

Country study

Labour migrants' vulnerability to human trafficking and labour exploitation in Southeast Asia: An analysis of Vietnam

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Series

Labour migration and trafficking in persons: a political
economy analysis

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About this publication

This publication was produced as an output of a research partnership between ASEAN-ACT and ODI. The research involved conducting an applied political economy analysis to understand the dynamics of labour exploitation and trafficking in persons in Southeast Asia, for the purposes of: 1) improving the evidence base for ASEAN-ACT and partners' programming and policy engagement; and 2) developing and implementing a process for feeding that evidence into ASEAN-ACT and partners' programming and consultations on a regular basis.

The purpose of this research is to advance understandings of the vulnerabilities of labour migrants to exploitation and trafficking. This can contribute to improved response capabilities of state agencies and international programmes to address these issues and strengthen protection and support for labour migrants and victims of trafficking in persons.

Phase 1 of the research project includes four country studies: Cambodia, Laos, Thailand and Vietnam. This is one of these four countries. In addition, thematic briefs distil findings from the four country studies on the main cross-cutting issues.

Research team

Sasha Jespersen, T.M. Huong Ngo and Cong Giao Vu

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Acronyms

ACFID	Australian Council for International Development
ACTIP	ASEAN Convention on Trafficking in Persons, Especially Women and Children
ASEAN	Association of Southeast Asian Nations
ASEAN-ACT	ASEAN-Australia Counter Trafficking
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
CPV	Communist Party of Vietnam
CREST	Corporate Responsibility in Eliminating Slavery and Trafficking
DOLAB	Bureau on Management of Overseas Labour
FGD	Focus Group Discussion
GDP	Gross Domestic Product
ILO	International Labour Organization
IOM	International Organization for Migration
KII	Key Informant Interview
MFA	Ministry of Foreign Affairs
MMN	Mekong Migrants Network
MOLISA	Ministry of Labour, Invalids and Social Affairs
MoU	Memorandum of Understanding
NGO	Non-government organisation
NTP-NRD	National Targeted Program on New Rural Development
ODI	Overseas Development Institute
OTIP	Organisation for Technical Intern Training
PEA	Political Economy Analysis
SDG	Sustainable Development Goal
SOP	Standard operating procedures
TIP	Trafficking in Persons
TITP	Technical Intern Training Programme

UNACT	United Nations Action for Cooperation Against Trafficking in Persons
USD	US Dollar
VAMAS	Vietnam Association of Manpower Supply
VBSP	Vietnam Bank for Social Policies
VWU	Vietnam Women's Union

Executive summary

Labour migration is an important element of Vietnam's development policy, which has led to an industry of recruiters and brokers ready to facilitate the journey of migrant workers, whether through formal or informal channels. It has also filtered down to workers themselves, with significant demand for jobs abroad because of the higher salaries and limited opportunities at home. The drive for labour migration across these levels – from the state, to recruiters, to workers – can undermine attempts to increase protection, both domestically and regionally, because of fears that this will affect available opportunities.

While there is also domestic labour exploitation, the country case study engages with Vietnam as a source country for labour migration, assessing the vulnerabilities that can result in exploitation for Vietnamese workers abroad. The research examines the vulnerabilities at each stage – pre-departure, the journey to the destination, experiences in the destination country, and upon return to Vietnam.

The research used a political economy lens to examine how vulnerabilities to trafficking are shaped at each stage of the migration cycle. This brings to the surface the role and interlinkages across formal institutions, law, informal rules and practices as well as wider social norms related to labour migration and trafficking in persons (TIP) in the region. It also engages with the incentives, interests and distribution of power among different actors, how these shape behaviour and strategic choices.

Vietnam has adopted several laws and policies on human trafficking, and in February 2021, the government enacted a new National Plan of Action (NPA) on preventing and combating human trafficking 2021-2025 with a vision to 2030, building on three previous plans. The legislative and policy response was originally developed in response to sex trafficking, and has historically focused primarily on women and children, although this is starting to change. The legislative system in Vietnam that responds to labour migration and exploitation is expanding, but it is complicated, inconsistent and overlapping, making it difficult for law enforcement to apply measures appropriately.

In addition to these formal rules and systems, migrant workers also negotiate their roles and relationships in order to maximise their benefits to the extent possible. This may be a matter of choosing

between two bad options, however, particularly as many labour migrants have incurred debts to facilitate their migration, which limits their choices. When exploitation does occur, few victims report it. This is because of the process and time it takes to be identified as a victim, and many do not know how to report their cases.

Vietnam is estimated to have 560,000 migrant workers in 43 countries, although the actual number, including irregular migration, is probably far higher. The primary corridors for labour migration are from Vietnam to Japan, Korea and Taiwan, which are generally seen to be more reliable because of the formal recruitment process, but this is not necessarily the case. Other destinations in the ASEAN region include Thailand and Myanmar; China; and Indonesia, Singapore and Malaysia. Vietnamese migrant workers also go to the Middle East, and to countries in Eastern and Western Europe.

While it is a choice to migrate for work, several factors influence that choice, and affect migrants' ability to exercise agency. At each stage – from pre-departure, on the journey, in the destination country and upon return to Vietnam – migrant workers are vulnerable. Prior to their departure, there are many factors that influence vulnerability, but the major challenge arises from a lack of knowledge and inability to access reliable information, as well as the fees charged by recruiters. These factors also influence the journey of migrant workers. Debt results in migrants taking risks in the destination country in order to earn more. Competition among migrant workers also increases vulnerability in the destination country, as other migrant workers are equally vulnerable and trying to negotiate better conditions. On return, exploited workers face significant barriers in being recognised as victims or receiving compensation, support and redress.

Vietnamese migrant workers are extremely vulnerable to exploitation and abuse. They assume the risk of migrating for work, and tend to deal with the exploitation themselves rather than reporting it to the authorities. This arises from vulnerabilities they experience directly, such as high fees charged by recruitment agencies, indebtedness, lack of information and irregular status (in some cases). Vulnerability is also a result of the lack of support services, difficulties in investigating cases and the lack of incentive to report them.

There has been an increase in support services provided by non-government or quasi-governmental organisations, although as with the legislation, many of these organisations were formed to respond to sex trafficking. While they have expanded to accommodate a wider focus on trafficking, to include labour trafficking, the focus is still mostly on women and children, with very limited support for men. Activities tend to use the model that has been used for victims of sex trafficking, including shelter, psychosocial support and livelihoods training without considering more innovative approaches to labour

exploitation that are more integrated with society rather than withdrawing them.

The primary blockage to addressing vulnerability to labour trafficking is that most stakeholders, particularly the most powerful, have an interest in maintaining the status quo. The government wants workers to migrate, since it has been a central element of the country's development strategy. Recruitment agencies and brokers generate a profit by identifying workers and placing them with employers abroad. Employers gain access to cheaper labour, which increases their profit margins. Accordingly, there are few incentives to address vulnerabilities and change the dynamics of labour migration. The political settlement prioritises national economic development over individual rights, which means that the rights of migrant workers are not treated as a priority.

Cases of labour trafficking are complex as they seldom exactly meet the definition of human trafficking in Vietnam and there is also little prospect of identifying a specific perpetrator. Exploitation is often a result of the dynamics of labour migration and its multiple actors rather than collusion and criminal intent among individuals along the chain, from recruiter to transporter to employer. This calls for a more nuanced approach from the routine response to human trafficking. In Vietnam, there is scope to further adapt legislation and policy to the realities of labour migration and the risks of exploitation; increase the tools available to migrants; support cross-border collaboration; and adapt the current approach to migrant workers.

1 Introduction

Human trafficking is a complex problem, so there are many challenges to establishing effective policy responses. The dimensions and dynamics that affect human trafficking cut across political, economic, social and cultural institutions and structures. Human trafficking is ultimately about exploitation and coercion by powerful interests, while those who are vulnerable to it are often among the most marginalised and voiceless in society. In the context of the Sustainable Development Goals (SDGs), particularly targets 16.2, 16.3 and 8.7¹ and the ‘leave no one behind’² agenda, it is imperative to pay more attention to these most marginalised groups. Although interventions that seek to tackle human trafficking have demonstrated some successes, particularly in developing policy and awareness of the problem, fundamental challenges remain in protection and prevention responses, as well as effective governance and justice. Some of these barriers are well recognised while others are less so. Similarly, some are documented while others are only implicitly understood.

In Southeast Asia, migrant workers – who account for the highest number of migrants globally – are among the most vulnerable to human trafficking. There is high demand for workers in some countries in the region, and a supply of workers from countries with fewer job opportunities, who are willing to migrate to other countries for work (Oliver, 2019; Testaverde et al., 2017). While these migrants may begin their journey willingly, they are vulnerable to exploitation at every stage. This is especially so for those whose migration is not formal, i.e., who travel outside existing visa regimes, or through unofficial brokering services, which makes them irregular or undocumented in their destination countries – and thus with fewer protections than those who migrate formally, since reporting to the authorities risks deportation (Chantavanich et al., 2013). In many countries, the response to human trafficking has focused on sexual exploitation, which has meant few people are officially identified as victims of labour trafficking (Weitzer, 2014). The nature of labour

¹ The SDGs were agreed in 2015. The targets applicable to labour trafficking include 16.2: end abuse, exploitation, trafficking and all forms of violence and torture against children; 16.3: promote the rule of law at the national and international levels, and ensure equal access to justice for all; and 8.7: take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.

² ‘Leave no one behind’ is central to the SDGs, forming a commitment of all UN Member States to eradicate poverty in all its forms, end discrimination and exclusion, and reduce the inequalities and vulnerabilities that leave people behind and undermine the potential of individuals and of humanity as a whole.

trafficking is also less understood, both by policymakers and organisations that support victims.

The ASEAN region is characterised by labour migration due to the disparities in economic and industrial development across countries, and the relative ease of irregular movement between them. The demographic differences between countries with labour surplus and demand means that such migration will continue to be a major feature of labour markets and societies in the region. However, there is a dearth of practice- and policy-oriented approaches that address the complexity of labour migration, while offering concrete recommendations on how to mitigate vulnerabilities to trafficking for labour migrants, and how victims of trafficking can be afforded greater protection and legal agency.

In light of this complexity, this country case study is one in a series that reviews the structural governance and political economy factors that affect labour migrants' vulnerability to human trafficking. This includes understanding the political economy of the structural, institutional and political constraints and enablers that shape prevention and protection capabilities, as well as advancing knowledge on ways to reduce victims' vulnerability and improve their protection capacity, voice and agency.

2 Vietnam

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). The drive for labour migration has led to an industry of recruiters and brokers ready to facilitate the journey of migrant workers, whether through formal or informal channels. It has also filtered down to workers themselves, with significant demand for jobs abroad because of the higher salaries and limited opportunities at home. The drive for labour migration across these levels – from the state, to recruiters, to workers – can undermine attempts to increase protection, both domestically and regionally, because of fears that this will affect available opportunities.

Most labour trafficking begins with a choice to migrate for work. While they may exercise choice, migrant workers do not always have the power to demand better working conditions or control their migration journeys. Similarly, the relationship between the Government of Vietnam and destination countries also influences its power to push for better treatment of Vietnamese workers abroad. These factors influence the prevalence of cases that can be considered severely exploitative, meeting the definition of human trafficking.

The main objective of this country case study is to assess the key political economy factors that affect vulnerability to human trafficking in labour migration in Southeast Asia, with a focus on policy, governance, regulatory and justice dimensions of prevention and protection and legal agency of migrant workers and trafficked persons, in order to make recommendations for policy and programming on labour trafficking.

While labour exploitation also occurs within Vietnam, this study focuses on Vietnam as a source of labour migration, assessing the vulnerabilities that can result in exploitation for Vietnamese workers abroad. Key corridors for labour migration from Vietnam include Japan, Taiwan and South Korea; China; other Southeast Asian countries, such as Thailand and Myanmar; as well as Indonesia, Singapore and Malaysia.³ The research engages with the vulnerabilities at each stage of the journey in relation to these

³ Indonesia and Malaysia will be a focus of the case-study research in phase 2, so are not explored in detail here. The UK and Europe, as well as the Middle East region, are also key corridors, but as the research focuses on Asia, they have been excluded from the study.

corridors – pre-departure, the journey to the destination, experiences in the destination country, and upon return to Vietnam.

2.1 Methodology

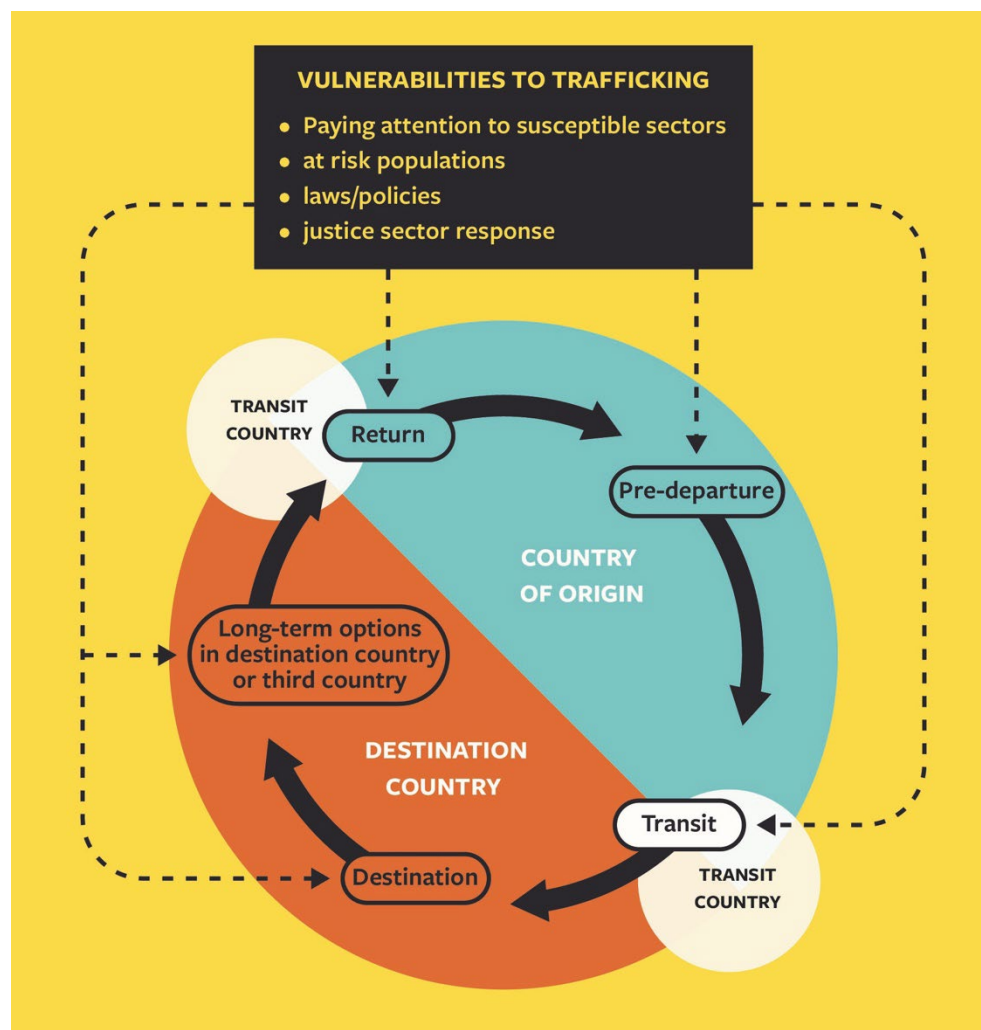
This paper is part of a series of country studies commissioned by the ASEAN-Australia Counter-Trafficking Program (ASEAN ACT), which was interested to understand the vulnerabilities of labour migrants in particular, as distinct from sex trafficking, which has tended to attract more interest (Weitzer, 2014: 7).⁴ The research began by developing an analytical framework that sought to unpack the structural features, formal and informal rules, power relationships and interests that shape labour migrants' vulnerability to trafficking at each stage of the labour migration cycle. Using this framework as an organising device, a literature review and key informant interviews (KIIs) were undertaken in Laos. In addition, three workshops were held to distil and test the findings with ASEAN ACT and the wider research team who were undertaking identical country studies in Cambodia, Laos, Thailand and Vietnam concurrently (studies in other ASEAN countries will take place in a second phase).

The research used a political economy approach to examine how vulnerabilities to trafficking are shaped at each stage of the migration cycle. This brings to the surface the role and interlinkages across formal institutions, law, informal rules and practices as well as wider social norms related to labour migration and trafficking in persons (TIP) in the region. It also engages with the incentives, interests and distribution of power among different actors, how these shape behaviour and strategic choices. Importantly, the political economy lens engages with how these dynamics shift as relationships, rules and practices (formal and informal) change over time. It also identifies opportunities to advance change that supports better prevention and protection capabilities in addressing vulnerabilities to trafficking.

Vulnerabilities to trafficking were identified and mapped at each stage: pre-departure; transit; arrival in destination country; long-term options in the destination or third country; and return (possibly involving transit) (Bisong and Knoll, 2020). Context-specific factors that enable or sustain the vulnerabilities identified at each stage were then analysed, as well as noting potential opportunities for change (see Figure 1).

⁴ Given this focus on the risks of trafficking for labour migrants, this paper does not deal with the sizeable problem of sex trafficking, despite the fact that sex trafficking can also be understood as a form of labour exploitation, given its increasingly accepted framing as sex 'work'.

Figure 1 Mapping the vulnerabilities to trafficking along the labour migration cycle



Source: ODI, 2023

A review of academic and grey literature was conducted at the outset, which assisted in finalising the analytical framework, based on the key political economy elements that were identified in Vietnam. The desk review on Vietnam also revealed that it was less relevant to focus on the employment sector than on specific migration corridors. The review also contributed to identifying the relevant stakeholders, with a view to planning focus group discussions (FGDs) and KI interviews.

The research team conducted interviews and FGDs with a wide range of stakeholders focused on labour migration and trafficking in Vietnam. Participants were identified through purposive sampling to ensure a cross section were represented. They included key government departments and institutions (8), international organisations (3), non-government organisations (NGOs) providing support to trafficking victims (5), recruitment agencies (2), victims of trafficking being supported in shelters (3), returned migrants (4) and members of migrant networks (2). In total, 29 interviews were

conducted. Findings from the interviews and FGDs were analysed thematically through the political economy lens, drawing out vulnerability to trafficking at each stage of the labour migration cycle, considering the role and standpoint of the stakeholders who had participated.

The research was guided by the Australian Council for International Development (ACFID) Principles and Guidelines for Ethical Research and Evaluation, and by ODI's Research Ethics Policy. As the research focused on persons of concern from vulnerable populations, notably TIP victims, it was imperative to follow ethical procedures. These included sensitivity in research design, including the location of interviews and FGDs, as well as how participation was structured. Informed consent was based on the local context, varying between written and verbal consent. Attention was also paid to data protection and ensuring participants' anonymity. Where direct quotes have been used, identifying features have been removed, and pseudonyms are used. The methodology and ethics assessments for fieldwork were approved by the ODI Ethics Review Committee.

During the research process, periodic workshops were held with all country research teams, focused on Cambodia, Laos, Thailand and Vietnam, as well as the wider ASEAN-ACT team, to share the approach taken and challenges that arose during the fieldwork. This was useful to identify strategies to fill evidence gaps. In addition, a sensemaking workshop was held towards the end of the research process to enable connections and interrelationships between the country studies to be further analysed and integrated into the written reports, and to identify cross-cutting themes that are explored in the thematic briefs alongside the country case studies.

2.2 Limitations

The research was undertaken during the COVID-19 pandemic, which made it harder for the research team to travel outside Hanoi. As a result, many of the interviews were conducted remotely. Researchers were still able to engage with a cross section of participants, but the inability to be interviewed in person may have affected their responses.

In addition, in view of the small sample size there is no claim to be representative of the experiences of TIP among migrant workers. Rather, the report draws upon these cases to provide insights and snapshots into lived experiences, as well as to complement and update the existing academic and grey literature on these issues.

2.3 Trafficking or exploitation?

A key issue that emerged through the interviews and continued discussions with other country research teams was whether it made sense to speak about labour exploitation or trafficking. Much has been written about the definitions of trafficking and application of the

term in practice (see, for instance, McAdam, 2020, 2016; Chuang, 2014; Weitzer, 2014: 7-8). What seems clear from the case studies is that while there are examples of trafficking of labour migrants – especially in relation to destinations with explicit links to organised crime – employers’ exploitation of migrant workers at the point of destination is more common. This is not to discount the seriousness of any form of exploitation, but rather to draw attention to how counter-trafficking responses might best be devised to address the realities of the main type of exploitation that occurs. For this reason, we refer to ‘exploitation’, which may include trafficking in some but not in all cases. What emerges from this research, in keeping with similar findings in the literature, is that this might best be thought about as a spectrum of exploitation, on which trafficking lies at one end (Huysmans, 2006: 11). This issue is discussed throughout the remainder of the report and is dealt with more fully in the thematic brief of counter-trafficking responses (Denney et al., 2022).

3 Context of Trafficking in Labour Migration

3.1 Contextual Factors

Vietnam is heavily populated, with over 99 million people as of 2022, 68% of whom are of working age (UNFPA, 2022). While 62% of the population reside in rural areas, this has been steadily declining, and it is projected that by 2030 the rural and urban population will be roughly equal (World Bank, 2022). This is part of a shift from an agricultural economy (14.8% of Gross Domestic Product (GDP) and 38% of the workforce), towards industry, such as manufacturing and energy (33.71% of GDP and 27.4% of the workforce) and services, including tourism and telecommunications (41.6% of GDP and 35% of the workforce) (Crédit Agricole, 2022). Alongside the neighbouring countries, Cambodia and Laos, Vietnam is a lower middle-income country, although the economy continues to grow. Currently, labour migration is primarily to higher-income countries, such as Thailand and Malaysia, all upper middle-income countries, or Japan, Korea and Taiwan, all high-income countries.

3.2 Political Structure and History

Vietnam is governed by the Communist Party of Vietnam (CPV), which has ruled since 1976. The CPV initially adopted a centrally driven state-controlled economy, but since reforms (Đổi Mới, 'open door' or 'renovation' policies) were introduced in 1986, has increasingly moved towards a market economy (further discussed below). The reforms resulted in the opening of diplomatic relations with China and the United States, and a pragmatic and flexible approach to foreign policy, aiming to increase foreign direct investment (FDI) and tourism for economic development (Tuan, 2009).

Domestic policy has given priority to national growth and development. The scope for analysis and social participation in addressing the issue of corruption in Vietnam is limited, and the rare instances in which corruption has come to light demonstrates the state's concern about public perceptions of its scale (Fforde and Homutova, 2017). The intersection that corruption may have with human trafficking is also difficult to explore in this context. However, the level of state corruption was highlighted by two significant cases that arose from the COVID-19 pandemic. The first involved collusion among state entities to profit from the provision of test kits, and the

second involving the Ministry of Foreign Affairs and several travel agencies tasked with repatriating Vietnamese migrant workers stuck abroad charged extortionate fees.

3.3 Key features of economic development

In 1986, following a difficult economic period, the *Đổi Mới* or 'renovation' policies moved Vietnam from a socialist to market-oriented economy with regional and international integration. These reforms resulted in high GDP growth and poverty reduction. GDP grew from USD 14.09bn in 1985 to USD 362.64bn by 2021 (World Bank, 2022). The benefits have not been evenly spread, however, with some of the policies having a negative impact on the rural poor (see Box 1). The result has been a wider gap between those with education, skills and political connections, and those without (Hoang, 2020). The removal of state subsidies for agricultural production, education and health care was accompanied by high inflation, low productivity and underemployment, with high levels of rural poverty (Hoang, 2020; Badiani, 2013).

The impact of *Đổi Mới*

In encouraging the growth of the private sector, the *Đổi Mới* introduced a charge for basic services, and with the expansion of the private sector in their delivery, these became increasingly centred in urban areas, limiting access for the rural poor. In addition, agricultural production shifted from a centralised, collective model to private ownership of land, which resulted in a transition from subsistence to commercial agriculture (Que and Phuc, 2003).

Since 2010, however, the National Targeted Programme on New Rural Development (NTP-NRD) has sought to redress the imbalance between urban and rural areas by upgrading services and infrastructure in rural communities, raise income and productivity, and reduce socioeconomic discrepancies. As of September 2020, 60.63% of the participating communes had achieved the 19 criteria of the NTP-NRD.⁵ There is still unequal income distribution between urban and rural areas, but it has decreased. The Gini coefficient, which measures wealth inequality, reduced in urban areas of Vietnam from 0.391 to 0.325 between 2016 and 2020, and in rural areas from 0.408 to 0.373, with 0.3-0.4 considered 'adequate equality'.

While rural poverty spurred labour migration, the pull of employment opportunities beyond the agricultural sector was also a factor, encouraging migration to urban areas as well as other countries. Migrant workers earn more abroad for similar types of work in Vietnam, for which many would need to go to urban centres anyway, which increases their desire to migrate abroad (IOM/MOFA, 2017). While there was already labour migration to the former Eastern Bloc

⁵ <https://vietnam.opendevelopmentmekong.net/topics/poverty-policy-and-regulation/>

countries, Đổi Mới resulted in an expansion to international and Asian labour markets (Anh, 2008).

Labour migration has become an important element of Vietnam's development strategy. Its importance is noted in many official documents and statements by high-ranking government officials (Anh, 2008). For example, 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 an annual target of 100,000–120,000 migrant workers to be reached by 2020, 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, 2021a). Data on remittances does not include amounts migrants send outside the banking system, such as through money-transfer operators, post offices, mobile phones or informal transfers, so the flow of remittances is likely to be far higher.

To encourage labour migration, Prime Minister Nguyễn Tấn Dũng issued Decision 71/2009/QĐ-TTg in 2009, which approved the project 'Assisting poor districts in the promotion of labour export to contribute to sustainable poverty alleviation during the 2009–2020 period' (also known as Programme 71). Targeting 62 poor districts in 20 provinces, particularly ethnic minority communities in rural and mountainous areas, Programme 71 provided incentives to encourage people to migrate for work and financial assistance to make it possible. This included low-interest loans from the Vietnam Bank for Social Policies (VBSP) (at half the standard rate), as well as cash hand-outs and state-funded training (Hoang, 2020). While these loans offer better rates than becoming indebted to recruiters, high recruitment fees still mean that migrants must remain in employment, regardless of the conditions, in order to repay their debts.

The volume of loans issued as part of Programme 71 did not reach the target, as the application process and the range of other fees and brokering needs deterred aspiring workers from engaging with the programme – by the end of 2015, only 30% of the planned 60,000 workers had benefited from it (Hoang, 2020). Families with property may obtain mortgages in order to pay the upfront recruitment costs, but many migrants use a range of formal and informal sources to raise the required fees, including banks, moneylenders, microcredit schemes, friends, neighbours and relatives (Hoang, 2020). The role of debt in financing migration has raised concerns about this model of labour export as a development strategy, discussed further below (see, for example, Hoang and Yeoh, 2015; Schwenkel, 2014).

3.4 Formal rules and policy on trafficking

Vietnam has adopted a number of laws and policies on human trafficking. It is party to the UN Convention on Transnational Organized Crime [Decision 2549/2011/QĐ-CTN], and the protocol on Trafficking in Persons (Palermo Protocol). In addition, Vietnam has

ratified the ASEAN Convention on Trafficking in Persons, Especially Women and Children (ACTIP). In February 2021, the government enacted a new National Plan of Action (NPA) on preventing and combating human trafficking in the 2021-2025 period, with a vision to 2030, building on three previous plans. With responsibility for implementation placed on all relevant ministries, agencies and local authorities, the new plan includes a broader range of target groups for communication campaigns, giving priority to people in remote areas, and from ethnic minorities. Reception, verification, identification, rescue, protection of and support for victims of trafficking are viewed as equally important to combating and preventing trafficking, a shift highlighted in the plan's overall objective. Enhanced collaboration among the relevant ministries is promoted and the plan advocates a victim-centred approach with policies and laws related to human trafficking regularly reviewed and revised for internal coherence and consistency, compatibility with regional and international laws, and alignment with developments in counter-trafficking work.

A National Committee on combating human trafficking (called Committee No. 130) was established in 2004 to manage implementation of the National Action Plan and enhance cooperation among ministries and agencies, with more delegated leadership from the Ministry of Public Security, including Border Guard Directorate, Ministry of Foreign Affairs, Ministry of Labour, Invalids and Social Affairs, Ministry of Education and Training, Ministry of Finance, Supreme Court and Peoples Procuracy. Since 2021, the National Committee on combating and prevention of human trafficking (Committee 130/CP) has been merged back to National Committee on combating and prevention of crime (Committee 138/CP), led by Standing Deputy Prime Minister Truong Hoa Binh.

Vietnam also joined the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Action Plan, which focuses on the prevention of human trafficking of the sub-Mekong region. By 2021, the country had entered 14 bilateral mutual legal assistance treaties on criminal areas and 14 bilateral treaties on extradition (Document 33/TANDTC-HTQT), which include dealing with crimes of human trafficking.

The response to human trafficking has mostly been focused on women and children, and primarily sexual exploitation, which limits its relevance to labour trafficking. Human trafficking of women and children was initially regulated in articles 115 and 119 of the 1985 Vietnam Penal Code. In 2011, the National Assembly passed the Law on Prevention, Suppression on Trafficking in Persons [66/2011/QH12], which changed the focus of trafficking from the crime of buying and selling women, to that of buying and selling persons (Article 119), which in effect adds men and boys to the definition. Article 120 also focuses on the buying, selling and kidnapping of children.

In 2015, the definition of human trafficking was expanded with an update to the Penal Code to include the transfer, receipt for commercial purposes, labour, sexual exploitation, and trading of human organs. The updated definition also considers traffickers to be those involved in the recruitment, transport and retention of victims (Article 150). These new provisions make Vietnamese legislation more compatible with the provisions set out in the Palermo Protocol, although children are defined as under 16 years of age rather than 18. Another challenge is that Vietnam's penal code (Articles 150 and 151) requires proof of 'transferring' victims, which makes it harder to prosecute cases at the recruitment stage.⁶

Vietnam still imposes administrative penalties for those who work in the sex industry and some provinces may impose fines who may have migrated irregularly, which may include victims of trafficking for sexual exploitation and labour exploitation who have not been officially identified as such.⁷ As a result, victims and returned trafficking victims have avoided reporting offences. The law on Legal Aid 2017 includes provisions for victims of trafficking to receive free legal aid but is available only in cases of severe economic difficulties, excluding returned trafficking victims who cannot prove their financial need.

Other laws and policies focus explicitly on labour migration. Vietnam signed the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers in November 2017; but the UN Convention on Migrant Workers has not been ratified. Domestic legislation includes the 2007 Law on Vietnamese Workers Working Abroad Under Contract, although a number of its provisions require implementation mechanisms that have not yet been established. These include, for example, Article 69 on sending labourers abroad to work, policies on vocational training institutes (Article 64) and support for returning workers (Articles 59 and 60) (MOLISA, 2018). This law was updated in 2020 [69/2020/QH14] to improve accountability for safe migration, by increasing protections for migrant workers. The updates prohibit enticing, seducing, promising, advertising, providing false information or using other means to deceive workers, and entitles workers to terminate their contracts unilaterally when they are mistreated, forced to work by their employers or are in obvious danger of threats to their life, health or are sexually harassed at work.

Other legislation also focuses on workers abroad, including Labour Code 2012 (Article 168); Law on Occupational Safety and Sanitation 2015 (Article 67) and Employment Law 2013 (Article 20). The Law on

⁶ Ref. Decision 02/2019/HĐTP dated 11/1/2019 of Supreme Court on guiding implementation of Articles 150 and 151 of the Penal Code

⁷ Ref. Decision 150/2005/NĐ-CP dated 12/12/2005 in the field of public order and public security. While Vietnam has not enacted a provision of non-criminalisation of victims for violations committed under their status of victims, practitioners have shared that most identified victims will be not fined for their violations such as illegal border crossing. For those who cannot prove or provide any information/evidence that they are TIP victims, they may under risk of being fined as there is no consistent guidance from central agencies.

Vietnamese Guest Workers (Law 69), enacted in 2020, provides for the rights and obligations of migrant workers, including to contracts, protection from abuse, the right to complain and to leave work if they are exploited. However, the enforcement of such protections for migrants is difficult until migrant workers return unless there is a bilateral agreement between Vietnam and the destination country. Even in those cases, enforcement would rely on the will and capacity of the destination country, and coordination efforts from Vietnamese authorities to push cases with those countries. As a result, the legislative system in Vietnam that responds to labour migration and exploitation is complicated, inconsistent and overlapping, making it difficult to enforce.

Until 2022, Vietnam had been on the Tier 2 watchlist of the US Trafficking in Persons report for three consecutive years, which spurred legislative and policy change. Two years is the time limit for being on the Tier 2 watchlist before being demoted to Tier 3, which can have financial consequences, such as cuts in US aid and other sanctions. Vietnam was granted a waiver in 2021, and remained on the Tier 2 watchlist for another year because of a written plan that would constitute ‘significant efforts’ if implemented. One area of improvement for 2021 was an increase in the number of alleged traffickers charged and prosecuted, with 144 arrests, but there is no analysis of the role these individuals played in trafficking, for example whether they were low-level brokers or more organised facilitators (US State Department, 2021). In addition, there has been a reduction in investigations and convictions – in 2021, there were 110 cases investigated, compared to 175 the year before, which suggests there was a push to increase prosecutions to prevent demotion to Tier 3 (US State Department, 2021).

3.5 Informal rules and systems

Labour migration involves negotiation at multiple levels. The government manages labour migration to ensure both state and individual benefits (Tran and Crinis, 2018). For example, national GDP benefits from remittances, as well as the families who actually receive them. However, the government must negotiate its relationship with destination countries – balancing a desire to keep migration channels open and pushing for greater protections for Vietnamese citizens. Given Vietnam’s status as a source country for migrant labour, it has limited negotiating power to improve conditions abroad or enforce legislation in destination countries.

Migrant workers themselves also negotiate their roles and relationships to maximise their benefits to the extent possible, although this may be a matter of choosing between two bad options. For example, in some instances, migrants are willing to take the risk of becoming irregular, by breaking their contract⁸ in order to earn

⁸ In some countries, such as Japan, Korea and Taiwan, visas are linked to a specific contract, so breaking the contract breaches the conditions of the visa, thus making migrants irregular.

more with another employer if it is taking too long to repay their debt, or if they are treated poorly. This has been documented in high rates of ‘runaway’ workers (see Hoang, 2020). In Taiwan, there were so many runaway workers, estimated by some sources as 50,000,⁹ that Taiwan reduced the numbers of work permits issued to Vietnamese workers. The ‘runaway’ phenomenon is driven by desperation to pay off debt as well as a rational choice to obtain better conditions.

3.6 Key actors relevant to trafficking for labour migration

Government

The Ministry of Labour, Invalids and Social Affairs (MOLISA) houses the departments that are responsible for labour migration and support for victims of human trafficking. The Bureau on Social Vices Prevention within MOLISA is responsible for policy to support returned trafficking victims. The Bureau on Management of Overseas Labour (DOLAB) manages overseas work contracts, including guidance for migrant workers, and oversees recruitment companies. DOLAB has limited scope to inspect or punish labour-export companies (recruiters) if they violate the law, although some have had their licenses revoked.¹⁰ MOLISA also manages the budget for the provision of support services to victims of trafficking, although NGOs have noted limitations in available resources (US, 2021). Labour representatives are also deployed to diplomatic missions in countries with large numbers of labour migrants, including Japan, Malaysia, South Korea and Taiwan, although it is not clear how many migrant workers have sought support from these representatives. In addition, the Ministry of Justice, the Ministry of Public Security, Border Guard Command, the Procuracies and Courts play a key role in identifying, investigating, prosecuting and adjudication of traffickers.

Private Sector

There are 491 licensed recruitment agencies that provide pre-departure training, placement services and manage the migration process for which they charge recruitment fees. Of these, 196 are members of the Vietnam Association of Manpower Supply (VAMAS). In addition, there are large numbers of brokers that recruit workers informally. Some of these are connected to recruitment agencies, while others connect workers directly with employers in the destination countries. These contacts may have been generated from their own experiences working abroad, or through networks of family and friends.

International organisations

⁹ See for example <https://asiatimes.com/2018/08/control-yuan-to-investigate-reasons-for-vietnamese-runaway-migrants/>

¹⁰ <https://vietnamnews.vn/society/416994/labour-export-companies-have-licences-revoked.html>

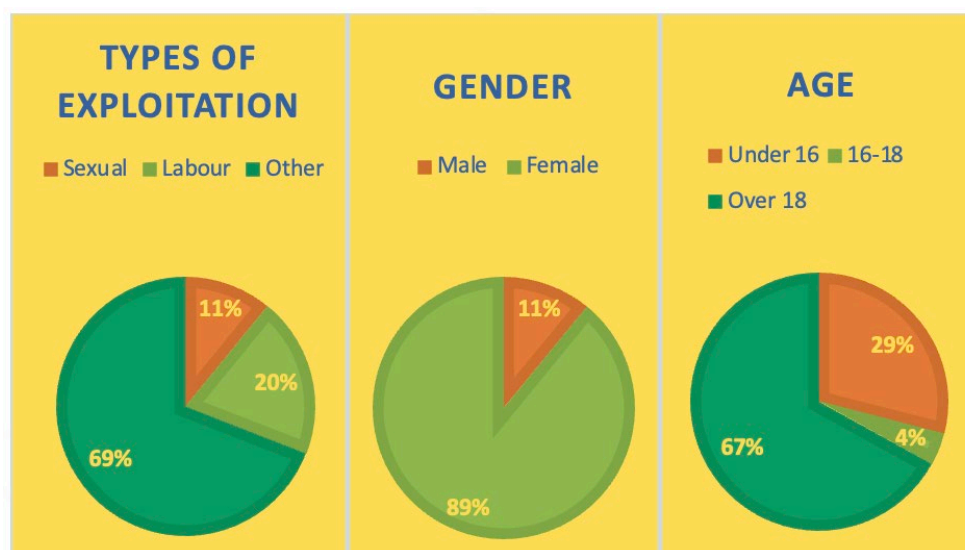
International organisations and NGOs mostly work on the development of legislation, policy and capacities to counter human trafficking. For example, UN-ACT (United Nations Action for Cooperation Against Trafficking in Persons), under the United Nations Development Programme (UNDP), seeks to enhance collaboration through the COMMIT Process (involving the Greater Mekong Sub-region countries), and conducts policy-relevant research. UNDP also engages in building the capacity of government agencies, including policy, security, border policy, women's union, court and procuracy officials. The IOM and ILO provide technical support to the Government of Vietnam on labour migration and trafficking.

Non-government organisations

Vietnamese NGOs provide significant support to victims of trafficking and engage in preventive work. However, only a few are licensed to work on counter-trafficking in Vietnam and their remits are strictly regulated. NGOs focused on human trafficking tend to be limited to providing services and working in partnership with the government.

4 Labour Migration Cycle – Primary Corridors

Vietnam is currently estimated to have 560,000 workers in 43 countries, although the actual number, including irregular migration, is probably far higher (ILO, 2021a). Most of the official statistics on human trafficking from Vietnam focus on sexual exploitation (see, for example, Blue Dragon (2021)). Accordingly, official data indicates that 85% of human trafficking victims are women, although forced labour primarily targets men and boys (Blue Dragon, 2021). In 2017, the IOM reviewed the state of labour migration, and found that between 2012 and 2016, women made up just less than a third of migrants on fixed-term contracts, most of whom were from north central Nghe An and northern provinces (IOM/MFA, 2017). In 2021, MOLISA received and identified 110 trafficking victims, of whom 104 are Vietnamese, six are foreigners, with different forms of exploitation, gender and age (see below).



Source: MOLISA, 2021

The main corridors for labour migration are from Vietnam to Japan, Korea and Taiwan, which are generally seen to be more reliable because of the formal recruitment process, but this is not necessarily the case. A study of labour exploitation among labour migrants from two provinces in Vietnam – Thai Binh and Ha Tinh, which are known for their high concentration of migrant workers – to Japan and Taiwan found that 27% of migrant workers experienced at least one form of

restricted freedom, such as having their identity documents confiscated, or being unable to leave the workplace (Zhang et al., 2021). This was higher in Taiwan (31.18%) than in Japan (17.81%) (Zhang et al., 2021). Fish farms had the highest likelihood of forced labour, followed by the apparel/ textile industry, construction work and then manufacturing, which is the largest employer. Jobs in the health sector and food processing were found to have the lowest level of forced labour (Zhang et al., 2021).

Other destinations in the ASEAN region include Thailand and Myanmar; China; and Indonesia and Malaysia.¹¹ Vietnam also sends migrant workers to the Middle East, the former Eastern Bloc countries and Western Europe, but these destinations are not explored here. Although accurate numbers are difficult to establish, particularly when irregular migration is prevalent, the following estimates were produced by MOLISA in March 2019 (ILO, 2021a).

Table 1 Number of Vietnamese labour migrants in main destination countries

Destination	Number of Vietnamese labour migrants present
Taiwan	170,000
Japan	148,000
South Korea	50,000
Malaysia	50,000
Thailand	50,000

Source: MOLISA (2019)

4.1 Facilitators

Recruitment agencies are the primary facilitators of labour migration, and there is limited oversight of their practices (Zhang, 2021). Recruitment agencies charge service fees for job placement and a 'deposit fee' to deter migrant workers from leaving their job. While the legislation that was introduced in 2020 states that the recruitment agencies must refund the service fee in proportion to the remaining time of the contract if an employee has to return home before the contract period and where the employee is not at fault,¹² there have been cases when workers in this situation have struggled to prove they were not at fault on return (Belanger, 2014).

The majority of migrant workers are placed by government-licensed recruitment agencies that are connected to employers in destination countries, i.e. where employers contact recruitment agencies to identify employees, or through brokers in destination countries. For example, Bengsten (2022) has highlighted how Taiwanese brokers also take a fee from the salaries of migrant workers in the country. Even with licensed agencies, many migrant workers pay over the

¹¹ Because Indonesia and Malaysia will be the focus of phase 2 case studies, they are not examined here.

¹² Article 23, Law on sending labour to work overseas 2020.

legal limits as there is a lack of transparency regarding fees and costs (CREST, 2021). In addition, there are many unregistered sub-agents and recruitment agencies. Migrants must cover the arrangement of travel documents, airfares, insurance, medical checks, training, recruitment and placement fees, profit margins for the recruitment agents and a security deposit (for Japan) (Hoang, 2020). Hoang and Yeoh (2015) found that migrant workers often pay from five to 15 times the government's legal cap on placement fees, which should be one month's salary for each year of the contract.

Table 2 Recruitment costs

Destination	Average recruitment costs in USD	Range of recruitment costs in USD
Japan	8,000 - 10,500	2,000 - 14,500
Korea	5,250 - 6,250	1,250 - 10,000
Taiwan	Steadily increasing	500 - 6,500

Source: CREST (2021)

While Vietnam has a large number of registered recruitment agencies, not all labour migrants use them. A complex web of actors is involved in facilitating labour migration because of the profits they can derive. Some of these informal brokers could be considered smugglers, or even traffickers, depending on the conditions in the destination country. However, they rarely fit the common perception of organised crime, as an extensive, well-connected network that maliciously targets victims. Rather, many brokers are individuals seeking to provide a service as a means to earn money, with varying regard for the welfare of labour migrants.

UN-ACT highlights that 'traffickers come from a variety of backgrounds, ranging from recruitment agency staff to victim family members. Vietnamese labour-export companies and unlicensed intermediary brokers have been known to operate illegally, exploiting vulnerable and desperate migrants. More organised crime groups are involved in trafficking further overseas, such as in the forced labour of Vietnamese children on cannabis farms in the UK. Traffickers are also increasingly using the internet as a channel to lure victims. Such crimes are further facilitated by corruption, including at border crossings and checkpoints' further along the migration corridor (cited in Home Office, 2020: 19).

This suggests that distance has an effect on how organised recruiters need to be. Migration to neighbouring countries is far easier than travelling through several countries, for example. This was confirmed in interviews, which identified a growing diversity in the facilitators of labour migration, ranging from brokers to family relatives, local acquaintances approaching people in difficulty, and brokers operating in the name of formal recruitment agencies.¹³

¹³ Interview with government agency, Vietnam January 2022.

While registered recruitment agencies tend to use official visa regimes, high demand, combined with restrictive migration regimes in many countries, has created an opportunity for informal brokers to facilitate labour migration. As Hoang (2020: 33) found, 'transnational labour migration in Asia is largely organised by sophisticated networks of commercial brokers who thrive on highly restrictive migration regimes and disparities in the distribution of labour and employment across the region'. While licensed recruitment agencies are often viewed as the safest option, interviews noted that these agencies do not necessarily provide support for workers once they reach their destination. There are reports of recruitment agencies that transport workers abroad, and then transfer them to employers with no contact with the agency or support in the case of emergency.¹⁴

Online recruitment is on the rise, a trend exacerbated by the COVID-19 pandemic. The 2021 US Trafficking in Persons report acknowledges that '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' (US, 2021; 608). To date, there has been little research into the dynamics and forms of the use of online tools.¹⁵

4.2 Drivers

Poverty is frequently cited as spurring migration, although extreme poverty prevents labour migration because of the associated costs. Migrating for work has considerable upfront costs, which makes it prohibitive for people who are very poor. Many prospective migrants sell family homes, borrow from family and friends, or go into debt with their brokers to cover these fees, which increases their vulnerability (Hoang, 2020).

The pull factor is economic. The survey by Zhang et al. (2021) of labour migrants in Japan and Taiwan found that most respondents cited an inability to live and support their families on their earnings in Vietnam. Similarly, a 2017 study by IOM and the Ministry of Foreign Affairs found that migrant workers earned more for doing the same work abroad as they could in Vietnam. As a growing population and limited arable land have undermined subsistence farming, underemployment has become more widespread (Hoang, 2020). In addition, many rural families have very little cushion between their income and expenditure, which creates conditions for a debt trap (Hoang, 2020). Consequently, the majority of labour migrants come from poor rural areas in north and north central provinces. The importance of contract labour migration for poor rural families has been acknowledged by the Vietnamese government through recent policies that identify 'labour export' as a poverty-reduction strategy.

¹⁴ Interview with government agency, Vietnam January 2022.

¹⁵ This is discussed in more detail in relation to the specific migration corridors.

There is also pressure to provide for families back home. Many returned migrant workers interviewed aimed to earn money to feed their family and improve their economic situation.¹⁶ This often has a gendered element to it, as men are seen as the breadwinner, needing to provide shelter (Hoang, 2020). Family pressure to provide is not just a matter of survival. Status has also become more important, and remittances are a source of pride and improve a family's local reputation (Beadle and Davison, 2019). This is increasing with younger generations that have a greater desire for material possessions (Quynh, 2016).

4.3 Corridor 1: Japan / Korea / Taiwan

Vietnamese labour migrants seek out East Asian destinations as they are seen as less risky because they are more formal migration channels. In addition, the salaries are higher than in Malaysia, Thailand and the Middle East. Work in factories is through arranged contracts managed via recruitment agencies.¹⁷ Contracts are signed in Vietnam before departure, so migrants have an agreed job on arrival. These conditions also place restrictions on migrants, however, as they cannot change employers and cannot return home before completing their contract (Mekong Migration Network, 2022).¹⁸ This is relatively consistent across sectors.

One option for migration to Japan was formerly called the Technical Intern Training Programme (TITP), where workers have to go to a supervisory organisation to meet the 'training' requirements of the visa, with pay deducted for that period.¹⁹ The cost and fee for this visa is high, as it includes a USD 1,000 pre-training fee. While workers are meant to learn a skill, they generally work on production lines (Bengsten, 2022). Aside from the training programmes, there are more informal options, including work on farms, in markets, supermarkets, shops, photocopying and other duties, which are rarely covered by a labour agreement and are facilitated by brokers.²⁰ These options are usually explored by migrants already in the country because of the difficulty of travelling to Japan irregularly.

Departure expenses for these countries are also higher than for other countries, such as Malaysia and Indonesia, as recruitment agencies and brokers can attract higher fees for work contracts.²¹ For example, one migrant worker interviewed paid 140 million dongs (around USD 6,500) for a three-year contract, with no clear understanding of what

¹⁶ Interview with returned migrants, Vietnam January 2022.

¹⁷ Interviews with international organisations, government agencies, recruitment companies and returned migrant workers, Vietnam, February 2022.

¹⁸ Interview with returned migrant workers, Vietnam January 2022.

¹⁹ See: <https://www.jitco.or.jp/en/regulation/index.html>; <https://gsp.cgdev.org/legalpathway/technical-intern-training-program-titp/>. The labour programme to Japan allows 16 countries of origin: Bangladesh, Cambodia, China, India, Indonesia, Laos, Pakistan, Peru, Philippines, Myanmar, Mongolia, Nepal, Sri Lanka, Thailand, Uzbekistan, and Vietnam, covering 146 jobs in 82 sectors.

²⁰ Interview with returned migrant workers, Vietnam January 2022.

²¹ Interviews with international organisations and returned migrant workers, February 2022.

the fee covered.²² Many workers have gone into debt to finance their travel to these countries.²³ As a result, workers are under more pressure to earn money, which has encouraged some to stay illegally after their visa expired, but also makes them vulnerable to trafficking, as workers whose formal contract has expired are unlikely to seek out assistance because of the risk of being deported.²⁴

Migrant workers are afraid to lose their job, so they do not object or declare problems between them and the employers. Particularly when they switch to working illegally, migrant workers rarely access protection or seek out labour inspectors.

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 cannot 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. (Vietnamese female migrant worker returned from Korea)

For example, one interviewee described how during labour inspections migrants do not complain:

I say everything is 'voluntary' so that it does not harm the boss/company. (Interview with female migrant from Ha Tinh)

This is not enforced by the employer, but rather by migrant workers to ensure they keep their jobs, and the employer continues to operate.

Workers seeking different jobs tend to have been in the country for longer and have an established network. As a result, they may be better able to navigate local systems.

There are Vietnamese in Taiwan for a long time, they know business owners who need labour, and they broker Vietnamese workers to break their contracts to work illegally for higher wages. Breaking a contract is against the law, and you may be arrested and deported from the country at any time, but some people still take the risk, because they want to make as much money as possible as quickly as possible. Often it is those who have the burden to support their families, and pay off loans to work abroad. (A female migrant worker returned from Taiwan)

²² Interview with returned migrant workers, Vietnam January 2022.

²³ Interviews with international organisations and returned migrant workers, February 2022.

²⁴ Interviews with government agencies, international organisations and returned migrant workers, February 2022.

There are some avenues for protection in these countries. In Japan, the Organisation for Technical Intern Training (OTIT) manages the TITP process by inspecting employers and monitoring licensing requirements, but the focus is primarily on cooperation with source countries and the industrial sector to ensure the continued flow of migrant workers.²⁵ After migrants travel to Japan, they are transferred from the recruitment agency to the supervising organisations, so-called workers' representative organisations [Nghịệp đoàn], which workers can contact if necessary. Migrants receive limited information before departure, so they may not be aware of the available options, and they may fear losing their job or status (Mekong Migration Network, 2022).²⁶ For example, Vietnamese migrant workers in Japan do not receive adequate pre-departure briefings about their job, the documentation process, Japanese culture and customs, although all Vietnamese migrant workers attend language training (Mekong Migration Network, 2022).

4.4 Corridor 2: China

China is a popular destination for Vietnamese migrants because the land border makes it an easier option for informal migration, particularly for aspiring workers from northern provinces. China is also a transit country for onward migration of Vietnamese to Russia and Europe.²⁷ China is, however, building a border wall to control migration. While the wall will effectively control border crossings, it is also designed to prevent Chinese migration, which has increased following the COVID-19- fuelled economic downturn, and the establishment of factories in Vietnam owned by Chinese entrepreneurs (Jennings, 2021).

China has become a hub for cross-border marriage. The country has a shortage of women as a result of the one-child policy that was in effect between 1980 and 2015. Poorer men find it difficult to attract a Chinese woman, and so pay for a Vietnamese wife. Some reports indicate that the price increased from 4,000 yuan (USD 550) in 2010, to 120,000 yuan (USD 16,500) in 2020, but this is still much less than the dowry for a Chinese wife (Wang, 2022). Vietnam, as well as Cambodia and Laos, has been a particular source for wives, with some estimates that over 100,000 Vietnamese women are married to Chinese men (Li, 2020).

Some marriages are officially arranged. For example, many Chinese men have met their spouse while working in Vietnam or the border area (Li, 2020). There are also a growing number of illegal marriage brokers that identify women looking for a husband abroad, but may deceive them regarding the age or wealth of their prospective spouse (Li, 2020). There have also been several scams identified where

²⁵ Interview with government agencies, Vietnam January 2022; interview with returned migrant workers, February 2022.

²⁶ Interview with support services, international organisation and returned migrant workers, January-February 2022.

²⁷ This has been the focus of UK government programmes on modern slavery in China.

marriages are arranged, the woman receives the dowry and disappears before the wedding (Li, 2020).

In some cases, women and girls are lured with the promise of work opportunities and forced into marriage, creating a link with labour exploitation, although they may also be forced to work. There may also be a link with sexual exploitation, when Chinese families that arrange a marriage seek to profit from their investment.

As one returned migrant said:

I was told that there was job near China. When I followed them, there were 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 if I was in 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 ran away but they caught me and beat me. (23-year-old female returnee)

This form of migration is through brokers, relatives or neighbours rather than official channels.²⁸ There is also an increase in the use of social media to attract young women, where individuals posing as 'friends' convince them to travel.²⁹ One returned migrant became friends with someone on Facebook, who suggested she go to China:

I was invited by my friend when I was 14. She contacted me through Facebook, so I did not think. (19-year-old female, returned from China in 2017)

Migrants cross the border easily, by motorbike, cars, trucks and on foot, with reports that border control is not effective because of the length of the border.³⁰ Many migrants carry no documentation, which makes it difficult when they are returned from other countries, as they cannot prove their identity.³¹ Particularly for ethnic minorities living close to the border, crossing is easy – they are required to get a stamp from authorities within seven days of arriving, but many do not, often because they have crossed the border with no documentation.³²

Once in China, there are some protective measures for Vietnamese migrants. There is a hotline and police centre for Vietnamese brides, and Chinese police track them and return them to Vietnam.³³ The

²⁸ Interviews with government agencies, Vietnam January 2022.

²⁹ Interviews with government agencies, Vietnam January 2022.

³⁰ Interview with government agencies, Vietnam January 2022.

³¹ Interview with government agencies, Vietnam January 2022.

³² Interview with government agencies, Vietnam January 2022; interview with support services, Vietnam January 2022.

³³ Interview with government agencies, Vietnam January 2022.

hotline is reported to be well used. For example, one interviewee noted:

When I learned some [Chinese] language, I watched TV in China and heard about 110 line to call for trafficked Vietnamese wife. Then I asked the husband family to let me go out. I bought a SIM card. I asked the family to allow me to call my mum to inform her that 'I am safe'. They agreed. Then after that, I could tell them to allow me to go to the market, so that I could call 110. They took me to the market, when I reached there, I escaped to the area under bridge. The police told me how to escape, get to the market and wait for the siren and reach the police car. (23-year-old female returnee)

While this case illustrates a positive outcome, it is likely that many women are unaware of the hotline. Because many migrants have no documentation, many spend some time in detention because it is difficult to identify who they are and where they are from. A study by Stockl et al. (2017) found that of 51 returned wives interviewed, 59% spent time in detention before returning, which signals a disconnect from victim-centred approaches that engage with the impact of law enforcement responses on victims and the trauma they have experienced.

For some women, particularly in border areas, marriage to Chinese men can be economically empowering for both parties. Huang (2017) has studied the entrepreneurial activities of Vietnamese women that operate across the border and identified a replication of what Farrer (2008) has called 'joint venture marriages' that benefit both parties. Many couples start businesses together and build on their individual strengths and language capabilities. Accordingly, the marriage of Vietnamese women to Chinese men is complex and requires a nuanced response that does not assume victimhood or traumatise those that are victims.

4.5 Corridor 3: Other Southeast Asian Countries

Vietnamese labour migrants also travel overland to other Southeast Asian countries, both regularly and irregularly. They move first to Laos and Cambodia as tourists then on to Thailand and Myanmar because this does not require a visa. While labour migration from Vietnam is predominantly by men and boys, onward migration to these countries usually involves more women, mostly working in the informal economy, with migration arranged through brokers.³⁴ Recruitment agencies also play a role in bringing workers to Thailand via Myanmar and Cambodia. Workers reported that they received pre-departure training, but this is seen to be too short and superficial, and many migrants do not remember the key elements once they arrive in the destination country. There is also post-arrival orientation

³⁴ Interview with returned migrant workers, Vietnam December 2021 and February 2022.

at the Thai government-run Post-Arrival and Reintegration Centres for Migrant Workers for those who have travelled formally. But once they are allocated a job in Thailand, migrants receive limited assistance from their recruitment agency (Mekong Migration Network, 2022). More recently there have been patterns of labour migration, trafficking and exploitation of migrants in call centres in Cambodia and other countries in the region. Vietnamese migrants have been among those deceived into work in such call centres, but the study did not focus on this pattern.

Travelling as a tourist allows stays for a month in Southeast Asian countries, but to remain legally, some migrants return to the border to renew their status regularly, which can be an arduous journey if they are working in Thailand or Myanmar. For example, one migrant recounted the first time they returned to the Vietnamese border:

I remember the return trip to Vietnam. They loaded me and others into a truck at 10 pm, inside and covered. The truck went through a small tunnel and we were scared. We thought they were going to sell us. The truck went through forest, we even walked with bare feet. Then to a small boat, more than 10 persons were on that small boat. I was scared, and held the next persons hand and wondered if I would make it alive. The person next to me reassured me, saying 'dont worry, it is safe after we cross this river'. By 2 or 3 am we reached the Laos border and then Vietnam. It was my first time so I was very scared. Then I returned to Thailand and back to Vietnam more times. I got used to it. (Interview with N. from Ha Tinh)

While this process is effective for Laos and Cambodia, migrants are still irregular in Thailand and Myanmar and can be returned, which makes them vulnerable to exploitation. In the first quarter of 2022, 50 undocumented Vietnamese migrants were found by authorities working in Myanmar and returned to Vietnam.³⁵ Many were women, and eight had been sexually exploited.³⁶ While Vietnam and Myanmar do not have a bilateral agreement on human trafficking, under the COMMIT process governments agree to provide assistance to victims of trafficking, but in this case, they were treated as illegal migrants and deported.

In Thailand, migrant workers have been identified working in manufacturing, construction, services and domestic work (Mekong Migration Network, 2022).³⁷ Working arrangements are mostly informal, and there is rarely a written contract.³⁸ Working conditions are also difficult. One worker in a Thai factory interviewed reported leaving their job because of the working conditions:

³⁵ Interview with support services, Vietnam December 2021.

³⁶ Interview with support services, Vietnam December 2021.

³⁷ Interview with returned migrant workers, Vietnam December 2021.

³⁸ Interview with returned migrant workers, Vietnam December 2021.

At the company, there is a Vietnamese person who can speak some Thai language, so I ask them to tell the boss that I am too tired and can't continue, so I want to leave. The company told me to pay myself to return home. I paid 10 millions [dong] to get a ticket home. (Interview with CK, Ha Tinh)

While work is difficult, and hours are long, many choose to work overtime to make more money.

I had to work 12 hours from 7 am to 7 pm most days. There is a night shift, but night allowance is paid only when working more than 16 hours a day. I work in the brocade textile workshop which has thousands of people, but brocade requires alertness, quick eyes. People often stay there to work in order to save money, so they try to work overtime (if you have health), they don't dare to visit relatives. (Interview with CK, Ha Tinh)

Workers who do not know the language are more easily exploited and required to work without full payment of their salary, and are unable to report or demand their wages.³⁹ Other Vietnamese migrants are also reluctant to assist other Vietnamese workers because they are anxious about their own status and work. Migrant workers rarely contact or seek support from the Vietnamese embassy or Labour Attaché in Thailand,⁴⁰ unless they have to change their passport, renew driving licences or to enquire about relief flights home during COVID-19 to avoid being stuck abroad.⁴¹ Because many migrant workers are irregular, they fear that contacting the embassy would result in deportation.

Migrant workers in Thailand can get some support from NGOs, which have provided advice on individual cases (e.g. which documents to prepare, how to seek reimbursement), assistance with the process of claiming benefits, accompanying them to a hospital or clinic, assistance related to COVID-19 (e.g. receiving a 'survival bag', transport to/coordination with hospitals, assistance in being tested and vaccinated) (Mekong Migrant Network, 2022).⁴²

4.6 Corridor 4: Middle East, Europe and elsewhere ⁴³

Vietnamese migrant workers increasingly find opportunities for work in the Middle East and there have also been long-term labour migration patterns to European countries. Irregular labour migration

³⁹ Interview with returned migrant workers, Vietnam December 2021.

⁴⁰ Interview with returned migrant workers, Vietnam December 2021.

⁴¹ Interview with returned migrant workers, Vietnam December 2021.

⁴² Interview with returned migrant workers, Vietnam December 2021.

⁴³ This corridor is not the focus of this study, due to the need to narrow the scope and the main focus on engagement with countries of origin and destination within ASEAN. Information this corridor is added to reflect the breadth of exploitation of Vietnamese migrant workers in other patterns, and have been the focus of other research.

to Europe has often been via overland routes through China or flying first into Russia, but direct flights to countries in Eastern Europe are also possible. The covert nature of the long journey to environments of which the migrants have little knowledge, together with the high costs involved, increase the ambiguity between degrees of coercion, deception and voluntariness, and blur the lines between smuggling and trafficking. The case of 39 Vietnamese migrants who died in a refrigerated lorry in the UK in 2019 highlighted the risks involved and the difficulty in distinguishing between smuggling and trafficking in such patterns. Sectors of vulnerability include construction, forestry, garment manufacturing, and nail salons. There has been an increase in cases identified in recent years, transiting through countries such as China, Russia, Belgium, or Germany to then move on to France, Netherlands, or the UK, in risky conditions. The UK authorities have recognised Vietnamese migrants as among the most vulnerable to trafficking, where adults and children experience differing degrees of coercion and force in criminal activity, such as growing cannabis, as well as exploitative work in nail salons.

Extortionate fees of up to USD 30,000 (equivalent to AUD52,000) to get to countries in Western Europe put migrants at risk, and often in forced labour conditions to repay the debts incurred for the migration. There has also been migration to Eastern Europe, including the Czech Republic for forestry work, which is noted for its exploitative conditions. More recent arrangements with Hungary, Romania and Serbia, which currently have labour shortages, mean that Vietnamese migrants can get work there more easily, but where working conditions may amount to forced labour, they have not been recognised or identified by the authorities. If they find the conditions are worse than they had been promised, and are able to find a way out, they may potentially move onto third European countries, with the help of smuggling networks, at further cost.

More recently, patterns of labour exploitation of female Vietnamese migrants in domestic work have been reported in the Middle East, particularly in Saudi Arabia. The death of a 15-year-old worker in 2021 brought these abuses to light – she had been beaten by her employer and denied food and medical treatment. At the same time, among the many workers returned to Vietnam were a number of potential victims of trafficking. In such cases, not all the victims have been officially screened, identified and recognised as such either in the countries of destination or in Vietnam, and there is insufficient action to deter perpetrators, address these patterns, or pursue justice for victims.

5 Labour Migration Cycle – Vulnerabilities

Although it is a choice to migrate for work, various factors shape that choice and affect migrants' power to exercise agency. At each part of the journey – from pre-departure, in transit, in the destination country and upon return to Vietnam – migrant workers are vulnerable. Before leaving, among the many factors that influence vulnerability the major challenge arises from a lack of knowledge and inability to access reliable information, as well as the recruitment fees. These factors also influence the migrant workers' journey. Debt leads migrants to take risks in the destination country in order to earn more.

Competition among migrant workers also increases vulnerability in the destination country, as each migrant worker negotiates their own conditions, with limited access to the experience of those that came before them. On return, exploited workers face significant barriers in being recognised as victims or receiving compensation, support and redress. These are elaborated in more detail below.

5.1 Pre-departure

Several factors make some migrant workers more likely to seek employment abroad and render some more vulnerable to exploitation and abuse than others. For example, ethnic minorities in remote and rural areas of Vietnam have not experienced the same economic benefits in recent decades as the dominant Kinh ethnic group, who make up over 85% of the Vietnamese population. This inequality pushes some families into migrating to seek better-paid job opportunities. In some cases, people are already keen to migrate, but the need for better paid work than they can earn in Vietnam creates vulnerability to exploitation. The economic status of migrants influences the options available to them – whether they can afford the fees to travel to Japan, Korea and Taiwan, or migrate irregularly to neighbouring countries. In addition, they may not be well informed about how to migrate safely.

A study by Apland and Yarrow (2019: 31) focused on Vietnam found that 'in the majority of cases, trafficking victims are not forcibly taken by recruiters, but make active decisions to migrate in pursuit of opportunity or survival and become victims of exploitation in the context of these pursuits, often due to their vulnerability'. This applies to girls in particular, who are more often than boys required to leave school and earn money to support the family. One interviewee from

Bat Xat, Lao Cai said that at the age of 13: *'I had to drop out school because my family has many siblings and I was the second, so I have to stop schooling to work to help my parents'*.⁴⁴ This is a result of gender inequality, and is linked to girls' educational opportunities.

A study by Dinh et al. (2014) on predictors of vulnerability to trafficking in Vietnam found, however, that income levels were of little significance in the risk of labour trafficking. A more telling indicator was linked to education, where household educational levels⁴⁵ were negatively associated with trafficking risk. Dinh et al. extrapolate from this (2014: 8) that 'more educated households might be able to discern legitimate from illegitimate migration'. At the same time, individual education levels are positively associated with trafficking. Dinh et al. (2014) argue that this is because the decision to migrate is taken at the household level, so families will send the best educated family member to work abroad. While recruiters tend to target poorly educated households as they are expected to be less aware of safe migration channels, they also push for the best educated because they offer the best return (Dinh et al., 2014). This aligns with research conducted by Blue Dragon on all forms of trafficking, which found that recruiters target poor, less educated people in rural areas, where they are less aware of scams (Blue Dragon, n.d.).

In Vietnam, sex and age are both identified as significant in relation to vulnerability. Although there is a strong focus on the trafficking of women and girls for sexual exploitation, the literature on human trafficking from Vietnam tends to acknowledge the experiences of men and boys to a greater extent in relation to labour trafficking, although few are officially identified (Kiss et al., 2015). There is a growing body of literature relating to men and boys working in the commercial fishing industry, but also in factory work and agriculture (Pocock et al., 2016; Kiss et al., 2015). The study by Zhang et al. (2021) found that 67.23% of labour migrants to Japan and Taiwan were male. The role of the male as the breadwinner, needing to provide shelter, but also to display power and standing within the family and community, is a powerful driver for men and boys to migrate for work (Hoang, 2020).

All of these factors that encourage demand for employment abroad create vulnerability to exploitation, as individuals are willing to take risks to secure jobs and be able to travel. The reliance of the Government of Vietnam on migrant labour as part of the country's development strategy also means that there are fewer protections in place, a factor that recruiters and employers exploit. In addition, the profits to be made by recruitment agencies and brokers may result in migrants being viewed as commodities that generate revenue rather than clients requiring services from the recruiters, an issue that has been addressed by the ILO (see ILO, 2020: 2). While not all recruiters and brokers display these attitudes, it highlights that

⁴⁴ Interview with returned migrant workers, Vietnam December 2021.

⁴⁵ Measured as the average years of schooling within the household.

migrant workers are at the bottom of rung in the labour export industry.

Some recruitment companies sending migrants officially, with contracts, have been found to take more responsibility for working conditions, and face stricter controls on pre-departure preparations by the destination country. They provide training, including basic language training, skills required for the role, working discipline, Vietnamese law and host-country law related to labour export. Other recruitment agencies provide inadequate training to prepare migrants to work in another country, and the living conditions during the training impose restrictions on them.⁴⁶ This illustrates how some recruiters seek to benefit disproportionately from labour export.

Migrating through formal recruitment systems does not necessarily guarantee more protection, rights and freedoms; and the risk of using private brokers is not significantly different than using licensed agencies. In the study by Zhang et al. (2021) of labour migration to Japan and Taiwan, more than one in five jobs were found through private facilitators or private recruiters rather than official agencies. As these facilitators rely on 'word of mouth' to obtain new migrant workers, they have been reported to be more supportive than registered recruitment agencies in some instances. Even licensed agencies have been found to recruit labour through informal networks and brokers, or to sell their licenses to private companies (Hoang, 2020).

Difficulties in identifying a suitable recruiter, either through lack of knowledge or the need to rely on cheaper options, has increased the level of debt bondage, as aspiring workers can be deceived and overcharged, particularly given the lack of reliable information on the migration process. When migrants go into debt to finance their travel, or arrange travel to pay off existing debt, they may be forced to work overseas until the debt is paid.⁴⁷ In addition, migrants with fewer resources are more likely to travel irregularly than seek out recruitment agencies charging high fees.

There is a link between debt incurred in order to migrate and the likelihood of exploitation. Although dated, Martin (2009) found that Vietnamese migrant workers had the highest debts among Southeast Asian migrant workers, often exceeding the earnings of the first year of a three-year contract. As O'Connell Davidson (2013) argues, migrant indebtedness is a result of state policies. The Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14 (Law 69) adopted in 2020 should reduce the fees passed on to migrant workers. It removes the obligation for migrant workers to pay service fees in addition to brokerage commission and prohibits recruitment agencies from passing on brokerage commissions to workers (ILO,

⁴⁶ Interview with ASEAN-ACT Vietnam.

⁴⁷ Interview with international organisation, Vietnam January 2022; interview with migrant workers, Vietnam December 2021.

2021b). As of 2022, however, migrant workers travelling to Taiwan were still being charged high fees (Bengsten, 2022). Hoang (2020) noted that the migrants interviewed could not fully assess the nature and extent of the risks, particularly when their migration was financed by debt, as many had not participated in the formal labour market before migrating and had no access to adequate information when they decided to migrate.

The lack of pre-departure training and information ensures that the vulnerability of migrant workers continues as they reach their destination.⁴⁸ This includes the availability of necessary information in Vietnamese, including contracts, conditions in the destination country, and requirements of the migrant worker, what the fees cover and the visa requirements. While some NGOs have started to fill this gap, their reach is inadequate, and migrant workers can become victims of trafficking because they are not equipped with the necessary skills and information.⁴⁹ Returned migrants are also reluctant to share their experiences, whether because of shame, a sense of failure, or understanding that nothing can be done.

5.2 Journey

The lack of knowledge that creates vulnerabilities prior to departure continues to do so when migrants are in transit. Many migrant workers have never travelled before they depart for work, and do not know whether the documentation provided by recruiters is accurate or legitimate. Zhang et al. (2021) identified Vietnamese migrants moving through informal channels with forged documents supplied by brokers. There are also instances where recruiters force migrants to declare that a lower recruitment fee was paid as they leave Vietnam, which reveals how recruiters breach legislation to control fees (Zhang et al., 2021).

Many self-funded migrants who pass through borders to neighbouring countries for work have legal travel documents. However, a considerable proportion of migrant's cross borders unofficially via overland trails, either on foot or in vehicles. These irregular migrants are more vulnerable and may experience threats, lack of legal protection and exploitation. Such migrants might easily fall victim to exploitation and abuse as they are unlikely to report to authorities for fear of being deported or being subject to administrative fines on both sides of the border (IOM and MFA, 2017). Vietnamese legislation includes penalties for illegal border crossing, as discussed above, as do many neighbouring countries.

This risk of exploitation further increases during migration. For instance, there are examples of migrants recruited by brokers travelling as tourists to a neighbouring country, as they can enter

⁴⁸ Interview with NGO, Vietnam, December 2021; Interview with returned migrant workers, Vietnam December 2021.

⁴⁹ Interview with NGO, Vietnam, December 2021; Interview with returned migrant workers, Vietnam December 2021.

without a visa, but from there they are transported undocumented through the next border or become undocumented in the third or fourth country.

5.3 At destination⁵⁰

As discussed above, vulnerabilities in the destination countries vary depending on route taken. Migrants perceive that corridors with formal recruitment methods reduce vulnerability, although do not completely exclude it. Workers have faced exploitation through the non-payment of wages, hazardous working conditions, and the withholding of documentation (Zhang, 2021). For employers, migrant workers are viewed as a cheap way of conducting their business, and often seek to maximise this.

Common methods of exploitation by employers include the confiscation of identification, passports and work permits or visas. This effectively controls the migrant workers' movements as they cannot return home and may not be able to move freely in the destination country. Withheld salaries are also common. This includes employers that do not pay for overtime, but expect long hours, or the withholding of fees, including food and board, fines for breaking rules in the workplace or dormitories, and fees taken by brokers in the country (Bengsten, 2022). These forms of exploitation are linked to formal migration, where employers push the boundaries of what is legal. In some instances, employers have been found to violate the law, such as in Japan, where two companies recruiting Vietnamese workers through the TTIP were not providing training (Bengsten, 2022).

When migrants move through informal channels, there is a higher risk of exploitation and abuse, as employers can threaten to report migrant workers to the authorities. Accordingly, the withholding of wages can be more explicit, and some employers have engaged in sexual abuse, as in the case of N:

I worked in Thailand for 8 years before I returned home to have a family and baby. But I worked in many jobs. The first boss did not pay me the first 3 months, only gave me food. He said I am an intern, learning to work so no pay yet. So, I kept continuing to work. Even though I don't know the language, I asked for help to ask for 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 me to police. I am scared. I am in debt with the 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 my stuff. I left, I pretended to go to the market as usual. I thought the boss was good, but he was not, I worked without pay for 4 months. (Interview with female returnee from Ha Tinh)⁵¹

⁵⁰ Interview with returned migrant workers, Vietnam December 2021.

⁵¹ Interview with returned migrant workers, Vietnam December 2021.

The power of debt-financed migration has also caused some migrants who have travelled through formal channels to break their contract, even though they know it is unauthorised, because they have information about work that offers better pay.⁵² Once they are outside their contract, they are more vulnerable as the fear of being penalised for breaching it deters migrants from reporting exploitative conditions, which employers can abuse. When migrants have irregular status in the destination country, they are also more vulnerable.

While some host countries have protections, such as the hotline in China, not all migrant workers know about these or access them because of limited knowledge of the language and social isolation. Migrant workers under contract arranged by recruitment agencies or the DOLAB programme are given information for an emergency and contacts such as help centres, and Vietnamese Labour Attachés in Taiwan, Korea and Malaysia. In addition, some local NGOs provide assistance for victims of trafficking and local Labour Associations, such as in Japan, manage foreign workers. However, returned migrants have noted that other Vietnamese migrant workers are reluctant to assist them, whether by inducting them into the working environment or new location or assisting in cases of exploitation.⁵³

Some recruitment companies maintain contacts with migrant workers at their destination via social networks, although they may be unable to protect their workers if they are trafficked or have other problems while working abroad; instead, they advise their workers to ask the police of host countries for help.⁵⁴ In many cases however, there is limited assistance and contact with the recruitment agency – particularly where brokers have been used to facilitate migration.

5.4 Upon return

On return to Vietnam, migrant workers remain vulnerable. Even if they are victims of trafficking and are ‘rescued’ and returned, there is limited government support. In addition, there are challenges for law enforcement to investigate cases of labour trafficking, such as unclear legal provisions on forced labour and human trafficking and obtaining evidence of exploitation from the destination country.

It takes a long time to obtain government support as returnees or migrants need to be formally identified as victims, which is a complicated process. An individual is typically only identified as a victim of trafficking when criminal justice proceedings are initiated. This is difficult when the perpetrator is an employer in a destination country, which is beyond the jurisdiction of Vietnamese law enforcement agencies, and when labour migration becomes

⁵² Interviews from migrant workers, Vietnam January 2022.

⁵³ Interview with returned migrant workers, Vietnam January 2022.

⁵⁴ Interview with labour export companies, Vietnam December 2021.

trafficking in countries where no offences are identified. Even if trafficking is identified, it is extremely difficult to conduct investigations, collect evidence and pursue prosecutions in the destination country. While the process is underway, potential victims are unable to access shelter and support, which undermines their reintegration.⁵⁵ If a victim returns on their own, referred to as 'self-return', and does not report to the police, there is no formal identification of their status, on which government support depends. As a result, few victims receive support from the government on their return.

Additional assistance is available from NGOs, but because this was initially designed to support women and children, whereas victims of labour exploitation are primarily men, specific support for labour trafficking, and particularly support to male victims, is still limited. Loss of livelihoods because of trauma and lack of support can lead to repeat migration, despite the risks, as there is still a need to earn an income.

Few victims report exploitation when they return to Vietnam (Nguyen et al., 2020). This is partly a result of distrust of the authorities, and also the limited level of support provided. The time taken to process a case, plus a lack of understanding of how to report their case, also determines whether or not to report exploitation. The social stigma associated with prostitution and sex trafficking also deters individuals involved in labour exploitation from reporting their case (Huber et al., 2019). In addition, there is an element of pride, particularly for men who have been exploited, where they will downplay the negatives to present themselves as successful and able to provide for their family. Moreover, because migrant workers want to seek employment abroad, and may have gone into debt to finance their travel, they are less likely to complain.

While the legislation and policy discussed above may present challenges for law enforcement agencies to respond adequately to human trafficking, there are several other problems with implementing the legal and policy response. Nguyen et al. (2020) argue that limitations of law enforcement in detecting and preventing trafficking undermines improvements in legislation. There are reports that unless there is irrefutable evidence, a case is likely to be dropped by law enforcement.⁵⁶ In addition, there is inconsistent application of the law, limitations in the capacity of law enforcement, and difficulty in pursuing cases swiftly. As a result, the response has been heavily focused on security, in particular border-control and defence initiatives, and mostly focused on trafficking into sexual exploitation rather than labour exploitation.

⁵⁵ Interview with NGO, Vietnam December 2021.

⁵⁶ Interview with NGO, Vietnam December 2021.

5.5 COVID-19

The pandemic exacerbated the vulnerabilities and risks labour migrants already faced. In particular, travel restrictions led to delays in the recruitment process, which is potentially dangerous when fees, costs and debt have already been incurred (CREST, 2021). In addition, some employers cancelled contracts and jobs became more insecure due to the closures of certain industries, with the risk that migrants were sent home when they may still have outstanding debts or remaining in the destination country without being able to work (CREST, 2021). The Government of Vietnam coordinated with host countries to claim for wages while on leave due to COVID-19, extend workers' stay in the country, and to ensure their safe return.⁵⁷ This applied only to migrants on formal contracts, and many may have been unaware of the provisions. Irregular migrant workers would be reluctant to seek consular assistance. And as mentioned above, there was a corruption scandal linked to the fees charged for repatriation flights.

In addition, host countries were focused more on protecting their own citizens, with less regard for migrant workers. In some countries, migrant workers faced tighter restrictions than citizens (Buckley et al., 2022). For example, in Taiwan, migrant workers were subject to a curfew that did not apply to Taiwanese citizens (Bengsten, 2022).

COVID-19 increased the available supply of migrant workers eager to travel to neighbouring countries because of a lack of work in Vietnam, particularly in rural areas, and constraints on migrating to preferred destinations that require air travel. In any case, employers did not necessarily want more migrant workers. Difficulties in travelling during the pandemic, particularly during 2020 and 2021, prolonged the waiting time for prospective migrants and increased their debt.

One migrant worker who returned to Vietnam from Thailand highlighted that workers became more dependent on their brokers to facilitate their journey and find employment because of the increased travel restrictions.⁵⁸

*In COVID time, labourers had no way to return to the country, so had to trust the brokers to return home. Brokers chose the hard time to approach to invite [prospective workers] to join overseas work. Brokers either get a broking fee or reduce the wages of the workers.*⁵⁹ (Interview with returnee from Ha Tinh)

⁵⁷ Implementation of Measure for COVID-19 Prevention and Control of COVID-19 in High Peak, No. 02/CĐ-LDTBXH.

⁵⁸ Interview with returned migrant workers, Vietnam December 2021.

⁵⁹ Taking their payment directly from the worker's salary.

6 Protective Possibilities

6.1 Formal protection and support

The government has established local authority assistance centres to provide support to returnees. As stated earlier, victims must be formally identified as such in order to access this support. Even then, the assistance is limited. Centres only provide for short stays, although this has recently been extended to three months (US, 2021). Identification is particularly difficult when returned victims arrive at the Vietnamese border with no documentation. This makes it difficult to identify their origin, and usually involves lengthy interrogations, which many victims seek to avoid because these can be traumatic, preferring instead to return undetected. Identification as a trafficking victim also requires an identified perpetrator, which is difficult in cases of labour exploitation as this may be the employer in the destination country.

While legislation and policy are starting to reflect the fact that human trafficking is a wider phenomenon than sex trafficking, the support mechanisms still focus primarily on women and children, and primarily sexual exploitation. There are social support centres managed by MOLISA that operate across Vietnam, but there is very limited support for men and boys. There is also a need for more social workers to provide adequate support to victims of labour exploitation.

Other mechanisms include Hotline 111, established by MOLISA. The hotline first focused on child rights issues from 2013, but expanded to trafficking from 2019. The hotline provides counselling on trafficking cases, and connects individuals to social assistance shelters and other support. In 2021, the hotline connected 45 victims to support, but the breakdown by type of trafficking is not clear.

Alongside these support mechanisms, the primary means to tackle exploitation is the criminal justice sector although, as discussed above, there are limitations to this response. The US TIP report creates incentives to increase prosecutions, in order to move back up to a Tier 2 ranking; but there is a need to place the emphasis on new investigations and convictions, as well as prosecuting existing cases.

6.2 Non-state protection and support

More support to victims of labour trafficking is available from non-state actors. There are several NGOs and international organisations active in Vietnam working on TIP.

NGOs offer direct support, which can be important in reintegration and even rescue. These include:

- **Blue Dragon Children's Foundation** – which offers short-term shelter, conducts awareness raising on trafficking risks, operates a hotline and rescue service, and an informal migration peer-support group. Blue Dragon also supports children migrating domestically to work in textile industry.
- **Hagar International** – provides psychosocial support and accommodation for victims if needed.
- **Pacific Links Foundation** – runs shelters in two provinces to support returned victims with no time limit for stays and conducts awareness raising on trafficking risks and safe migration.
- **Center for Women and Development – Vietnam Women's Union**⁶⁰ (quasi-governmental) – run safehouses in Hanoi and Can Tho established for gender-based violence (GBV), which have expanded to include trafficked women and children. Victims can stay for six months and are offered wide-ranging support. VWU is linked to the Border Police, and can refer victims, and with the support of the IOM, also runs One-Stop Service Office (OSSO) in some cities and provinces to support returned migrant women.

The support provided by these organisations was originally focused on sex trafficking and/or domestic violence. While they have expanded to accommodate a wider focus on trafficking, to include labour trafficking, the focus is still mostly on women and children, with very limited support for men. Activities tend to adopt the same model that has been applied to sex trafficking, including shelter, psychosocial support and livelihoods training, without considering more innovative approaches to labour exploitation that are more integrated with society rather than withdrawing victims. In addition, support is limited by funding and capacity constraints, as well as competition for funding among organisations.

6.3 Capacity for voice/agency

Although migrant workers are at the bottom of the economic hierarchy, they also have agency. The decision to migrate is complicated, with multiple factors pushing them into overseas work. Choices are made harder because of the lack of adequate information, brokers and recruiters seeking to profit, and a government development strategy reliant on exporting labour. Yet, before they leave, migrants make decisions on the basis of the information and resources available to them, albeit often very limited.

⁶⁰ While a state sanctioned organisation, it has been included here as it operates somewhat independently.

The incidence of Vietnamese facing exploitation to the degree that they are unable to physically leave their employment appears to be relatively rare according to the available data, as well as that collected by this study. It is evident that migrant workers navigate exploitative situations with the resources and knowledge they have, however limited.

A worker may complain to their employer, but they risk being fired and not receiving any salary owed to them, as discussed in the case of N above. A worker may go to the police, but depending on their status they may be deported. Similarly, a worker may go to the Vietnamese Embassy or Consulate (if they are located in the capital city), but given the complicated process of being recognised as a victim, this may not yield a satisfactory result. Depending on how the migration was financed, the need to repay debt or send remittances may be a significant deterrent to reporting exploitation. Generally, migrant workers tend to avoid contact with authorities.

On return, migrant workers navigate through whatever options they have. Few victims of labour trafficking report their cases. This is because of the process and time it takes to be identified as a victim, and many are unaware of how to do so. On their return, migrants may not even contact the authorities.⁶¹ This lack of connection also has a knock-on effect for future migrants, as migrants' experiences are not used to inform aspiring migrants. Several networks have formed to connect returned migrant workers, including an informal network of peer support, and associations of migrant workers, including the Mekong Migrants Network (MMN) and the Vietnamese Domestic Network on Formal and Informal Migration, and these are beginning to overcome the reluctance to speak about experiences discussed earlier.

⁶¹ Interviews with government agencies, Vietnam January 2022.

7 Conclusions and recommendations

Conclusions

Vietnamese migrant workers are extremely vulnerable to exploitation and abuse. They assume the risk of migrating for work and tend to deal with the exploitation themselves rather than reporting it to the authorities. This arises from vulnerabilities they experience directly, such as high fees charged by recruitment agencies, indebtedness, lack of information, and sometimes their irregular status. It is also a result of the lack of support services, difficulties in investigating cases and the lack of incentive to report them. Ultimately, given the benefits arising from migrant labour, there is little incentive to improve the response.

Key Blockages to Addressing Vulnerabilities

The main blockage to addressing vulnerability to labour trafficking is that most stakeholders, particularly the most powerful, have an interest in maintaining the status quo. The government wants workers to migrate, which is a central element of the country's development strategy.⁶² Recruitment agencies and brokers generate a profit by identifying workers and placing them with employers abroad. Employers gain access to cheaper labour, which increases their profit margins. Consequently, there are few incentives to address vulnerabilities and change the dynamics of labour migration. The political settlement prioritises national economic development over individual rights, which may be inspired by the development of the 'East Asian Tigers'.⁶³ As a result, the rights of migrant workers are accorded little priority.

Strategic Networks and Coalitions

The support provided by NGOs to returning workers has been essential for their reintegration. Compared to the state-run shelters, NGO-run shelters provide longer-term accommodation along with other support required by victims of trafficking, even if this is limited, and not tailored to the needs of migrant workers that have

⁶² This may begin to change as industry develops in Vietnam, creating an incentive to retain workers within the country.

⁶³ Between the 1960s and 1990s, Hong Kong, Singapore, South Korea and Taiwan underwent rapid industrialisation which resulted in high economic growth. Growth was prioritised over individual rights.

experienced exploitation. There is also competition among NGOs to showcase their work to donors rather than operating collaboratively.⁶⁴

Currently, Vietnam does not have an MoU on labour migration with all destination countries, although it has MoUs with China, Japan, Korea, Malaysia, Taiwan and Thailand, as well as standard operating procedures (SOPs) on victim assistance and repatriation with Laos and Cambodia. These SOPs need to be in line with international standards and approaches on labour migration, including International Labour Standards and the UN Convention of the Rights of All Migrant Workers and Members of their Family,⁶⁵ but at least they form the basis of interactions between the respective countries.

Opportunity Structures for Investing Resources

The process of being recognised as a victim is long and difficult, even if an individual is considered a victim in the destination country. There is scope to change this process to make it easier for victims to be recognised and access support. Linked to this is a need for increased capacity for identification at border crossings.

In China, the hotline has played a key role in assisting victims of forced marriage to obtain assistance. There is scope for similar services to be more widespread. Given the aversion to interacting with the authorities in many destination countries, alternative sources of information and assistance would help, such as Migrant Resource Centres which may be run by governments or migrant workers' organisations and have been supported by international organisations such as the ILO and IOM.

There also needs to be more emphasis on pre-departure training for migrant workers to inform them of their rights, avenues to seek assistance and ensure they are equipped with the necessary knowledge.⁶⁶

Recommendations

Labour trafficking cases are complex as they rarely fully meet the definition of human trafficking in Vietnam and there are few prospects of identifying a specific perpetrator. Exploitation is often a result of the dynamics of labour migration and its multiple actors rather than collusion and criminal intent among the component parts, from recruiter to transporter to employer. This calls for a more nuanced approach than the routine response to human trafficking, which has generally been developed in response to sex trafficking. Areas that require more attention in Vietnam include:

⁶⁴ Interview, NGO, Vietnam January 2022.

⁶⁵ Interviews with government agencies, Vietnam January 2022.

⁶⁶ Interviews with government agencies, Vietnam January 2022; Interviews with international organisations, Vietnam December 2021.

Legislative and policy changes

- **Increase the coherence of legislation and policy that engages with labour migration** to acknowledge the risks of exploitation and direct the mechanisms that respond to human trafficking to also respond to labour exploitation. There has been some move in this direction, but there is a need for more consistency to make it clear which laws apply where legislation is overlapping or inconsistent.
- **Simplify the process for identifying victims.** Ensure that border officials and frontline law enforcement officers are trained to identify and refer victims.
- Rather than identifying a perpetrator, it may be more appropriate and effective to **assess gaps in protection, negligence on the part of recruiters and other stakeholders**, imposing penalties such as suspension of licenses or monitoring of due diligence mechanisms.
- The **incentive structures in the criminal justice sector** need to be changed to ensure that cases are investigated properly, indictments are submitted to the judiciary, and investigations focus on those involved in the most harm to migrant workers.
- It is essential to **strengthen mechanisms to ensure that recruitment agencies do not breach the legal caps on recruitment fees**, including obliging migrants to declare false recruitment payments at the airport. It is unlikely that mechanisms for migrants to report breaches would gain much traction, so alternative monitoring mechanisms need to be established.
- **Informal brokers currently fall outside the formal migration system**, and are therefore less controlled. Rather than criminalising them, introducing a form of accountability for brokers, such as a registration process, would enable them to provide a better service to migrants.

Increasing the tools available to migrants

- There has been an increased focus on pre-departure training and awareness. **Bringing returned migrants into training** would ensure that this is tailored to what aspiring migrant workers need to know because they would bring first-hand experience.
- **Greater coherence between national and local government agencies on awareness programmes** would also strengthen the approach by ensuring that prospective migrants receive the same information.

Cross-border collaboration

- Given the limited power of the Government of Vietnam to advocate for its citizens' rights abroad, **support in negotiating bilateral agreements, MOUs and labour-supply agreements**

from destination countries, particularly in the ASEAN region, would be beneficial.

- **Advocating for destination countries to uphold provisions in bilateral agreements, and protecting the rights of migrant workers** – appreciating the economic benefits they bring – is also essential. This may be a role for ASEAN.
- **Support for Migrant Resource Centres in destination countries** would provide a means for migrant workers to obtain information, seek advice and report cases. These would require protection mechanisms to prevent deportation and discrimination, otherwise migrants will avoid them in the same way they avoid embassies. Knowledge of these centres would need to be included in pre-departure briefings.
- **Increasing cooperation among law enforcement and border officials through joint training**, which would also help build relationships among authorities from different countries, strengthen collaboration and improve the experiences of victims of labour trafficking by increasing identification and ensuring they are referred appropriately. Training should focus on identification, labour migration dynamics in the respective countries, and referral pathways. The inclusion of NGOs working on labour trafficking would also help to improve trust.

Adapt the approach to migrant workers

- **Current support services are more tailored to victims of sexual exploitation** and there are too few of them. Moreover, different kinds of support, such as in-community services, may be more appropriate. Any such services **need to be adjusted to accommodate men and boys as well as women and girls**; and could also be used to host migrant-support groups.
- **Online recruitment is on the rise**. There is a need for a better understanding of how this affects the dynamics of labour migration, and how to increase protection for prospective migrants.
- **Vietnamese Embassy and Consulate staff should be trained** in how to provide support to migrant workers/TIP victims and initial steps in handling reports and receiving requests for support from Vietnamese citizens abroad.

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