 to 794 in Ho Chi Minh City.”232

According to the Labour Law, employment of children under 15 is illegal, with some exceptions that MOLISA can grant. Working hours for juveniles cannot exceed 7 hours a day or 42 hours a week, and they can only perform jobs suitable for their physical, mental and personal development. The government Circular from 1995 stipulates 13 working conditions and 81 jobs in which it is prohibited to employ juvenile workers.233

In September 2011, Human Rights Watch published a report on a number of human rights abuses committed against persons detained in drug detention centres under Ho Chi Minh City’s administration. Among these abuses is forced labour. Human Rights Watch conducted “in-depth, confidential interviews” with 34 recent detainees

229 "U.S. State Department Human Rights Report 2010.”
of 14 of 16 centres under the administration of Ho Chi Minh City. All 34 former detainees were detained within five years of the date of their 2010 interview. Findings were as follows:

Vietnam’s system of forced labor Centres for people who use drugs has expanded over the last decade. In 2000, there were 56 drug detention Centres across Vietnam; by early 2011 that number had risen to 123 Centres. Between 2000 and 2010, over 309,000 people across Vietnam passed through the Centres.235

Refusing to work, or violating any one of a number of Centre rules, results in beatings or confinement in disciplinary rooms (phòng kỷ luật). Staff beat detainees with wooden truncheons or shock them with electrical batons, sometimes causing them to faint. In disciplinary rooms— either crowded punishment rooms or solitary confinement cells— physical deprivation is used as an additional form of punishment: food and/or drinking water rations are often reduced, access to bathing is restricted, and family visits are prohibited. People held in disciplinary rooms often have to work longer hours or conduct more strenuous work than usual, or are only allowed out of such rooms for 30 minutes each day, if they are allowed out at all.236

In addition to adults, children who use drugs are also held in drug detention Centres. Like adults, they are forced to work, beaten, and abused.237

Labour is said to be central to the purported “treatment” of people in drug detention centres. There is no standard type of labour and most have a variety of labour arrangements, some involving outside businesses. Government regulations make labour therapy one of the official five steps of drug rehabilitation.238 The centres must “organize therapeutic labour with the aim of recovering health and labour skills for drug addicts.”239

The Vietnamese government reported that in 2007, 3.5 per cent of detainees in Ho Chi Minh City centres were children. Children can be detained for one to two years. Decree 135 of 2004 requires that detained children must take part in “therapeutic labour.” There is nothing in the decree on “post rehabilitation management” to prevent a child from being categorized as at “a high risk of relapse” and thus subject to an additional two years of detention.240

b. Root Causes of Exploitation

Extreme poverty, lack of resources, lack of perspectives, lack of education, lack of awareness of related danger, lack of safety nets, shattered or dysfunctional families, the lure of better life in big cities or relatively wealthier countries make women and children voluntarily enter arranged marriages or travel to cities or other countries for work. With the growing tendency towards urbanization, rural to urban movement of persons for employment purposes is becoming customary. However, often those migrations pose threats, particularly to women and children, of being trafficked.

Asia Foundation found that women and girls in the Mekong Delta Region have difficulty in accessing Social Policy Banks due to certain regulations and registration issues.241 This prevents a number of women from approaching financial institutions for help, which creates a circle of events that raise the risk for trafficking. In many cases, poverty-stricken families seek external funding assistance, including indebtedness. Financial difficulties often lead to children, especially girls, dropping out of school. To seek employment or marriage, some girls and women, who seldom have any legal awareness, decide to migrate to a city and are lured or deceived into the sex trade.242


239 Human Rights Watch, “Rehab Archipelago”, p. 17

240 Human Rights Watch, “Rehab Archipelago”, p. 66


242 Ibid.
Rapid economic growth results in unequal distribution of wealth, skewed largely towards urban areas. Rural and remote areas note rising unemployment that push people for job-related migration. The Government also encourages the unemployed to seek employment abroad. However, the movement has been poorly-regulated, which creates opportunity for trafficking.243

At-risk groups are street children, who are exposed to abuse, maltreatment, and have no safety networks. Orphans, street children and children from dysfunctional or broken families are particularly vulnerable to various forms of exploitation, including kidnapping, trafficking, forced labour, and recruitment to sex industry, sex exploitation, or pornography. Because of the lack of the lack of accurate data, or registration of street children, it is impossible to assess how many street children actually have been trafficked. Moreover, the lack of records and registration make them even easier prey for traffickers.

c. Impact of Exploitation

Some reports express concern that a number of girls initially exploited in brothels in China are being re-trafficked for prostitution in Russia and across Europe, including the UK, where in most cases they enter by claiming asylum.244 As previously mentioned, lack of tight coordination and clear division of accountability among the responsible agencies can lead to disastrous consequences. There have been cases where border authorities have recognized victims of trafficking, released them at the border, but gave them no assistance in coming home, therefore posing a threat of being re-trafficked.245

In the cases of female migrants who enter the sex industry, violence, threats, psychological abuse, confinement, dependency and indebtedness are often experienced. Apart from lack of social safety net and lack of legal protection, women face social stigma and are sometimes too afraid to go back to their communities. Often, they lie about their occupation to their families and friends. Thus, they find themselves in a situation with no emotional, psychological, or de jure support. Such conditions, in addition to the abuse and fear experienced in work, might lead to severe emotional problems. Moreover, practices of unprotected sex coupled with lack of regular health examinations and predominant presence of drugs in the industry results in the danger of uncontrolled spread of HIV/AIDS and other sexually transmitted diseases. According to Reuters, more than one fifth of sex workers in Hanoi are infected with HIV.246

Apart from drugs and diseases, women working in the sex industry are exposed to a high risk of unplanned pregnancy, due to the low rate of condom use. This leads to a chain of other serious issues, such as abortion, often conducted not in the hospitals or by certified doctors. Unwanted pregnancies can also result in raising the number of orphans, since the babies are often abandoned after the birth, which leads to the problem of street children and, consequently, the social evils that they might be exposed to. There are cases of sex workers returning to their home communities with their babies, but those are relatively rare because of severe social stigma and condemnation from the society that they would face.

Victims of exploitation suffer from serious emotional, mental and physical disorders. Insufficient assistance to the victimsand difficulty in re-integration into the society due to serious social stigma are sources of suffering. Although counselling services are a part of rehabilitation programs, there are no professionalized psychological assistance systems that reach all victims in a sustainable manner.247

Child Prostitution

A study on child prostitution in North and South Vietnam found the following prevailing impacts: (1) physical conditions that include difficult activities serving customers, rude treatment by customers, beating by employers and street gangs; (2) psychological conditions stemming from fear of HIV/AIDS and other STDs infection, fear of arrest by police, fear of pregnancy, fear


244 "The Trafficking of Women and Children from Vietnam.” P. 31

245 UNICEF, “Reversing the Trend: Child Trafficking in East and Southeast Asia.” P. 63


of rejection by customers, fear of being found out by family and villagers, sadness and anxiety about the future, conflict in social environment, strict control from employers or pimps, and being exploited by street gangs.248

2. De Jure State Responses

a. Bases of State Responsibility

Vietnam has been active in participating in regional mechanisms to combat trafficking. It is a signatory to most existing regional multilateral cooperation mechanisms. Bilateral agreements play a significant role. Since 2001, Vietnam and China have launched a number of cooperation programs at various levels based on informal agreements and annual joint action plans. It has been a strong partnership and it has served as role model and basis for the China-Myanmar Anti-Trafficking Cooperation Framework 2007-2010.249

International Legal Framework:

- Convention on the Rights of the Child
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
- Convention on the Elimination of All Forms of Discrimination Against Women
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention against Corruption
- International Labour Organisation Convention concerning Forced or Compulsory Labour (ILO 29)
- International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182)
- United Nations Convention against Transnational Organised Crime

Regional Agreements

- ASEAN Declaration on Transnational Crime (1997)
- Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT), Memorandum of Understanding on Cooperation Against Trafficking in Persons in the Greater Mekong Sub-region (2004)
- ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)

Bilateral Agreements

Cambodia:

- Treaty on Border between Vietnam and China 20/07/1983: “The two sides enhance the cooperation to keep security and social order in the bordering region. In the case citizens of one country violate regulations of the other country (assault, robbery, smuggling …) the local authority will arrest, document and hand over the offender and evidence to authority of the citizen’s country for conviction.”250

- Agreement between Cambodia and Vietnam on cooperation to combat trafficking in women and children (2005). The cooperation assists children and young women who had been trafficked and work to eliminate trafficking in women and children. On the Vietnamese side, responsible organ for implementing is the Ministry of Public Security.251
- The Cooperation Agreement between Vietnam and Cambodia on Standard Operating Procedures for the Identifications and Sepatriations of Trafficked Victims (2009)

China

- Provisional Agreement on Solving affairs in Border Area between Vietnam and China 07/11/1991. Chapter IV said: “The two countries will collaborate to keep the security and social order in the bordering area including addressing the issue of illegal migration.”252
They will work together to investigate, arrest and transfer cross-border criminals. Coordinate to prevent and suppress smuggling, drug, arms, counterfeit money, seduce and trafficking in women and children.”

- Agreement on Mutual Legal Assistance in Civil and Criminal Matters 19/10/1998. Art. 26 stipulated: “The required party shall provide other party duplicates of the criminal sentences related to nations of the other party”; Art. 28 said: “Both parties, as required will provide to each other information about the current law and practices of law implementation in each country”

- Vietnam - China: several meetings were held to identify the need for developing an MOU between Vietnam and China to combat Trafficking in Persons. The Ministry of Public Security of Vietnam (MPS) prepared the first draft of this MOU in October 2008.

Other Countries

- Border Agreement between Vietnam and Laos (22/09/2003), in which “[t]he two sides agreed to raise awareness about border regulations, improve management capacity, smash drug trafficking and smuggling and ease people’s mobility and movement through the border.”

- Lao PDR – mutual legal assistance (includes provisions related to extradition)

- Lao PDR – Agreement on Cooperation in Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking (2010)


- Mutual Legal Assistance treaty (MLAT) between Vietnam and UK, which came into force in September 2009.

- Korea – Treaty on Extradition between the Republic of Korea and the Socialist Republic of Vietnam (signed in 15 September 2003 and signed into force on 19 April 2005); Treaty Between the Republic of Korea and the Socialist Republic of Vietnam on Mutual Legal Assistance in Criminal Matters (signed in 15 September 2003 and signed into force on 19 April 2005);

- Mongolia – mutual legal assistance

- Indonesia – cooperation in preventing and combating crimes (2005)

The Government has recognized the risks affecting the migrating population, hence has included relevant provisions into the labour export agreements, particularly in the following MoUs:


- Memorandum of Understanding on sending Vietnamese workers to Korea between the Vietnamese Ministry of Labour, Invalids, and Social Affairs and the Korean Ministry of Labour (2008)


b. State Policies Against Exploitation

Law on Trafficking

In March 2011, the Vietnamese National Assembly adopted the Law on Prevention, Suppression Against Human Trafficking. The Law itself provides for when it enters into force: 1st of January 2012 (Article 57).

The law provides the definition of sexual exploitation, sexual slave, and forced labour, as follows:

Article 2. Use of Terms

In this Law, the following terms are understood as follows

- Sexual exploitation means the coercion of persons for prostitution, for being subject matters for the production of pornographic materials, for erotic performance, or for sexual slavery.

- Sexual slave means persons who, under dependent situation, are forced to serve other persons for the latter’s sexual demands.

- Forced labour means the use of force or the threat of use of force, or other means to coerce persons to work against their will.

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253 Ibid. P. 12

254 Ibid. P. 12


Huong Le Thu
Under the law, the following acts are prohibited:

**Article 3. Prohibited Acts**

- The trafficking in persons as stipulated in Article 119 and Article 120 of the Penal Code.
- The transfer or receipt of persons for sexual exploitation, forced labour, the removal of organs, or for other inhuman purposes.
- The recruitment, transportation, harbouring of persons for sexual exploitation, forced labour, the removal of organs or for other inhuman purposes, or for the commission of the acts as stipulated in paragraphs 1 and 2 of this Article.
- Coercion of persons to commit any of the acts stipulated in paragraphs 1, 2 and 3 of this Article.
- Conducting brokerage to help other persons commit any of the acts stipulated in paragraphs 1, 2 and 3 of this Article.
- Revenge or the threat of revenge of victims, witnesses, denunciators, their relatives or persons who deter the acts stipulated in this Article.
- Misuse of the prevention, suppression against human trafficking for illegally obtaining profits or committing illegal acts.
- Obstruction against denunciation, notification and handling of the acts stipulated in this Article.
- Differentiation or discrimination against victims.
- Disclosure of the information of victims without their consent, or their lawful representatives.
- Assuming false position as victims.
- Other acts of violation of the provisions in this Law.

**Specific Provisions of the Penal Code**

It is important to note that Article 3 of the Law on Prevention, Suppression Against Human Trafficking, which enumerates the acts prohibited, refers to the provisions on trafficking in the Penal Code. Indeed, previous to the enactment of this law, trafficking was punished under various offences in the Penal Code that are directly relevant to trafficking. Specifically, article 119 prohibits trafficking in persons and article 120 prohibits trading in, fraudulently exchanging, or appropriating children. The Penal Code includes a range of offences that could be applied to the process of trafficking. For example, crimes relating to document fraud (articles 266-268, 284), laundering of proceeds of crime (article 251), and coercing other persons to stay in foreign countries (article 275), are all prohibited under the Penal Code.

**PENAL CODE, Article 119 - Trafficking in women**

- Those who traffic in women shall be sentenced to between two and seven years of imprisonment.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between five and twenty years of imprisonment:
  - Trading in women for the purpose of prostitution;
  - In an organized manner;
  - Being of professional characters;
  - For the purpose of sending them overseas;
  - Trafficking in more than one person;
  - Trafficking more than once.
- 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.

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

- Those who trade in, fraudulently exchange or appropriate children in any form shall be sentenced to between three and ten years of imprisonment.
- 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:
  - In an organized manner;
  - Being of professional character;
  - For despicable motivation;
  - Trading in, fraudulently exchanging or appropriating more than one child;
  - For the purpose of sending them abroad;
  - For use for inhumane purposes;
  - For use for prostitution purposes;
  - Dangerous recidivism;
  - Causing serious consequences.
- 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.

Prostitution

PENAL CODE - Article 254.-Harbouring prostitutes

- Those who harbour prostitutes shall be sentenced to between one and seven years of imprisonment.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between five and fifteen years of imprisonment:
  - In an organized manner;
  - Coercing other persons into prostitution;
  - Committing the crime more than once;
  - Against juveniles aged between full 16 years and under 18 years;
  - Causing serious consequences;
  - Constituting a case of dangerous recidivism.
- Committing the crime in one of the following circumstances, the offenders shall be sentenced to between twelve years and twenty years of imprisonment:
  - Against children aged between full 13 years and under 16 years;
  - Causing very serious consequences.
- Committing the crime and causing particularly serious consequences, the offenders shall be sentenced to between twelve and twenty years of imprisonment.
- The offenders may also be subject to a fine of between one million and ten million dong.

Labour Law Provisions

- No prison or forced labor

According to the Vietnam Labor Law, paragraph 2, Article 5, the maltreatment of workers and the use of forced labor in any form shall be prohibited.

According to the Vietnam Labor Law, Article 9, the employment relationship between workers and employers shall be established and developed through negotiations and agreement on the principles of voluntariness, equality, co-operation, respect of each other’s lawful rights and interests, and full observance of commitments.

- No Child Labor

Minimum Age-In accordance with Vietnam Labour Law, Article 6, the minimum age for workers is 15 for all industries.

Record Keeping- According to the Vietnam Labor Law, Article 119 at places where young workers (under 18 years old) are employed, separate records shall be kept mentioning in full the name, date of birth, work assigned and results of periodic health checks.

- Working Hours

According to the Vietnam Labour Law, Article 122 the hours of work for young workers shall not exceed 7 hours per day or 42 hours per week.

According to the Vietnam Labour Law, Article 119 states that young workers are workers under 18 years of age.

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• Harassment/discipline

According to the Vietnam Labor Law, Article 5, maltreatment of workers is prohibited.

According to the Vietnam Labor Law, Article 8, Section 3, employers have the obligation to respect the workers’ honor and dignity, and to treat workers correctly.

According to the Vietnam Labor Law, Article 111, Section 1, all acts by employer to offend female workers’ dignity and honor are strictly prohibited.

• Non-discrimination

In accordance the Vietnam Labor Law, with Article 5, Section 1, every person shall have the right to work, to choose freely the type of work or trade and to improve professional skills without any discrimination in respect of sex, race, social belonging, creed, or religion.

According to the Vietnam Labor Law, Article 9 indicates that the labor relationship between workers and employers shall be established and developed through negotiations and agreement on the principles of voluntariness, equality, co-operation, respect for each other’s lawful rights and interests, and full observance of commitment.

According to the Vietnam Labor Law, Article 111, Section 1, the employer must implement the principle of equality between men and women in respect of recruitment, employment, advancement in wage grades, and remuneration.

Other Related Laws and Regulations

Aside from than the Penal Code and Labour Law, several laws and regulations supplement protection against exploitation:
• Decree No. 38 on the Administrative Sanctions Against Violations of Labour Legislation (1996);
• Decree No. 49 on Sanctions against Administrative Violation in the Domain of Security and Order (1996);
• Law on Marriage and Family (2000);
• The Ordinance on Prevention of Prostitution (2003)
• Law on Child Protection, Care and Education (2004)
• Law on Protection, Care and Education of Children (2005),
• Law on Gender Equality (2006);
• Law on Vocational Training (2006);
• Law on Vietnamese Guest Workers (2006);
• Law on Donation and Transplantation of Human Tissues and Organs, Donation of Corpse/Body (2006);
• Decree No. 69 (2007) to amend the previous Decree No. 68 on International Child Adoption and Marriage, Decision 17 on Reception and Reintegration Support of Trafficked Women and Children returned from Abroad (2007),
• Decision 16 on Strengthening Implementation of National Plan of Action to Combat Trafficking in Women and Children (2007),
• Inter-Ministerial Circular 03 on Victim Identification and Reception (2008),
• National Programme on Community-based Caring for some categories of Children with Specially Difficult Circumstances 2005-2010
• 1998-2002 Plan of Action to protect Children in special circumstances including scheme to prevent, solve and recover children suffering from commercial sexual exploitation, plan was adopted for the period of 2004-2010;
• Decision 134/TTg released on May 31st 1999 by the Prime Minister on the Plan of Action to protect children in special circumstances: aiming at preventing and support children suffering commercial sexual exploitation;
• 2001-2010 National Agenda for Children in which prevention of prostitution and child sale is high on priority;
• National Plan of Action (NPA) against the Crime of Trafficking in Women and Children (NPA) 2004-2010. The Plan called for cross-border cooperation to combat the trafficking of children and women with Cambodia and China. It resulted in two bilateral memorandums of understanding between Vietnam and China and Vietnam and Cambodia. The National Plan of Action focuses on the sexual exploitation aspects of trafficking rather than on labour exploitation. It did not include men, as it referred to trafficking victims as women and children. The Ministry of Public Security was given control over all law enforcement issues relating to trafficking, and should coordinate with relevant ministries, agencies,
and mass organizations to implement the NPA. In 2007 the Vietnamese Government published a National Plan of Action (NPA) on Criminal Trafficking in Women and Children outlining the four main components:
- Communicating with and educating communities on trafficking
- Combating trafficking in children and women
- Receiving and supporting women and children victims returning from abroad;
- Developing and strengthening a legal framework in relation to prevention and combating criminal trafficking in women and children.

- Decision 19/20044/QS-TTg on the approval of the Programme on the Prevention of and Solution to the Situation of Street Children, Sexually Abused Children and Children Working under Heavy or Hazardous Conditions (2004-2010)

c. Assessment of State Policies

Trafficing

The government finalized a five-year national plan of action on human trafficking and provided an estimated $12 million in funding for anti-trafficking activities. As stated in the previous section, Vietnam's trafficking-specific law came into effect only in January of 2012. The government has yet to complete its implementation by issuing all related decrees and circulars. As this is a very new law, most of the literature assessing the legal framework of Vietnam may not squarely reflect the situation as it stands now. The US TIP Report 2011, however, stated as follows relative to the 2011 law:

In March 2011, the government passed an Anti-Trafficking Statute that provides a comprehensive list of prohibited acts, including some forms of trafficking not previously prohibited by other statutes, and also provides for trafficking prevention efforts. While the government states that most trafficking acts, including labor trafficking, are already covered under Vietnam’s Criminal Code, other acts of trafficking require additional legislation and implementing regulations before Vietnam’s laws have criminal penalties for all forms of trafficking. (Emphasis supplied.)

The 2011 law does not contain penalties in terms of numbers of years for imprisonment for violation of the law; however it does provide the following:

Article 23. Handling of Violation
- Any person who commits the acts stipulated in Article 3 of this Law shall, depending on the nature and extent of the violation, be disciplined or prosecuted for criminal liability; if damage occurs, he/she shall be held liable for compensation in accordance with law.
- Any person who abuses his/her power or position to shield, ignore, wrongly handle, or not to handle the acts stipulated in Article 3 of this Law shall, depending on the nature and extent of the violation, be disciplined or prosecuted for criminal liability; if damage occurs, he/she shall be held liable for compensation in accordance with law.
- Any person who assumes false position as a victim shall, in addition to being handled in accordance with law, be obliged to reimburse the sum that he/she has received as financial aid.

As provided in the Penal Code, the maximum sentence for trafficking women is 20 years; a maximum sentence of life imprisonment is imposed for trafficking in children. Article 120 stipulates that the crime of trading in, fraudulently exchanging or appropriating children is punishable by 3 to 10 years of imprisonment. The penalty for organized or professional trafficking of more than one child, or for despicable motivation or inhumane or prostitution purposes, or for sending abroad is from 10-20 years to a lifetime sentence of imprisonment.

259 "The Trafficking of Women and children from Vietnam." P. 6
263 “The Trafficking of Women and children from Vietnam.” P. 7
maximum financial penalty is 50,000,000 Dong. Some international organizations believe that such penalties are too lenient for such crime, especially as the Penal Code does not include provisions for attempting, participating, organizing or directing other persons to commit the offence.

It is noted that the 2011 trafficking law gives defines sexual exploitation, sexual slavery, and forced labour. The law also has provisions for victim care and trafficking detection and prevention. However, while it enumerates prohibited acts, the law itself does not define “trafficking”. The 2011 trafficking law makes reference to Articles 119 and 120 of the Penal Code, which enumerate punishable acts. Thus, UNIAP gives the following recommendations:

There should be a clear definition of human trafficking in line with the Palermo Protocol and the mechanisms for effective implementation of the Law on Vietnamese Guest Workers should be established.

Counter-trafficking interventions should move beyond trafficking for sexual exploitation and address all relevant aspects of trafficking in the country, both the ‘demand’ and the ‘supply’ side.

Reviewing this framework, an international consultant for UNODC, has commented that although children are protected by Vietnam’s legal framework from criminal conduct and sexual exploitation, “when compared with international standards, there are gaps in the current domestic legal framework relevant to child sex tourism.”

Child Prostitution

The Penal Code punishes “paid sexual intercourse with juveniles” and persons who engage in intercourse with children under 13 years old will be charged with rape. Children who are engaged in prostitution are not treated as criminals; however, they are subject to administrative sanction, or even fines, education at the community and compulsory rehabilitation. Children working as prostitutes may be arrested and detained for 24 hours while the administrative violation is being investigated.

3. Implementation, Monitoring and Enforcement

a. Monitoring Mechanisms

The Ministry of Public Security, in cooperation with other ministries, mass organizations, NGOs and international agencies, oversees the implementation of the National Action Plan on Combating Trafficking in Women and Children 2011-2015. Other key actors are the Ministry of Justice (MOJ), Ministry of Foreign Affairs (MOFA), Ministry of Labor, Invalids and Social Affairs (MOLISA), Border Guard Command (BGC), Ministry of Culture, Sport and Tourism, Vietnam Women's Union (VWU) and the National Assembly.

The authorities, as part of the fight against prostitution and trafficking, have launched supervision and inspection of service businesses where illegal sex sale might occur, such as hotels, guesthouses, restaurants, karaoke bars or massage parlours. Punishments include warnings, fines, or confiscation of business licenses. Some commentators consider that fines and punishments are too lenient and that corruption may hamper the effectiveness of monitoring authorities.

Pertaining to child labour (and violation of children’s rights, in general) MOLISA is responsible for enforcing laws and policies that would punish, fine, and prosecute the employers who violate children’s rights.

b. Complaints Process

In 2005, Vietnam established a centralized specialist investigation unit, C14 – Unit 7, mandated to undertake trafficking investigations. Smaller specialist units are in Hanoi, Ho Chi Minh City, HaiPhong and Lao Cai.

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265 Approximately 2,400 USD at the time of writing this report.
266 UNIAP, “Mekong Region Country Datasheets Human Trafficking,” P.32
270 “Sale of Children, Child Prostitution & Child Pornography - a complementary report from NGOs in Viet Nam to the Vietnamese government’s report on OPSC.”
In cases of trafficking, when the Vietnamese Immigration Department receives documentation about the victim, the verification process takes about 20 working days. After receiving a response from the local police, the Immigration Department completes the ID verification, which takes another 10 working days. If the person is identified as a victim of trafficking, the Immigration Department will enable them to return home. For the self-return process, the representative of the People’s Committees in the victim’s source province receives the ID request and begins documenting information about the victim. The documentation then is transferred to the provincial office of the Ministry of Labour, Invalids, and Social Affairs (MOLISA) who verifies victim’s identity, which takes approximately five working days. The provincial policy agency responds with a verification result, to be considered by the MOLISA within 15 working days.272

Vietnam does not yet have specialized or separate procedures for investigation and assessment of child abuse complaints.273 Under the existing law of Vietnam, there are no separate complaint procedures for reporting incidents of children in need of protection. Therefore, complaints that a child has been abused, neglected, exploited or abandoned are made in accordance with the general complaints and denunciations procedure. If parents commit an illegal violation against a child, the MOLISA, VWU or other agencies/organizations or individuals can request the Court to restrict the rights of parents through separation of the child from those abusive parents. However, in practice it appears to be very rare for external persons to interfere with family issues. “There is no mandatory reporting obligation on professionals who detect or suspect that a child is in special circumstances, unless the act committed against the child has criminal elements.”274

c. Protection and Rehabilitation

The Ministry of Public Security (MPS) in cooperation with the Ministry of Labor, War Invalids and Social Affairs (MOLISA) and the Ministry of Finance are responsible for developing and implementing policies for identifying and receiving trafficked victims returning from abroad. In 2007, the Government introduced the Receiving and Reintegration Programme to protect, identify and offer assistance to victims. Governmental agencies, such as MPS, cooperate with international NGOs at local levels in launching education programs aiming at raising awareness of trafficking. The Women’s Union, for example, ran an educational program and the Alliance Anti-Trafficking (AAT) trains teachers. Trafficking shelters for trafficked girls have been established by Pacific Link Foundation to help victims reintebrate, and offer support mechanisms and vocational training.275

The MOLISA (in cooperation with IOM) launched three temporary reception centres in Lao Cai and Lang Son (close to Chinese border) and An Giang (close to Cambodian border) for receiving returnees from trafficking. Long-term shelters are managed by the Vietnamese Women’s Union or DSEP, located in Hanoi, Lao Cai, Can Tho, HCMC, and An Giang. The shelters provide psychological support, vocational trainings, and other assistance relevant for reintegration to society. Such programs are offered for a maximum period of one year. The returners also receive help in obtaining identity documents and legal aid. Children coming back to schools are provided with learning materials. The number of shelters and available resources are still very low in comparison to the actual number of returnees.

Data from the VWU quoted that in 2010 the following trafficking survivors have received assistance:

<table>
<thead>
<tr>
<th>Table 15: Receiving trafficking survivors by the VWU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number across the country</td>
</tr>
<tr>
<td>Trafficking survivors received at the airports</td>
</tr>
<tr>
<td>Trafficking survivors received at land borders</td>
</tr>
<tr>
<td>Trafficking survivors received at local authorities</td>
</tr>
<tr>
<td>Trafficking survivors receiving assistance from the VWU</td>
</tr>
</tbody>
</table>

Source: Table computed by the researcher based on the data from the Vietnamese Women’s Union276

272 UNIAP, “Mekong Region Country Datasheers Human Trafficking.” P. 33
273 UNICEF, “UNICEF & The Children of Viet Nam.”P.15
275 “The Trafficking of Women and children from Vietnam.”P.8
276 “Information on Migration.” (last retrieved on March 6th, 2012)
Currently, there are fifty-four rehabilitation centres across Vietnam for sex workers managed by MOLISA. Five of them specialize in offering help to sex workers, the rest in providing drug rehabilitation services.

Children engaged in the sex industry receive education and rehabilitation. As the Ordinance on Prostitution Prevention stated, children from 14 years upwards will receive educational and rehabilitative measures at their own localities; "children who are regular sex-sellers from 16 years old upwards and have already received educating and rehabilitating measures or do not have permanent shelters will be sent to rehabilitation centres for between three to eighteen months."278 However, although the Law on the Care, Protection and Education of Children states that abused children shall be assisted by their families, the State and society to recover through counselling and physical and mental rehabilitation, there are reportedly no legal normative documents that would guide the implementation of these provisions.279

### d. Prevention Measures

Chapter 2 of the 2011 trafficking law contains mandates for protection against trafficking. Some of the specific articles are as follows:

- **Article 7. Provision of Information, Dissemination and Education on the Prevention, Suppression against Human Trafficking**
- **Article 8. Advice on the Prevention of Human Trafficking**
- **Article 11. Combining the Prevention of Human Trafficking with Socio-Economic Developments Programs**
- **Article 12. Individuals Participating in the Prevention of Human Trafficking**
- **Article 13. Families Participating in the Prevention of Human Trafficking**
- **Article 14. Schools and Educational or Training Institutions Participating in the Prevention of Human Trafficking**
- **Article 15. Prevention of Human Trafficking within Business and/or Service Organizations or Establishments**
- **Article 17. Vietnam Fatherland Front Committee and Its Member Organizations Taking Part in the Prevention of Human Trafficking**
- **Article 18. Vietnam Federation of Women Unions**

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277 Ibid. (Last retrieved on March 6th, 2012)

Taking Part in the Prevention of Human Trafficking

State and non-state actors have made efforts towards prevention through awareness campaigns, such as providing trainings and promoting safe migration. The Government of Vietnam approaches trafficking as a “social evil”, which is understood as deviation from legal, social, and ethical standards, and a negative repercussion of modernization. Among other “social evils” defined by the state are drug abuse, prostitution, pornography, gambling, and corruption. Hence, the Department of Social Evils has dealt with trafficking matters. Many campaigns address trafficking in connection with drug abuse, HIV, prostitution, criminality, and other forms of social evils. Although these phenomena are undeniably linked, such a strategy might not be the most effective one to raise awareness about trafficking crime. Moreover, it leads to a perception that stigmatizes trafficking survivors, as “participants” in those social evils.

Marriage Migration

In October 2003, the first Centre for Assistance in Marriage with Foreigners was established in Ho Chi Minh City in order to protect the rights of Vietnamese citizens, particularly women, and prevent marriage brokers from economic gain.

In 2007, the IOM sub-office in Ho Chi Minh City, together with Korean Committee for Human Rights Policy and the Vietnamese Women’s Union, launched a program to prepare brides-to-be before leaving for their husband’s country. This pre-departure training, based in HCMC, includes language and culture programs and basic legal information. During the pilot phase, from the period of October 2007 to February 2008, 1,150 women attended the program. Reflecting an awareness of the problem, Taiwanese and Korean governments and NGOs have launched hotlines, available in Vietnamese language for domestic violence assistance.

Prevention programs have been mostly initiated by non-governmental and international organizations. (See following section on Role of Non-State Actors.) Further prevention measures, particularly considering how recent the law on trafficking is, are yet to be developed.

4. Role of Non-State Actors

a. Assistance to Victims

As mentioned earlier, non-state actors have been crucial in assisting victims by cooperating with the Government in establishing temporary and long-term shelters. They are also involved in organizing assistance and rehabilitation to the victims, by offering vocational trainings and psychological care. Aside from these, victims may obtain one-time “difficulty allowance” as well as start-up loans from the Bank for Social Policy or the Poor Women Support Fund. Funding has been received from the Alliance Anti-Trafficking in Persons, the IOM, Pacific Links Foundation, and the UNIAP. In some cases micro-credit loans are provided to the families of trafficking victims. Programs initiated by non-state actors overlap between assistance and prevention of trafficking. Below are some of the agencies working in Vietnam:

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282 CEDAW Combined fifth and sixth Periodic Reviews of State Parties.” P. 22

283 Lom, “Foreign Marriages: Love and Money in Asia - Vietnamese Brides in Korea”.

284 UNIAP, “Mekong Region Country Datasheers Human Trafficking.” P. 33
<table>
<thead>
<tr>
<th>Name</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UN Agencies</strong></td>
<td></td>
</tr>
<tr>
<td>UNFPA</td>
<td>Research and dissemination, assistance to the victims, rehabilitation, vocational trainings, capacity building and technical support to the local agencies, awareness campaigns, publishing reports, funding research</td>
</tr>
<tr>
<td>UNICEF</td>
<td></td>
</tr>
<tr>
<td>UNIFEM (UN Women)</td>
<td></td>
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<tr>
<td>UNODC</td>
<td></td>
</tr>
<tr>
<td>UNIAP</td>
<td></td>
</tr>
<tr>
<td>ILO-IPEC/TICW, The ILO’s Mekong Sub-regional Project to Prevent Trafficking in Children and Women (TICW)</td>
<td></td>
</tr>
<tr>
<td>IOM</td>
<td></td>
</tr>
<tr>
<td>Action Aid (AAV)</td>
<td></td>
</tr>
<tr>
<td>AFESIP</td>
<td></td>
</tr>
<tr>
<td>Oxfam Quebec</td>
<td>Research and assessment of anti-trafficking programs</td>
</tr>
<tr>
<td>Save the Children UK (SCUK)</td>
<td>Publication on abuse of children</td>
</tr>
<tr>
<td>The Asia Foundation (TAF)</td>
<td>Rehabilitation programs for trafficking survivors, initiating community-based support groups, legal aid services, dissemination and publishing</td>
</tr>
<tr>
<td>The World Vision</td>
<td>Awareness campaigns</td>
</tr>
<tr>
<td>The Norwegian Assistance to Vietnam (NAV)</td>
<td>Funding research</td>
</tr>
<tr>
<td>AAT-AFESIP Vietnam (Alliance Anti-Trafficking in Persons)</td>
<td>Collection and dissemination of data</td>
</tr>
<tr>
<td>Asia Regional Trafficking in Persons Project (ARTIP)</td>
<td>Technical support, awareness campaigns</td>
</tr>
<tr>
<td>Catalyst</td>
<td></td>
</tr>
<tr>
<td>Hagar International</td>
<td></td>
</tr>
<tr>
<td>ANESVAD</td>
<td></td>
</tr>
<tr>
<td>Pacific Links Foundation</td>
<td>Funding shelters for the survivors</td>
</tr>
<tr>
<td>Terre des Hommes Foundation</td>
<td>Work with street children</td>
</tr>
<tr>
<td><strong>International NGOs</strong></td>
<td></td>
</tr>
<tr>
<td>Blue Dragon</td>
<td>Assistance to the street children, children in special circumstances</td>
</tr>
<tr>
<td>Coordination of Action Research on AIDS and Mobility (CARAM Asia)</td>
<td>Research and dissemination</td>
</tr>
<tr>
<td>Child Sexual Abuse Prevention Programme (CSAP),</td>
<td>Prevention</td>
</tr>
<tr>
<td><strong>Local NGOs</strong></td>
<td></td>
</tr>
<tr>
<td>Centre for Studies and Applied Sciences in Gender, Family, Women and Adolescents (CSAGA),</td>
<td>Research</td>
</tr>
<tr>
<td>Research Centre for Gender, Family and Environment in Development (CGFED)</td>
<td>Research</td>
</tr>
<tr>
<td>Committee on Population, Family and Children of Vietnam (CPCC),</td>
<td></td>
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<tr>
<td>Research Centre for Gender and Development (RCGAD)</td>
<td></td>
</tr>
</tbody>
</table>

Source: Researcher’s compilation

Because of the trans-national character of trafficking, detailed information about activities and initiatives of some of non-state actors are further elaborated in the regional programs below.
Some Regional and Sub-regional Initiatives:

Mekong Regional Law Centre Illegal Labour Movements Research Network

The Case of Trafficking in Women, The Mekong Regional Law Centre, and the Office of the National Commission on Women's Affairs in Thailand, in cooperation with the Asian Legal Studies Centre of the University of British Columbia, have initiated a process of effective national and international action aiming to control, reduce and ultimately eliminate the exploitation of migrant labour, particularly the trafficking of women into the sex industry. The project aims to increase awareness in the legal community regarding the strengths and weaknesses of the law and the legal system regarding trafficking; to develop a practical programme to improve the quality of legislation and law enforcement; and to engage law makers and enforcers in cooperative action in order to control and reduce trafficking. Participating countries are Cambodia, China, Laos, Myanmar, Thailand and Viet Nam.285

UNDP Trafficking in Women and Children in the Mekong Subregion

This project was developed out of the Interagency Working Group, currently consisting of 14 UN agencies and international organizations. These international organizations, as well as various local and international NGOs and governments, have initiated a wide variety of programmes and projects addressing the problem of trafficking in women and children in the Mekong sub-region. The project responds to the recognized need for improved coordination and communication in order to increase the impact of the various counter trafficking initiatives. The project is scheduled to be three years and is funded through the Turner Fund and AusAid.

UNICEF

UNICEF has no regional project on child trafficking, but has supported and implemented studies on the issue in several countries and has been involved in building national and local capacity in the region. UNICEF also participates in the Regional Working Group on Child Labour. Furthermore, UNICEF is a partner in a number of projects in the Asia and Pacific Region, such as the Mekong Regional Law Centre project described above, the ESCAP project, the ILO-IPEC project, the UNDP project and the IOM Return and Reintegration project.

UNHCHR

The Office of the High Commissioner on Human Rights has encouraged the National Human Rights Commissions of the Asia-Pacific region to take up the issue of trafficking. Discussions with the Asia-Pacific Forum of National Human Rights Institutions (APF) resulted in a working paper and the recommendation to all member-institutions to appoint someone as the focal point on the issue of trafficking. The focus of UNHCHR is on legal and policy development, thereby acting as a catalyst and support for the work of others.

UNAIDS

In 1997, UNAIDS established a Task Force on Migrant Labour and HIV Vulnerability in South-East and East Asia. The Task Force has been involved in organizing workshops, research and advocacy work.

CARAM Asia

The Coordination of Action Research on AIDS and Mobility – Asia is an initiative of NGOs involved in migration issues in Asia, and is especially concerned with the growing vulnerability of migrants in Asia to HIV/AIDS. The objectives of CARAM Asia are information dissemination, advocacy, development of grass-roots interventions and action research models, and protection of human rights of migrants. CARAM has focal points in seven South and South-East Asian countries: Tenaganita Malaysia, SHISUK Bangladesh, ACHIEVE Philippines, Solidaritas Perempuan Indonesia, CARAM Cambodia, Mobility Research and Support Centre Viet Nam, and Migrant Assistance Programme Thailand.

CATW-Asia Pacific

The Coalition Against Trafficking in Women is an international feminist network of organizations and groups promoting the human rights of women and children by combating sexual exploitation in all its forms, particularly in prostitution. The Asia Pacific branch was

launched in 1993 and is located in Manila. CATW-AP organizes education and training activities, develops human rights programmes, publishes research and other reports, provides services to, among others, member organizations, the media, and researchers through a documentation system on trafficking cases, and is active in networking, policy advocacy and campaigns related to prostitution, sexual exploitation and trafficking.

Mekong Coordination Team on Migrants and Victims of Trafficking (Mekong Cord)

This team was formed in 1998 with the objective of promoting activities for Database Development, Capacity-Building and Awareness-Raising, and Networking.286

Community-based Initiatives Against Trafficking in Children in the Mekong Sub-region 2003-2006 by Save the Children UK

In Vietnam, the program managed to launch awareness campaigns that reached 143,361 beneficiaries. Its strategy is based on community-based focus groups discussions (FGD) that served as a tool to monitor the changes in risky migration departures. The assessment of the program showed three key changes in the targeted communities: (1) Reduction of rate of risky departures from 30% to 5%; (2) Reduction of the percentage of children among migrants from 30% to 5%; (3) Reduction of the number of children below 15 years who leave the community to work.287 A particularly strong aspect of the program is the engagement of children, including from disadvantaged groups, in the activities. Awareness campaigns mobilized over 4,000 schools in several provinces and gave youth the opportunity to participate in trainings and raise their voice in the discussion about trafficking. Relevant publications regarding Vietnam include: “Report on research findings Action research with the participation of children and communities at three provinces of Bac Giang, Lang Son, and Quang Ninh” (2004), and “Our Voices, Our Views Mekong Children's Forum on Human Trafficking: A summary of the forum and activities for a young readership” (2005).288

The Asia Foundation

In partnership with the National Legal Aid Agency (NLAA) and other Legal Aid Centres, the Asia Foundation works to: 1) enhance legal aid services to the trafficking victims; 2) increase coordination among government agencies and media organizations working on protection, investigation and re-integration; 3) organize training courses on Vietnamese law and international conventions and professional skills for the legal aid providers and community support groups; 4) organize legal education and mobile counselling services for communities. Between 2005-2007, the program provided legal services to 361 legal aid cases, including legal counselling, legal assistance, and representing victims at the court hearings.289

b. Prevention Programs

As can be concluded from the previous section, the majority of existing studies and reports are funded, conducted or advised by international NGOs and UN agencies. Some programs of non-state actors focus particularly on the prevention of trafficking:

The Asia Foundation initiated a program from 2002-2008 aiming at combating and preventing human trafficking in Vietnam. The program targeted provinces with serious trafficking record: Quang Ninh, An Giang, Can Tho City, Nghe An and Thanh Hoa. Among the major components of program were:

- Prevention, Education, and Communication
- Community Support Group Models
- Women's Economic and Social Empowerment
- Safe Migration
- Legal Aid for Trafficking Victims
- Cross-border Cooperation
- Reintegration of Trafficking Victims, and
- Scholarship for Disadvantaged Girls290

As a strategy of raising awareness and education, the Asia Foundation developed the Community Support Group (CSG) model that would engage community groups and civic leaders in offering counselling services and supporting poor and disadvantaged people, who are

286 Ibid. P. 21-26
288 Ibid.
290 Ibid.
particularly vulnerable to the trafficking industry.291

Within the period of 2002-2008, the Asia Foundation published 6,000 handbooks addressing women and other at-risk groups; 1,200 trainer’s guides for local educators, 12,000 leaflets, 50,000 posters and stickers with essential assistance information.292

In 2004 the Australian non-profit Child Wise Organization held a workshop to train more than 50 Vietnamese hotel staff, taxi drivers, tourist guides and travel agents in simple methods to safeguard children from sex tourism.293 Such initiatives are needed, but ought to be sustainable and reach broader audiences if they are to be effective.

The Vietnamese Women’s Union has launched several initiatives to enhance public awareness of the problem. In 2009, it coordinated 12,000 public broadcasts, reaching more than 1,000,000 people on themes such as human trafficking, HIV prevention and drug abuse. It has also published books and brochures that include legal instruments and guiding principles on human trafficking prevention. VWU has been engaged in vocational training and micro-credit provision for disadvantaged women.294

The VWU developed a Plan of Action in 1997 on the prevention of trafficking in women and children. According to this plan of action, the VWU aims to concentrate on dissemination of information and education, research, reintegration assistance programmes for the return of trafficked women and children; community-based prevention schemes in coordination with agencies and organizations in different localities; supervision of law execution in relation to trafficking; and regional and international cooperation. Together with IOM, the Vietnam Women’s Union developed anational counter-trafficking information campaign in 1999 targeting 14 of the most severely affected provinces on a grass roots level, including door-to-door campaigns, public meetings and performances, and training of journalists to arrange appropriate media coverage.295

An assessment of The ILO’s Mekong Sub-regional Project to Prevent Trafficking in Children and Women (TICW) indicated the following outcomes:

- Improved the capacity of over 300 staff in the central labour ministry and its provincial departments as well as the VWU and other related agencies through trainings to help them better confront labour exploitation, develop advocacy and safe migration awareness campaigns, monitor projects, and mainstream good practices into other national programmes. About 800 information workers from villages have been trained to communicate with the community about trafficking and safe migration.
- Adopted a comprehensive approach combined with strategic partnerships with government, labour groups, mass organizations, migrants and would-be migrants. Awareness-raising on migration risks, human and workers’ rights, legal protection and gender issues were woven into the microfinance and vocational skills training activities for women likely to migrate or families with children at risk of leaving school. These were followed with assistance in finding job opportunities with local businesses or setting up in trade.
- Conducted outreach to migrants by training Vietnam General Confederation of Labour trade union members on trafficking and labour exploitation issues. They were also informed on how to reach migrants, particularly young women, to inform them of their rights and responsibilities and to help them access referral services, including legal counselling. A new Travel Smart–Work Smart guidebook was developed in Vietnamese, with useful information and contacts for migrants and potential migrants. The VGCL resorted to innovative outreach services by going to boarding houses and other residences to reach vulnerable internal migrants.
- Managed to involve 200 children who came together in 2004 and 2007 to talk about trafficking in Vietnam and make recommendations to the Government on improving measures to combat trafficking and protect children.
- Engaged employers. In 2005, the Vietnam Chamber of Commerce and Industry (VCCI) organized a brainstorming discussion among 22 employers and representatives of business association on what can be done to prevent trafficking of women and children. The session included sensitizing on internal labour

291 Ibid. P. 11
292 Ibid. P. 17
293 "Sale of Children, Child Prostitution & Child Pornography - a complementary report from NGOs in Viet Nam to the Vietnamese government’s report on OPSC;” P 15
294 UNIAP,”Mekong Region CountryDatasheers Human Trafficking.” P. 34
295 Derks,”Combating Trafficking in Southeast Asia. Review of Policy and Program Responses.”

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migration issues and decent employment practices as well as workers’ rights. Participants were from key sectors such as garment, footwear, handicraft and food processing industries that attract the majority of young migrant workers. A handbook on The Roles of Employers in Preventing Trafficking was developed to educate employers and recruiters on proper hiring and recruitment practices.

- Boosted the influence of the women’s federation. One clear indication of the project’s impact has been the initiative of the Vietnam Women’s Union to create a sub-regional alliance with other women’s federations. In July 2007 in Hanoi, the Mekong Women’s Forum brought together women from Cambodia, China, Lao PDR, Thailand (and Vietnam) to talk about good practices and country models. In Vietnam, the project has increased the Women’s Union’s involvement at the local level and its influence nationally on the trafficking issue

5. Progress Indicators and Challenges

Only recently, on 8 June 2012, Vietnam ratified the United Nations Convention against Transnational Organized Crime and acceded to the Trafficking Protocol. Worthy of note also is the enactment of the Law on Prevention, Suppression Against Human Trafficking; and the passage of the National Plan of Action on Human Trafficking (2011-2015). Another progress indicator of Vietnam’s effort to comply with the CRC is the establishment of the Committee for Protection and Care of Children (CPCC), which merged with the National Committee on Population, Family and Children, as the central mechanism to address issues related to protection and care for children.

With on-going internationalization and opening of borders, Vietnam faces increased challenges of combating trafficking. However, enhanced commitments and collaboration with neighbouring countries, adoption of international standards, legal frameworks, standards, and support mechanisms have been found to be helpful. Increased numbers of bilateral and multilateral agreements, as well as recent domestic policies, have shown the Government’s willingness to address the problem more effectively, though significant challenges remain.

Trafficking in persons has been regarded in legal documents as trafficking in women and children; hence little is known about cases of trafficking males. One of the biggest problems is the lack of nation-wide index or study that would comprehensively aggregate available data. Existing literature and statistics offer inconsistent numbers, often without specific indicators of measurement. Therefore, the real scope of the problem is difficult to grasp and to effectively address. Despite the demand of deeper understanding, no sufficient resources have been invested in the research and systematic collection of information relating to the problems of trafficking or commercial sexual exploitation.

Geographical disparity remains a problem in the equal distribution of financial support. Unfortunately, the poorer and remote regions receive less funding; awareness campaigns seldom reach them. However, it is people from those regions that are the most vulnerable to human trafficking.

Bilateral agreements with neighbouring countries only extend to handing over identified victims at the border, without stating assistance for them in returning to their home from the border. The Pacific Links Foundation reported cases where victims released at the border were re-trafficked. According to the observation of UNICEF: “In China officials continue to return trafficking victims to Viet Nam as a part of general deportations, with no clear distinctions between victims of trafficking, other irregular migrants, and even traffickers.” This makes it difficult for Vietnam to provide appropriate services to victims, resulting in serious danger of victims being re-trafficked.

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299 “The Trafficking of Women and children from Vietnam.”

300 UNICEF, “Reversing the Trend: Child Trafficking in East and Southeast Asia.”
Lack of adequate resources for funding education programs, vocational trainings, and awareness campaigns occur at all levels. More attention, for example, should be paid to education about safe migration. Poverty-alleviation by such strategies as micro-finance credits is necessary for combating trafficking. Education and training targeted at all levels is the core of the prevention programs.

Trafficking is not only an issue in border provinces, but with increasing rural movements towards urban regions, the problem is also a domestic one. A remaining challenge is coordination among the local authorities. Unclear division and accountability between MOLISA, Border Policy Force, Regular Police Force, local governments and other agencies prevent effectiveness in dealing with the complex matters of trafficking.

Insufficiency in the assistance provided to the victims has been observed. As the Women Magazine indicated: “There is a lack of polices and resources for integration of repatriates into communities. There is a lack of government support centres to receive and provide services needed.”

Particularly relative to child labour, it is difficult to legally pursue cases as, in many occurrences, the employers are relatives or family members of the exploited child. Moreover, insufficient government resources impedeprogress.

The sex industry poses significant challenges for Vietnamese society. Although it is a lucrative industry, it remains officially illegal. There are no registered brothels; hence, there are no precise statistics of women working in prostitution. They have no social or health protection whatsoever. Moreover, because there is no official registry, there is no control over potential under-aged girls engaging in the industry.

As UNICEF observes, the protection policies in Vietnam have a serious shortcoming: “Social welfare policy in general, and child protection approaches in particular are characterized by a “charitable” rather than right-based approach. The provision of social services to vulnerable groups relies largely on voluntary efforts and non-profit organizations, rather than trained, paid professionals.”

Coordination and design of prevention programs often face challenges not only of funding, but also of effective organization. UNICEF, when conducting audience surveys in 2005 and 2007, found frequent duplication and overlapping of parallel information, education and communication programs funded by different donor organizations; conflicting, confusing and unclear messages; variances in focus (safe migration vs. anti-trafficking); and a general lack of attention to behaviour change. Capacity building also still needs strengthening. Moreover, conceptually and in practice, child trafficking continues to be conflated with smuggling, irregular migration and prostitution, or goes undetected because of child-unfriendly procedures, structural deficiencies, inconsistent legal definitions or ambiguity on what constitutes child trafficking in accordance with international laws (Palermo Protocol). Anti-trafficking in Vietnam, similarly as in other Southeast Asian countries, is reportedly tackled from supply-side dynamics, rather than being addressed from demand dimensions.

6. Recommendations

In addition to lack of an adequate level of understanding and awareness of the problem, there is an issue of properly defining the complex issue of trafficking. Often the awareness campaigns address human trafficking together with other social evils as prostitution, sexual exploitation, HIV/AIDS, and drugs. While they are undoubtedly connected, it is important to clarify the nature of human trafficking. Social stigma that is created by such simplification often hampers deeper understanding of the problem, and moreover, creates difficulty for returning survivors of human trafficking to re-adapt in the society. Above all, there is a need for systematic data collection and analysis and for the creation of conditions which enable necessary data collection. As has been seen above, there are significant gaps in knowledge in almost every aspect of trafficking and exploitation because of the lack of sufficient investigative and reporting mechanisms and of systems for data collection, collation, and analysis over time. The absence of accurate information necessarily

301 “Sale of Children, Child Prostitution & Child Pornography - a complementary report from NGOs in Viet Nam to the Vietnamese government’s report on OPSC.” Quoted from the Phu Nu (Women Magazine), March 12th, 2006).


303 UNICEF, “Reversing the Trend: Child Trafficking in East and Southeast Asia.” P.58

304 Ibid. P.39
impedes the ability to develop effective legislative, policy, and action-oriented responses to the various dimensions of the complex of trafficking issues. Despite the absence of comprehensive data a review of the literature indicates some areas where improvements in policies are needed:

1. A gender perspective ought to be included in the integrated approach in fighting trafficking. Non-discrimination and equality should be the base for rights-claims for both men and women. In other words, abiding by rights should be emphasized more than abiding by obsolete cultural practices that discriminate against women, e.g. overcoming the sex-selective migration policies that create more channels of migration and employment opportunities to typically male-dominated sectors, such as construction and agriculture. Moreover, the legal apparatus should exert more efforts to disseminate the new definition and understanding of “trafficking in persons”, which would also include men in the at-risk groups.

2. Anti-trafficking strategies should address violations both individual and structural dimensions. The individual dimension refers to an individual's socio-economic, political, sexual rights and his or her ability to access remedies and claim rights. The structural dimension refers to economic, gender, and ethnic inequalities underlining socio-economic, political structures and processes that impact individual rights.

3. There is a need for trafficking survivors (returnees) to disseminate their experience as part of a prevention strategy. Awareness campaigns should fight stigmatization of returnees, not only to enable to re-socialize in the community, but to encourage them to share their experiences. This would provide useful information for the authorities to deal with the matter. They should be consulted as regards implementation and monitoring of legal processes penalizing trafficking.

4. State policies should focus more on ensuring safe repatriation and assisting survivors in coming back to the community or rehabilitation centres. Some commentators advise that the Government adopt more strict penalties for human trafficking. At the moment, the punishment for trafficking in persons remains less stringent than the punishment for the crime of drug trafficking.

5. Migrants-to-be turn for information and introduction not to authorities but to local communities, because of the trust factor. The awareness-raising campaigns should engage local communities to develop networks against trafficking. Local communities should be the main information providers, with capabilities for prevention and intervention.

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D. ABUSE AND DISCRIMINATION IN MIGRATION

1. Description of the Problem

This report focuses on labour migration, with particular emphasis on female and marriage migration. It does not address other aspects such as educational migration, or high-skilled professional migration.

With rapidly spreading sex industries across Asian cities, women searching for employment are particularly vulnerable to certain service industries that are linked to the sex industry, such as karaoke bars, nightclubs, massage parlours, and hair salons. Young girls in particular often fall into traps set by friends or neighbours whom they trust and are the only connection away from their home communities. As discussed above, being tricked, lured, or forced to enter the sex industry by a false job offer is a popular scenario. Attracted by promises of high income, some women become sex workers voluntarily. In both cases, women are at risk to abuse, violence, and lack of health protection. For the sake of coherence and to avoid repetitious discussion, the impact of abuses against women who have been tricked, lured or forced into the sex industry have been discussed in the section on Exploitation and will not be reiterated here.

Unequal distribution of wealth is among the main reasons why people migrate from rural and poorer provinces to urban regions in seek for employment. Two types of migration have been recognized by the Vietnamese government: (a) organized migration, which refers to government-sponsored programs, sometimes including a permanent change of residence by the core family, and (b) spontaneous migration, which is recognized but not encouraged by the government, where the migrants are responsible for the costs of relocation and choice of destination.\(^{307}\)

The demographic structure of the Vietnamese nation, of which over 68% of population is in the age of production (between 15-64), set favourable conditions for migration. With over 1.7 million people entering the labour market every year, the demand for job opportunities might be higher than national plans can supply.\(^{308}\) On one hand, such a young population may assist national development; on the other hand, it poses a challenge for the state to create sufficient employment for such a dynamic population.

Vietnam has been a growing labour exporting country, sending workers to neighbouring East Asian countries, such as Taiwan, South Korea, Japan, Malaysia, and also recently, to the United Arab Emirates, Saudi Arabia, UK and the US. The Vietnamese Government has made some efforts to expand markets of labour export both in terms of destinations and occupation sectors. At the moment there are 14 bilateral agreements on exporting Vietnamese labour, including the above-mentioned countries as well as Russia, Czech Republic, Slovakia, Bulgaria, UAE, Canada, and Kazakhstan. The government has decided to establish 8 Labour Management Offices in the major receiving countries.\(^{309}\)

It is difficult to precisely measure temporary and irregular labour migration. “There is no definitive estimate of the number of Vietnamese international temporary migrant workers. Estimates vary from 300,000 to 500,000 migrant workers (not including permanent settlers and refugees) currently employed in foreign countries.”\(^{310}\) According to the MOLISA data, in mid-2006 there were 400,000 contract workers from Vietnam working in 40 countries around the world. It is believed that the factual numbers exceed official statistics by far, particularly because statistics exclude those who left through informal channels, including those who were assisted by unauthorized recruitment agencies.\(^{311}\) The more recent data offered by the IOM shows that there are more than 500,000 Vietnamese workers currently employed around the globe, with approximate 80,000 people leaving Vietnam each year for employment purposes.\(^{312}\)

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\(^{307}\) Dang, Tacoli, and Thanh, "Migration in Vietnam: A review of information on current trends and patterns, and their policy implications," P. 1

\(^{308}\) UNFPA, "Tận dụng cơ hội dân số vàng ở Việt Nam: cơ hội thực

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Huong Le Thu
The Government has declared overseas labour migration as a component of its development strategy, establishing a goal of sending abroad at least 85,000 to 100,000 workers each year between 2010 and 2015. This goal is likely to be reached, considering that the major receiving countries of Vietnamese labour are the low-fertility countries with aging populations, like Japan, South Korea, and Taiwan. Vietnamese workers concentrate in construction, mechanics, electronics, textiles, aquatic processing, shipping industry, health care, housekeeping, education and agriculture.

The government encourages labour export since the Vietnamese diaspora plays an important role in contributing to the country’s economy. Remittances to Viet Nam have jumped dramatically from US$ 135 million in 1991 to US$ 8 billion in 2010.

Exporting labour to deal with unemployment has been a policy of the Vietnamese government since 1980s, when destination countries were the Eastern bloc; however, only in the 1990s did it start to be of more significance. While that decade was marked with the economic growth of neighbouring East Asian countries, Vietnam struggled with post-war poverty. With population issues of babyboom, unemployment and economic hardship were the decisive demand-pull factor for labour migration from Vietnam. While in the 1980s labour migration was based on “labour cooperation” agreements between the governments of Vietnam and other Eastern bloc country, in the 1990s workers export became purely commercial. Hence, the conditions of the workers in the receiving country are no longer negotiated by the government, but by the individual enterprises and labour recruiting agencies.

There are a significant number of Vietnamese engaged in unskilled or semi-skilled jobs abroad, and the majority of them are women. Taiwan (with approximately 90,000 Vietnamese workers) and Malaysia (approximate of 100,000 Vietnamese workers) are the top receiving countries, where Vietnamese workers are employed in construction, shipping, manufacture, domestic help, nursery, and hotel and restaurant services. On the other hand, employment in Japan and South Korea is characterized by harsh conditions in the shipping and fishery industries. The average salary for workers in these two countries is higher than in Malaysia and Taiwan, making them more attractive. The movement of workers, however, is also more controlled due to some restrictions, such as language exams and the Employment Permit System introduced by the Korean government that allows Korean agencies to select the candidates.

Increasing proportions of women are migrating independently. Another important gender difference emerged with respect to the economics of migration. Women pay lower pre-departure costs than men, but tend to send more remittances and return home with more money. They are also less likely to run away and work illegally.
Table 18: Labour Export by Gender & Destination Country Year 1992-2006

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
<th>Destination Country</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Taiwan</td>
</tr>
<tr>
<td>1992</td>
<td>710</td>
<td>100</td>
<td>810</td>
<td>0</td>
</tr>
<tr>
<td>1993</td>
<td>3,296</td>
<td>664</td>
<td>3,960</td>
<td>0</td>
</tr>
<tr>
<td>1994</td>
<td>8,587</td>
<td>1,563</td>
<td>10,150</td>
<td>0</td>
</tr>
<tr>
<td>1995</td>
<td>6,839</td>
<td>348</td>
<td>7,187</td>
<td>0</td>
</tr>
<tr>
<td>1996</td>
<td>11,697</td>
<td>1,262</td>
<td>12,959</td>
<td>0</td>
</tr>
<tr>
<td>1997</td>
<td>14,175</td>
<td>4,295</td>
<td>18,470</td>
<td>191</td>
</tr>
<tr>
<td>1998</td>
<td>10,309</td>
<td>1,931</td>
<td>12,240</td>
<td>1,697</td>
</tr>
<tr>
<td>1999</td>
<td>19,523</td>
<td>2,287</td>
<td>21,810</td>
<td>558</td>
</tr>
<tr>
<td>2000</td>
<td>22,435</td>
<td>9,065</td>
<td>31,500</td>
<td>8,099</td>
</tr>
<tr>
<td>2001</td>
<td>28,464</td>
<td>7,704</td>
<td>36,168</td>
<td>7,782</td>
</tr>
<tr>
<td>2002</td>
<td>35,566</td>
<td>10,556</td>
<td>46,122</td>
<td>13,191</td>
</tr>
<tr>
<td>2003</td>
<td>56,882</td>
<td>18,118</td>
<td>75,000</td>
<td>29,069</td>
</tr>
<tr>
<td>2004</td>
<td>29,706</td>
<td>37,741</td>
<td>67,447</td>
<td>37,144</td>
</tr>
<tr>
<td>2005</td>
<td>45,989</td>
<td>24,605</td>
<td>70,594</td>
<td>22,784</td>
</tr>
<tr>
<td>2006</td>
<td>51,832</td>
<td>27,023</td>
<td>78,855</td>
<td>14,127</td>
</tr>
<tr>
<td>Total</td>
<td>346,010</td>
<td>147,262</td>
<td>493,272</td>
<td>134,642</td>
</tr>
</tbody>
</table>

Source: The Department of Overseas Labour (DOLAB), MOLISA, 2006

More recent data are provided on the official website on migration:

Table 19: Labour migration in 2008-2010: Completed contract and non-completed

<table>
<thead>
<tr>
<th>Year</th>
<th>Taiwan</th>
<th>Japan</th>
<th>S. Korea</th>
<th>Malaysia</th>
<th>Middle East</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>5,783</td>
<td>489</td>
<td>595</td>
<td>4,170</td>
<td>1,279</td>
<td>2,129</td>
<td>14,445</td>
</tr>
<tr>
<td>2009</td>
<td>11,458</td>
<td>2,114</td>
<td>11,031</td>
<td>6,945</td>
<td>5,279</td>
<td>4,335</td>
<td>41,162</td>
</tr>
<tr>
<td>2008</td>
<td>8,979</td>
<td>2,786</td>
<td>5,621</td>
<td>9,469</td>
<td>2,867</td>
<td>417</td>
<td>30,139</td>
</tr>
<tr>
<td>Total</td>
<td>26,220</td>
<td>5,389</td>
<td>17,247</td>
<td>20,584</td>
<td>9,425</td>
<td>6,881</td>
<td>85,746</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Taiwan</th>
<th>Japan</th>
<th>S. Korea</th>
<th>Malaysia</th>
<th>Middle East</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>302</td>
<td>10</td>
<td>29</td>
<td>187</td>
<td>974</td>
<td>189</td>
<td>1,691</td>
</tr>
<tr>
<td>2009</td>
<td>3,479</td>
<td>395</td>
<td>415</td>
<td>3,189</td>
<td>1,817</td>
<td>591</td>
<td>9,886</td>
</tr>
<tr>
<td>2008</td>
<td>5,469</td>
<td>812</td>
<td>209</td>
<td>1,819</td>
<td>1,021</td>
<td>1,312</td>
<td>10,642</td>
</tr>
<tr>
<td>Total</td>
<td>9,250</td>
<td>1,217</td>
<td>653</td>
<td>5,195</td>
<td>3,812</td>
<td>2,092</td>
<td>22,219</td>
</tr>
</tbody>
</table>

Source: Official website on Migration Information

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320 Following: Kannika Angsuthanasombat, “Situation and Trends of Vietnamese Labor Export” (2008), P.7-8. Finding for other destination countries in 2006 are as follows: Lao 5,731, Qatar 2,621, UAE 1,743, Libya 88, Brunei 178, Saudi Arabia 205, other 284.

a. Prevalence of Abuse and Discrimination in Migration

Abuse may occur even before a migrant departs. Vietnamese migrants-to-be are most likely to turn to broker agencies that often take advantage of them by overcharging for their services. The ILAMI (International Labour Migration) Vietnam 2009 Survey funded by the International Development Research Centre of Canada (IDRC), the Social Science and Humanities Research Council of Canada (SSHRC) and the Canada Research Chair program (CRC) and conducted on 1,265 migrants in Ha Tay, Thai Binh and Ha Tinh provinces, found the following pattern of using the service of recruitment agencies:

Figure 8: ILAMI Vietnam 2009 Survey. Migrants’ First Contact in Recruitment Stage

<table>
<thead>
<tr>
<th>Recruitment company</th>
<th>Private recruiter/ commune</th>
<th>Private recruiter/ another commune</th>
<th>People’s committee</th>
<th>Others</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>70%</td>
<td>60%</td>
<td>50%</td>
<td>40%</td>
<td>30%</td>
</tr>
<tr>
<td>Female</td>
<td>30%</td>
<td>20%</td>
<td>10%</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

Source: “ILAMI Report”322

The issue of recruitment broker agencies require closer attention, as it is connected to many illegal instances of deception, abuse and trafficking.

Two of most common problems that workers face abroad are: (1) violation of their rights by employers, and (2) contract-breaches that lead to some cases of desertion by the workers.

Forced over-hours, verbal abuse, seizure of passport and body search, or even physical punishments are among common practices complained of. Non-payment or late payment is another frequent form of violation. In the period of 2000-2005, Malaysia was reported to have 600 cases of non-payment, or unfair dismissal, affecting 1,200 workers, including Vietnamese. Similar cases of violation where employers were late in paying salaries and ending up not paying at all, or never paying the overtime-hours, were noted in Taiwan and South Korea.323

A publication by the International Organization for Migration (IOM) found a high incidence of physical violence and forced sexual intercourse experienced by female migrants. Of 80 women interviewed, 33 reported unwanted sexual intercourse and 14 reported forced sexual intercourse, 47 also reported physical violence.324

Another occurring problem is breaching contracts resulting to desertion by workers. The runaway rate is relatively high: 27-30% in Japan, 20-25% in Korea and 9-12% in Taiwan.325 In most cases, the workers decide to escape due to heavy burden of debts that they made to be able to migrate in the first place. For fear of being unable to pay back, the workers decide to leave the legal contract and engage in illegal jobs that might generate higher pay. This leads to illegal employment, illegal migration within the receiving country and other serious problems. “Missing” workers lack legal protection, risk violence and abuse by their illegal employers, and can file no complaint out of fear of deportation. Often, this leads to a form of slavery, where they have no medical or social benefits, but have to work excessive hours or bear with exploitation.

The SERC conducted a comparative study of migration tendencies in Laos, Myanmar, Cambodia, Vietnam and Thailand. Despite the generally higher level of education of Vietnamese workers, even when they engage in legal domestic migration, they often face various forms of discrimination. Most common would be exhausting working hours, uncomfortable and overcrowded living conditions, and insufficient health care, particularly in the cases of female migrants.326

322 Hammoud, “International Labour Migration from Vietnam to Asian Countries: Process, Experiences and Impact.” P. 33

323 Dang, “Labour Migration from Vietnam: Issues of policies and practices.” P 8-9


325 Dang, “Labour Migration from Vietnam: Issues of policies and practices.” P. 10

Link Between Migration and Trafficking

Although trafficking and migration are separate issues, in many cases they are inextricably linked. Reports and interviews show that in many cases, trafficked persons embark voluntarily on migration. They are deceived, trapped or manipulated later on into trafficking. Migrants who cross the border illegally and eventually end up being trafficked are often too afraid of deportation or other legal prosecution to seek formal assistance. Control over illegal migration is undeniably essential, but it needs to be balanced so as not to criminalize the victims of trafficking.

Trafficking often occurs in the context of irregular migration of people who either are not aware of safe migration or do not have a specific target destination or employer. In many cases the movement starts voluntarily, but the migrants are deceived, tricked or trapped into the traffickers’ net. Exploitation usually happens en route or at the destination; victims lose control over the choice of destination and are deprived of travel and identification documents that prevent them from further movement. Such practice is common in countries were the labour force is large and the outflow of workers is not strictly controlled by state.

b. Root Causes of Abuse and Discrimination in Migration

Poverty remains the main reason for migration. Lack of resources, arable land, and seasonal droughts are among other causes for people to migrate. Migration to work is done through channels of family and friends’ circles; village authorities play a minor role in providing information.

Apart from economic hardship, cultural and societal values are also relevant factors why people migrate. Filial piety is commonly regarded as valuable, and children are expected to act according to parents’ expectations. In poverty-stricken families, children are encouraged to contribute to the household’s income, therefore many young people drop out of school and seek employment, often in the cities.

Vietnamese agencies do not provide adequate training prior to migrants’ emigration. In most cases workers are not familiar with conditions, rights, obligations of and towards the employers, not to mention training regarding culture, language and environment of receiving countries.

Hiring foreign workers is a strategy of reducing costs for any business. Hence, the imported labour force often faces poor living and working conditions, little health care and even violation of human rights. It is particularly frequent for un-skilled or semi-skilled workers, who often do not speak the language of the receiving country, and have no knowledge about legal rights.

Migrants, once having left their country, have limited access to protection or information services; hence often face risks of exploitation, violence and even sexual abuse. Due to their temporary status, migrant workers lack or have limited access to health care legal assistance and other public services. Language barriers are a serious problem in communication between the employers and workers. Moreover, because of lack awareness of legal context, the workers are more vulnerable to abuses.

c. Impact of Abuse and Discrimination in Migration

Little attention is paid to both physical and mental health of migrants once already arrived in the receiving countries. Studies have shown that a significant number of labour migrants suffer from loneliness, anxiety and stress due to culture shock, communication difficulty, as well as experience of exploitation, discrimination, and physical or sexual abuse.

2. De Jure State Responses

a. Bases of State Responsibility

The Vietnamese government has paid increasing attention to preventing illegal migration and abuse of migrants. Since 2007, it has started to recognize labour exploitation, both within the country and abroad. This change of perception created opportunities for partnership to develop safe migration programs with

328 UNICEF, “Reversing the Trend: Child Trafficking in East and Southeast Asia.” P. 32
329 Dang, “Labour Migration from Vietnam: Issues of policies and practices.” P. 10
330 Found in this section are responses that have not been previously discussed in the sections of Violence and Exploitation.
non-governmental agencies working on migration issues, particularly international actors.331

In August 2010, the government of the of Viet Nam signed a New Cooperation Agreement with the IOM. This agreement is the product of increased political will to cooperate with international partners on migration issues. As the Prime Minister concluded, “The new agreement puts the close cooperation between Viet Nam and IOM on a new, stronger basis. It offers new opportunities for enhanced cooperation to meet Viet Nam’s 21st century’s migration challenges.”332 Under the new agreement, the IOM declared it would help implement programmes aimed at safe and orderly migration, while respecting the rights and legitimate interests of migrants.

The shared objective aims to help Vietnam maximize the positive impact of migration on social development and boost legal migration opportunities for Vietnamese nationals. The new agreement reflects the multi-dimensional nature of modern migration. Cooperation includes capacity enhancement in migration management, migration health, counter-trafficking, information services, the voluntary return of stranded or irregular migrants, the promotion of sustainable labour migration, and coping with migration induced by climate change and disasters.

Bilateral agreements:

• MOU between Belgium-Vietnam on facilitation of legal migration, prevention of illegal migration and ensuring repatriation of illegal immigrants
• Vietnam- Australia Pact on Migration, 2009
• UK-Vietnam MOU on migration (2004), UK funded readmission centre at NoiBai airport for returnees.

b. National Policies against Abuse and Discrimination in Migration

The Government has passed the following laws and plans of action in response to the migration challenges:

• In 1999 the government approved a new policy - Decree No. 152/1999/ND-CP on overseas employment which specifies procedures and mechanisms to facilitate overseas employment and mechanisms. The guidelines were set by MOLISA, which requires workers to take language, culture and vocational trainings before going abroad333
  • Decree 136/ND-CP,17 August 2007, on immigration by the citizens of the Socialist Republic of Vietnam
  • Decision 135/2007/QĐ-TTg, 17 August 2007, on visas of the Vietnamese citizens permanently residing in other countries
  • Directive 1737/CT-TTg, 10 September 10 2010, on increasing the protection of Vietnamese citizens migrating abroad334

In 2006, law for vocational training, language and culture courses to be taken before working abroad was enacted. The law also addressed illegal recruitment agencies and worker’s violation of agreement by defining punitive measures.335

c. Assessment of State Policies

Information containing assessment of policies has been the most challenging data to obtain in preparing this report. This is as true in regard to migration issues as in regard to trafficking and violence.

As indicated in the discussions above, the issue of labour migration is serious and will continue to be so in Vietnam. Apart from solving the country’s economic problems of unemployment and generating income in foreign currencies from the migrants’ remittances, there remain more complex problems of guarding worker’s rights beyond the country of origin. However, Vietnamese legislation lacks sufficient mechanisms to protect the rights of exported labour forces.

The percentage of female workers exported overseas has been increasing significantly over the years:

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335 Dang, “Labour Migration ifrom Vietnam: Issues of policies and practices.” P. 14
Table 20: Percentage of female workers sent abroad in selected years.

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td>28%</td>
</tr>
<tr>
<td>2003</td>
<td>37%</td>
</tr>
<tr>
<td>2004</td>
<td>54%</td>
</tr>
</tbody>
</table>

Source: Following the VASS data quoted from ADB “Vietnam: Gender Situation Analysis”.

Despite this fact, “Vietnam has no specific gender policies and regulations that would protect the rights and welfare of female workers.”

As earlier stated, abuses often occur even before workers are dispatched abroad. Due to a lack of strict regulations on licensed recruitment agencies, there are many grey issues that pose serious challenges for legal regulation. Questionable agencies and brokers target rural and poor communities with limited knowledge about safe migration, promising them lucrative job offers from abroad. Prospective migrants have to pay a certain sum of money upon signing their agreement, and without them knowing (while waiting for actual departure, which might takes months or years), the debt rises. As a result, even before migrating, they become indebted with sums of money they are never able to pay back if they stayed in the country; therefore, they cannot break the contracts. They reportedly often mortgage their land and properties, borrow money from banks in order to pay the brokers fees. This form of deceit and exploitation is not regulated. Illegal recruitment is popular; however there are no statistics on actual cases of people recruited in such an abusive way.

MOLISA recognizes that such illegal recruitment agencies violate government regulations of direct recruitment. Yet little attention have been taken to solve the issue or to provide the data necessary for accurately assessing the problem. As a report states: “The government is reluctant to privatize placement agencies as it would give way to exploitive brokers and traffickers to further manipulate and take advantage of labourers who wish to work abroad.”

Further, as the report Labour Migration from Viet Nam: Issues of Policy and Practice pointed out, not only is there lack of protection prior to and while working outside the country, but there is also a gap in policy addressing return and reintegration:

From a policy perspective, there is lack of coordinated strategies to assist returning migrants with reintegration. Labor export strategy and related policies do not consider issues of return and reintegration. Most migrant workers are left to their own devices and frequently face difficulties in finding employment commensurate with the skills they have acquired abroad. Knowing the language and familiar experience with the host society, some returnees have tried to find work again in the Republic of Korea, Japan, and Taiwan (China).

3. Implementation, Monitoring, and Enforcement

No substantial information about implementation of monitoring or enforcement of migration policies has been provided by government sources so far.

a. Monitoring Mechanisms

The government has authorized some 170 enterprises to act as recruitment brokers or agencies. MOLISA has been appointed to supervise their activities, set minimum standards for employment and to provide services to protect the rights and interests of Vietnamese migrant workers. The Department of Overseas Labour (DOLAB) is a specialized agency under MOLISA, which is responsible for statistics on overseas migrants, recruitment agencies, forging bilateral agreements, monitoring and licensing recruitment agencies, registration of overseas workers, setting training programmes for migrants, collecting and managing fees from overseas workers and providing guidelines to the Management Boards of Overseas Labour.

b. Complaints Process

Little information on complaint mechanisms for abused or discriminated migrants is available. Decree 04/2005/ND-CP,11 January 2005, on Complaint and accusation of labour [cases of abuse], provides that migrant workers have the right to file a complaint in cases of violation of...
rights. The procedure is dealt with by the MOLISA, to which the complaint must be filed within 90 days from the date of the occurrence of the action complained of. MOLISA’s website provides the forms and procedure.

c. Protection and Rehabilitation

As previously mentioned, Vietnamese policy lacks regulations and coordinated strategies assisting returning workers to get jobs. Many skilled workers face unemployment after several years abroad where they gained not only training but also relevant experience. Often, the reason is their low level of formal education. Many of them seek again for job opportunities in the countries they previously worked in.

The first public database for Vietnamese migration abroad (www.dicu.gov.vn) was recently launched. The website was established for the following purpose:

In a bid to better inform potential Vietnamese migrants, migration practitioners and policy makers, a new website on migration has been launched. www.dicu.gov.vn, is the first public database on Vietnamese migration abroad. It provides disaggregated data and makes available legal documents and other resources to promote safe and legal migration. The study can be found on the website in Vietnamese. An English version is currently being finalized.

Making such information available would, hopefully, inform migrants of their rights and enable them to better protect themselves from abuses and discrimination.

d. Prevention Measures

A series of awareness raising workshops and direct assistance through skills training, education support and microfinance was conducted in two northern provinces (Quang Ninh and Thanh Hoa), three southern provinces (Tay Ninh, Hau Giang and Can Tho) and Ho Chi Minh City with the provincial labour departments and the Vietnam Women’s Union. Programs in 14 communities of three provinces were launched in collaboration with Department for Social Evils Prevention of the Ministry of Labour, Invalids and Social Affairs.

The Vietnam Association of Manpower Supply (VAMAS) published the Code of Conduct, which presents the fundamental principles which Vietnamese enterprises recruiting workers for overseas employment should comply with. It is based on Vietnamese legislation, ILO Conventions and Recommendations and other relevant international instruments and on the actual context of Vietnam. It stipulates the legal base and duty of enterprises sending workers abroad. The Code of conduct is an important instrument for enterprises for their better legal compliance; better business management; and prevention of forced labour and human trafficking, especially against vulnerable workers such as female workers.

4. Role of Non-State Actors

a. Assistance to Victims

There are a number of international organizations and NGOs, as well as local NGOs committed to the issue of exploitation in migration. Often there are overlaps in programs for abuses in migration and exploitation of trafficked persons. Campaigns and programs tend to address the issues jointly. Thus, reference to non-state actors mentioned in the section on Exploitation would be informative.

Migration, particularly labour migration, has been a focus for a number of major international actors. International agencies are willing to invest in research, particularly in the areas where migration poses danger of exploitation and trafficking.

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342 Dang, “Labour Migration from Vietnam: Issues of policies and practices,” P. 3


Table 21: Some major non-state actors working on migration-related issues

<table>
<thead>
<tr>
<th>Name</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>IOM</td>
<td>In Viet Nam, IOM supported the establishment of self-help groups to empower migrant women who have experienced violence. They were offered counselling and training to become facilitators of self-help groups for other migrant women. For women who often lack access to services, the self-help groups provided the basis for referrals to professional health and social services. The 128 women involved were able to articulate their needs and priorities to the government, mass organizations, media, and the wider community, through awareness-raising activities and the distribution of information and education materials.345</td>
</tr>
<tr>
<td>ILO</td>
<td>Capacity building, trainings, research and dissemination, funding programs, statistics aggregation</td>
</tr>
<tr>
<td>Canadian International Development Agency (CIDA)</td>
<td>Assessment of policies, technical support, capacity building, policy-implementation assistance, social women empowerment programs address to disadvantaged groups</td>
</tr>
<tr>
<td>USAID</td>
<td>Vocational training, reports over violations of labour migrant's rights, child labours</td>
</tr>
<tr>
<td>UN agencies</td>
<td>Research, dissemination and publication</td>
</tr>
<tr>
<td>Save the Children</td>
<td>Reports on child labours, funding programs and trainings</td>
</tr>
<tr>
<td>Blue Dragon</td>
<td>Assistance to children in special circumstances</td>
</tr>
<tr>
<td>International Labour Rights Forum</td>
<td>Launched program “Stop child and forced labour in Vietnam”</td>
</tr>
</tbody>
</table>

Source: Researcher’s compilation

Funded by the European Union, IOM is working in the capital of Vietnam in partnership with three local NGOs to improve the support provided to migrant women who experienced violence. This 18-month project entitled, “Violence Against Women – A rights-based approach to empowering migrant women affected by violence in Hanoi” has seen considerable success since its implementation in January 2008.

The project contains six main groups of activities:
- Capacity building for peer facilitators and local NGOs working on human rights;
- Mapping of service providers and developing an initial service referral system;
- Self-help groups;
- Outreach and communication;
- Policy advocacy and implementation; and
- Social and health service provision.

Female migrants who experienced violence were recruited as peer facilitators. The capacity building project aims at sharing experience and knowledge about human rights, training communication skills, and providing support. The objective is to enhance women's awareness of, and capability to claim their rights. This initiative has resulted in nine self-help groups and organization of roundtables between the migrant women and duty bearers, and holds regular meetings with stakeholders.346

b. Prevention Programs

In December 2011, IOM Viet Nam and the Department of Overseas Labour (DoLAB) signed an agreement to establish a Migrant Resource Centre (MRC) in order to promote safe and sustainable labour migration from Vietnam. The project was funded by IOM and aims at assisting DoLAB with developing and delivering direct services to migrants through the MRC with outreach and awareness-raising activities in areas of high outward migration. The project fosters the exchange of good practices in providing comprehensive migrant support services between Viet Nam and other Asian countries.347

The Vietnamese Government, in association with IOM, launched the project “Building the database of Vietnamese citizens migrating abroad”. This project’s objectives are:
- Capacity-building for the governmental agencies that manage migration-related issues and promote legal migration, prevention from illegal migration movements


• Create a general database about Vietnamese migrants abroad, analysing, monitoring and evaluating the bilateral cooperation agreements.
• Create a comprehensive database with detailed information, legal provisions, and statistics that can be utilized while launching safe-migration awareness campaigns.348

5. Progress Indicators and Challenges

There is an urgent need for governmental agencies, as well as NGOs and civil society, to increase monitoring for transparency and safety of labour export. For Vietnam to keep exporting labour as a strategy of development, it needs to pay more attention to the legal and safety aspects of migration. Moreover, it needs to invest in vocational training of workers to enhance their competitiveness in global markets. Instead of exporting cheap manpower, Vietnam can offer skilled manpower.

Legal and safe migration awareness is essential and ought to be included in public education at all levels. While migration of young people is considered a positive contribution to the economy, the lack of safeguards makes families and communities willingly send their young unaware and unprepared for what they will face. The young, un-skilled workers and women are particularly prone to abuses and exploitation. The government should work more tightly in multilateral frameworks with such international organizations as IOM, as well as bilaterally with receiving countries to regulate migration movements more efficiently.

Moreover, closer monitoring on the recruitment agencies ought to be applied in order to prevent illegal activities of trafficking or deceit into unfair labour exploitation. Education and training campaigns should become an obligation for those who wish to engage into labour migration.

6. Recommendations

As an ILO study pointed out, there is a “lack of a proper counterfactual base from which to estimate the impact of migration.”349 There is a pressing need for the creation of a comprehensive database and research on migration issues. Available statistics are challenging to grasp and understand. For example, in terms of remittances from international migration in 2006 the World Bank estimated that Vietnam received USD 4.8 billion, where as according to the Vietnam Household Living Standards Survey the sum was only USD 1.8 billion in the same year.350 Such disparity calls for more accurate research and clearer presentation of data.

The Government needs to pay more attention to the protection of migrant workers, particularly because many job seekers who wish to escape poverty are willing to take up any job abroad, or to settle for sub-standard conditions. Public information services for migrants-to-be ought to be more accessible, with clearer explanations on the conditions, requirements and standards of the employment abroad. In other words, awareness should be raised among the job seekers about their rights and obligations when seeking employment overseas. Such information should explicitly provide details on regulated costs, including service charges, brokerage commissions, wages, working hours, working conditions, costs of living, and addresses where the migrants can seek for assistance. Pre-departure and post-arriving trainings are absolutely essential.

There is a need for closer and regular monitoring and inspection of recruitment practices, which would involve local and provincial authorities, to avoid abusive and irresponsible deployment of workers abroad. It is critical that control is conducted by an independent agency to avoid fraud, bribery and trafficking practices by certain brokers.

The Government should come up with assistance to migrants in terms of remitting money back home. There ought to be standardized banking transfers that would provide safe services and reduce cost of foreign remittances.

The ILO recommends that Vietnam ratify ILO’s Migration for Employment Convention (1949), International Convention on Protection of Rights of All Migrant Workers and Members of their Families (1990), and the Migrant Workers (Supplementary Provisions) Convention (1975) to strengthen Vietnam’s position in negotiating for equal treatment of its workers abroad.351

348 “Báo cáo tổng quan hoạt động di cư của công dân Việt Nam ra nước ngoài - [General Report of Activities of Vietnamese citizens migrating abroad].”
349 Abella and Ducanes, “The Economic Prospects of Viet Nam and what it means for Migration Policy.” P. 21
350 Ibid. P. 33
351 Ibid. P. 42
In terms of economic development, national strategy should incorporate strategies to deal with geographically uneven economic growth, reducing unemployment, poverty, inequality and the potential for social instability in the country. The ILO recommends that the government limits, or remove any direct or indirect obstacles to the mobility of labour, such as any remaining limitations posed by the household registration system.\footnote{Ibid. P. 43}

Horizontal and vertical coordination among agencies is necessary to enhance effectiveness and avoid overlapping of similar but fragmented programs.

**General Observations**

Vietnam has been facing tremendous challenges of a rapidly developing country. The past decades have shown the country’s remarkable achievements in achieving Millennium Development Goals. In all cases of violence, exploitation, trafficking and migration, the violation, abuse and maltreatment often are rooted in the lack of legal knowledge. Further commitments need to address poverty-alleviation and equalize the distribution of wealth to avoid imbalance within the country. Apart from continuing efforts to strengthen national and international mechanisms of protection, monitoring the existing frameworks is recommended. Despite existing legal provisions and policies, knowledge about them remains limited.

Therefore, a common recommendation to all the issues discussed in this report is to raise legal awareness among citizens, and put more effort into education on legal rights and remedies to protect and prevent further abuses. It is hoped that an aggregated database of existing statistics and studies will be established. An integrated database is essential for a better understanding of the issues, as well as coming up with more accurate response mechanisms. There is a need for the Government to encourage and facilitate further studies and research, as well as dissemination of already obtained data. Accessibility to existing reports, assessments and monitoring publications would be essential for external actors to more effectively contribute to assistance programs.
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For further information about HRRC:

**Human Rights Resource Centre**
University of Indonesia - Depok Campus
Guest House Complex (next to Gedung Vokasi)
Depok Indonesia 16424
Phone/Fax : (62 21) 786 6720
Email: info@hrrca.org
Web: www.hrrca.org