

HUMAN TRAFFICKING IN VIETNAM THE ACTUAL SITUATION AND SOLUTIONS

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ABSTRACT

The phenomenon of human trafficking appeared very early in the history of human society. It begins in the period of slavery and still exists. It has seriously infringed upon freedom, honor, and humanity. At the beginning of the 20th century, the progressive forces and international community developed and signed many important legal documents, approved treaties on fighting against this type of crime. Up to now, there have been many international legal documents providing the concept of human trafficking. In Vietnam, the issue of human trafficking is paid special attention by the Vietnamese Party, Government and competent authorities. In this article, we analyze some of the situations of human trafficking in Vietnam, the efforts of the Government, the Authorities and the Police forces. We also offer a specific solution to effectively apply the prevention and fight against this type of crime in the criminology and investigation issue.

KEYWORDS: Human Trafficking, Humanity, Vietnamese Police, Crime, Investigation, Case

Article History

Received: 28 Apr 2019 | Revised: 09 May 2019 | Accepted: 15 May 2019

INTRODUCTION

Currently, the international community has acknowledged the concept of human trafficking, which is regulated in “the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”; The United Nations Convention against Transnational Organized Crime (adopted by General Assembly resolution 55/25 of 15 November 2000). Accordingly, “*Trafficking in persons*” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. [1].

In the Constitution of Vietnam in 1946, 1959, 1980, 1992 and 2013, there are articles to identify and protect basic human rights. Specifically, Article 20 of the Constitution of the Socialist Republic of Vietnam in 2013 stipulates “Everyone has the right to inviolability of his or her body and to the protection by law of his or her health, honor and dignity; no one shall be subjected to torture, violence, coercion, corporal punishment or any form of treatment harming his or her body and health or offending his or her honor and dignity”. [15, tr 40]. Specifying the Constitution on human rights, Vietnam's Penal Code has specific provisions, crimes and penalties related to human trafficking. The 1985 Penal Code prescribed this crime in two articles: Trafficking in women and Trafficking, appropriating or swapping children. In 1999, the National Assembly issued the new Penal Code, these two offenses were continuously stipulated in Article 119 (trafficking in

women) and Article 120 (Trafficking, appropriating and swapping children). After 10 years of implementing the Penal Code 1999, there are new criminal offenses. The object of trafficking is not only women and children but also men. While the provisions of the Penal Code only identified acts of trafficking in women and children that constituted a crime. Therefore, to meet the requirement of fighting against this crime, on June 19th 2009, the 12th National Assembly issued Law No. 37/2009/QH12 to amend and supplement some articles of the Penal Code in 1999, which amended the name of Article 119 to "Human trafficking", identifying victims including women and men from 16 years of age and above; Article 120 identified victims as children (including boys and girls) under 16 years old or younger. In 2015, the National Assembly of the Socialist Republic of Vietnam passed the Penal Code 2015 (amended and supplemented in 2017), which took effect from 01/01/2018. Accordingly, criminal acts related to human trafficking are prescribed in the following articles: Article 150. Human Trafficking; Article 151. Trafficking of a person under 16; Article 153. Abduction of a person under 16; Article 154. Trading, appropriation of human tissues or body parts.

In addition to the provisions in criminal law, Vietnam has also passed the Law on Human Trafficking Prevention and Combat in 2011, taking effect from January 1st, 2012. In other legal documents, there are also provisions for the prevention against this crime, specifically: Clause 1, Article 13 of the Law on Adoption provides forbidden acts such as "Taking advantage of child adoption for self-seeking, labor exploitation, sexual abuse; kidnapping, trafficking children "; Point i, Clause 2, Article 5 of the Law on Marriage and Family 2014, prohibits "Taking advantage of the marriage and family rights for human trafficking, labor exploitation, sex abuse or other acts for self-seeking purposes".

The characteristics of this crime are related to foreign countries, transnational. Vietnam has cooperated with many countries and international organizations, especially cooperation with neighboring countries: signing the Bilateral Cooperation Agreement on the prevention and combat against human trafficking with Cambodia (2005) and Thailand (2008); Agreement between Vietnam and China on strengthening cooperation in human trafficking prevention and combat (2010); Approve the Convention against transnational organized crime; The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children.

Along with providing a legal basis for the fight against human trafficking, the Government of Vietnam has also approved and directed the implementation of the National Program on Human Trafficking Prevention and Fighting in period 2016 – 2020. Every year, July 30th is chosen as National Day against human trafficking.

The situation of human trafficking in Vietnam is being controlled, however, it still remains unpredictable factors. The modus operandis is very sophisticated. There is a close connection between domestic offenders and foreign ones. They also formed human trafficking lines from Vietnam to areas such as Hong Kong, Singapore, Malaysia, Taiwan... with the main purpose of becoming prostitutes, working in entertainment establishments and labor services. The situation of illegal trafficking in organs, offspring, and marriage brokerage with foreigners is complicated, causing an impact in public opinion, affecting security and order in many areas. Besides being trafficked into prostitution establishments, women and children are also abducted for labor abuse and fetus smuggling. There are lines to transport people to China, Cambodia or Thailand for surrogacy.

Identify the Problem

According to statistics of the authorities, in the period 2013-2018, there were 2,353 cases discovered with 3,327 offenders, 5,518 victims. On average, there are about 400 cases of human trafficking with over 900 victims every year. In

which, 1,950 human cases were prosecuted and 2,851 offenders were arrested.

Table 1: Total of Cases Detected, Cases Prosecuted and Victims from 2013 - 2018

Year	Cases Detected			Cases Prosecuted		Victims Rescued
	Cases	Offenders	Victims	Cases	Offenders	
2013	507	697	982	507	697	833
2014	469	685	1031	334	616	1031
2015	407	655	1000	351	544	644
2016	383	523	1128	234	308	520
2017	376	491	991	324	425	708
2018	211	276	386	200	261	665
Total	2353	3327	5518	1950	2851	1893

Among the victims of human trafficking, 5,012 were women and children (90.83%), most of them were from ethnic minorities (over 80%). Victims, who are sold abroad, account for more than 98%, of which mainly go to China (over 90%). The number of victims who returned was 3,557 people, of which the number of victims returned and rescued was 1,893, the number of self-returning victims was 1,761. Female victims, who are deceived to traffick and forced to marry indigenous people and sexually abuse, account for nearly 80%.

The Characteristics of the Offenders:

Examining 450 offenders who have been prosecuted in the period 2013-2018, the author has drawn the following outstanding features:

In terms of nationality: In 450 offenders, there are 31 foreigners, accounting for 6.89%, the rest are Vietnamese, accounting for 93.11%. 20 of which are Chinese (4.4%), 6 are Cambodian (1.33%), and 5 comes from Taiwan, Singapore, Malaysia.

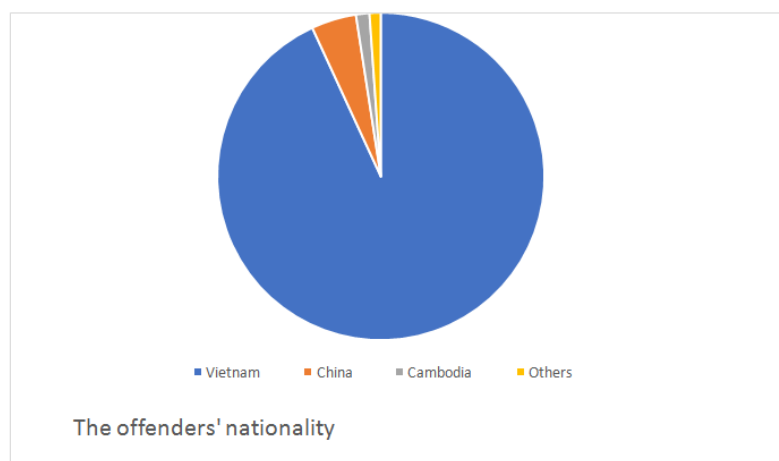


Figure 1: The Offenders' Nationality from 2013 - 2018

In terms of Gender: The majority of offenders are women. Among 450 offenders, 317 are female, accounting for 70.45%; 133 subjects are male, accounting for 29.55%. This stems from the trick of criminals, which is to deceive and seduce. Therefore, the suspect may get access to the victim to lure the victim into a trap, which is more suitable for women than men. Psychology of the victims and their relatives is credulous when persuaded by women. Many people, after listening to the sweet voice of the women, are ready to let their children go with them for working, visiting or marrying

foreigners. Some people, who have been victims or married foreigners, return to deceive other women and children, even their family members. The others take advantage of trade and business across borders to commit crimes.

Table 2: Total of the Offenders' Age from 2013 - 2018

Offenders	Gender		Age		
	Male	Female	Under 25	25-35	Above 35
450	133	317	58	286	106
Percentage	29,55%	70,45%	12,89%	63,56%	23,55%

In terms of age: According to the statistics, there are 286 offenders aged between 25 and 35, accounting for the highest proportion with 63.56%. The number of offenders aged under 25 years old is 58, accounting for 12.89%. The number of offenders aged over 35 is 106, accounting for 23,55%.

In terms of educational background: There are 49 illiterate offenders, accounting for 10.89%. 176 offenders only attended primary school, accounting for 39.1%; 117 offenders attended secondary school, accounting for 26%. There are 108 offenders who attended high school or higher education institute, accounting for 24.01%. Mainly criminals have a low educational background. This data draws out that backwardness is also one of the reasons for committing crimes.

In terms of occupation: The number of people, who have no jobs or unstable jobs, is 304, accounting for 67.6%. In this case, the offenders are in complicated social position, many of whom have criminal records, disciplinary offenses, the sack or have participated in social evils such as prostitution, drugs, gambling. Those who have jobs account for a low percentage and these are only jobs that do not have high stability such as driving, free laboring... There are 146 employed ones, accounting for 32,4%.

Table 3: Total of Offenders' Educational Background and Occupation

Offenders	Educational Background				Occupation	
	Illiteracy	Primary School	Secondary School	High School and Above	Employed	Unemployed
450	49	176	117	108	146	304
Percentage	10,89%	39,1%	26%	24,01%	32,4%	67,6%

In terms of criminal records of the offenders: Most criminals are opportunists. The number of people who have a criminal record of trafficking is 193/450, accounting for 42.89%. Others are foreigners, who enter Vietnam through brokerage companies in the form of tourism, economic projects. Then, they connect with the Vietnamese brokers to form transnational human trafficking lines. In addition, some people, who have been victims or married foreigners, deceive other women and children, even their family members.

The Characteristics of the Victims:

Through a survey of 718 victims of trafficking in Vietnam in the past, the author has drawn out the following characteristics:

The victims of human trafficking are in different social position. Most of them are from poor, disadvantaged families. There may be unemployed people or only seasonal jobs. A study on the standard of living and occupation of the victim shows that:

Victims are mostly in rural areas. They have no stable jobs and have low income (542/718 people, accounting for 75.5%). Vietnam is a country with 64.3% of the population living in rural areas, rural labor also accounts for the majority of the country's labor force. In recent years, the trend of urbanization is increasing, though, according to the General Statistics Office, by 2018, Vietnam had 37.8 million rural workers, accounting for 68% of the labor force. [http://www.gso.gov.vn/default.aspx?tabid=621&ItemID=19037]. However, rural labor is seasonal. Therefore, the rural labor force is not used up. Unemployment is increasing, creating a wave of migrating to urban areas, industrial parks, and border gates to find jobs. People who are attached to agriculture still have a lot of leisure time and their incomes are low. They are easily deceived because most of them wanted a high-paid job for a happy life. Besides, for some reasons, women cannot get married or are abused by their husbands... They easily become special “goods” for criminals. Many victims are sold abroad then escape, though, they don't denounce to the police agencies. Therefore, the criminals are not detected, punished and they continue to commit crimes.

Many victims of human trafficking are prostitutes, waitresses of restaurants and hotels, working in businesses subject to security and order (125/718, accounting for 17.41%). They are “potential” victims, because of the fact that they are easy to persuade and less protected. A research on occurred incident shows that the offenders often hunt for this kind of “goods” at hotels, bars, barbershop, massage parlor. They fully exploit the disadvantageous psychological factors to deceive them.

Women with no stable occupations and homeless children are also victims of human trafficking, accounting for 5.15% (37/718 people). This is a lucrative "source" for the offenders to exploit. They have used some words to persuade such as looking for work, going to adoption, being a babysitter or housemaid. Because of the sweet words and the promise of a better life, many people quickly became victims in human trafficking cases.

Along with the above-mentioned ones, victims of this crime may also be students, who like to live in a debauched life. Some victims are still children in kindergartens, newborns, and children in maternity hospitals, orphaned children, children in SOS villages However, this only accounted for 1.95% (14/718).

In terms of the educational background of the victims:

The research shows that the majority of victims in trafficking cases have a low educational background. Their cognitive ability is very limited, especially women and children in rural areas. Specifically: 31 illiterate victims (4.32%); 297 victims attended primary school (accounting for 41.36%); 308 victims attended secondary school (accounting for 42.9%); 82 victims attended high school or higher education institute (accounting for 11.42%). Most victims are honest and gullible. Because of the dirty tricks of the traffickers, they are easily deceived and become special goods.

Table 4: Total of the Offenders' Education Background in the Field of Age and Gender

Total	Educational Background				Age		Gender	
	Illiteracy	Primary School	Secondary School	High School and Above	Under 16	Above 16	Male	Female
718	31	297	308	82	30	688	15	703
Percentage	4.32%	41.36%	42.90%	11.42%	4.18%	95.82%	2.09%	97.91%

In terms of age and gender: A study on 718 victims of human trafficking indicates that:

There are 30 victims under 16 years old (accounting for 4.18%). 688 victims are above 16 years old (accounting for 95.82%)

703 victims are female (accounting for 97.91%). 15 victims are male (accounting for 2.09%). Most of the male victims are under the age of 10, even infants.

Thus, victims over the age of 16 account for the highest proportion. In terms of gender, victims of human trafficking are mostly women (over 90%). This result is consistent with the need of the bosses.

In terms of the demand. A study on human trafficking cases in recent years shows that the victims are sold to China for the marriage to Chinese men and the others are sold for adoption or sex abuse... The statistics on the demand are difficult because a victim can be bought and sold many times, used for different purposes. Some women were initially sold to marry Chinese, afterward, their husband sold them to prostitution services. On the other hand, some prostitutes are bought to become wives of the sex purchaser.

Children victims (under 16 years old) are purchased for the following purposes: newborn babies or children aged under 8 years old, are used for adoption at infertile family; children between the ages of 8 and 12, are trafficked to do household chores, serve as waiters; children between the ages of 12 and 16, are used for different purposes. If it is a female child, the main purpose is to work as a prostitute... However, it is difficult to determine the demand for children sold abroad.

In recent years, babies, fetuses and ethnic men have been trafficked for body parts or coercive labor.

Common tricks of offenders are taking advantages of economic difficulties, unemployment, low education levels, loss of vigilance, gullibility or loopholes in law enforcement to sell people overseas in the form of forced labor, forced prostitution, forced marriage. Subjects also take advantages of loose management and lack of attention from families and schools to approach, entice students to travel, shop or work with high income, then, sell them abroad. Therefore, victims of trafficking crimes are mainly people in rural, mountainous, isolated areas, most of whom are unemployed, having difficult economic conditions, lacking knowledge of society and life skills,

In recent times, criminals have taken advantages of policies in facilitating immigration process, granting citizens' passports and convenient cross-border passports or that some countries even exempt visas. They organize lines to send people abroad in the form of tourism, family visits, illegal labor export and then seize papers and passports.

Recently, there is also the situation of offenders coming to rural and mountainous areas, finding families with difficult economic conditions and those who need to sell organs (mainly kidneys), then contact with hospitals for the procedure of organ donation. They also falsify records to benefit from the organ donation, which is actually the organ trafficking. Pregnant women are also subjects for traffickers to entice and deceive (mainly China) to buy and sell fetuses.

Some Main Causes

Human trafficking continues to happen complicatedly and there is some following main causes:

Firstly, Vietnam has many favorable conditions for the operation of human trafficking, creating many difficulties for functional agencies to fight against this crime. Vietnam is located in Southeast Asia, bordering Laos, Cambodia, and China. Among them, the gender imbalance of China has created an increase in the activity of human trafficking, mainly buying and selling women across the border for the purpose of prostitution, unlawful marriages and illegal labor in other

countries. The population of Vietnam living in rural areas accounts for a large proportion, most of whom have low education levels, lack knowledge, lack jobs or have unstable jobs, low income, and unstable life. Therefore, these people are likely to become victims of trafficking abroad.

Secondly, the market economy and the integration trend, though bring great achievements, have their downsides. Along with them are the global economic downturn, the difficult socio-economic situation in the country, the acceleration in urbanization rate, the large population, the unemployment, the difference in income and living standards. All of these are always factors affecting the rise of criminals in general and human trafficking criminals in particular.

Thirdly, the prevention and combat of human trafficking crimes are determined by the Vietnamese Government to be an important political task. However, some ministries, branches, and localities have not really participated, lacking specific plans and measures. Therefore, they still have not attracted all strata of society to prevent and actively fight against human trafficking. As a result, the operation of these crimes happens complicatedly and tends to increase and internationalize with potential lines and gangs working underground.

The management of entry, exit, and state management in border areas, especially roads, have loopholes, shortcomings and weak forces that cannot control small roads and trails in the border regions. Therefore, criminals take advantage of this to bring people, especially women and children across the border, organize to illegally exit. Besides, the work of grasping the situation and directing the combat against this crime by the Police and Border Guard forces at all levels still have many shortcomings and weaknesses. The rate of investigation has not yet reflected the true situation; therefore, having not effectively prevented this evil. According to the survey results of the authorities, the country has identified about 22,000 women and children who are absent for long periods with unknown reasons, suspected to be trafficked. However, there is still no solution to verify the clarification. Every year, the functional force has only discovered about 400 cases related to human trafficking (mainly trafficking across the border) and the number of cases of human trafficking for sexual coercion and inland labor has not been discovered much. Most cases of trafficking in people and children are discovered and investigated through letters of denunciation from victims, victims' families or mass media agencies

Fourthly, the propaganda is not associated with local socio-economic development programs, so the awareness of people, especially those in high-risk areas, is not raised. Most victims do not have information when looking for a job or getting married abroad, so they are easily deceived and have no skills to protect themselves.

Fifthly, the work of receiving, supporting, educating and creating jobs to integrate into the community for victims of trafficking is still difficult. So far, only 80% of victims have access to the services and 30 - 40% of victims have received funding for community integration.

Sixthly, the legal system is not fully completed. Many legal documents on crime prevention are still fragmented. There is a lack of specific guiding documents, so the process of implementation is confusing and inconsistent.

Seventhly, there is no specialized force to prevent and combat human trafficking. Police are the core force to deal with this crime, however, most localities do not have a specialized unit. In the police departments at the provincial level, professional teams are in charge of investigation activities when there are trafficking cases. Thus, the fighting results are limited. (In the Ministry of Public Security, there is only 1 Section under the Criminal Police Department; there are only 3 - 4 localities that establish a team under the Criminal Police Section to prevent and combat against human trafficking).

Eighthly, international cooperation in the prevention against human trafficking has not been as effective as expected due to many reasons such as judicial procedures, diplomatic barriers, and legal systems. Many requests from the Vietnamese agencies that require the relevant authorities of neighboring country to verify (especially cases of victim rescue), are not replied. This leads to the fact that the rescue of victims and the arrest of offenders are at low efficiency. In some cases, the Ministry of Public Security has to send an investigating team abroad to rescue victims or interrogate Vietnamese suspects captured by the police of neighboring country, nevertheless, it is difficult because entry and exit procedures take time. In particular, there is a lack of agreements in mutual legal assistance, criminal extraditions and specific cooperation plans in the prevention against human trafficking. As a consequence, it is very difficult to cooperate and exchange related information.

DISCUSSIONS AND SOLUTIONS

In the coming years, the situation of human trafficking in the world and in Vietnam continues to be complicated, especially for transnational trafficking offenders. In order to fight effectively with this crime, there need to be comprehensive solutions. Functional forces should improve the effectiveness of international cooperation in fighting against this type of crime. Accordingly, the following contents need to be well implemented:

Strictly implement the Prostitution Prevention and Fighting Program In 2016 – 2020 Period; the Directive No. 48/CT-TW dated October 22th 2010 of the Politburo on strengthening the Party's leadership towards crime prevention and combat in the new situation; National strategy of crime prevention and control in the period of 2016-2025 with a vision to 2030.

Adopt measures to disseminate the tricks of offenders to people. Collect reports and denunciations about suspects of human trafficking activities in the locality. Operate hotline (phone, email...) to collect information about the offenders. Regularly launch campaigns to fight against human trafficking on key routes and areas, provinces sharing borders with China, Laos, and Cambodia. Exchange information with the Police and Border Guards of neighboring countries to identify the offenders and the victims. Patrol secretly and in public in border areas to prevent cases of illegally transporting people across the border.

Handle organized crimes for transnational human trafficking. Definitely settle the backlog cases. Organize community reintegration activities for the victims. Cooperate with organizations such as Youth Union, Women's Union, Labor - War Invalids and Social Affairs... to help the victims quickly overcome difficulties and inferiority; help them with vocational training, psychological counseling, free medical treatment.

Strengthen international cooperation in the prevention and fight against human trafficking. Implement international treaties and bilateral agreements on the prevention of human trafficking. Develop legal mechanisms related to international cooperation in the fight against crimes in general and human trafficking in particular, in accordance with domestic and international laws. Advise the Government to sign the mutual legal assistance and criminal extradition agreements, with some countries involved. At the same time, institutionalize bilateral international treaties to enhance cooperation effectiveness in the field of crime prevention and combat.

The Ministry of Public Security should strengthen cooperation with international organizations such as Interpol, Europol, Aseanapol in fighting against human trafficking. Implement Resolution of Interpol General Assembly, joint statements and cooperation mechanisms with related countries such as China and ASEAN countries in the fight against

human trafficking.

Build a contingent of officers in charge of fighting and preventing human trafficking from the central to local levels, with professional qualifications... to meet the task of preventing and fighting against human trafficking.

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