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Trafficking in Persons Report 2010 - Vietnam

VIETNAM (Tier 2 Watch List)

Vietnam is a source and destination country for men, women, and children subjected to trafficking in persons, specifically conditions of forced prostitution and forced labor. Vietnam is a source country for men and women who migrate abroad for work through predominantly state-affiliated and private labor export companies in the construction, fishing, and manufacturing sectors primarily in Malaysia, Taiwan, South Korea, China, and Japan, as well as in Thailand, Indonesia, the United Kingdom, Czech Republic, Russia, and the Middle East, and some of these workers subsequently face conditions of forced labor. Vietnamese women and children subjected to forced prostitution throughout Asia are often misled by fraudulent labor opportunities and sold to brothels on the borders of Cambodia, China, and Laos, with some eventually sent to third countries, including Thailand and Malaysia. Vietnamese labor export companies, most of which are state-affiliated, may charge workers in excess of the fees allowed by law, sometimes as much as \$10,000 to recruitment agencies for the opportunity to work abroad, incurring some of the highest debts among Asian expatriate workers, making them highly vulnerable to debt bondage and forced labor, and upon arrival in destination countries, some workers find themselves compelled to work in substandard conditions for little or no pay and no credible avenues of legal recourse.

Reports indicate that some recruitment companies did not allow workers to read their contracts until the day before they were scheduled to depart the country and after they had already paid significant recruitment fees; some workers reported signing contracts in languages they could not read. There have been documented cases of recruitment companies being unresponsive to workers' requests for assistance in situations of exploitation. There are reports that the global economic crisis has led to the early termination of some contracts and the early return of some migrants to Vietnam with significant outstanding debts, placing them at risk of forced labor. There are also reports of some Vietnamese children trafficked internally and also abroad for forced labor. Vietnamese women and children are transported to locations throughout Asia for forced prostitution, often misled by fraudulent labor opportunities and sold to brothels on the borders of Cambodia and China, with some eventually sent to third countries, including Thailand and Malaysia. In both sex trafficking and labor trafficking, debt bondage, confiscation of identity and travel documents, and threats of deportation are utilized to intimidate victims. Some Vietnamese women migrating to China, Taiwan, Hong Kong, Macau, and increasingly to South

Korea as part of internationally brokered marriages are subsequently subjected to conditions of forced labor or forced prostitution or both. Cambodian children and Vietnamese children from rural areas are subjected to commercial sexual exploitation, forced street hawking, and forced begging in the major urban centers of Vietnam, often as a part of organized crime rings, and some Vietnamese children are victims of forced and bonded labor in urban family-run house factories. Vietnam is a destination for child sex tourism with perpetrators reportedly coming from Japan, South Korea, China, Taiwan, the United Kingdom, Australia, Europe, and the United States, though the problem is not believed to be widespread.

The Government of Vietnam does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. While the government continued efforts to combat cross-border sex trafficking and made efforts to protect some victims of trafficking, it did not show evidence of progress in criminally prosecuting and criminally punishing labor trafficking offenders and protecting victims of all forms of trafficking, particularly victims of labor trafficking and internal trafficking; therefore, Vietnam is placed on Tier 2 Watch List. The government has never reported prosecuting a case of labor trafficking. The government has promoted increased labor exports as a way to address unemployment and alleviate poverty, and as a source of remittances, but it has not put into place adequate measures to protect the rights of Vietnamese migrant workers or taken adequate measures to prevent new incidents of labor trafficking, such as the implementation of adequate laws to regulate labor recruitment companies. Additionally, the government has not made efforts to address the problem of internal trafficking in Vietnam.

Recommendations for Vietnam: Criminally prohibit and prescribe punishment for labor trafficking offenses; criminally prosecute those involved in forced labor, the recruitment of persons for the purpose of labor exploitation, or fraudulent labor recruitment; develop formal procedures for the identification of labor trafficking victims, relying on recognized indicators of forced labor, such as the confiscation of travel documents by employers or labor brokers; identify Vietnamese migrant workers who have been subjected to forced labor and provide them with victim services; increase efforts to protect Vietnamese workers going abroad for work through labor export companies; ensure that state-licensed recruitment agencies do not engage in fraud or charge illegal commissions for overseas employment; take measures to ensure that victims of labor trafficking are not threatened or otherwise punished for protesting labor conditions or for leaving their place of employment, in Vietnam or abroad; ensure victim protection and assistance services are provided to male victims and victims of labor trafficking; ensure the workers have effective legal redress from labor trafficking; make greater efforts to work closely with destination governments to investigate and prosecute trafficking cases, including labor trafficking cases; improve interagency cooperation on anti-trafficking efforts; and implement and support a visible anti-trafficking awareness campaign directed at clients of the sex trade.

Prosecution

The Vietnamese government demonstrated some law enforcement efforts to combat trafficking in persons for transnational sex trafficking, although government statistics include some non-trafficking crimes, such as abduction and selling of children for adoption. The government did

not, however, report any investigations or prosecutions of cases of internal trafficking or the labor trafficking of Vietnamese citizens. While statutes in Penal Code Article 119 can be used to prosecute some forms of trafficking and were expanded this year to include male victims of trafficking, existing laws do not adequately cover all forms of trafficking, including labor trafficking and the recruitment and harboring of trafficking victims. The majority of traffickers are prosecuted under Articles 119 and 120 of the Penal Code, which can be used to prosecute a variety of related crimes. Vietnamese law does not include provisions for attempts to commit a trafficking offense, participating as an accomplice, and organizing or directing other persons to commit an offense. During the year, the government acknowledged that the problem of labor trafficking exists, as does the trafficking of men, and the National Assembly voted to expand trafficking-related laws to include men. However, it did not take action to identify labor trafficking cases. Vietnamese labor laws do not provide criminal penalties for labor trafficking.

Contract disputes between Vietnamese workers and their Vietnam-based export labor recruitment companies or companies overseas are left almost entirely to the export labor recruiting company to resolve. Although workers have the legal right to take cases to court, in practice few have the resources to do so, and there is no known record of a Vietnamese labor trafficking victim successfully achieving compensation in court; thus, workers are, in practice, left without reasonable legal recourse. The Ministry of Labor, War Invalids, and Social Affairs (MOLISA) reported that in 2009, 98 labor recruitment companies were fined a total of \$10,900 and two firms had their licenses revoked. However, the government did not report investigating prosecuting or convicting any offenders of labor trafficking during the reporting period. The Vietnam's Supreme People's Court reported that police in 2009 investigated 183 cases of sex trafficking involving 440 alleged offenders and convicted 360 individuals of sex trafficking offenses; however, these statistics are based on Articles 119 and 120 of the Vietnamese Penal Code, which include crimes other than trafficking, including human smuggling and child abduction for adoption. Most individuals convicted were sentenced to prison terms ranging from three to seven years' imprisonment. The government did not report any prosecutions or convictions of internal trafficking in Vietnam. Trafficking-related corruption occurred at the local level, where officials at border crossings and checkpoints take bribes to look the other way, though the government has never reported any investigations or prosecutions of officials for trafficking-related complicity.

Protection

The Vietnamese government continued some efforts to protect cross-border sex trafficking victims, but authorities need to improve efforts to identify or protect victims of labor trafficking or internal trafficking. The government did not employ systematic procedures nationwide to proactively and effectively identify victims of trafficking among vulnerable populations, such as women arrested for prostitution and migrant workers returning from abroad, and victim identification efforts remained poor across all identified migration and trafficking streams. Border guards and police at the district and provincial levels received limited training about identification of trafficking victims and handling of cases, which in some cases improved some officers' ability to monitor and investigate trafficking cases, but the lack of adequate training reportedly led to poor investigations and techniques that were harmful to some victims. Vietnam's National Steering Committee on Trafficking in Persons reported that 250 Vietnamese

victims were identified by Vietnamese and foreign police, and 500 victims were identified and repatriated by foreign governments, 100 of whom were trafficked to South Korea, Malaysia, and Singapore; however, Vietnamese statistics include some cases in which children were abducted and sold for adoption, a crime not recognized as trafficking under U.S. laws.

The government did not provide adequate legal protection or assistance to the estimated 500,000 Vietnamese workers abroad from conditions of forced labor. During the year, there were numerous reports of overcharging by labor export companies. In a few cases, authorities ordered companies to return overcharged fees to workers. During the reporting period, the government signed three new agreements with Libya, the United Arab Emirates, and Canada to provide Vietnamese laborers, but it is unknown whether agreements signed with governments of demand countries had provisions to prevent human trafficking and protect trafficking victims. Vietnam does not maintain Embassies in many countries where there are reports of trafficking and often responded weakly to protect migrant workers; diplomats were often reportedly unresponsive to complaints of exploitation, abuse, and trafficking by migrant workers. Government regulations do not prohibit labor export companies from withholding the passports of workers in destination countries and companies were known to withhold workers' travel documents, a known contributor to trafficking. Vietnamese workers do not have adequate legal recourse to file complaints in court against labor recruitment companies in cases where they may have been the victim of trafficking. In December 2009, a Hanoi court reportedly dismissed a civil suit filed against four labor export companies by a number of alleged labor trafficking victims sent to Jordan in 2008. There is no known record of a labor trafficking victim ever receiving recourse through civil courts in Vietnam.

Vietnamese Women's Union (VWU), in partnership with NGOs, ran eight shelters in three provinces that provided counseling and vocational training to female sex trafficking victims. However, the government lacks the resources and technical expertise to adequately support shelter systems, and as a result, in many areas shelter systems are rudimentary, underfunded, and lack appropriately trained personnel. There are no shelters or services specifically equipped to assist male victims of trafficking or victims of labor trafficking. Existing shelters' services were targeted to assist female sex trafficking victims; the government called upon ministries and agencies providing services to trafficking victims to extend those services to men. One NGO reported that Vietnamese border guards referred five male labor trafficking victims to a victim reception center that provided health support and vocational training. Authorities reported that repatriated Vietnamese victims who were officially identified by authorities as victims were not penalized for unlawful acts committed as a direct result of being trafficked. The government has a system in place to identify victims of cross-border sex trafficking, but does not have a comprehensive system to identify victims of internal trafficking or labor trafficking from among vulnerable groups. Some labor trafficking victims report that authorities did not assist in their attempts to collect refunded service charges in instances of early termination that was not the fault of the workers through the civil courts system. The government reportedly encourages victims to assist in the prosecution of their traffickers, but there was no data on the number of victims involved in prosecutions during the reporting period. Victims are often reluctant to participate in investigations or trials due to social stigma, fear of retribution in their local communities, and lack of incentives for participation and witness protection. There are no legal alternatives for the removal of foreign victims to countries where they face retribution or

hardship. In 2009, the Ministry of Public Security, with assistance from an NGO, developed guidelines to protect trafficking victims during investigations and prosecutions. During the year, the Border Guard partnered with an international organization to conduct training for several border posts on identifying and assisting trafficking victims.

Prevention

The Vietnamese government continued some efforts to prevent trafficking in persons with assistance and cooperation from international organizations, NGOs, and foreign donors. However, as the government advanced goals of increasing labor exports, including to some countries where abuses of migrant workers are rife, it failed to make adequate efforts to prevent labor trafficking by requiring destination governments to provide adequate safeguards against forced labor of its migrant workers. Government regulations of labor and marriage brokers were weak and in some areas, nonexistent. The Vietnamese Women's Union ran local-level education campaigns on the dangers of sex trafficking that reached remote border areas. The government published, in some cases with NGO support, brochures on the dangers of trafficking for Vietnamese laborers abroad, and MOLISA distributed handouts and established a website on safe foreign migration. National-level and local authorities cooperated with a foreign donor partner, worked with MTV to stage a trafficking awareness-raising campaign in Vietnam's five largest cities. The National Committee on Trafficking solicited opinions and suggestions from international NGOs on the implementation of its most recent National Action Plan on Trafficking. The VWU continued to cooperate with its South Korean counterpart in pre-marriage counseling to prevent trafficking of Vietnamese women through international marriage. In September 2009, the government signed a bilateral agreement with Cambodia to standardize procedures for the repatriation of trafficking victims. The government distributed leaflets aimed at both foreign and domestic tourists to combat child sex tourism. Nevertheless, the government has yet to reach adequate agreements with destination governments on safeguards against forced labor. Government regulations regarding labor trafficking were weak. Vietnam is not a party to the 2000 UN TIP Protocol.