

**Criminal justice responses to trafficking in persons:
Challenges for implementing ACTIP in Viet Nam**

**Dr. Ngo Minh Huong and Ass. Prof Dr. Vu Cong Giao
University of Law – Viet Nam National University Hanoi**

Abstract

Human trafficking is considered transnational crime and poses challenges for countries due to its complexity whereas it is often viewed as a social phenomenon. Vietnam in Southeast Asia is facing increasingly attached to the growth of labour migration and tourism. However, the premise is that improving the criminal justice response to trafficking in persons (TIP) will (eventually) result in a decrease in the incidence of TIP within the country and across their borders. Inherent within this premise is the assumption that strong legal sanctions deter would-be traffickers from engaging in trafficking activities. This paper explores the political, economic, and social context in which TIP takes place in Viet Nam. The paper also explores the existing criminal justice response to human trafficking and identify barriers and challenges of implementing ACTIP, and the underlying reasons why the current response is inadequate in addressing TIP including the issues associated with victims and witnesses and complicate trials. The paper argues that Vietnam needs to increase efforts to meet the obligation set out in the United Nation's Recommended Principles and Guideline on Human rights and Human Trafficking and ACTIP to make priorities regarding prosecution and victim protection. The paper is developed from research conducted by co-authors with in-depth interviews with key stakeholders and institutions and victims of TIP in Viet Nam.

Key words: human trafficking, migration, criminal justice, Viet Nam

Introduction

All ASEAN Member States now have robust legal frameworks in place to criminalize trafficking, protect victims and prevent future trafficking. In the ASEAN region, the legal framework for international cooperation is, with some exceptions, largely in place. However, there is much scope for improvement to ensure its implementation in practice, including by facilitating systematic collaboration with criminal justice agency counterparts across national borders. The Government of Vietnam introduced a specialist anti-trafficking law in 2011, acceded to the UN Trafficking Protocol in 2012, and ratified the ASEAN Convention Against Trafficking in Persons, especially Women and Children (ACTIP) in 2017. Despite the enactment of TIP, there are still significant cases of TIP. Viet Nam ranks 77/167 by the 2018 Global Slavery Index with an estimate of 421,000 subject to modern slavery (including labour exploitation, forced marriages, and sexual servitude). In 2020, for the third consecutive year, the government reported a decline in convictions of trafficking cases and a decline in prosecutions. The court system secured 174 convictions, a decrease from 213 in 2018 and 244 in 2017 (US Department of State TIP Report 2020). Yet there is still little consensus about the nature, extent, or definition of human trafficking, which at various times has been understood as, or interlinked with prostitution, sexual exploitation, labour exploitation, irregular migration, and transnational crime (Sanghera, 2005).

Labour migration increases along with labour export, a part of Vietnam's development strategy (Anh 2008). In 1998, the Politburo issued Directive 41-CT/TW on labour export, acknowledging it as an 'important and long-term strategy' (Ishizuka 2013). Accordingly, the Government of Vietnam set a target of 100,000-120,000 workers travelling abroad each year to be reached by 2020, but it was already surpassed in 2017, with 131,751 workers (Hoang 2020). Remittances account for 5.8% of Vietnam's GDP, and the country is the second largest recipient in the Asia-Pacific region (ILO 2021). Labour migration is an important element of Vietnam's development policy, and at the end of 2021, there were an estimated 560,000 migrant workers abroad (ILO 2021). However, these inflows are counter-balanced by the debt incurred by families sending workers abroad.

Challenges for criminal justice regarding the protection and assistance of victims can be assessed from laws, policy, reinforcement mechanisms and cooperation of agencies across borders. Others can be from crime prevention strategies based on the prosecution of traffickers which more commonly treat law enforcement as part of, rather than separate from, prevention

efforts, while also seeking to address factors that create opportunities for traffickers such as non-alignment of migration policies with labour market and social norms that lead to tolerance of the exploitation of certain groups.

United Nations Organisations (UNO) to bring into force legal standards that aim to protect people from trafficking such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (known as Palermo Protocol 2000), which provide international definitions of human trafficking emphasize human trafficking as a form of transnational crime, resulting in counter-trafficking initiatives that focus on restrictive border controls and immigration policies. However, this framework does not bring to the successful prosecution of perpetrators as well as protection of the rights of trafficked persons (Milivojevic and Segrave, 2012). It is also supplemented by several regional and domestic legal and policy frameworks. the ASEAN Convention on Trafficking in Persons (ACTIP). The US enacted enacting the Trafficking Victims Protection Act of 2000 (TVPA) which produces the annual Trafficking in Persons Report (TIP Report), as an attempt to gather and disseminate information on the growing incidences of human trafficking on a global scale. At the national level, Vietnam enacted an anti-trafficking law in 2011, acceded to the UN Trafficking Protocol in 2012, and ratified the ASEAN Convention Against Trafficking in Persons, especially Women and Children (ACTIP) in 2017. Human trafficking of women and children was initially regulated in articles 115 and 119 of the 1985 Vietnam Penal Code. The definition of human trafficking or Trafficking in persons (TIP) was expanded with the 2015 Penal Code to include the transfer, receipt for commercial purposes, labour, sexual exploitation, and trading of human organs. The Code considers traffickers to be actors involved in the recruitment, transport and retaining of victims (article 150). The new provisions in the code make Vietnamese legislation more compatible with the provisions set out in the Palermo Protocol

Yet, from criminal justice standpoint, there is a limited number of criminal cases. Law enforcement and criminal justice actors post the question of the criminal justice approach, as the law is little tested and actual experiences of trafficked persons remain poorly accessed to justice for the purpose of reduced TIP.

However, despite the legal framework, the phenomenon of human trafficking remained high. Victims are still suffering in hands of traffickers. This post questions why crimes of TIP still persist, and whether the legal provision adequate to stem the crimes from criminal justice perspective? What are the institutional challenge for the enforcement of these laws, and how can criminal justice helps to address and reduce TIP. This paper helps to clarify our

understanding of human trafficking within the local context, by exploring the patterns and trends of human trafficking as well as current counter-trafficking responses in Vietnam. It also aims to suggest measures and institutional framework to strengthen the efforts of counter-TIP which, in this article, is limited to policy force, prosecution, the judiciary and the assistance services to victims. This article refers to research incorporated interviews conducted by authors of KIIs from related government departments and institutions (8), international organisations (3), NGOs providing support to trafficking victims (5), recruitment companies (2), victims of trafficking being supported in shelters (3), returned migrants (4) and members of migrant networks (2).

Human Trafficking in Vietnam

Vietnam has been on the Tier 2 watchlist of the US Trafficking in Persons report for three consecutive years, Vietnam was granted a waiver in 2021, and remained on the Tier 2 watchlist because of a written plan that would constitute ‘significant efforts’ if implemented, which has been the driver for legislative and policy change. In 2022, Vietnam is in Tier 3, one area of improvement for 2021 was an increase in the number of alleged traffickers charged and prosecuted. In addition, there has been a reduction in investigations and convictions, which suggests there was a push to increase prosecutions to prevent demotion to Tier 3 (US Department of State, 2022). People’s

Between 2016-2020, The Supreme People’s Procuracy is responsible for prosecution, all levels of the Procuracy prosecuted 528 cases with 955 traffickers, and the People’s Courts had processed 568 cases with 1,082 traffickers, and 1,008 traffickers of these were convicted (MPS, 2020a).¹

In 2021, the procuracy agencies have prosecuted 72 cases of trafficking in person and trafficking of a person under 16 with 120 defendants (65 male, 55 female, 1 from 16-18 years old, 119 over 18 years old, all are Vietnamese), 104 victims (16 male, 88 female, 33 under 16 years old, 14 from 16-18 years old, 57 over 18 years old, 01 has Thai nationality and 103 are Vietnamese). Victims were trafficked for different exploitation purposes: 9 for forced labor, 2 for surrogacy, 7 for kidney trading, 44 for sexual exploitation, 35 for marriages, 6 for child adoption. 19 were trafficked domestically and 85 to China (MPS) . MOLISA (2021) received and identified 110 trafficking victims of which 110 victims are Vietnamese, 6 are foreigners,

¹ C-TIP Assessment Report. 2020 USAID

12 victims of sexual exploitation, 22 of labour exploitation and 76 of other purposes. 98 victims are female, 12 are male, 29 victims under 16 years old, 14 victims from 16-18 years old, 67 victims over 18 years old. The provinces and cities supported 100 victims, of which, 79 victims were safely protected, 90 victims were supported with essential needs, 55 victims were supported with travel expenses, and 45 victims were supported with medical assistance, 34 victims got legal aid, 50 victims got psychological support, 19 victims got initial hardship allowance, 10 victims got loan support, 12 victims got job support.

Patterns and trend of human trafficking

Increasing informal and illegal migration for trafficking purpose. Trafficking is highly organised and complicated which is not involved Vietnamese side but the crime forces at destination and through out the routes. ²

Poverty and unemployment especially in mountainous and rural areas are found key drivers for increasing labour migration. The 2017 study by IOM and MOFA found that migrant workers earned more for doing the same work abroad as they could in Vietnam. Returned migrant workers interviewed aimed to earn money to feed their family and get out of poverty.³ Young people and ethnic minority and women are most found in labour migration, in both formal and informal channels.

In 2017, IOM reviewed the state of labour migration, and found that between 2012 and 2016, just less than a third of migrants on fixed term contracts were women, and the majority were from north central Nghe An and northern provinces (IOM/MOFA 2017). Forced labour primarily targets men and boys (Blue Dragon 2021).

The primary corridors for labour migration are from Vietnam to Japan, Korea and Taiwan. fish farms, the apparel/ textile industry and construction jobs had 274%, 60% and 33% more likelihood of forced labour than manufacturing (Zhang et al. (2021). ASEAN region include other south-east Asian countries such as Thailand and Myanmar; China; and Indonesia and Malaysia. Through formal labour migration, ie. labour with contract and arrangement by the

² Interview with resource persons from MOLISA, MOJ, MPS, Bourder Guard and ILO.

³ Interview with returned migrant workers. Vietnam January 2022.

government through negotiation with receiving countries, or through facilitation by recruitment agencies (Zhang 2021).

East Asian destinations (mainly Japan, Taiwan, South Korea) are the most sought after amongst Vietnamese labour migrants, as they are seen as less risky. Work in factories through arranged contracts is managed through recruitment agencies.⁴ However, some of these conditions can open the door to exploitation. This includes conditions related to non-refoulement and complaints (Mekong Migration Network 2022).

Southeast Asia countries have open door for non-visa for 30 days, which open up for travel easier, especially amongst countries with shared borders. In Thailand and Myanmar, Malaysia migrant workers have been identified working in manufacturing, construction, services (Mekong Migration Network 2022).⁵ Vietnamese migrant workers on the irregular contracts where working arrangements are mostly informal, and there is rarely a written contract.⁶ Many laborers can keep travel back to border every 30 days, even the trip could be risky at border and being trafficked.⁷

China is a popular destination for Vietnamese migrants and has become a hub for cross-border marriages because the land border makes it an easier option, particular for aspiring people from northern provinces. As Chinese man, facing challenge to have wives, pay for Vietnamese wive. Some estimates that over 100,000 Vietnamese women are married to Chinese men (Li 2020). 70% victims trafficked for sexual eservices in China (UNIAP, 2010). Statistics from one shelter for returned victim in 2021 show 24.6% of trafficked women in were sold into commercial sex work.⁸The report on returned victims of trafficking from WU's Peace House (2021) is that for the age group 81,7% is from 18-25, 37% are teenagers, 6 % are preschool children and 9% are illiterate. The reasons are because they serve sexual needs and forced marriage, they lack of knowledge and easy to follow their friends invitation including through use of social media and internet, 72% trafficked victims do not have proper education and lack of information; 45% trafficking victims was because they need to look for job because of

⁴ Interviews with international organisations, government agencies, recruitment companies and returned migrant workers, Vietnam, February 2022.

⁵ Interview with returned migrant workers, Vietnam December 2021.

⁶ Interview with returned migrant workers, Vietnam December 2021.

⁷ Interview with N., a female irregular worker in Thailand.

⁸ Interview with KII – Nhan Ai House in Lao Cai Province, Jan 2022.

economic difficulties; 22% are negligent of family to let children drop out school and go street children ; 14% because of divorced parents to live with others ; 12% are from violence family ;7% is kidnapped. From the data of real cases received by VWU, it shows 54% victims were sexually exploited, 21% are forced marriage, 9% are for labour exploitation, 5% is surrogacy. There is an increase trend of trafficking of younger people and even new born children (Vietnam Women Union 2021)

Casual factors of human trafficking

Labour trafficking can be in situation where people go on labour export programs to work abroad, under contract and with legal documents. Migrant workers can form labour trafficking they can feel pressured by their employers to stay in a job or situation they want to leave (ii) owe money to an employer or recruiter or not being paid what they promise (iii) do not have control of their passport or identity documents. (iv) are being threat by their boss with deportation or other harm (v) living in dangerous, overcrowded or inhumane conditions provided by employers, (vi) working in dangerous condition, without proper safety gear or training.

Policy to promote labour migration in Vietnam has been the overturn for the purpose of increased job and incomes. It also places other sides of the coins that count more on migration trafficking. At the first stage of this policy. the government manages labour migration to ensure both state and individual accumulation of benefits (Tran and Crinis 2018). As a country of origin, Vietnam has limited negotiating power to improve conditions abroad or enforce legislation in destination countries. In addition, most of recruiting agencies and vocational training schools for labour migration under contract are under control or with connection with the Government. The government and such agencies agree to get fee, even high fee from labour who wish to join the join the labour export scheme.

In the process, while migrant workers are on board abroad, they can still become undocumented with little support from either recruitment agencies nor the government of receiving countries nor the country of origin. Under work contracts, migrant workers themselves do not have opportunities to negotiate with their employers. In some instances, migrants are willing to take the risk of becoming irregular, or undocumented, even illegal (see Huang 2017). Other factors affecting the migrant workers become informal and undocumented are they are deceived, social

stigma, discrimination, inadequate living and working conditions, physical and mental abuse, or they break their contract for higher pay with another employer.

In formal labour migration program, in some case, employers contact recruitment agencies to identify employees, or through brokers in destination countries, for example, in Taiwan, many case that has highlighted how Taiwanese brokers also take a fee from the salaries of migrant workers (Bengsten 2022). Migrant workers to Japan market also have to pay legal fee and cost, arrangement of travel documents, airfares, insurance, medical checks, training, recruitment and placement fees, profit margins for recruitment agents and security deposit (Hoang, 2020). Migrant workers often pay 5-15 times the legally sanctioned cap on placement fees put in place by the Government of Vietnam, which should be one month's salary for each year of the contract (Hoang and Yeoh (2015). Traffickers ranges from labour export companies. recruitment agency staff to unlicensed intermediary brokers victim family members. More organized crime groups also arrange transborder trafficking, such as the case of forced labour and child labour in Cannabis farms in UK or the 47 found dead in containers on the way to UK in 2017. While recruitment agencies are often viewed as the safest option, interviews noted that recruitment agencies do not necessarily provide support for workers once they reach their destination. ⁹

Vulnerability of human trafficking victims

Labour migrants have to pay high cost in order to get in the scheme of labour export with arranged contract. That costs include placement fee, and other such as legal, training, documents, travel and other insurance. The migrant laborers to higher income countries like Japan, Korea even have higher cost (around 6,500USD) for 3 year contract. ¹⁰ In addition, instead of available registered recruitment agencies, there is a large and complex network of informal brokers in many areas to recruit laborers, also to take deposits from migrant laborers. Such channels of recruitments make accumulated debts for laborers and their stay families, as such the burden of repaying debts before any possibility to return countries (see below table). High cost and debt have put pressure on migrant laborers so that they need to accept all kinds of working conditions until they repay their debts. ¹¹

⁹ Interviews with KIIs-government

¹⁰ Interview with returned migrant workers

¹¹ Interview with returned migrant workers and trafficked victims

| Destination | Average recruitment costs | Range of recruitment costs |
|-------------|---------------------------|---|
| Japan | 200-250 million VND | 50 mil-350 mil VND (~2500 USD – 12,000USD) |
| Korea | 130-150 million VND | 30 million VND (~10,000USD) |
| Taiwan | Increasing over time | 500USD-6,500USD |

Table 1 Recruitment costs. Source: CREST 2021.

There exists a complex network of individuals brokers for labour migration which still does not fit in the perception of organised crimes, but it could be considered the smugglers or even traffickers. Ethnic minority are easy like-minded group to be trafficked and they often come in groups from the same village through the facilitation of local brokers.¹²

Threats from employers to labour migrants are found in many cases of interviews of returned migrants. Employers use threats that breaking contracts or disobey will lead labour migrants into illegal, because of their undocumented status, even employers have used the warning to report labour migrant to police to deport.¹³

*I know of a few cases where Vietnamese workers working illegally in South Korea have been exploited for their labour, transferred to another workplace that they don't like, been paid low wages, or been subjected to harsh treatment. The problem is that they can not resign, because if they protest, they will lose their jobs, and if they report it to the local police, it will reveal that they are working illegally.
(a Vietnamese female migrant worker from Korea)*

Vulnerability of human trafficking is found more in groups of ethnic minorities, women, youth and children. These groups face higher risk of labour trafficking or human trafficking. The traffickers target this groups, either through local brokers because they found these group poor, less educated, less aware of scams. Many family turned to labour migration through brokers

¹³ Interview with returned migrant workers (Ms. H from Ha Tinh)

because they have huge family debts (Blue Dragon, 2020).¹⁴ Women are also trafficked for forced labour, for example in for domestic work (Shelley, 2010) and for forced marriage (especially through China borders).

Young girl fell into forced marriage and block to escape said¹⁵:

When I was at home, I was scared to hide in my private corner and shut to door. The man who came from work in far away and after many days, he punched th door. I escaped to the forest. Then this family transferred me to other family/

They asked someone who know language to accompany me and give fake documents (married document) to get through the check point. They told me to nod and look down when passing by. Show the paper. They threaten that if I shouted, they will kill me. I have been passed to another house to get married. From Mong Tu mountain, we passed through 2 check points. They dropped me at the 'husband' house. This family treated me badly, beat me a lot. The husband appeared after a week, that really scared me.

(Interview M, 23 years old, Dao Ethnic from Phong Tho, Lai Chau, trafficked, returned in)

In the formal sector/not trafficked into jobs are also exploited. In informal labour migration, ttrafficking of Vietnamese women and girls into sexual exploitation and forced marriages and sometimes for labour exploitation in China. “Typically women and girls would be ... sold into brothels where they would be confined, drugged, and forced to “serve” many men daily.”¹⁶

I went when I was 13 years old and I did not know many things. I lived with that family for 3 months and they forced me to work in the field, and take care of their kids, and cow. I did not receive any news from my mother, so I got worried. I was not allowed to go out and talk. After 3 months, I was sold to marry a husband. It took me 2 nights and 3 days by car (it is Ha Nam in Wuhan). When I got to the new family, I looked still so small. Their son is out for work until 7 months later so they wait until then to make wedding. They kept me in door, lock the door. I was panic and kept thinking about escape. I jumped from the 2nd floor when they were out. But I don't know where to go/

¹⁴ Interviews with Blue Dragon representatives. Jan 2022

¹⁵ Interviews with resource persons from MPS, Border Guard

¹⁶ Interviews with resource persons from MPS, Border Guards, ILO, UNODC.

I kept walking, through the maize field but not the main road. After a day, I walked out the road and met the local family. I asked them to call police for me. Police came and took me.

(Interview Ms. L, 23 years old, H'mong people from Bat Xat, lao Cai)

There are many self-funded migrants, who pass through borders to neighbouring countries for work, travel with legal documents. These irregular migrants are more vulnerable and are shown to experience threats, lack of legal protection and exploitation. Such migrants might easily fall victim to exploitation or abuse as they are unlikely to report wrongdoing to authorities for fear of being deported or they are subject to administrative fines by authorities on both sides of the border, also exploiting their fear of deportation.

I worked in Thailand for 8 years. The first boss did not pay me for 3 months, but only gave me food. He said I am an intern, learning to work so no pay. I tried to keep working there. Because I don't know the language, I asked other workmate for help to ask the boss to pay my salary, otherwise I will leave. The boss said he wanted me to stay so if I stay he will pay. He said if I leave he will report to police. I am scared. I am in debt with agent so I try to stay one more 1 month. After that the boss approached me and ask to give sex. But I did not give. I decided to leave without his notice, I left behind all of my stuff".

(a female returned migrant workers from Thailand)

There is also a new wave for labour migrants who are arranged to go as tourists legally but then illegally transported to other 3rd and 4th countries through the highly organised arrangement. For example, the case with the container found in the UK in 2019, with 39 dead bodies of Vietnamese migrants, which include 10 teenagers and 2 of 15-year-old boys. They all relied on smugglers to move them across borders.¹⁷

Many trafficked persons mostly women and girls are returned from China. there are also cases where women and girls are lured with the promise of work opportunities and forced into marriage, which creates a link with labour exploitation.

¹⁷ Press coverage on case of 39 victims: <https://www.24h.com.vn/tin-tuc-quoc-te/vu-39-thi-the-trong-container-bao-anh-noi-da-xac-dinh-duoc-trung-gian-nguoi-viet-c415a1096004.html>.

One returned trafficked victim said:

I was told that there was job near China. When I followed them, there was old people too, so I did not think that I was tricked and trafficked. They said to work on rubber farm. I don't know where is China or Vietnam. They took me on the bike, older people went before, young followed. Then when we reach the border Ma Lu Thang, I knew I was tricked. They stop bike to load us to the truck. I tried to run away but they could catch me and beat me. (interview from Ms M, 23 year old, from Lao Cai province)

Traffickers are also increasingly using the internet as a channel to lure victims.¹⁸

I was invited by my friend when I was 14. She sent me through facebook so i did not think (interview with D, 19 years old now, returned from trafficked to China in 2017)

The friend I know from facebook invited me to go and later she passed me to the marry to a man. I did not know how to protect myself. When I wanted to escape to return home, I ran to police station. They kept me there for 1 month there to check information about me from Vietnam Then they return me. They gave me food and stay while waiting. I went in 2016 and returned in 2017. At the beginning, I had no cell phone, after I got phone, I could contact / communicate so I had less fear. (interview with D, 19 years old now, returned from trafficked to China in 2017)

Vietnam's criminal justice response to Trafficking in persons

The legal framework

Vietnam is party to the UN Convention on Transnational Organised Crime.¹⁹ and the protocol on Trafficking in Persons (Palermo Protocol). In addition, Vietnam has ratified the ASEAN Convention on Trafficking in Persons (ACTIP). On 30 November 2020, VN Government enacted Plan to implement ACTIP which requires all Ministries and related agencies and provinces to enact their own plans to implement ACTIP. Viet Nam also signed Memorandum of Understanding in the Greater Mekong Subregion (GMS) to address human trafficking and

¹⁸ Interview with KII- victims. And also interviews with KII from MPS.

¹⁹ [Decision 2549/2011/QĐ-CTN], The UN Convention against Transnational Organised Crime *Article 3 - Use of terms* - For the purposes of this Protocol: (a) "Trafficking in persons" shall mean (i) the recruitment, transportation, transfer, harbouring or receipt of persons, (ii) by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, (iii) for the purpose of exploitation

then joined the Action Plan on the prevention of human trafficking of GMS (COMMIT). Viet Nam signed the ASEAN Consensus on the protection and promotion of the rights of migrant workers in November 2017. But Viet Nam does not sign nor ratify the UN Convention on Migrant Workers, like most other ASEAN countries. By 2021, Vietnam has entered 14 bilateral mutual legal assistance treaties on criminal areas and 14 bilateral treaties on extradition (Document 33/TANDTC-HTQT) which includes dealing with crimes of human trafficking.

In 2011, the National Assembly passed the Law on Prevention, Suppression on Trafficking in Persons, which changed the focus of trafficking from the crime of buying and selling *women*, to the crime of buying and selling *persons* (article 119), which in effect adds men and boys to the definition of human trafficking. Article 120 also focuses on the buying, selling and kidnapping of children. Article 15 of the 2011 Law on Combating and Prevention of Human Trafficking. Article 15 states that entities that do business or provide services where there is a risk of human trafficking occurring, shall sign labour contracts with employees; register employees with local labour management agencies; report it to competent authorities; coordinate with and create conditions for competent agencies to inspect and examine their activities. Authorities responsible for managing the related business sectors, such as MOLISA (for labour export), MOCST (for tourism and entertainment services) and MOJ (for transnational marriages).

However, the 2011 law on Trafficking is now being outdated compared to the updated Penal Code and there are legal gaps between these two laws. The current legislation on human trafficking, nevertheless, do not make clear on the institution responsible for human trafficking, and it limits the definition of trafficking acts. Also, the current legislation provide only narrow and inconsistent definition of human trafficking, thus it may make challenge for identifying and assisting victims (Nguyen, Nguyen, 2018).

There are certain legal gaps in the areas of human trafficking and criminal justice. The current legislation in Vietnam on trafficking is not yet compatible with the international protocol. ²⁰

²⁰Art 3 of Trafficking Protocol states : (a) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article; (d) 'Child' shall mean any person under eighteen years of age.

The 2015 Penal Code ²¹ provides the expansion definition of human trafficking or Trafficking in persons (TIP) to include the transfer, receipt for commercial purposes, labour, sexual exploitation, trading of human organs. The Penal Code 2015 considers traffickers to be actors involved in the recruitment, transport and retaining victims (article 150). The new provisions in the code makes Vietnamese legislation more compatible with the provisions set out in the Palermo Protocol. Article 150 provides that trafficking requires proof of force, fraud, or coercion to constitute a sex trafficking offence. Article 151 of the 2015 Penal Code criminalises all forms of trafficking. It prescribes penalties of seven to 12 years' imprisonment and fines of VND 50 million to 200 million (US\$2,170 to US\$8,670). Penalties for trafficking for sexual exploitation are commensurate with other serious crimes such as rape. The 2015 Criminal Procedure Code and Circular No. 02/2018/TT-TANDTC Decree No. 09/2013/ND-CP provides social protection and victim support during their stay and when carrying out legal procedures for returning them home by the establishment of the victims of human trafficking support centers. Although No version of Penal code relies on the actions, the means, and the purposes used by traffickers in its human trafficking definition. In previous code, trafficking in Vietnam target factors such as trade, illegality and profits, meaning traffickers should be under definition of trafficking in persons is understood to be the act of one person (or a group of people) who transfers a person to another person (or another group of people) to earn money, property or other material profits. This includes selling persons to another regardless of the buyer's purpose, buying persons to re-sell to others, using persons as exchange or payment, and buying persons for exploitation, forced labour or other inhuman purposes. The Vietnamese Penal Code, however, focuses on trade, profit, and illegality to conceptualise human trafficking as the first indicator in its narrow definition.

However, there are still legal gaps in protecting women and children through different law. in There is the inconsistency of formal response by law and policies on human trafficking and labour trafficking. The Penal code 2009 has previously opted out men, bouts, trafficking for labour exploitation, the Trafficking Law 2011 mostly focused on women and children, and primarily sexual exploitation. Human trafficking of women and children was initially regulated in articles 115 and 119 of the 1985 Vietnam Penal Code. The current law on children defines children as under 16 years of age rather than 18. Thus, there is age gap in age in identifying

²¹ Law No 100/2015/QH13, was passed by Vietnamese National Assembly 13th Legislature, 10th session on 27 November 2015. The

victims and put protection measures to people from 16 to 18 age group. The 2015 Criminal Procedure Code requires that children child- and gender-sensitive judicial and referral/support system separate from adults ²², a specialised court means that judges and court officials need specialised training and accreditation to hear and support cases involving juveniles. Juvenile victims should be provided with adequate information, during legal proceedings. including to families/guardians on their rights and related issues by law enforcement, the judiciary and the referral/support system. ²³

2017 Law on Legal Aid provides Legal assistance for victims is provided through state legal aid centres and legal aid-participating organisations that provide services in provincial and district levels and in the network of human trafficking protection services.

The Law on Vietnamese Workers Working Abroad Under Contract was updated in 2020 ²⁴ to improve conditions for safe migration. The new law adds provision for supplementing prohibited acts when sending workers abroad such as: enticing, seducing, promising, advertising, providing false information or using other tricks to deceive workers Labour discrimination, forced labour, Application of measures to ensure the performance of other obligations, in addition to escrow and guarantee.

Strategies, programmes and policies for anti-trafficking

On February 9th, 2021, the Vietnam Government has enacted the National Plan of Action (NPA) on the prevention and combating TIP in the period of 2021-2025 with vision to 2030, a strategic plan to guide and instruct combating and prevention of TIP in the whole country. The latest National Action Plan focuses on communication and awareness raising; prevention; identification and protection of victims; international cooperation; and legal reviews by the Ministry of Justice. The NPA is to support the implementation of the law of trafficking for the overall objectives (i) Enhance awareness of responsibility and capacity of individuals, families, and entire society with the aim of preventing and coping with human trafficking risks. (ii) Reinforce detection, inspection, prosecution, and bringing to justice any human trafficking crime. (ii) Receive, verify, rescue, protect, and support victims in a timely and safe manner. (iv) Complete legislation and effectively implement policies and laws on human trafficking prevention and fighting. (v) Reinforce cooperation and implementation of international

²² Articles 30, 38 and 45 of The 2014 Law on Court Organisation

²³ Circular No. 02/2018/TT-TANDTC of the Supreme Court, and the Joint Circular No. 06/2018/TTLT-VKSNDTC-TANDTC-BCA-BTP-BLĐT BXH

²⁴ Ref. 69/2020/QH14. On November 13, 2020, the National Assembly passed the Law on Vietnamese workers working abroad under contracts 2020, take effect from January 1, 2022.

commitments to human trafficking prevention and fighting (Office of the Prime Minister, 2015). The NPA is implemented by Government and all related Ministries and Agencies, and local authorities. The NPAs have been implemented by MPS (lead of the NPA and responsible for law enforcement and criminal justice,) the Ministry of Labour, War Invalids, and Social Affairs (MOLISA) (responsible for protection), and the Ministry of Information and Communications (MIC) (responsible for communications). The Border Guards, Supreme People's Procuracy, and Women's Union have had led and support roles of sub-components within the NPA. The Border Guards have largely the same detection, identification, and investigation role as MPS within the border areas, the Procuracy is responsible for prosecuting traffickers, and the Women's Union provides prevention and support role in communities, primarily in the northern mountainous region as well as operating two shelters for women victims of trafficking. In the implementation plans, MOLISA and Women's Union, the two agencies in charge of public awareness raising will specify the target groups and areas which will be prioritized and focused for legal education and communication campaigns. Provinces incorporate the NPA into their government policies, through their own programs and plans and integrated it through a trafficking steering committee for implementation (MPS, 2020a). The NPA 2021 has added a national trafficking database led by MPS and the addition of several ministries, such as the Ministry of Agriculture and Rural Development (MARD,) for addressing trafficking in the fishing industry and relevant forced labour, and the Ministry of Health for guidance and technical support.

Institutional and cooperation and coordination to combat human trafficking has just been restructured in 2022. A National Committee on combatting human trafficking (called Committee No130) has been established and cooperation amongst ministries and agencies is enhanced. Since 2021, The Standing Office of Committee 130/CP has been moved from Criminal Police Department to Ministry of Public Security Office to be merged with Standing Office of Committee 138/CP.²⁵ Cooperation and coordination at the national level is set up through the NSC 138/CP which covers all types of crimes. Ministry of Labour Invalid and

²⁵ The Government's Steering Committee for Crime Prevention and Control (SC): Steering Committee 138/CP . The responsibilities of the SC include developing strategies, crime prevention plans and coordinating agencies, organisations and localities in preventing and combating trafficking in persons. The SC is chaired by a Deputy Prime Minister, with members from 23 ministries and government committees, the Government Office, the Supreme Court, the Supreme People's Procuracy, Vietnam Television (VTV), Radio Voice of Vietnam (VOV), and the 6 socio-political mass organisations. with more delegated leadership of Ministry of Public Security, including Border Guard Directorate, Ministry of Foreign Affairs, Ministry of Labor, Invalid, and Social affairs, Ministry of Education and Training, Ministry of Finance, Supreme Court and Peoples Procuracy.

Social Affairs (MOLISA) is responsible for coordinating social protection and child protection measures and Ministry of Public Security (MPS) is responsible for law enforcement related anti-trafficking efforts, and there is no guidance on cooperation measures and/or procedures between these two agencies.

There are some key institutional challenges of the response to criminal justice of trafficking. That include lack of cooperation and coordination amongst agencies. Lack of commitment and priority of the agencies on human trafficking issues. Some provinces do not allocate resources and capacity to deal with the complexity of human trafficking.

Challenges in criminal justice response on human trafficking

Identification, prosecution and investigation is defined as and criminal justice response to human trafficking. Criminal justice response also includes protection purpose through legal support and other services upon return and reintegration under the meaning of respect of human rights (ACTIV, ASEAN 2015).

In the process of **identification** of victims, the law in Vietnam provides the procedure for identification, receipt, and repatriation of victims of human trafficking is addressed in a multi-ministerial joint circular.²⁶ The identification mainly lies at Border Guards, when returned from authorities of the foreign state, victims are placed around the border area.

There is ineffective implementation of guidelines on victim identification procedures prevent border guards, law enforcement, and other officials from consistently identifying and assisting victims. Procedure required victim identification, traffickers with witnesses, testimony or investigation results with documents and evidence necessary.

The identification at the border also has limitation which priority focus more on women, since most returned trafficked persons are women in the age of 15-30 years old age. Men being trafficked are not so recently reported.²⁷ Also, the identification procedure does not include the self-returned people. Although the law encourages for self-reporting trafficking, but most

²⁶ Circular No. 01/2014/TTLT-BCA-BQP-BLDTBXH-BNG

²⁷ Trend and statistics reported from TIP report, U.S Department of State, 2021

(counted for 60%) do not report because of stigma (Le, 2017) or they find the investigation procedure complicate and inadequate justice. (Nguyen Oanh, 2019).²⁸ As such one challenge on the identification procedure lies in methods to include all kinds of trafficking, including overseas and internal trafficking, men, children, all people who return on their own.

In practice, victim certification is required. Police and the Border Guard formally identify trafficking victims. A victim must subsequently be certified and given a: i) victim certificate provided by a police station in a rural district, urban district, town or provincial city; ii) victim certificates provided by rescue agencies; iii) a victim certificate provided by the investigating agency, People's Procuracy or People's Court; or iv) papers and documents proving victim status issued by foreign authorities which are authorised by overseas Vietnamese representative agencies or the Vietnamese Ministry of Foreign Affairs providing consular services. Victim certificates provided by the rescuing agency or through consular services are more easily obtained. Victim certificates from the police or investigating agency are only issued upon sufficient investigation and verification of evidence, or in cases the offenders were arrested or identified and are therefore more difficult to obtain, especially for victims returning to Vietnam from abroad by themselves.²⁹

There is capacity obstacle in victim identification. KIIs with related ministerial and law enforcement officials highlighted that there have been increased but still little on training opportunities on victim identification and initial victim support. Though much capacity efforts focus on prevention.

Investigation victims of trafficking involves cumbersome procedures. A victim-centered approach placed at the forefront during the investigation and prosecution phases but is lacked. Victims do not cooperate when it fail to identify being victims promptly due to complicate procedures: if they return on themselves and self rescue, they are not consider victims. If they are handed at the border, they often do not have documents so it requies long time to have legal identify document and verify from place of origin, victims do not want to engage in intoragation in long time and wanted to go home immediately.

The requirement to prove recruitment, transportation, harbouring in combination with the requirement to prove transfer or receipt of a person (i.e. an exchange of money, for a benefit, etc). Such the evidence collected during investigation is primarily based on victims testimony

²⁸ Also this is confirmed through interviews with KIIs-victims

²⁹ 2011 Law on Human Trafficking Prevention and Combating human trafficking

and the perpetrators confession. Without perpetrators' confession or corroborating evidence it is difficult to prove the crime. In order to prosecute a human trafficking case (including case involving children aged 16-18) it is necessary to prove the purpose of the recruitment, transportation, harbouring, transferring and receiving of people and that the victim did not consent, not apply in case of 16-year-old with their consent.

The absence in reporting to police or any investigating body including self-reporting human trafficking is explained by the fact that trafficking is by definition illegal and because victims who escape exploitative situations commonly do not report their experience to police.³⁰

Prosecution

As the U.S Department of State's report on TIP (2019) recommends that 'an effective criminal-justice response to human trafficking should treat the prosecution of cases as seriously as other grave crimes, and governments should hold all perpetrators of trafficking, including intermediaries aware of the intended exploitation, criminally accountable, and should not impose suspended sentences, fines, or administrative penalties in place of prison sentences. Without prison sentences, human traffickers will not be effectively deterred.' However, criminal justice can not just be made within a country, but it needs cooperation for successful investigation and prosecution, as what is raised by ACTIP.

From the approach and perspective above, the prosecution should treat trafficking as grave crime, as such, all perpetrators of trafficking including intermediaries and those with intended exploitation should be held criminally accountable, and should not impose suspended sentences, fine or administrative penalties. (US. Department of State, 2019). Although the definition of trafficking in persons has improved, it falls short of the Palermo Protocol. The definition of trafficking in Vietnamese law is narrower than the Palermo Protocol's definition and appears to require a two-way exchange, involving the 'transfer' or 'receipt' of persons, therefore failing to capture the broader criminalisation of 'recruitment', 'transportation' or 'harbouring' within international law.³¹ It is hard to bring perpetrators because in many cases, they are relatives of the victims, and the returned victims do not want to report to the police.

³⁰ Blue Dragon Children's Foundation (July 2021) *Human traffickers and trafficking in Vietnam*

³¹ Apland K. and Yarrow E. (2019). *Casting Light in the Shadows: Child and youth migration, exploitation and trafficking in Vietnam*. Coram International

Upon return, trafficked persons often hide or stay in other areas. Said by several *young women and girls who sold by their relatives*

When I went to China, my mother went before me. My uncle told me that he took me there to meet my mother. Now I can return, I do not want to go back home and report that my uncle was arrested, I go to city to work

ACTIV raises the need for regional cooperation where all state should have the same approach and awareness on prosecution so that the region would not be the safe havens for perpetrators. The NPA states the objective for ‘reinforce detection, inspection, prosecution and bringing to justice human trafficking crime’ was assigned to – led by MPS-Criminal Police Office,³² and supported by the Border Guards in border areas, and with the Supreme Procuracy³³, Supreme Court, and the Ministry of Justice.³⁴ The Supreme People’s Procuracy is responsible for prosecution, and between 2016-2020, all levels of the Procuracy prosecuted 528 cases with 955 traffickers, and the People’s Courts had processed 568 cases with 1,082 traffickers, and 1,008 traffickers of these were convicted (MPS, 2020). The challenge is that to prosecuting trafficking cases is that most identified trafficking cases have been cross-border or abroad and the investigation agencies have to rely on foreign authorities to collect information for investigations, which is slow, but such information collected is not often used as evidence before court (MPS, 2020).

There are also challenges for prosecution and criminal justice related to the consent of victims, which is not the only factor in the criminal liability of offenders, and victims are only deemed

³² The Criminal Police Department (C02) and the Investigation Agency of the MPS are responsible for developing guidelines on professional measures to prevent, detect, investigate and handle crimes related to social order, including human trafficking cases. There are corresponding investigating agencies under the provincial police department with functions to identify and investigate trafficking cases. The Bureau for Drug-related and Crimes Prevention of the Border Guard Command identifies and investigates trafficking cases in border areas

³³ **The Supreme People’s Procuracy (SPP)** is the national level Procuracies and the provincial and district level Procuracy prosecute and supervise the legal compliance of criminal proceedings. Although investigation authorities are responsible for bringing criminal charges, the SPP may intervene in those decisions in certain circumstances, such as recension of a decision not to press charges. The Procuracy may directly process crime report or denunciations or directly detect criminal signs or at the request for initiation of the Hearing Panels (Ref. Article 153 of the 2015 Criminal Procedure Code)

³⁴ **The Ministry of Justice (MOJ)** is the government agency responsible for the state management function of: i) Law formulation and enforcement, ii) examination of legal documents, iii) law dissemination and education, iv) civil and administrative judgment and enforcement, v) judicial assistance and administration, vi) state compensation. In the human trafficking context, the MOJ is responsible for providing administrative and technical management of legal aid services to different target groups including to victims, witnesses and offenders (The 2011 Law on Human Trafficking Prevention and Combating)

as such when there is an identified offender (suspects), which is difficult when the offence occurs abroad.³⁵ The consent of victims does not affect the proving of the crime if the elements of the crime can be proven with evidence. While the current Criminal Code does not accept the victim's consent, which differs from international instruments (the Trafficking Protocol) that allows victims to consent to the intended exploitation as means to prove to be the victim of human trafficking. The Criminal Code 2015 also requires investigators to collect evidence to prove acts, means and purposes given differences in the definition of human trafficking in various laws compared to the international framework. Another big challenge is that 2015 Penal Code (Article 150 and 151) requires the proving of 'transferring' victims which causes difficulty in the prosecution the case at the recruitment stage.

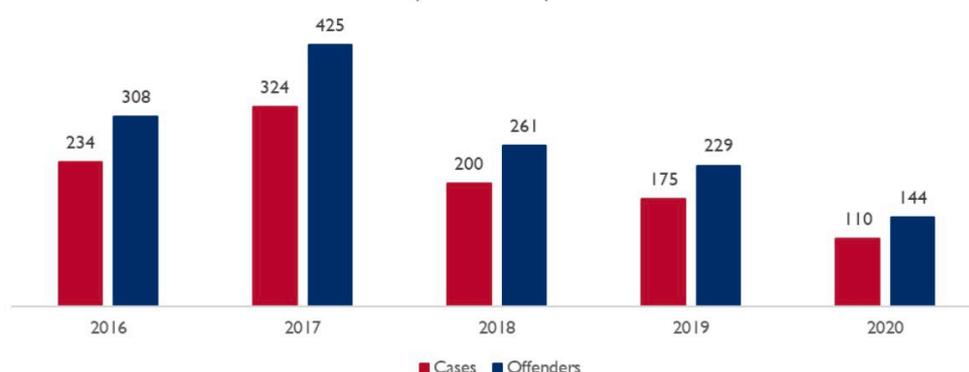
In addition, the 2011 Law on Trafficking (still effective) requires to have evidence on materials gain or exploitation. The law also provides the definition of trafficking to make it difficult to prove someone was forced or threatened. Like the case of the prosecution of traffickers to the UK (UK Home Office, 2019).

The absence of victim-centred approach is also found in the prosecution process. For example, in the case of identifying 37 bodies in the container to UK in 2019, it took long and hard to accept they are victims of human trafficking because Vietnam Government need to investigate and find and convict perpetrators, while the UK consider the dead people to be immediately victims.

The number of cases investigated and offenders apprehended reduced every year (Chart 1)

³⁵ Ref. Decision 02/2019/HĐTP dated 11/1/2019 of Supreme Court on guiding implementation of art 150 and 151 of the Penal Code

Number of cases investigated and offenders apprehended
(2016-2020)



Number of cases investigated and offenders apprehended (2016-2020 (Source MPS 2020, TIP report 2021)

In 2020, the Supreme People's Procuracies (Prosecutor's Office) charged 180 suspects for alleged human trafficking offences in 106 cases, compared with 152 suspects in 84 cases in 2019, under Articles 150 or 151. The People's Procuracies prosecuted 161 alleged traffickers involved in 102 trafficking cases, compared with 156 in 91 cases in 2019.³⁶

Prosecution procedure with witness and testimony procedure does not provide confidence for victims of human trafficking including sexual harassment and exploitation from migrants' group were at times less likely to come forward about their abuses in a judicial setting due to fears they may face arrest or deportation for crossing the border without documentation. Even when returning to their home state, victims were less likely to report to authorities or seek support and were vulnerable to re-trafficking.³⁷ Judicial process where a human trafficking victim or witness or offender has been reported via NGOs migration, immigration or police. This will clarify the significant departments and organisations involved and assess the key individual and institutional gaps and successes in the judicial process.

Viet Nam still impose administrative penalties and fines for victims of sex trafficking for acts of prostitution (even when forced) and illegal border crossings.³⁸ While Vietnam has not put a provision of the non-criminalization of victims for a violation committed under their status of

³⁶ Brief report of the NSC on the implementation of the NPA on Anti-Human Trafficking period 2016-20, disseminated on the 24th of June 2020, National Steering Committee for Human Trafficking Prevention and Combat (Steering Committee 130/CP)

³⁷ Interview with KIIs -- Court

³⁸ Ref. Decision 150/2005/NĐ-CP dated 12/12/2005 in the field of public order and public security.

victims, practitioners have shared that most identified victims will not be fined for their violations under their victim status such as illegal border crossing. For those who can not prove or provide any information/evidence that they are TIP victims, they may be under risk of being fined as there is no unified guidance from central agencies. As a result, victims and returned trafficking victims do not have confidence in their reintegration process and avoid complaining of offences.³⁹

There is a gap in the juvenile age as a barrier for identification of victims of human trafficking. Article 151 only applies to children under 16 years of age, and so leads to confusion on how to treat cases involving children aged 16 and 17 years, resulting in child victims being treated as adults. This also means that consent is relevant if a child is 16 and older. For the victims under child age, meaning under 16 as the Vietnamese law, the argument of victims is that whether they need to go through the court process when there is a case against a trafficker.

MPS raised that one obstacle to prosecuting trafficking cases is that most identified trafficking cases have been cross-border or abroad and Vietnamese law enforcement have to rely on foreign authorities to collect information for investigations, which is often very slow. Informal channels between police departments in the different countries are often more effective, but the information collected through these measures are not considered as evidence in court (MPS, 2020).

Support and assistance to victims

The victim identification process continues to be cumbersome and complex, requiring sign-off from multiple ministries before victims could be formally identified and provided with services.⁴⁰ Victims of human trafficking identification is attached with safety protection of victims and their relatives.⁴¹ While the support services can include NGOs and local social services centers. This is a big gap between the process of identification and support and

³⁹ Interviews KIIs

⁴⁰ US Department of State's 2021 Trafficking in Person Report, Vietnam. Also interview with KIIs.

⁴¹ Decree No. 62/2012/ND-CP of August 13 2013

reintegration for victims. There is challenges in the referral network for services and coordination together with capacity to provide support and assistance services for victims.

MOLISA established **Hotline 111** first operated to receive child rights issues in 2013 but then on trafficking issues since 2019. The Hotline continue to receive and provide counselling on trafficking cases on children, women at risks including connect to supporting and social assistance shelters if needed as well as connecting network to rescue the victims if reported. In 2021, the hotline connects other agencies to support for 45 victims, in 2020: 59 cases.

Total of 21.046 calls to the 111 Hotline was reported of which 16.130 calls to enquire information on human trafficking, 421 cases for rescue and 457 cases for victim assistance.⁴² Victims can reach out to NGOs such as Peace House run by Vietnam Women Union. Since 2007, received 400 cases: some are trafficked when 13 years old, one case of over 30 year old was trafficked.⁴³ The Center have received returned trafficked persons from Border Guards. The Peace House Center also provides assistance for returned migrants or trafficked including safe shelter, legal support for identification of victims and other reintegration program. Other NGO such as Pacific Links provide preventive and communication program. They also have shelter and center such as Nhan Ai House in border province, that provide support to all victims of trafficking. One NGO like Blue Dragon also provide support and some of legal protection to victims. They report receive cases is total about 2000 in 63 provinces, with average off 150-170 cases a year. The last two years, cases increased to most 300.⁴⁴

In the case of victims need assistance from MOLISA, there are many from age 16 to 18 not covered as children under TIP assistant program. In addition, the law on Legal Aid 2017 includes provisions for victims of trafficking to receive free legal aid but it is only available in cases with poor status or with most economic difficulties, excluding returned labour trafficking victims who cannot prove their poor status to entitle for free legal aid.⁴⁵

Conclusion

The paper highlights the need to understand the complexity of forms of human trafficking in concurrent context in order to have measures to counter human trafficking. It is undeniable that

⁴² <https://nhandan.vn/hon-21-nghin-cuoc-goi-toi-duong-day-nong-ve-phong-chong-mua-ban-nguoi-111-post668241.html>

⁴³ Interview with VWU's Peace House. Jan 2022

⁴⁴ Interview with Blue Dragon representative, Jan 2022

⁴⁵ Interview with KIIs

the phenomenon of human trafficking become more complex which influence on increased vulnerability of victims of human trafficking including various purposes for trafficking and various vulnerable groups. The fact is that categories of potential victims and types of trafficking including the results of labour migration to labour trafficking. Several challenges are posed to criminal justice respond to trafficking in Vietnam. The paper also points out limitation of legal framework and institutions in identifying victims from investigation and prosecution of traffickers. First, the definition of human trafficking is narrow constructed and various in different laws and international instruments. This questions the effect identification, investigation and prosecution. The paper finds that anti-trafficking law and policies are not consistent, thus fail to protect victims through effective identification, investigation and prosecution process. Second, human trafficking is not considered as the matter of human rights and the grave crime, so not strong prosecution of perpetrator result in that human trafficking still occurs and prevailed. Especially with new form of human trafficking, such as through labour trafficking, it poses the opportunities for traffickers use of labour migration program of low skills or undereducated workers to trafficking for labour exploitation without much able being persecuted. Third, lack of victim-centered approach meaning victim participation or witness testimony are not considered as evidence before the court lead to lengthy and complicate investigation and required found perpetrator to certify the victim. The paper suggests that law and policies should be changed to be compliance with international instruments on human trafficking especially by definition of human trafficking to that it can facilitate the process of investigation, prosecution as such. The scope and type of trafficking should be recognised through increased coherence of legislation and policy that address the risk of labour migration and exploitation. Further, it is important to enhance local understanding and context human trafficking to form strategies and measures of criminal justices in response to human trafficking in Vietnam. In light of this, it is suggested that there is need to enhance cross-sector cooperation on human trafficking to account for narrow investigation needs that enable holding traffickers to justice. Such cross-sector collaboration enables the government, non-government, law enforcement agencies to jointly respond to human trafficking, and de-politized actions and agendas for anti-trafficking.

Bibliography

- Asia Foundation (2021). The Political Economy of the Criminal Justice Response to Trafficking in Persons.
- Apland, K, and E. Yarrow (2019). Casting Light in the Shadows: Child and youth migration, exploitation and trafficking in Vietnam. Coram International. Available at: <https://coraminternational.org/casting-light-in-the-shadows-child-and-youth-migration-exploitation-and-trafficking-in-vietnam/>
- Anne T Gallagher and Paul Holmes, 'Developing an Effective Criminal Justice Response to Human Trafficking: Lessons from the Front Line' (2008) 18 International Criminal Justice Review 318, 320.
- Beadle, Debbie and Leah Davison (2019). Precarious Journeys: Mapping Vulnerabilities of Victims of Trafficking from Vietnam to Europe. Anti-Slavery International. <https://www.antislavery.org/wp-content/uploads/2019/03/Precarious-Journeys-full-report.pdf>
- Belanger, Daniele. 2014. Labour migration and trafficking among Vietnamese migrants in Asia. The Annals of the American Academy of Political and Social Science. Vol. 653
- Blue Dragon (2021). What Makes People Vulnerable to Human Trafficking? Profile of Victims of Human Trafficking in Vietnam. Hanoi, Blue Dragon Children's Foundation.
- Blue Dragon (n.d.) Human Trafficking in Vietnam. Hanoi, Blue Dragon Children's Foundation.
- CREST- International Office of Migration (2017): Vulnerabilities and risks to exploitation of Vietnamese migrant workers. ISBN 978-92-9068-921-8
- Gallagher, A., & Holmes, P. (2008). Developing an effective criminal justice response to human trafficking. Lessons from the frontline. International Criminal Justice Review, 18(3). Retrieved from <http://www.doi.10.1177/1057567708320746>
- Hoang, Lan Anh (2020). 'Debt and (un)freedoms: The case of transnational labour migration from Vietnam', *Geoforum* 116: 33-41.
- Huang, Pengli (2017). 'Dependent or Breadwinner? Vietnamese Brides Reshaping Gender Roles at the China-Vietnam Border', *Journal of Chinese Sociology* 4: 16
- International Labour Organization (2021). TRIANGLE in ASEAN Quarterly Briefing Note: Vietnam July-December 2021.
- Jennings, Ralph (2021). 'China-Vietnam Border Wall Would Target Smugglers, Chinese Economic Refugees', VOA News, https://www.voanews.com/a/east-asia-pacific_china-vietnam-border-wall-would-target-smugglers-chinese-economic-refugees/6200280.html

- Kneebone, Susan and Julie Debeljak. 2012. *Transnational Crime and Human Rights: Responses to Human Trafficking in the Greater Mekong Subregion*. Routledge. Abingdon
- Luu, Thi Lich, and Le Thi Thanh Hang. 2020. *Report on Survey on Implementation of Decree No. 09/2013/ND-CP*. JICA. Hanoi
- Le, Tien Hoan. 2017. *Human Trafficking in Vietnam: Preventing Crime and Protecting Victims Through Inter-Agency Cooperation*. Queensland University of Technology
- Li, Wei (2020). ‘Matching Vietnamese Brides with Chinese Men, Marriage Brokers find Good Business – and Sometimes Love’, *The Conversation*, <https://theconversation.com/matching-vietnamese-brides-with-chinese-men-marriage-brokers-find-good-business-and-sometimes-love-127977>
- Milivojevic, Sanja and Marie Segrave 2012 *Evaluating responses to human trafficking: A review of international, regional, and national counter-trafficking mechanisms*. In *Human Trafficking: Exploring the International Nature, Concerns, and Complexities*, ed. John Winterdyk, Benjamin Perrin, and Philip Reichel. Boca Raton, FL: CRC.
- MOLISA (2018). *Summary report on the implementation of the Law on Vietnamese workers working abroad under contract 2007* (in Vietnamese only: Báo cáo tổng kết thi hành luật người lao động việt nam đi làm việc ở nước ngoài theo hợp đồng năm 2007). Hanoi, MOLISA.
- Mekong Migrant Network (2022). *Longitudinal Study on the roles of countries of origin (ROCO) in protecting their nationals who migrate to work in other countries*.
- McAdam, Marika. 2020. *Vulnerability, Human Trafficking & COVID-19: Responses & Policy Ideas*. ASEAN-ACT, Cardno. Sydney
- MOLISA. 2020. *Discussion Report: Results of receiving, verifying, protecting and supporting trafficked victims returning from 2016 to 2020 and proposing directions in the coming period*. Ministry of Labour, War Invalids, and Social Affairs. Hanoi
- MPS. 2020a *Evaluation of Implementation Outcomes of Decision No. 2546/QĐ-TTg, dated 31st December 2015 of the Prime Minister approving the Counter Trafficking Programme 2016-2020*. Ministry of Public Security. Hanoi
- National Legal Aid Agency. 2019. *Thực trạng công tác trợ giúp pháp lý cho nạn nhân bị mua bán trở về và một số đề xuất, kiến nghị*. www.trogiupphaply.gov.vn
- Nguyen, O., & Nguyen, H. (2018). *Human Trafficking and Responses to Identification of and Assistance for Victims of Human Trafficking in Vietnam*. *Flinders Law Journal*, 20(1), 55–94.
- Nguyen, Van Oanh. 2019. *The role of police in identifying and assisting victims of human trafficking for sexual exploitation: An empirical study in Vietnam*. Flinders University. Adelaide

- Nguyen, Van Oanh. 2019. The role of police in identifying and assisting victims of human trafficking for sexual exploitation: An empirical study in Vietnam. Flinders University. Adelaide
- Sanghera, Jyoti 2005 Unpacking trafficking discourse. In Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights, ed. Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik. Bolder, CO: Paradigm.
- Tran, Angie Ngoc and Vicki D. Crinis (2018). 'Migrant Labour and State Power: Vietnamese Workers in Malaysia and Vietnam'. *Journal of Vietnamese Studies* 13(2): 27-73.
- UNIAP, Mekong Region Country Datasheets Human Trafficking (Bangkok, 2010).
- U.S Department of State. Not Dated. "3Ps: Prosecution, Protection, and Prevention" Office to Monitor and Combat Trafficking in Persons, U.S. Department of State. Accessed at <https://www.state.gov/3ps-prosecution-protection-and-prevention>
- U.S. Department of State. 2021. Trafficking in Persons Report. Office to Monitor and Combat Trafficking in Persons, U.S. Department of State. Washington D.C
- U.S. Department of State. 2020. Trafficking in Persons Report. Office to Monitor and Combat Trafficking in Persons, U.S. Department of State. Washington D.C.
- USAID. 2021. Policy on Countering Trafficking in Persons. U.S. Agency For International Development. Washington. D.C.
- UK Home Office. 2019 UK Home Office. 2019. Report of a Home Office fact-finding mission to Vietnam. London
- United States Department of State. TIP reports.
- United Nations Trafficking Protocol. (2000). Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime.