Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country information

The COI within this note has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the European Asylum Support Office’s research guidelines, Country of Origin Information report methodology, dated July 2012.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the Country Policy and Information Team.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at http://icinspectorgovernmentsite.country-information-reviews/
1. **Introduction**

1.1 **Basis of Claim**

1.1.1 Fear of persecution or serious harm by traffickers or other non-state actors because the person is a (potential) victim of trafficking or re-trafficking.

1.2 **Points to note**

1.2.1 Only trained specialists in the UK’s designated competent authorities can decide whether or not there are reasonable grounds to accept the person as a victim of trafficking for the purpose of the Council of Europe Convention on Action against Trafficking in Human Beings. However, both Home Office decision makers and the court are able to take factual matters into account when making their findings in a protection claim. Therefore, if it has not already been done, decision makers dealing with the asylum claim must make an appropriate referral to the National Referral Mechanism (NRM). The case will then be routed to a ‘competent authority’. Information for Home Office staff who are trained specialists to help them decide whether a person referred under the NRM is a victim of trafficking is available in [Victims of modern slavery – Competent Authority guidance](#).

1.2.2 Where a person makes a protection claim and their case has been considered by a Competent Authority and a decision issued, this should be taken into account when considering future risk of persecution or serious harm. However, because the Competent Authority’s findings are subject to a higher standard of proof and are findings as to past treatment, it remains open to decision makers to make different findings for the purpose of the protection claim and future risk.

1.2.3 For wider context and background on Vietnam see [Background](#) and country information and policy notes on [Vietnam: Opposition to the government](#), [Vietnam: Ethnic minority groups](#) and [Vietnam: Religious minority groups](#).

2. **Consideration of Issues**

2.1 **Credibility**

2.1.1 For guidance on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).
2.2 Particular social group

2.2.1 Victims of trafficking, regardless of their age or gender, do not form a particular social group (PSG) in Vietnam within the meaning of the Refugee Convention. This is because although they share an immutable (or innate) characteristic – having been a victim of trafficking – that cannot be changed, in view of their equality under the law and the general availability of state protection against trafficking, they are not perceived as different and do not have a distinct identity in Vietnamese society.

2.2.2 In the absence of a link to one of the five Convention reasons necessary for the grant of refugee status, the question to be addressed in each case will be whether the particular person will face a real risk of serious harm as a result of the threat of re-trafficking, sufficient to qualify for Humanitarian Protection (HP).

2.2.3 For further guidance on particular social groups, see the Asylum Instruction on Assessing Credibility and Refugee Status. For further guidance on HP, see the Asylum Instruction on Humanitarian Protection.

Back to Contents

2.3 Assessment of risk

2.3.1 Human trafficking in Vietnam affects men, women and children, with persons trafficked for sexual exploitation, forced labour and marriage. The main destination countries are Cambodia and China. Vietnamese organised crime networks also recruit and transport Vietnamese nationals, especially children, to Europe – particularly the United Kingdom and Ireland where victims are often subjected to forced labour on cannabis farms. They are lured with promises of lucrative jobs and compelled into servitude through debt bondage (see Prevalence of trafficking and Nature of trafficking).

2.3.2 Although trafficking of men, women and children is a significant problem in Vietnam, it is not established by the evidence that all persons from Vietnam are, in general, at real risk of being trafficked.

2.3.3 In the unreported case of Nguyen (Anti-Trafficking Convention: respondent’s duties) [2015] UKUT 170 (IAC) (Promulgated 25 March 2015) (Heard on 19 September 2013 & 15 December 2014), the Upper Tribunal held that

‘as Vietnam is a large country with a population of some 90 million people and a number of large cities in it, a victim of trafficking would be able to return without being of adverse interest to the government, and the chance of the person coming across their traffickers is very slight.’ (Paragraph 51)

‘The person is more likely to be at risk of serious harm if they still have an outstanding debt to the traffickers. The Upper Tribunal also held that there was no evidence to suggest that a lone woman, returning without her family, faced a real risk of being re-trafficked.’ (Paragraph 52)

2.3.4 While a person is, in general, not likely to be at risk of reprisal or being re-trafficked by their original traffickers, each case will need to be considered on its merits. The onus is on the person to demonstrate that their profile and circumstances are such that on return they would be to vulnerable to abuse or re-trafficking which would amount to serious harm.
2.3.5 Factors that will indicate an increased risk of being abused or re-trafficked include, but are not limited to:

- The person having an outstanding debt to the traffickers.
- The absence of a supportive family willing to take the victim back into the family unit;
- The person having no other support network to assist them; no or little education or vocational skills; mental health conditions, which may well have been caused by experiences of abuse when originally trafficked; material and financial deprivation such as to mean that they will be living in poverty or in conditions of destitution;

Factors that indicate a lower risk of being of being abused or re-trafficked include, but are not limited to:

- The availability of a supportive family willing to take the person back into the family unit;
- The fact that the person has acquired skills and experiences since leaving Vietnam that better equip them to have access to a livelihood on return to Vietnam thus enabling them to provide for themselves.

2.3.6 For further information on assessing risk, see the Asylum Instruction on Assessing Credibility and Refugee Status.

Back to Contents

2.4 Protection

2.4.1 Vietnam has comprehensive anti-trafficking legislation and prosecutes those involved in trafficking. However, a lack of coordination across provincial agencies reportedly results in uneven enforcement of the law. Budgetary constraints also precluded some local authorities from pursuing trafficking cases in isolated parts of the country. Government officials reportedly encourage trafficked women to assist in the prosecution of their captors but reports suggest that there is reluctance on the part of victims to do so because of a lack of understanding of the Vietnamese legal system (see Legislation and Prosecutions).

2.4.2 The government has also taken active measures in recent years in provision of support of victims of trafficking through legislation, policies and the implementation of a National Plan of Action. The Ministry of Public Security is the central agency in the anti-trafficking framework, responsible for the majority of anti-trafficking measures, including investigation and prosecution, reception and identification of victims, enhancing policy and improving international cooperation (see other government initiatives).

2.4.3 Vietnam has nine shelters and reception centres for trafficked women that provide food, accommodation, medical care, counselling, vocational training and legal aid. The Ministry of Labour, Invalids and Social Affairs (MOLISA) also provides protection and reintegration support. They operate 400 social protection centres through local authorities, which provide services to a wide range of vulnerable groups, including trafficking victims. However these centres are reported to be unevenly staffed and resourced and lack
appropriately trained personnel to assist victims. There are no shelters designated exclusively for male or child victims, though existing shelters provide assistance to all victims as needed (See Support and Protection).

2.4.4 There are also non-governmental organisations in Vietnam, such as the Asia Foundation, who are active in trafficking matter sand can potentially assist the person to avail themselves of the protection of the state (see Support and Protection).

2.4.5 In the unreported case of Nguyen (Anti-Trafficking Convention: respondent’s duties) [2015] UKUT 170 (IAC), the Upper Tribunal endorsed the view that there is, in general, a sufficiency of protection provided by the authorities in Vietnam (paragraph 52).

2.4.6 In general effective state protection is likely to be available but decision makers need to consider each case on its facts. The onus is on the person to demonstrate why they would not be able to seek and obtain effective state protection.

2.4.7 For further guidance on assessing the availability or not of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.5 Internal relocation

2.5.1 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.

2.5.2 Victims of trafficking may be able to internally relocate to escape localised threats from members of their family or by traffickers depending on their particular circumstances, the nature of the threat and how far the threat would extend. Women, especially single women with no support networks, may be particularly vulnerable and subject to destitution though this may be mitigated by the existence of shelters and assistance available from both government and civil society organisations (see Freedom of movement)

2.5.3 For further guidance on internal relocation, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.6 Certification

2.6.1 Where a claim is refused, it is likely to be certifiable as “clearly unfounded” under section 94 of the Nationality, Immigration and Asylum Act 2002. This is because, in general, effective protection is provided by the state.

2.6.2 For further guidance on certification, see the Appeals Instruction on Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).
3. **Policy summary**

3.1.1 Human trafficking in Vietnam affects men, women and children, with persons trafficked for sexual exploitation, forced labour and marriage.

3.1.2 Vietnam has comprehensive anti-trafficking legislation and prosecutes those involved in trafficking. However lack of coordination across provincial agencies reportedly results in uneven enforcement of the law.

3.1.3 Support and protection from governmental and non-governmental sources in Vietnam are generally available to victims of trafficking.

3.1.4 There is, in general, a sufficient standard of protection available for trafficking victims in Vietnam. However, this protection may not be sufficient in every case, and each case must therefore be considered on an individual basis.

3.1.5 Internal relocation will often be a viable option depending on the facts of the case.

3.1.6 Where a claim is refused, it is likely to be certifiable as “clearly unfounded” under section 94 of the Nationality, Immigration and Asylum Act 2002.
Country information

Updated: 15 November 2016

4. **Background**

4.1.1 With a population of just over 95 million and covering an area of 331,210 sq km, Vietnam is located in south-eastern Asia, bordering the Gulf of Thailand, Gulf of Tonkin, and South China Sea, as well as China, Laos, and Cambodia. The age structure of the population, as recorded by the Central Intelligence Agency, in 2016, was:

- ‘0-14 years: 23.84% (male 11,938,563/female 10,767,261)
- ‘15-24 years: 16.69% (male 8,240,861/female 7,658,711)
- ‘25-54 years: 45.22% (male 21,690,214/female 21,390,448)
- ‘55-64 years: 8.24% (male 3,610,716/female 4,238,569)
- ‘65 years and over: 6.01% (male 2,216,485/female 3,509,193) (2016 est.).

4.1.2 The CIA World Factbook, Profile on Vietnam, updated 3 November 2016, observed that unemployment stood at 3.5 per cent in 2015 and further observed:

‘Vietnam is a densely populated developing country that has been transitioning from the rigidities of a centrally-planned economy since 1986… Vietnamese authorities have reaffirmed their commitment to economic modernization and a more open economy. Vietnam joined the WTO [World Trade Organisation] in January 2007, which has promoted more competitive, export-driven industries. Vietnam was one of 12-nations that concluded the Trans-Pacific Partnership free trade agreement negotiations in 2015.

‘Hanoi has oscillated between promoting growth and emphasizing macroeconomic stability in recent years. During 2015, Vietnam's managed currency, the dong, depreciated about 5%. Poverty has declined significantly, and Vietnam is working to create jobs to meet the challenge of a labor force that is growing by more than one million people every year.’

5. **Legal context**

5.1 Legislation

5.1.1 The amended and supplemented Article 119 of the Penal Code states:

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“Article 119. Trafficking in humans

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

2. Committing the crime in any of the following circumstances, offenders shall be sentenced to between five and twenty years of imprisonment: a/ For prostitution purposes; b/ In an organized manner;
   c/ In a professional manner;
   d/ For taking victims’ bodily organs;
   e/ For bringing abroad;
   f/ Trafficking in more than one person;
   g/ Committing the crime more than once.

3. Offenders may be imposed a fine of between five million and fifty million dong, subject to probation or residence ban for one to five years.”

5.1.2 As reported by VietnamPlus in July 2016:

‘Vietnam enacted the Law on preventing and combating human trafficking in 2012. Also in the year, its government endorsed Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.’ In 2015, the country signed the ASEAN Convention against Trafficking in Persons, especially Women and Children.’

5.1.3 A joint report by the Vietnam Committee on Human Rights (VCHR) and International Federation of Human Rights (FIDH), on Violations of the Rights of Women in the Socialist Republic of Vietnam, June 2015, stated:

‘Vietnam states that challenges in implementing CEDAW are “due to the fact that [Vietnam] is underdeveloped with limited resources”. But most of all, it is the political structure of the one-Party State, with its lack of transparency and political freedoms, and the pervasive control of the Communist Party of Vietnam (CPV) that impede the realization of women’s rights. There are no independent women’s civil society movements, no free trade unions, no free press, no independent judiciary nor any other mechanisms outside the CPV framework through which women may express their grievances and seek remedy. Vietnamese women’s only representative is the Vietnam Women’s Union, a para-governmental “mass organisation” whose mandate is to enforce Communist Party policies at a local level. Under Vietnam’s broadly-defined “national security” laws, acts perceived to “infringe upon the interests of the State, organizations and citizens” carry heavy prison sentences.

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Women who are victims of abuses are therefore afraid to take action to prosecute State organs, or speak out publicly to defend their rights. As a result, very few women file prosecutions in Vietnam, despite existing mechanisms.\(^5\)

5.1.4 As reported by the United Nations Technical Working Group on Human Trafficking, undated, ‘Viet Nam’s first anti-trafficking in persons law, which came into effect on 1 January 2012, also recognises trafficking of men and boys. However, policy implementation and law enforcement remain weak.’\(^6\)

5.1.5 See section: Prosecutions.

5.1.6 The Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations (2015), welcomed the progress achieved since its consideration in 2006 of the State party’s combined fifth and sixth periodic reports in undertaking legislative reforms, in particular the adoption of the following legislation:

‘(a) Constitution, which recognizes gender equality and prohibits gender-based discrimination, in 2013;

‘(b) Amendment to the Law on Vietnamese Nationality, which facilitates the acquisition of Vietnamese nationality by refugee and stateless women and prevents statelessness, in 2014;

‘(c) Land Law, which provides for the issuance of land-use certificates in the name of both spouses, in 2013;

‘(d) Amendment to the Labour Code, which prohibits sexual harassment at work, in 2012;

‘(e) Law on Human Trafficking, which explicitly prohibits forced labour and sexual exploitation, in 2011.’\(^7\)

5.2 Prosecutions

5.2.1 As reported by VietnamPlus in June 2016: ‘Hanoi is implementing a range of programmes for 2016-2020 to boost police capacity and connectivity in combating human trafficking. Hot spots including road and railway routes


\(^7\) The Committee on the Elimination of Discrimination against Women, ‘Concluding observations (2015) CEDAW/C/VNM/CO/7-8’, 24 July 2015 (B. Positive aspects, p. 1-2), http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsI2Y0YMjGrSly7wV721E18VKdeE3T7cAg%2b98uIormSza%2bEljxZ1%2feYG2C8f89XYuvbIWIHiXzalalZNaRs eZelGcTgHLiuLi2qYNkUXC7FFp, date accessed 3 November 2016
linking Hanoi to border provinces and international air routes have been constantly on the radar screen.\(^8\)

5.2.2 The United States Department of State (USSD), Trafficking in Persons (TiP) Report 2016, Vietnam, published 30 June 2016, stated:

‘The government arrested 544 suspected traffickers. It prosecuted 442 and convicted 217 trafficking offenders (under anti-trafficking law articles 119 or 120), compared with 472 prosecutions and 413 convictions in 2014. Sentences ranged from probation to life in prison. Authorities did not report how many cases involved sex or labor trafficking or how many were for internal or transnational trafficking. Because the penal code does not specifically criminalize labor trafficking, officials lacked confidence in a legal basis to prosecute labor trafficking and treated such cases as administrative violations under the country’s labor laws, which do not prescribe criminal penalties.\(^9\)

5.2.3 The USSD TiP report added:

‘A lack of coordination across provincial agencies impeded overall law enforcement in Vietnam, and budget constraints precluded some local authorities from pursuing trafficking cases, especially when they occurred in isolated parts of the country. In addition, some officials’ poor understanding of the anti-trafficking legal framework resulted in uneven law enforcement efforts. Police included a module on anti-trafficking in its overall training for new recruits. The government organized 20 anti-trafficking training sessions for more than 500 interagency officials. The Ministry of Public Security partnered with Australian authorities to conduct an anti-trafficking training for 26 Vietnamese police from jurisdictions across Vietnam. Some complicit officials, primarily at commune and village levels, accepted bribes from traffickers, overlooked trafficking indicators, and extorted profit in exchange for reuniting victims with their families. The government did not report any investigations, prosecutions, or convictions of officials complicit in human trafficking offenses.\(^10\)

5.2.4 The Freedom House report, Freedom in the World 2016 - Vietnam, 27 January 2016, recorded:

‘Enforcement of labor laws covering child labor, workplace safety, and other issues remains poor. Vietnam is a source country for human trafficking. Vietnamese women seeking work abroad are subject to sex trafficking in countries including China, Cambodia, and Laos, and internationally brokered

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5.2.5 The United Nations Office on Drugs and Crime (UNODC), Assessment of the Situation of Women in the Criminal Justice System in Viet Nam. July 2013 observed that although authorities encourage trafficked women to assist in the prosecution of their captors, there is a reluctance to do so because of a ‘lack of understanding of the Vietnamese legal system and language barriers, particularly if they are foreign or ethnic minority women.’ Adding that: ‘… government officials reportedly encourage trafficking women to assist in the prosecution of their captors, they do not provide witness protection, so survivors may fear retaliation for reporting the crime.’\footnote{The United Nations Office on Drugs and Crime (UNODC), Assessment of the Situation of Women in the Criminal Justice System in Viet Nam, July 2013, (Reporting Incidents of Violence), p17, \url{https://www.unodc.org/documents/southeastasiaandpacific/vietnam/publication/2014/Women_in_Justice_English.pdf}, date accessed 3 November 2016}

5.3 Other government initiatives

5.3.1 In September 2016 IRIN News reported: ‘In a push to raise public awareness, the government held its first National Day Against Trafficking in Persons on 30 July. Vietnam has also announced a 2016 to 2020 strategy to combat human trafficking, and the plan marked the first time authorities have acknowledged that men and boys are being trafficked.’\footnote{IRIN News, Vietnam wakes up to its human trafficking problem, 2 September 2016, \url{https://www.irinnews.org/news/2016/09/02/vietnam-wakes-its-human-trafficking-problem}, date accessed 15 November 2016}

5.3.2 The United States Department of State (USSD), Trafficking in Persons (TiP) Report 2016, Vietnam, published 30 June 2016, stated:

‘The government increased efforts to prevent trafficking. During the reporting period, the government approved a four-year (2016-2020) national anti-trafficking action plan to address forced labor, improve victim services, and implement the revised anti-trafficking penal code; however, it did not endorse a specific budgetary allotment to implement the plan. The government continued to develop its national database on trafficking statistics, which commenced operation during the previous year. In 2015, officials supported anti-trafficking awareness campaigns by partnering with national and local media outlets to conduct radio and television stories, publish news articles, and disseminate fliers on trafficking. The government conducted workshops and hosted community dialogues on vulnerabilities to labor trafficking, targeting areas prevalent with foreign contract labor. It also organized theatrical performances and social events in high-risk provinces to warn
vulnerable populations of the risks of trafficking for women entering brokered marriages abroad.\textsuperscript{14}

5.3.3 In June 2016 VietnamPlus reported that: ‘Hanoi police have busted two cases of trafficking six women to China in the first half of 2016, lieutenant colonel Le Khac Son, deputy head of the Hanoi Police Department’s Division of Administration on Social Security said at a press conference on June 28.’\textsuperscript{15}

5.3.4 The report on Human Trafficking in Vietnam: A Review of Patterns and Legal Framework, April 2015, by Associate Professor Thanh Van Trinh of the People’s Police University, Vietnam, noted that:

‘The Vietnamese government works with international organizations, non-governmental organisations (“NGOs”) and foreign donors on the issue of human trafficking. Vietnam has signed and ratified the following international treaties: Convention on the elimination of all forms of discrimination against women; Convention on the rights of the child; Optional Protocol on the sale of children, child prostitution and child pornography; The United Nations convention against transnational organized crime and its Protocol; and Convention No 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

‘Vietnam has entered into forty agreements including Memorandum of Understanding with the Ministry of Public Security and the Ministry of Interior, as well as agreements with police forces of countries in the world and region. In addition, Vietnam also signed: 17 Mutual Legal Assistant Treaties to criminal matters and extradition with 16 countries and signed 01 Multilateral Legal Assistant Treaty with ASEAN [Association of South East Asian Nations]. These agreements specify the focus on enhancing mutual cooperation in law enforcement and criminal procedures between the two related parties in suppressing the crime of trafficking in human; and given the regulations in the Trafficking in Persons as the only guideline on terminological issues. The cooperation in protection and assistance victims of trafficking, however, takes a humble place in agenda.’\textsuperscript{16}

5.3.5 The Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations (2015), welcomed the various efforts made by the State party to combat trafficking in women and girls, but notes with concern:


‘(a) That the State party remains a source country for internal and cross-border trafficking in women and children for purposes of sexual and labour exploitation as well as fraudulent internationally brokered marriage;

‘(b) The increase in the number of trafficked girls and reports of trafficking in newborns;

‘(c) The very low conviction rates under the Law on Human Trafficking;

‘(d) The stigmatization of and administrative penalties imposed on women and girls in prostitution;

‘(e) The lack of effective national mechanisms for the referral of victims of trafficking to rehabilitation and reintegration assistance.’

5.3.6 The United Nations explained that:

‘UN agencies in Viet Nam coordinate their counter-trafficking work through the Technical Working Group on Human Trafficking, a sub-group of the Programme Coordination Group on social protection. The International Organization for Migration (IOM) currently serves as the facilitator of this group. Other UN agencies active in counter-trafficking work in Viet Nam include ILO [International Labour Organization], UNESCO [United Nations Educational, Scientific and Cultural Organization], UNICEF and UNODC [United Nations Office on Drugs and Crime]. Agencies work via complementary national, bilateral and regional programmes and projects, including the United Nations Inter-Agency Project on Human Trafficking (UNIAP) for the Greater Mekong Sub-region.

‘The UN’s human trafficking work includes policy advice and support for prevention, protection and prosecution activities.’

5.3.7 The Asia Foundation works with schools and educators in the Mekong Delta to ‘increase awareness of safe migration and labor and sexual exploitation’. As noted on its website, they ‘work with government and CSOs [Civil society organisations] to improve the quality of support to victims including through the development of National Minimum Standards for Trafficking Victims’ Support and Protection.’

5.3.8 In 2011 the Vietnamese government ordered a ‘high-profile’ crackdown on trafficking and the Public Security Ministry collaborated with its Chinese counterpart to fight human trafficking rings.

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5.3.9 The United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), reported on its website (undated), that:

‘Prevention activities are conducted sporadically, and focus on raising awareness rather than behaviour change. While the Ministry of Foreign Affairs maintained its online migration website providing prospective migrants with access to relevant information and resources, the government has not increased efforts to enforce regulations, and overall efforts to regulate recruitment companies and marriage brokers remain inadequate.’


6.1 Nature of trafficking

6.1.1 The report on Human Trafficking in Vietnam: A Review of Patterns and Legal Framework, April 2015, by Associate Professor Thanh Van Trinh of the People’s Police University, Vietnam, noted that:

‘Vietnamese victims are trafficked for sexual and labour exploitation across the globe, including countries as Taiwan, Malaysia, South Korea, Laos, China, Thailand, Saudi Arabia, Libya, Indonesia, and the United Kingdom and so on. Vietnam is a source country for men and women who migrate abroad for work opportunities. Many of these migrants are processed through state-affiliated and private labour export companies. These companies reportedly coerce migrants to sign contracts in languages they cannot read, and charge fees in excess of those allowed by law, sometimes as much as $10,000. Furthermore, some Vietnamese women are recruited through fraudulent marriages to move to China, Taiwan, Hong Kong, Macau, and increasingly to South Korea, and are subsequently subjected to conditions of forced labour (including as domestic servants), forced prostitution, or both.’

6.1.2 The United States Department of State (USSD), Trafficking in Persons (TiP) Report 2016, Vietnam, published 30 June 2016, stated:

‘Vietnamese men and women migrate abroad for work independently or through state-owned, private, or joint-stock labor recruitment companies. Some recruitment companies are unresponsive to workers’ requests for assistance in situations of exploitation, and some charge workers excessive fees, leaving workers with exorbitant debts and vulnerable to debt bondage. Some victims are subjected to forced labor in the construction, fishing, agricultural, mining, logging, and manufacturing sectors, primarily in Taiwan, Malaysia, Republic of Korea, Laos, Angola, United Arab Emirates, and

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Japan. Workers may find themselves compelled to work in substandard conditions for little or no pay, with large debts and no legal recourse to address labor law violations.\(^{23}\)

6.1.3 Hundreds of Vietnamese children, some as young as 13 have been trafficked to China to marry Chinese men who ‘can't find wives because of China’s gender imbalance’. The International Business Times (IBTimes) reported in an article, dated 3 May 2016 that: ‘Vietnamese brides can sell for $3,000 (£2,040). They're considered particularly desirable because of their cultural similarities to the Chinese. In one case tracked by CNN [News] reporters, a 16-year-old girl was drugged and smuggled into China, where she was pressured to marry. When she refused she was beaten and starved until she relented.\(^{24}\)

6.1.4 The report on Human Trafficking in Vietnam: A Review of Patterns and Legal Framework, noted:

‘In Vietnam, many people who are trafficked - especially women - originally come from rural areas where poverty is experienced more severely than in urban areas... The economic reform in Vietnam - known as Doi Moi- starting in the late 1980s has opened up the country for the global market. In some ways, it has benefited national economic development as well as many people in the country, but in other ways, inequality still occurs between the rich and the poor and between urban and rural areas... The declining role of agriculture in rural economy also has pressed many families to try a strategy to improve their economic situation by sending family member(s) to earn money elsewhere, and beyond agriculture... Particularly, rural women are severely affected by poverty and when they search for work out of rural areas they mostly get involved in simple, non-skilled and low wage work in the cities (Tran and Le, 2000). The demands from factories, domestic work, and sex industry also continuously push female out-migration from rural areas...\(^{25}\)

6.1.5 Anti Slavery International reporting on ‘Trafficking for forced labour in cannabis cultivation’ in the UK noted in a 2014 report that:

‘Debt bondage is a common means of controlling trafficking victims from Vietnam. They are told that they have developed significant debts as a result of being transported to the UK, which they must pay off through work in a cannabis farms. The debts are often set at an inflated rate, in recorded cases the level of debt was £17,000 and £20,000, and may take several


\(^{24}\) International Business Times (IBTimes), Vietnamese child brides trafficked to China to make up for nation's gender imbalance, 3 May 2016, \url{http://www.ibtimes.co.uk/vietnamese-child-brides-trafficked-china-make-nations-gender-imbalance-1557869}, date accessed 8 November 2016

years to work off. Responsibility for a proportion of the debt may also be placed on their family. Unable to borrow money from banks, they may turn to money lenders who are often connected to the trafficking networks. This provides an extra mechanism to control and subsequently exploit a vulnerable victim and their family.  

6.1.6 The joint report by the Vietnam Committee on Human Rights (VCHR) and International Federation of Human Rights (FIDH), on Violations of the Rights of Women in the Socialist Republic of Vietnam, June 2015, stated:

‘Trafficking and sex rings in Vietnam are often run with the connivance of Communist Party officials, Security Police and the military, which are never brought to justice. Prostitutes and HIV/AIDS carriers are classified as perpetrators of “social evils” and stigmatised by the regime. Official power abuse and State confiscation of land has seriously penalized women, especially in the rural areas. In addition, accelerated economic liberalization under the policy of “đổi mới”, or renovation launched in 1986, has negatively impacted the status of Vietnamese women, exposing them to increased violence, sweat-shop working conditions, lack of access to health and education and other forms of discrimination.’

6.1.7 UN-ACT (United Nations Action for Cooperation against Trafficking in Persons), reported on its website (undated), that:

‘Women and girls are considered more susceptible to trafficking than men due to unequal gender relations and socio-economic positions, though both are at risk for different forms of exploitation. Trafficking has been reported of men, often from ethnic minorities, into situations of forced labour in brick factories, mines or sugarcane fields in China; and of of [sic] women into China, Taiwan, South Korea and Singapore for sexual exploitation. These women may be sold to brothels, sold to other buyers, or forced to work in manufacturing. There is also an increasing demand for virgins and children in prostitution resulting in rising levels of child sex tourism.’

6.2 Prevalence of trafficking

6.2.1 An article by VietnamPlus, in July 2016 reported: According to Major General Nguyen Phong Hoa, Deputy Head of the Police General


Department, the traffickers have traded not only in women and children, but also in men, newborns, and human body organs and these illegal events occurred across provinces and cities.\textsuperscript{29}

6.2.2 The number of trafficking victims has risen in Vietnam, as reported by IRIN News in September 2016:

‘Human trafficking is on the rise in Vietnam, although poor crime statistics means the government doesn’t know exactly by how much. Advocacy groups say victims are increasingly being lured on social media. Between 2011 and 2014, the number of human trafficking cases rose by at least 11.6 percent over the previous four-year period, according to data released by the Ministry of Public Security at an anti-human trafficking conference in Hanoi on 14 July. The true numbers are probably much higher, especially as traffickers capitalise on the growing use of social media among Vietnam’s young people, say NGOs [Non-Governmental Organisations]. “Our experience indicates that this is very common, although there is a lack of statistics to show how widespread it really is,” said Le Thi Huong Luong, legal coordinator for the Blue Dragon Children’s Foundation, an anti-trafficking NGO.\textsuperscript{30}

6.2.3 The joint report by the Vietnam Committee on Human Rights (VCHR) and International Federation of Human Rights (FIDH), on Violations of the Rights of Women in the Socialist Republic of Vietnam, June 2015, stated:

‘Government statistics for 2014 show that each year, 5,000 women are trafficked as sex workers to Singapore and Malaysia alone. The real figures are believed to be much higher.’\textsuperscript{31}

6.2.4 In April 2015 Thanh Nien News reported that:

‘Human trafficking is on the rise in Vietnam, with 3,862 victims having been trafficked for forced labor, prostitution and organ trade since 2011, officials told a conference in Ho Chi Minh City on Tuesday [14 April]. “Human trafficking is growing and related crimes have been reported in all 63 cities and provinces nationwide,” said Colonel Le Van Chuong, deputy director of the Advisory Department under the Ministry of Public Security. According to a report by the Central Government’s Anti-crime Steering Committee, the number of Vietnamese victims of human trafficking from 2011-2015 increased by 11 percent over the previous five years. Provinces with the highest numbers of cases are mostly in the north, including Lao Cai, Ha

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\textsuperscript{29} VietnamPlus, Vietnam’s Day Against Trafficking in Persons observed, 30 July 2016, \url{http://en.vietnamplus.vn/vietnams-day-against-trafficking-in-persons-observed/96919.vnp}, date accessed 14 November 2016


Giang, Lai Chau and Lang Son. Chuong said that the official number was based on reports from the police, local media and the victims. “The actual number is much higher,” he said. ... According to the Anti-crime Steering Committee, most of the victims of human trafficking were poor, unemployed and not highly educated. More than 85 percent of the victims from 2011-2015 were women and children.32

6.2.5 In September 2015 Hong Kong police arrested eighteen members of a Vietnam trafficking ring, including two suspected Chinese kingpins. The Hong Kong Free Press reported that: ‘The group charged HK$5,000 to HK$10,000 for the “one-stop” service from Vietnam to Hong Kong, Apple Daily said citing marine police chief inspector Lee Chi-man.’33

6.2.6 The report on Human Trafficking in Vietnam: A Review of Patterns and Legal Framework, April 2015, stated that:

‘According to statistics from the Ministry of Public Security, there were 3,046 cases and 6,628 victims of human trafficking during the period between 2007 and 2014. It is believed the actual number is considerably higher, as programme experience has shown that the majority of trafficked persons return without reporting they have been trafficked, and due to stigma and discrimination, often do not tell their families and friends.’34

6.2.7 UN-ACT added:

‘Traffickers come from a variety of backgrounds, ranging from recruitment agency staff to victim family members. Vietnamese labour export companies and unlicensed intermediary brokers have been known to operate illegally, exploiting vulnerable and desperate migrants. More organized crime groups are involved in trafficking further overseas, such as in the forced labour of Vietnamese children on cannabis farms in the UK. Traffickers are also increasingly using the internet as a channel to lure victims. Such crimes are further facilitated by corruption, including at border crossings and checkpoints.’35

6.2.8 The USSD TiP 2016 report further added: ‘Vietnamese organized crime networks recruit, under pretenses of lucrative job opportunities, and transport

Vietnamese, including children, to Europe—particularly the United Kingdom—and subject them to forced labor on cannabis farms.\(^{36}\)

6.2.9 Traffickers in Vietnam tend to recruit extensively in rural areas, according to a 2014 report by the NGO Anti-Slavery International. The report also noted that:

‘Despite Vietnam’s recent rapid economic growth, the distribution of this wealth has been skewed towards urban areas. This has resulted in rising unemployment in rural areas. Attempts by the Vietnamese Government to address rural unemployment have resulted in people being encouraged to seek employment in overseas labour schemes. While these can bring great benefits to individuals and the Vietnamese economy, they are often poorly regulated and can create an opportunity for organised criminal networks to traffic individuals. Poor access to education is also a contributing factor; with 40-50\% of rural children not continuing education beyond the age of 14. Save the Children found that 93.5\% of returned child victims of trafficking had a low education levels. Rural areas also have comparatively large ethnic minorities, who are often vulnerable to discrimination and generally fare badly in a variety of social welfare indicators, including impoverishment and access to education. This further exacerbates their vulnerability to human traffickers.

‘In recognition of the large number of people being trafficked from and within Vietnam (over 40,000 women and children were recorded as being missing and unaccounted for between 2005 and 2009), the Vietnamese Government introduced a cross-cutting anti-trafficking initiative called Programme 130. However, the reach of such initiatives is limited in those remote and rural areas in which children are most vulnerable. Furthermore, it should be noted that preventative efforts in Vietnam have traditionally focused on women and girls. This leaves boys vulnerable, and is an issue that has to be tackled since the available data shows that the majority of Vietnamese children being trafficked into countries such as the UK are male.’\(^{37}\)

6.2.10 Figures published by the UK National Crime Agency (NCA) Human Trafficking: National Referral Mechanism Statistics April – June 2015, indicated there were 56 adult referrals from Vietnam during this period, including 15 negative reasonable grounds decisions and 37 positive reasonable grounds decisions of which 28 are awaiting conclusive decisions, 4 received a negative conclusion and 1 a positive conclusion, confirming trafficked status.


During the same period, the NCA recorded 48 minor referrals, which resulted in 39 positive reasonable grounds decisions and 5 positive conclusive decisions.\textsuperscript{38}

Vietnam’s 56 adult referrals ranked 2\textsuperscript{nd} (of the adult referrals) and its 6 minor referrals ranked 1\textsuperscript{st} (of the minor referrals) out of the total 757 referrals made to the National Referral Mechanism (NRM) from 61 countries between April and June 2015.\textsuperscript{39}

\textbf{Note:} The NCA publication states that these figures are not to be used in legal proceedings and are for information only.

6.3 Support and Protection

6.3.1 The United States Department of State (USSD), Trafficking in Persons (TiP) Report 2016, Vietnam, published 30 June 2016, stated:

‘The government maintained modest efforts to protect victims. In 2015, authorities identified 1,000 potential trafficking victims – a slight decline from 1,031 the previous year – but did not report how many were subjected to sex or labor trafficking, how many were adults or children, or how many were exploited in Vietnam or abroad. Victim identification and referral mechanisms remained inadequate throughout the country. The government had a formal procedure for victim identification that it did not proactively or widely employ to identify victims among vulnerable groups, such as women arrested for prostitution, migrant workers returning from abroad, and child laborers. It also did not systematically refer victims to protective services due to inadequacies in its formal referral process, including some border guards’ unfamiliarity with trafficking crimes and a lack of interjurisdictional cooperation, in addition to the large number of victims who self-identified, were returned via unofficial border crossings, or lacked identification documentation. Officials continued to conflate trafficking with smuggling, which precluded the identification of victims who voluntarily migrated abroad.’\textsuperscript{40}

6.3.2 The USSD TiP report further added:

‘Although protection services remained variable by location, the majority of victims received vocational training, healthcare, legal aid, shelter, counseling, and financial allowances. Authorities did not report how many


victims used the one-time government cash subsidy – up to 1.5 million dong ($65). MOLISA continued operating 400 social protection centers through local authorities, which provided services to a wide range of vulnerable groups, including trafficking victims; these centers were unevenly staffed and resourced and lacked appropriately trained personnel to assist victims. The Vietnam Women’s Union, in partnership with NGOs and with foreign donor funding, continued to operate three shelters in urban cities, one of which was trafficking-specific. There are no shelters designated exclusively for male or child victims, though existing shelters provided assistance to all victims as needed.41

6.3.3 The International Organisation for Migration (IOM), ‘draws upon its experience in Viet Nam, to assist the Government in establishing a systematic and sustainable cross-border return and reintegration system for trafficked persons. One way in which IOM is demonstrating this, is the establishment of Assessment Centre models in border provinces of Viet Nam, where returned trafficked persons are able to stay in a safe and supportive environment and be assessed for reintegration by professional staff.’42

6.3.4 The joint report by the Vietnam Committee on Human Rights (VCHR) and International Federation of Human Rights (FIDH), on Violations of the Rights of Women in the Socialist Republic of Vietnam, June 2015, stated:

‘Victims of trafficking who escape and return to Vietnam have no legal protection. Many rural women find that their land has been confiscated during their absence. If they have children born overseas, the children are not entitled to the obligatory residence permit, or “hộ khẩu”, and become illegal citizens, deprived of the right to education and health care.

‘The involvement, directly or indirectly, of Communist Party and state officials in the sex trade is disturbing. Evidence suggests that prostitution rings are often run by, or under the “umbrella” of corrupt Party cadres and local officials, who demand payment from the sex workers in return for their protection.’43

6.3.5 The International Journal of Humanities and Social Science Invention, Volume 4 Issue 4 on Human Trafficking in Vietnam: A Review of Patterns and Legal Framework, April 2015, stated: ‘The Vietnamese Government has taken active measures to address the matter and support victims through

42 International Organisation for Migration (IOM), Viet Nam, undated, (Regulating Migration), https://www.iom.int/countries/viet-nam, date accessed 8 November 2016
various national policies and procedures. An NPA [National Plan of Action] was developed and enacted to ensure that prevention, protection and prosecution activities, and support are implemented nationally.'

6.3.6 See also Legislation.

6.3.7 The UNODC observed in its 2013 report that Vietnam has ‘nine shelters and reception centres for trafficking women that provide food, accommodation, medical care, counselling, vocational training and legal aid.'

6.3.8 CEDAW’s concluding observations (2015), expressed concern ‘that women’s access to legal aid remains low and, under the Legal Aid Law (2006), legal aid is not free of charge for women whose household income is above the poverty line, even if they lack access to household income and/or are survivors of domestic violence.'

6.3.9 To support victims of trafficking in An Giang, Quang Ninh, and Can Tho Provinces, the Asia Foundation established community monitoring and support groups in those two communes to increase community awareness and provide legal assistance to the victims in partnership with the National Legal Aid Agency of the Vietnamese Ministry of Justice.

6.3.10 The Asia Foundation considered that:

‘Even when these victims manage to return to Vietnam, they face tremendous difficulty in reintegrating into their communities. Stigmatized by society and traumatized by their experience, they generally do not have the education and skills necessary for gainful employment. These women are at a high risk of being re-trafficked. ... Because of official condemnation of illegal prostitution as well as a prohibition on emigrating without notifying authorities, many survivors of trafficking are left with few avenues to receive assistance. Often, they are reluctant to seek help for fear of further abuse by traffickers, debt bondage, punishment from government authorities for illegal border crossing, or stigma from being labeled a prostitute. This isolation and fear leaves them vulnerable to re-trafficking.'

Back to Contents


6.4 Freedom of movement

6.4.1 The US State Department’s 2015 Country Report on Human Rights Practices (USSD Report 2015), Vietnam, published on 13 April 2016, stated: ‘The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government imposed some limits on the movement of certain individuals, especially those convicted under national security or related charges or those outspoken in their criticism of the government.’[^49]

6.4.2 The Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations (2015), expressed concern, ‘That internal migrant workers, including women and girls, face barriers in gaining access to basic social services guaranteed to all Vietnamese citizens; That migrant women and girls, especially women domestic workers, are at a high risk of sexual and labour exploitation; That migrant women who are victims of exploitation and violence face barriers in filing complaints and gaining access to justice.’[^50]


Version Control and Contacts

Contacts
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Clearance
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Back to Contents