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2021 Trafficking in Persons Report: Vietnam

VIETNAM: Tier 2 Watch List

The Government of Vietnam does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included an increase in prosecutions of traffickers, and—for the first time—the government reported comprehensive disaggregated data on trafficking cases. It also passed revisions to a law governing contract-based Vietnamese overseas workers which eliminated brokerage fees and expanded worker protections. The government also increased its law enforcement and victim assistance budgets, continued to identify and refer victims to protection services, and carried out large-scale awareness campaigns in communities vulnerable to trafficking. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period, even considering the impact of the COVID-19 pandemic on its anti-trafficking capacity. The government did not systematically implement victim identification procedures, and officials did not proactively identify trafficking victims among some vulnerable groups, such as women and children in commercial sex, resulting in a continual decline in identified victims over the last few years. As a result, some victims may have been penalized for unlawful acts traffickers compelled them to commit. For the fourth consecutive year, the government reported a decline in investigations and convictions of traffickers. Because the government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards, Vietnam was granted a waiver per the Trafficking Victims Protection Act from an otherwise required downgrade to Tier 3. Therefore Vietnam remained on Tier 2 Watch List for the third consecutive year.

PRIORITIZED RECOMMENDATIONS:

Collaborate with NGOs and civil society to review and revise anti-trafficking legislation and a national victim referral mechanism. • Vigorously prosecute all forms of trafficking and convict and punish traffickers, including in cases involving forced labor or complicit officials. • Amend the penal code to criminalize all forms of sex trafficking of 16- and 17-year-old children, consistent with international law. • Continue to train officials on implementing guidelines for Articles 150 and 151 of the penal code, with a focus on identifying and investigating forced labor and internal trafficking cases, including those involving male victims. • In coordination with civil society, update implementing guidelines on victim identification to reduce bureaucratic obstacles preventing victim detection and train cross-sectoral officials on their usage. • Coordinate and effectively implement policies across government agencies to identify and assist victims among vulnerable groups, such as migrant workers, individuals in commercial sex, child laborers, and North Korean nationals and train relevant officials on these procedures. • Proactively screen for and identify trafficking victims among women and girls discovered during police raids and inspections of business establishments that facilitate commercial sex. • Take steps to eliminate all worker-paid recruitment fees and predatory recruitment practices for workers migrating abroad or to Vietnam, including by strengthening efforts to monitor labor recruitment companies and third-party sub-brokers and prosecuting predatory or illegal sub-brokerage networks. • Expand training for social workers, first responders, and the judiciary on victim-centered approaches to working with victims of trafficking, including trauma-informed care. • Increase national funding available to provincial-level authorities to provide services to reintegrated victims of trafficking. • Implement and allocate sufficient resources to the 2021-2025 national action plan. • Invite independent verification of the termination of forced labor within drug treatment centers and provide results of such verification.

PROSECUTION

The government increased law enforcement efforts. Article 150 of the penal code criminalized labor trafficking and sex trafficking of adults and prescribed penalties of five to 10 years' imprisonment and fines of 20 million to 100 million Vietnamese dong (VND) (\$867 to \$4,330). Article 151 criminalized labor trafficking and sex trafficking of children under the age of 16 and prescribed penalties of seven to 12 years' imprisonment and fines of 50 million to 200 million VND (\$2,170 to \$8,670). These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with other serious crimes, such as rape. Inconsistent with international law, Article 150 applied to children between the ages of 16 and 17 years old and required a demonstration of force, fraud, or coercion to constitute a sex trafficking offense; therefore, it did not criminalize all forms of child sex trafficking. Civil society previously reported this led to confusion on how to treat cases involving 16- and 17-year-old children, especially for cases involving labor trafficking, resulting in victims being treated as adults.

The government increased the number of alleged traffickers charged and prosecuted, but it decreased the number of investigations and convictions of traffickers during the reporting period. Throughout the reporting period, courts were intermittently closed due to the pandemic; however, to ensure that criminal cases—including human trafficking cases—were adjudicated in a timely manner, the Supreme People’s Court directed the courts to schedule trials on the weekends, rent additional space or utilize outdoor locations to hold hearings, and prioritize trials set to expire. Despite these challenges, for the first time, the government provided disaggregated law enforcement data by trafficking type including investigations, prosecutions, and convictions of sex and labor trafficking crimes. According to the Ministry of Foreign Affairs (MFA) and the Ministry of Public Security, authorities investigated 110 cases of human trafficking and arrested 144 suspects of trafficking during the reporting period. This demonstrated a decline in investigations compared with 175 trafficking cases investigated during the previous reporting period. In 2020, the People’s Procuracies (Prosecutor’s Office) charged 180 suspects for alleged human trafficking offenses 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. This represented an increase in alleged traffickers charged and prosecuted during the reporting period. Of the 102 trafficking cases prosecuted in 2020, 79 involved sexual exploitation, 18 involved forced labor, and the remaining five cases involved either sex or labor trafficking. In 2020, the court system convicted 136 individuals (compared with 174 in 2019) among 84 cases under Articles 150 and 151, including 71 cases of “sexual exploitation,” 10 cases of forced labor, and three cases for either sex or labor trafficking. Sentences for convicted traffickers ranged from less than three years’ to 20 years’ imprisonment under both Articles 150 and 151. Vietnam maintained a high conviction rate and continued to impose strict sentencing for convicted traffickers. Ha Giang provincial officials, a northern border province with trafficking concerns, reported notable increases in human trafficking investigations, prosecutions, and convictions resulting from increased interagency collaboration and NGO technical assistance. Law enforcement authorities reportedly participated in an unspecified number of investigations of regional trafficking cases and other coordination activities through bilateral and regional agreement on an ad hoc basis. The government did not receive extradition requests related to human trafficking cases in 2020.

The government did not report any investigations, prosecutions, or convictions of government employees complicit in human trafficking offenses. Government officials acknowledged that overall poor data collection and management, oversight of businesses that facilitated commercial sex, evidence collection of transnational trafficking cases, and monitoring trafficking cases and evolving trends impeded the government’s efforts to combat trafficking. Nevertheless, the government continued to provide multiple anti-trafficking trainings—at times with support from international organizations, NGOs, and foreign governments—to its personnel, including law enforcement officers, border guard forces, prosecutors, judges, and social workers at the district, provincial, and commune levels.

PROTECTION

The government maintained overall efforts to protect victims, but it identified and provided services to fewer of them. The government reported its identification of 121 victims in 2020, of which 112 were female and nine were male; 32 were children. This represented a continual decrease in identified victims in comparison to previous reporting periods (300 identified in 2019; 490 identified in 2018; 670 identified in 2017). The government utilized victim identification criteria as part of the Coordinated Mekong Ministerial Initiative against Human Trafficking and its own 2014 procedures for victim identification; however, neither the criteria nor the procedures were reported to be proactively or widely employed, including among individuals in commercial sex, individuals transiting border stations, workers in the fishing industry and seafood processing industry, migrant workers returning from abroad, and child laborers. Moreover, ineffective implementing guidelines on victim identification procedures prevented border guards, law enforcement, and other officials from fully detecting and assisting victims. The victim identification process remained overly cumbersome and complex, requiring sign-off from multiple ministries before victims could be formally identified and assisted. For example, despite conducting more than 31,000 inspections of businesses that facilitated commercial sex—such as karaoke bars and massage parlors—where individuals in commercial sex were at heightened risk of trafficking, authorities did not identify any sex trafficking victims during these inspections.

Of the 121 victims identified, 67 were Vietnamese nationals initially identified at land borders by border guard forces or Chinese authorities. Of these 67 individuals, four were victims of “sexual exploitation,” 60 were victims of “illegal marriage”—which may have subsequently led to sex or labor trafficking, but the government did not report these details—and three were victims of “illegal adoption,” which falls outside of the international definition of trafficking. The government did not report any further details of the 54 other victims it identified. Of these 67 individuals, authorities referred 25 to social protection centers, 20 to the police, 19 to an NGO, and three to the Vietnam Women’s Union Center for Women’s Development. Additionally, of the 121 identified victims, 84 requested and received support services provided by both the government and NGOs, including medical and psychological support, legal aid, stay at social protection centers, and vocational training. The government maintained a formal nationwide victim referral process; however, it did not systematically refer victims to protective services due to inadequacies in the referral process, including some local officials’ unfamiliarity with anti-trafficking protocol and policies, insufficient inter-jurisdictional cooperation, and limited social worker capacity. Despite these challenges, throughout the reporting period, Ha Giang authorities—in cooperation with an NGO—created provincial-level victim referral procedures and improved the capacity of and training for social workers to provide long-term comprehensive care to trafficking victims, including healthcare, psycho-social care, vocational training, housing and financial assistance, and legal aid; through these procedures—for the first time—Ha Giang authorities referred or directly provided 35 trafficking victims with various types of short- and long-term care, including financial assistance.

The government’s 2020 budget for victim assistance was 15.44 billion VND (\$669,140), an increase from the 2019 budget of 13.12 billion VND (\$568,700). Anti-trafficking funding to localities increased from 4 billion VND (\$173,390) in 2019 to 9.8 billion VND (\$424,790) in 2020. The government continued to operate 94 social protection or social service centers, some funded by NGOs, to assist vulnerable groups, including trafficking victims, nationwide, but none provided services to male or child victims exclusively. Per a circular that went into effect in January 2020, victims were allowed to stay at support facilities for up to three months with a meal stipend and medical assistance. By law, foreign trafficking victims were entitled to four support services: essential needs and travel expenses, medical support, psychological support, and legal aid. However, NGOs reported the government did not have adequately trained or experienced social workers to provide appropriate support to trafficking victims. The government maintained labor representatives at diplomatic missions in countries that host large numbers of documented Vietnamese migrant workers such as Japan, Malaysia, Saudi Arabia, South Korea, Taiwan, and the United Arab Emirates (UAE). These missions could provide basic provisions, transportation, and health care to Vietnamese citizens subjected to trafficking abroad. Vietnam’s diplomatic missions abroad repatriated nine Vietnamese female victims of sexual exploitation and forced marriage from Burma and China. Vietnamese law guaranteed trafficking victims the right to legal representation; victims were not required to be present at or testify in-person in court. Trafficking victims were entitled to compensation in accordance with the law; the government reported that victims requested compensation in 40 cases during the reporting period. The government did not report offering foreign victims legal alternatives to their removal to countries where they may face retribution or hardship.

Due to a lack of systematic implementation of victim-centered screening procedures during these raids, authorities may have penalized some women and children in commercial sex for unlawful acts traffickers compelled them to commit. Additionally, foreign victims, including children, remained at high risk of deportation without screening or referral to protective services. The government encouraged trafficking victims to assist in judicial proceedings against traffickers; however, NGOs previously reported victims 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. Civil society previously reported Vietnamese victims who migrated via irregular means, were involved in unlawful acts as a result of their trafficking, or had criticized the Vietnamese government, feared reprisals from authorities. These victims were less likely to seek support and were vulnerable to re-trafficking. International observers previously reported government officials often blamed Vietnamese citizens for their exploitative conditions abroad or suggested victims inflate abuses to avoid immigration violations.

PREVENTION

The government increased efforts to prevent trafficking. A steering committee chaired by a deputy prime minister, with the minister and a vice minister of public security as deputy chairs, continued to direct Vietnam’s anti-trafficking efforts. In February 2021, the government approved its national anti-trafficking action plan for 2021-2025. The central government, including provinces and municipalities continued to organize several large-scale public anti-trafficking awareness campaigns, many with financial and technical support from international organizations and foreign governments. Included in these efforts, the Ministry of Information and Communication disseminated an anti-trafficking public awareness text message to all 126 million mobile users in Vietnam—the first such nationwide campaign in Vietnam. The Ministry of Labor, Invalids, and Social Affairs (MOLISA), with donor funding, continued to operate a 24-hour hotline—with operators who spoke Vietnamese, English, and seven ethnic minority languages—for victims of crimes, including trafficking victims. The hotline received reports of 59 potential trafficking cases in 2020, an increase compared to the previous reporting period; it referred these cases to NGO and government services. MOLISA, in coordination with other government ministries, international organizations, and NGOs, organized public awareness campaigns to promote the hotline during the reporting period. The government did not share the full human trafficking assessments with the public. During the reporting period, the MFA organized trainings for 200 diplomatic and consular officials on victim identification and assistance prior to their posting abroad.

In November 2020, the government passed revisions to Law 69 governing contract-based Vietnamese overseas workers, which prohibited charging workers brokerage fees and expanded worker protections including the right for a worker to unilaterally terminate a contract. Labor recruitment firms, most affiliated with state-owned enterprises, and unlicensed brokers reportedly charged workers seeking overseas employment higher fees than the law allows. Many workers incurred high debts and were more at risk for forced labor, including debt-based coercion. In 2020, MOLISA inspected 84 enterprises sending workers abroad, fined 32 enterprises for administrative violations, and revoked six business licenses for violations of the 2006 Law on Guest Workers; MOLISA also resolved 160 out of 180 civil complaints filed by foreign workers related to labor recruitment. This demonstrated an increase in efforts compared to the previous reporting period. In 2019, MOLISA inspected 55 enterprises sending workers abroad, fined 21 of them, revoked two licenses, and resolved 120 civil complaints, all related to labor migration. MOLISA coordinated with seven provinces to conduct 10 training courses for nearly 800 officers at the district- and commune- level to improve counseling and information-sharing for workers migrating abroad; it also conducted three training courses for nearly 250 officers of service enterprises sending workers abroad. MOLISA also raised awareness on labor laws and safe migration practices among more than 470 employment services centers and businesses. In 2020, MOLISA continued negotiations with the governments of Israel and Kuwait to sign labor cooperation agreements. During the reporting period, the government collaborated with the Taiwanese government to form a direct recruitment center in Taiwan to send Vietnamese workers to Taiwan and established a hotline to receive workers’ complaints. The government also maintained labor migration agreements—signed during the previous reporting period—with the Government of the UAE for domestic workers and with the Government of Japan for skilled and technical workers and interns. It also maintained a 2017 Memorandum of Cooperation with the

Government of Japan to improve protections for Vietnamese participants in Japan’s Technical Intern Training Program amid continued reports of severe exploitation of Vietnamese workers. The government did not make efforts to reduce the demand for commercial sex acts or child sex tourism. The government did not take steps to deny entry of known U.S. sex offenders. In June 2020, Vietnam’s national assembly ratified ILO Convention 105 on Abolition of Forced Labor.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit domestic and foreign victims in Vietnam, and traffickers exploit victims from Vietnam abroad. Vietnamese men and women migrate abroad for work informally or through state-owned or state-regulated labor recruitment enterprises. Some recruitment companies are unresponsive to workers’ requests for assistance in situations of exploitation, and some charge excessive fees that trap workers in debt bondage. Traffickers subject victims to forced labor in construction, fishing, agriculture, mining, maritime industries, logging, and manufacturing, primarily in Taiwan, Malaysia, Republic of Korea, Laos, Japan, and to a lesser extent, some parts of Europe and the United Kingdom (UK) (including in nail salons and on cannabis farms). There are increasing reports of Vietnamese labor trafficking victims in continental Europe, the Middle East, and in Pacific maritime industries. Traffickers exploit Vietnamese women and children in sex trafficking abroad; many victims are misled by fraudulent employment opportunities and sold to brothel operators on the borders of China, Cambodia, Laos, and elsewhere in Asia. Some Vietnamese women who travel abroad for internationally brokered marriages or jobs in restaurants, massage parlors, and karaoke bars—including to China, Japan, South Korea, Malaysia, Saudi Arabia, Singapore, and Taiwan—are subjected to forced labor in domestic service or sex trafficking. Traffickers increasingly use the internet, gaming sites, and particularly social media to lure victims, proliferate trafficking operations, and control victims by restricting their social media access, impersonating them, and spreading disinformation online. Men often entice young women and girls with online dating relationships, persuade them to move abroad, then subject them to forced labor or sex trafficking. There was one report of a trafficker posing as a police officer on social media networks to gain victims’ trust. During the migration process, European gangs and traffickers often exploit Vietnamese victims in forced labor and sex trafficking before they reach their final destination. In 2020, Vietnamese government and NGO officials reported an increase in Cambodian female adult and child trafficking victims transiting Vietnam en route to China.

Within the country, traffickers are sometimes parents, family members, or small-scale networks exploiting Vietnamese men, women, and children—including street children and children with disabilities—in forced labor, although little information is available on these cases. One study suggests 5.6 percent of children in Vietnam may experience coercion or exploitation indicative of trafficking or in the context of migration, with children from rural and deprived communities particularly at risk. Traffickers exploit children and adults in forced labor in the garment sector, where workers are coerced to work through threats and intimidation. Traffickers force children into street hawking and begging in major urban centers. Traffickers subject some children to forced or bonded labor in brick factories, urban family homes, and privately run rural gold mines. Sex traffickers target many children from impoverished rural areas and a rising number of women from middle class and urban settings. Traffickers increasingly exploit girls from ethnic minority communities in the northwest highlands, including in sex trafficking and forced labor in domestic service, by channeling their criminal activities through the traditional practice of bride kidnapping. In 2020, pandemic-related issues such as decreased employment opportunities, restrictions on movement, and other socio-economic stressors, increased the vulnerability to trafficking, particularly for women and children in rural areas and ethnic minorities. Child sex tourists, reportedly from elsewhere in Asia, the UK and other countries in Europe, Australia, Canada, and the United States exploit children in Vietnam. The North Korean government may have forced North Koreans to work in Vietnam.

In years past there were reports of some complicit Vietnamese officials, primarily at commune and village levels, who allegedly facilitated trafficking or exploited victims by accepting bribes from traffickers, overlooking trafficking indicators and extorting money in exchange for reuniting victims with their families. In 2019, the government reported it had ceased the practice of subjecting drug users to forced labor in its 105 rehabilitation centers. A 2014 legal provision requires a judicial proceeding before detention of drug users in compulsory drug rehabilitation centers and restricts detainees’ maximum workday to four hours. There were prior reports that prisoners, including political and religious dissidents, had been forced to work in agriculture, manufacturing, and hazardous industries, such as cashew processing.

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