

Joint Submission to the Universal Periodic Review of Vietnam

46th Session of the UN Universal Periodic Review

Topics Covered:

Enforced Disappearance & Transnational Repression,

Torture, Inhumane or Degrading Treatment,

Death Penalty, and

Trafficking in Persons

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Introduction

It addresses the following areas of concern that have received numerous recommendations from Vietnam's third Universal Periodic Review (UPR) in January 2019:

- (1) Enforced Disappearance & Transnational Repression
- (2) Torture, Inhumane or Degrading Treatment
- (3) Death Penalty
- (4) Trafficking in Persons

Enforced Disappearance & Transnational Repression

During the January 2019 UPR, Vietnam did not accept recommendations from Iraq¹, Slovakia², and Ukraine³, and accepted Mexico's recommendation.^{4, 5} At the time, Vietnam was under intense criticism by the international community for the abduction of Trinh Xuan Thanh, a former [PetroVietnam](#) executive, in July 2017 on German soil.⁶ Yet, after the 2019 UPR, Vietnam committed the extraterritorial abduction, enforced disappearance, and forced transfer of two journalists seeking refugee protection in Thailand.

The case of Trương Duy Nhất - a Vietnamese journalist abducted in Thailand and sentenced to 10 years in prison

Within 72 hours after the 2019 UPR of Vietnam, on 26 January, 2019, journalist Trương Duy Nhất, who worked for Radio Free Asia at the time, reportedly disappeared in Bangkok, Thailand. Two eyewitnesses provided BPSOS with photos and video clips showing the Thai police monitoring and arresting Nhất. According to the third witness, a Thai police officer, the police took Nhất to a relatively low-traffic area and delivered him to people who appeared to be

¹ 38.15 Continue efforts to accede to the International Convention for the Protection of All Persons from Enforced Disappearance

² 38.23 Ratify the International Convention for the Protection of All Persons from Enforced Disappearance

³ Ibid.

⁴ 38.16 Consider adhering to the International Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Rights of All Migrant Workers and Members of Their Families

⁵ Report of the Working Group on the Universal Periodic Review Viet Nam, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review," United Nations Human Rights Council, June 26, 2019, A/HRC/41/7/Add.1, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/189/46/PDF/G1918946.pdf?OpenElement>

⁶ "Germany Claims Vietnam Kidnapped Asylum-Seeker Wanted By Hanoi," VOA, August 3, 2017, available at: <https://www.voanews.com/a/germany-vietnam-kidnapping-/3970479.html>

Vietnamese in a white van⁷. This witness' report includes a picture of this van, its license plate, and its registration documentation, which shows that it was the property of the Thai police.⁸

During his trial on 14 August, 2019, Nhất disclosed that he had been arrested by Thai Royal Police on 26 January, the day after he registered with the UNHCR for refugee protection, and handed over to Vietnamese police in Thailand, who then took him across the border into Laos, and from there back to Vietnam,⁹ confirming the account of the three witnesses in Thailand. On 9 March, 2020, he was sentenced to 10 years for the ambiguous charges of “*abusing his position and power while on duty.*”¹⁰ He was originally charged with illegally acquiring property, but this charge was later dropped for lack of evidence to convict him.¹¹ On 17 August, 2020, the People's Appeal Court upheld that sentence.¹²

On 18 September, 2020, the Working Group on Arbitrary Detention (WGAD) rendered its opinion about the arrest of Trương Duy Nhất: “The Government of Viet Nam is responsible for its action in detaining Mr. Nhat in Viet Nam, as well as jointly responsible with the Government of Thailand for the arrest, detention and forced transfer of Mr. Nhat to Viet Nam,”¹³ and the U.S. Department of State, in its press release, expressed grave concern and dismay “by the conviction of blogger and Radio Free Asia (RFA) contributor Truong Duy Nhat, and his sentencing to 10 years imprisonment” on vague charges. The press release called for the immediate release of Nhất and all prisoners of conscience in Vietnam.¹⁴

⁷ Ibid.

⁸ Ibid.

⁹ Truong Duy Nhat, Contributor and blogger, RFA Vietnamese Service, US Agency for Global Media. Available at: <https://www.usagm.gov/news-and-information/threats-to-press/truong-duy-nhat/>

¹⁰ “Vietnamese blogger who was abducted in Thailand sentenced to 10 years in prison,” Committee to Protect Journalists (CPJ), March 9, 2019. Available at: <https://cpj.org/2020/03/vietnamese-blogger-who-was-abducted-in-thailand-se/>

¹¹ “Vietnamese blogger who was abducted in Thailand sentenced to 10 years in prison,” Committee to Protect Journalists (CPJ), March 9, 2019. Available at: <https://cpj.org/2020/03/vietnamese-blogger-who-was-abducted-in-thailand-se/>

¹² Vietnamese blogger Truong Duy Nhat's 10-year jail sentence upheld on appeal, CPJ, August 17, 2020, available at: <https://cpj.org/2020/08/vietnamese-blogger-truong-duy-nhats-10-year-jail-sentence-upheld-on-appeal/>

¹³ Ibid.

¹⁴ U.S. State Department Condemns Jailing of RFA Blogger in Vietnam, Radio Free Asia, March 16, 2020. Available at: <https://2017-2021.state.gov/sentencing-of-blogger-and-radio-free-asia-contributor-truong-duy-nhat/index.html>

The case of Đường Văn Thái - A journalist jailed in Vietnam after disappearing in Thailand

Undeterred by international criticisms for its kidnapping activities, Vietnam was again involved in the abduction of dissident journalist Đường Văn Thái on 13 April, 2023. By that time, Thái had already been recognised a refugee and was being processed for resettlement by the UN High Commissioner for Refugees (UNHCR).¹⁵ On 16 April, the Police Department of Ha Tinh Province announced that Thái was in its custody after being captured while allegedly trying to enter Vietnam illegally.¹⁶ On 20 July, the MPS officially notified Thái's family that he was detained at MPS' Detention Center B14 in Hanoi for "propaganda against the state" in violation of Article 117 of the Penal Code and not for illegal entry as initially accused.¹⁷

Use of Interpol's "red notice" to pursue political dissenters

In a related matter, Vietnam has abused Interpol's "red notice" in its attempt to intimidate or actually capture human rights defenders outside of Vietnam. On 12 January, 2017, the MPS issued an arrest warrant against Pastor A Ga; the MPS later confirmed that it also issued an Interpol "red notice" against him. In early 2018, the Thai police arrested him and arranged for him to be interviewed for repatriation by a Vietnamese diplomat based in Bangkok. Thanks to the strong intervention by the US Department of State, the Thai government allowed the UNHCR to quietly relocate Pastor A Ga and their family to the Philippines. On 23 January, 2023, the official website of MPS announced that an Interpol "red notice" had been issued against him, now a U.S. legal permanent resident.¹⁸ Then, on 8 April, 2023, the MPS officially announced criminal prosecution against Pastor A Ga, in absentia.¹⁹

¹⁵ "Journalist Duong Van Thai arrested in Vietnam after disappearing in Thailand," Committee to Protect Journalists (CPJ), April 18, 2023, available at: <https://cpj.org/2023/04/journalist-duong-van-thai-arrested-in-vietnam-after-disappearing-in-thailand/>

¹⁶ "Vietnamese police confirm missing blogger is in their custody," RFA, April 18, 2023, available at: <https://www.rfa.org/english/news/vietnam/duong-04172023160927.html>

¹⁷ "Vietnam arrests blogger who went missing in Thailand in April," RFA, July 20, 2023, available at: <https://www.rfa.org/english/news/vietnam/duong-04172023160927.html>

¹⁸ "Bài cuối: Vạch trần bản chất của đối tượng cầm đầu (Last article: Unmasking the nature of the subject instigators)", Công An Nhân Dân, Jan 27, 2023, available at:

<https://cand.com.vn/Chong-dien-bien-hoa-binh/bai-cuoi-vach-tran-ban-chat-cua-doi-tuong-cam-dau-i642895/>

¹⁹ "Bắt đối tượng "Phá hoại chính sách đại đoàn kết (Detained a subject for "sabotaging the national solidarity policy)", People's Public Security, April 8, 2023, available at: <https://cand.com.vn/Ban-tin-113/bat-doi-tuong-pha-hoai-chinh-sach-dai-doan-ket-i689378/>

Similarly, on 18 August, 2023, An Ninh TV, the official television program of the MPS, announced that the Investigative Office of the Public Security Department of Thanh Hoá Province's arrest warrant against Lê Văn Sơn, a U.S. legal permanent resident.²⁰

Recommendations:

- (1) Release all abductees from prison and return them to the country where they were abducted, namely returning Trịnh Xuân Thanh to Germany and Trương Duy Nhất and Đường Văn Thái to Thailand.
- (2) Immediately end all acts of transnational repression, including the issuance of arrest warrants and abuses of Interpol's "red notice", against human rights defenders and political dissidents residing outside of Vietnam.
- (3) Take the necessary steps to sign and subsequently ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Torture, Inhumane or Degrading Treatment

At its 2019 UPR, Vietnam rejected recommendations to ratify the Optional Protocol to the Convention against Torture submitted by Denmark, Hungary, Ukraine, and Czechia²¹. It accepted in part recommendations from France²² and the United Kingdom of Great Britain and Northern Ireland²³ to fully implement the 2018 recommendations from the UN Committee (CAT) against Torture. It also accepted in part Switzerland's recommendation²⁴ about

²⁰ Công an Việt Nam lại phát lệnh truy nã cựu TNLT Lê Văn Sơn (Vietnamese police issues arrest warrant former prisoner of conscience Le Van Son)", Voice of America, August 31, 2023, available at:

<https://www.voatiengviet.com/a/cong-an-viet-nam-lai-phat-lenh-truy-na-cuu-tnlt-le-van-son/7248813.html>

²¹ 38.2 Ratify the Optional Protocol to the Convention against Torture (Denmark); Ratify and implement the Optional Protocol to the Convention against Torture, including by establishing a national preventive mechanism in accordance with the Protocol (Hungary); Ratify the Optional Protocol to the Convention against Torture (Ukraine); Strengthen protection against torture by, inter alia, ratifying the Optional Protocol to the Convention against Torture and stepping up efforts to end impunity for all perpetrators of torture (Czechia)

²² 38.6 Implement the recommendations contained in the concluding observations of the Committee against Torture of December 2018

²³ 38.32 Draw up and publish a national plan of action, implementing recommendations from the Committee against Torture in 2018

²⁴ 38.27 Strengthen its cooperation with the bodies of the Council and the various international instruments, including the special procedures, notably by accepting the visit of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

cooperation with the UN bodies, while accepting recommendations from Mongolia²⁵, New Zealand²⁶, and Togo²⁷.

Torture against Montagnard (Degar)

A. The case of Y Khiu Niê, tortured for attending online training

UN joint allegation letter No. AL VNM 2/2023 referred to Y Khiu Niê, a 21-year-old Montagnard Christian. On 15 May 2023, Y Khiu Niê from Buôn Ma Thuột City was arrested at 3 pm and brought to the police station, where he was kept for more than two days for interrogation by security police officers who punched him repeatedly to the face and upper body for attending the online training offered by Boat People SOS (BPSOS) on Vietnamese law, UN human rights conventions, and civil society development.

B. The case of Y Dương Bkrông, punished for practising Christianity

Incidents of torture increased dramatically after the armed attacks on two commune offices in Cư Kuin District of Đắk Lắk Province that reportedly caused the death of six police officers, two commune officials, and three civilians on 11 June, 2023. We received reports of interrogation, threats, and beatings at police stations even though the arrested individuals were not involved with the shooting incidents. On information and belief, the government authorities used the shooting incidents as a pretext to target them for not joining government-sanctioned religious organisations.

Y Dương Bkrông from Ea Tul Commune, Cư M'gar District, Đắk Lắk Province, was reportedly swept up during the police investigations related to the shooting incidents. From 20 to 23 June 2023, police interrogators beat him to make him confess, but he had nothing to confess because he was not involved with the shootings at all. Police interrogators punched and used batons to brutally beat him to force him to admit that he had supplied weapons to the shooters. He cried

²⁵ 38.18 Strengthen dissemination of fundamental provisions of the Convention against Torture and of Viet Nam's regulations for preventing torture

²⁶ 38.147 Ensure that evidence obtained through torture is inadmissible in trial in keeping with Viet Nam's obligations under the Convention against Torture

²⁷ 38.148 Take steps to prohibit harassment and torture during the investigation process and detention, and punish perpetrators

and begged them to stop. The more he cried, the harder they beat him. They injected a drug in his back, then continued to question him. His wife was also taken in and brutalized by the police. On 18 July 2023, they both escaped to Thailand to seek refugee protection from the UN High Commissioner for Refugees. In Thailand, Y Dương Bkrông suffered distress and pain because of the injection which the Vietnamese police described to be a chemical that would cause his death within two years.

Torture against H'mong

A. Ma A Sính from Lâm Đồng Province in the Central Highlands

Thousands of Hmong Christians who had moved from Vietnam's northern provinces to the Central Highlands continue to live without legal status for lack of essential identification documents such as national ID cards and household registry cards. Their communities lack usable roads, electricity, public schools, and medical clinics among others. International human rights organizations were providing legal assistance to this community when the local government pressured residents to sever all ties with the organizations and targeted community representatives for communicating with those organizations, such as Ma A Sính from Lâm Đồng Province in the Central Highlands.

On 21 February 2023, a human rights officer from the U.S. Consulate General in Ho Chi Minh City travelled with two colleagues to the Central Highlands to meet with victims of religious persecution; Ma A Sính met with them. The police subsequently arrested and interrogated him about the topics he had discussed. They also asked him about information they found on his phone about a recent online meeting of H'mong victims with a commissioner of the U.S. Commission on International Religious Freedom (USCIRF). They beat him repeatedly to extract this information.

Ma A Sính and around 700 other H'mong residents of a remote, self-built village in Subdivision 179, Liêng S'rôn Commune, Lâm Đồng Province, had been "undocumented" for over two decades. All residents are Hmong Christians who escaped or were evicted from their home provinces in northern Vietnam because of religious persecution. This community was ignored by their new local government, e.g., no birth certificate or schooling for the children and no death certificate or marriage license issued. A few years ago, BPSOS and ADF International joined

forces to provide legal aid, and several residents of the stateless community were issued ID cards and other personal papers. However, the local government wanted to punish the community representatives (such as Ma A Sính) for working with Western diplomatic missions and international NGOs to defend the legitimate rights of their fellow Hmong Christians. Consequently, the central government has set aside 120 billion VND for the construction of roads and other infrastructure for this long-neglected community, but the provincial government delayed the project indefinitely and started to persecute people like Ma A Sính.

B. Attacking Hmong Christians of the Church of the Loving God on Mount Zion

In August 2023, a large group of police and government employees disrupted Sunday religious service in the home of a Hmong Christian in Lai Châu Province, beat up a couple, and detained them. They have not been released at the time of this writing. Another victim – a female Hmong Christian – was severely beaten and hospitalised in the same month.

On 13 August 2023 (Sunday), Giàng A Dính and Lù Thị Chừ, a married couple in Lai Châu Province, were arrested during a prayer service. At around 7 a.m., led by Mùa A Minh, police officer of Lai Châu Province, some 30 police officers and government employees came to the home of Lầu Nhà Tủa where 35 Hmong Christians were conducting a group prayer. They disrupted the prayer service and questioned the participating Christian followers. Police officer Mùa A Linh started taking video of the victims. In return, one Hmong Christian started to videograph the government group; three police officers seized his cell phone by force. During the scuffle, Ms. Lù Thị Chừ, a participant in the group prayer, bumped into a police officer causing him to drop his cell phone. Four police officers beat her until she passed out. Giàng A Dính, her husband, tried to help her and was struck in the mouth and then tied up and dragged away. The police detained this couple and beat them during interrogation. They ordered the detained couple's children to recant Protestantism in exchange for the release of their parents. Some police officers then entered the homes of other prayer service participants and seized religious materials, including hymn books and Bibles. They also ordered Evangelist Hạng A Sèo to recant his faith.

On 9 September, 2023, the couple's son and another relative went to visit the detainees but were allowed to see only the wife, whose face was all bruised from beatings and whose health was

poor because they gave her no food. The couple is still being held at the detention centre of the Police Department of Lai Châu Province as of this writing.

Recommendations:

- (1) Conduct prompt, thorough, and impartial investigations into all reports of torture by police and other government officials and ensure that all persons found guilty of committing acts of torture are criminally prosecuted.
- (2) Incorporate in the country's legislation the absolute prohibition of torture and the principle of command or superior responsibility for acts of torture committed by subordinates.
- (3) Promptly ratify and implement the Optional Protocol to the Convention against Torture, which strengthens the preventive mandate of the Convention.

Death Penalty

At its 2019 UPR, Vietnam received recommendations from Finland, Georgia, Iceland, Portugal, Spain, Albania, Austria, Australia, and Argentina²⁸ and also from France, Luxembourg, New Zealand, and Uruguay²⁹. Other recommendations were offered by El Salvador, Montenegro, Slovenia, Croatia (38.5); Belgium (38.146); Sweden (38.291); Mexico, Norway, Italy, (38.142);

²⁸ 38.140 Initiate a moratorium on the imposition of capital punishment, especially for non-violent crimes (Finland); Consider implementing a full moratorium on the death penalty (Georgia); Impose a moratorium on executions and abolish the death penalty (Iceland); Establish a de facto moratorium on the death penalty with a view to its abolition (Portugal); Establish a moratorium on the application of the death penalty as a step towards its definitive abolition and modify the Penal Code to reduce the number of crimes for which capital punishment can be imposed (Spain); Impose a moratorium on executions with the goal of abolishing the death penalty (Albania); Establish a moratorium on the death penalty as a step towards the complete abolition of this practice (Australia); Immediately adopt a moratorium on the death penalty with a view to ultimately abolishing it (Austria); Take the necessary measures to establish a moratorium on executions of death row prisoners as well as to repeal the death penalty in national legislation (Argentina)

²⁹ 38.141 Abolish the death penalty and, without delay, reduce the number of offences punishable by the death penalty (France); Abolish definitively the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Luxembourg); Continue reform towards abolition of the death penalty, including by continuing to reduce the list of crimes punishable by the death penalty, in particular non-violent crimes, under the Penal Code of 2015 and by providing greater transparency about the numbers, methods and associated crimes relating to its use (New Zealand); Abolish the death penalty for all crimes, and consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Uruguay)

Switzerland (38.143); Sweden (38.291); and Ukraine (38.144). Vietnam rejected all recommendations except those from Belgium (38.146) and Sweden (38.291) to restrict the death penalty offence to the “*most serious*” crimes in accordance with the ICCPR.

The cases of three death row prisoners have in recent years attracted intense attention of the public in Vietnam and the international community due to the alleged flaws in the investigation and prosecution processes, including forced admission by torture: Lê Văn Mạnh, Nguyễn Văn Chưởng, and Hồ Duy Hải.

The case of Lê Văn Mạnh, who was executed without a last word to his family

Despite appeals and objections by many human rights organizations, diplomatic missions in Vietnam, and the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions, on 22 September, 2023, Vietnam proceeded to execute Lê Văn Mạnh. In 2005, at 23 years old, he was charged with rape and murder of a 14-years old girl and sentenced to death by the People’s Court of Thanh Hoá Province. There were concerns that he had been coerced into writing a self-incriminating confession letter while in police custody, which was later used as evidence against him and led to his death sentence. The investigator also produced leads obtained from the testimony of a 9-year-old child who was interviewed by the police without parental permission. The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions expressed dismay at Mạnh’s execution³⁰. His family has reportedly not received his last letter or the audio recording of his last words as provided for under Vietnam’s law³¹.

The case of Nguyễn Văn Chưởng, victim of faulty investigation and trial

On 10 August, 2023, a Joint Urgent Appeal³² was communicated to the Government of Vietnam by the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions; the UN Special Rapporteur on the independence of judges and lawyers; and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to express concern

³⁰ “UN expert appalled by execution in Viet Nam”, 2 October 2023, available at: <https://www.ohchr.org/en/press-releases/2023/10/un-expert-appalled-execution-viet-nam>

³¹ “Gia đình tử tù Lê Văn Mạnh vẫn chưa được trao thư và băng ghi âm theo quy định về lời nói cuối cùng”, Radio Free Asia, 9 October, 2023, available at: <https://www.rfa.org/vietnamese/news/vietnamnews/family-of-le-van-manh-yet-to-receive-his-final-letter-and-audio-recording-his-last-words-10092023062223.html>

³² UA VNM 7/2023, 10 August 2023, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28331>

over the risk of imminent execution of Nguyễn Văn Chưởng despite credible allegations of torture and violation of his right to a fair trial.

On 3 August 2007, the Hai Phong City Police Department arrested Chưởng, along with other suspects, for the murder of a high-ranking police officer. The police allegedly obtained their confessions under extreme duress, including repeated beatings. Despite a strong alibi and witnesses testifying about Chưởng's being at a festival some 40 km away from the crime scene, he was sentenced to death. On 4 August 2023, Chưởng's parents received notice from the People's Court of Hai Phong of his imminent execution.

The case of Hồ Duy Hải - 10 years of petitioning the Vietnamese government

Hồ Duy Hải was arrested in March 2008 and sentenced to death by the People's Court of Long An Province for robbery and murder. He was allegedly subjected to forced confessions under torture – he was stripped naked, hung, and beaten during police interrogation. Witnesses from his village were willing to testify that he was seen at the village, 40 km away from the crime scene, at the time of the murder. The police allegedly physically abused and threatened some of these potential witnesses to silence them.

On 10 February 2015, the Committee on Judicial Affairs of Vietnam's National Assembly issued a report of its independent investigation of this case, which concluded that both the First Instance and the Appeal Court's convictions had disregarded his alibis and exculpatory evidence. The report also found serious violations of criminal procedural law. This committee's recommendation that his conviction be revisited was ignored. In 2020, two deputies of Vietnam's National Assembly called for assembly oversight in Hải's case to no avail³³.

Recommendations:

- (1) Immediately stay the executions of Nguyễn Văn Chưởng and Hồ Duy Hải and conduct a thorough review of the reported flaws and shortcomings in the police investigation as well as the alleged violations of criminal procedural law.

³³ “Vietnamese Assemblymen Request Legislative Review of Death Row Inmate's Case”, Radio Free Asia, 15 May, 2020, available at: <https://www.rfa.org/english/news/vietnam/ho-duy-hai-05152020151458.html>

- (2) Declare a full moratorium on capital punishment and investigate all reported incidents of forced confession under duress and torture to be in full compliance with the Convention Against Torture, of which Vietnam is a state party.

Trafficking in Persons

At its 2019 UPR, Vietnam accepted recommendations from Hungary³⁴, Maldives³⁵, Nepal³⁶, Nigeria³⁷, the Philippines³⁸, Italy³⁹, the United Kingdom of Great Britain and Northern Ireland⁴⁰, and Yemen⁴¹. Nevertheless, the Vietnamese government failed to demonstrate its political will to fight human trafficking by protecting victims, prosecuting traffickers, and taking preventative measures.

Since April 2021, BPSOS and CAMSA, a coalition co-founded by BPSOS in 2008, have shared with the UN Special Rapporteur on trafficking in persons, especially women and children reports involving 107 Vietnamese victims of labour trafficking in five countries as they were identified, rescued, and/or repatriated:

- Saudi Arabia: 57
- Oman: 2
- Cambodia: 20 victims
- Myanmar: 7 victims
- Romania: 21 victims

³⁴ 38.217 Revise the Penal Code and the Criminal Procedure Code and criminalize all forms of violence against women, raise public awareness on gender equality and combating discrimination against women and girls, and enhance efforts and measures to prevent and combat human trafficking, especially of women and children

³⁵ 38.218 Continue its efforts to combat human trafficking (India); 38.219 Continue to strengthen measures to combat trafficking in persons, particularly women and children

³⁶ 38.220 Intensify efforts to combat trafficking in persons (Iraq); 38.221 Continue taking strong measures to combat human trafficking, with a special focus on protecting and promoting the rights of vulnerable women and children

³⁷ 38.222 Continue with its strategy on preventing and combating human trafficking

³⁸ 38.223 Continue its implementation of measures to protect and assist victims of trafficking in recovery and rehabilitation, and to share experiences in this regard

³⁹ 38.224 Continue to carry out policies on the protection and promotion of the human rights of vulnerable groups, such as women, children and persons with disabilities, also in order to prevent and combat human trafficking, child labor and child, early and forced marriage, as well as other forms of violence and discrimination

⁴⁰ 38.225 Ensure all forms of trafficking in persons are criminalized according to international standards, including a legal amendment to define children as persons under 18

⁴¹ 38.226 Strengthen efforts and measures aimed at prohibiting and combating trafficking in persons

Protection of and assistance to trafficked victims

The Vietnamese Government has a tendency to turn a blind eye to cases involving migrant workers labouring abroad who eventually fall victim to human trafficking, all for the purpose of labour exploitation. Especially with trafficked Vietnamese victims in Saudi Arabia, the Vietnamese Government replied to the communication from UN Special Rapporteurs but outright denied those victims were victims of labor trafficking⁴². Among these accounts lies a particularly distressing incident involving a 16-year-old girl who tragically lost her life due to the severe maltreatment inflicted by her employer⁴³. The labour recruitment agency, in collusion with a police officer of Gia Lai Province, resorted to the falsification of her personal records, deceitfully altering her recorded year of birth with the intent of concealing her status as a minor.

Additionally, at least 17 repatriated victims from Saudi Arabia were forced to pay exorbitant airfare, about 4,000 USD for a one-way ticket, for government-chartered "rescue flights." Notably, 54 government officials, including high-ranking ones, were prosecuted for corruption in the "rescue flights" scheme, which significantly inflated airfare costs⁴⁴. BPSOS' legal team helped five trafficked victims to write to authorities at local to central government levels to request repayment of the exorbitant repatriation airfare they had to pay. So far, there has been no response from any of the contacted authorities.

Between July 2022 and September 2023, BPSOS/CAMSA received distress calls involving 20 Vietnamese nationals, with eight minors among them, in Cambodia, and seven victims, including one minor, in Myanmar. These victims were lured into forced labour by Chinese operators of casinos. They were promised good pay but found themselves working long hours with minimal sustenance, aiming to attract customers for online games or fictitious investments. Failure to meet quotas led to withholding wages or even physical abuse. These organised criminal gangs operated primarily in Cambodia, Myanmar, and the Philippines as highlighted in a [report](#) issued recently by the UN Human Rights Office. In early 2023, four NGOs, including BPSOS, filed a

⁴² Reply No. 115/VNM.22. 25 July 2022. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37052>

⁴³ Communication UA VNM 5/2021. 25 Oct 2021. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26748>

⁴⁴ 54 defendants, including high-ranking officials, to be charged in repatriation flight case, Việt Nam News, April 4, 2023, available at: <https://vietnamnews.vn/politics-laws/1506278/54-defendants-including-high-ranking-officials-to-be-charged-in-repatriation-flight-case.html>

joint complaint to the ASEAN Inter-governmental Commission on Human Rights (AICHR) to request investigation into this widespread and growing form of human trafficking^{45, 46}.

Upon rescue, victims are fined for “illegal crossing the border,” and some are detained due to inability to pay fines. These fines range from \$85 to \$225, despite the fact that the victims had been unlawfully trafficked across the border. For example, 38 of the 40 victims who escaped from the Rich Casino (Cambodia) in August 2022 were fined as they returned to Vietnam. Some returnees, including minors, were detained due to their inability to pay the fines.

Families that attempted to seek assistance while victims were in Cambodia received little help and were offered only vague promises from the government authorities. In one instance, the police only offered to transfer ransom money to the traffickers instead of actively rescuing victims. In another case, the police went so far as to shame the victim's family for their "stupidity" that led to the trafficking situation⁴⁷.

Even more alarming, after repatriation from Cambodia, the victims faced various forms of harassment from security police officers, including fines for so-called administrative violations, confiscation of their mobile phones, and questions about their appealing for help from foreign NGOs, the BBC, foreign embassies, and the UN after their families had pleaded without result for help from the Vietnamese government.

These incidents underscore the lack of proper training for local government authorities and Vietnamese police units in dealing with trafficked victims and their families, such as not demanding victims pay fines for leaving Vietnam illegally and not forbidding citizens from cooperating with the UN and international NGOs to rescue the victims and protect their rights and interests under Vietnamese law and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime.

⁴⁵ Complaint to AICHR, available at: <https://dvov.org/wp-content/uploads/2023/10/Complaint-to-AICHR-from-GAATW-Migrant-Care-Tenaganita-8-February-2023-1.pdf>

⁴⁶ Further information re. Complaint to AICHR, available at: <https://dvov.org/wp-content/uploads/2023/08/Further-Information-Re-Complaint-to-AICHR-by-GAATW-Final.pdf>

⁴⁷ Complaint To The Asean Inter-Governmental Commission On Human Rights. Further Information About The Trafficking Of People For The Purpose Of Forced Labour In Online Criminal Activity: https://drive.google.com/file/d/18xfA2Bnmidi_Y5vAm4dA59EXTeivYqm-f/view?usp=sharing

In terms of providing remedies, none of the repatriated victims that BPSOS/CAMSA has maintained contact with has received any assistance from any government agency. This is in contradiction to the Vietnamese government's response⁴⁸ to the joint allegation letter by multiple UN Special Procedures No. 25/VNM.22, which claims that all victims benefitted from “*six support regimes including support of essential needs and travel expenses; medical support; psychological support; legal aid; support in general education and vocational training; initial difficulty allowance, support in loan borrowing.*”

The only assistance those repatriated victims have received, if at all, is from the International Office of Migration (IOM), a UN agency, or from small religious groups that themselves are targeted by the government for harassment and intimidation.

Prosecution of perpetrators

The Vietnamese government has failed to prosecute recruiters, labour export companies, and government officials involved in labour trafficking under the state-run labor export program. The government reportedly imposed monetary and administrative fines against a few such companies; however, not a single recruiter or labour export company has been criminally prosecuted for trafficking activities in spite of being reported by their victims. None of the repatriated victims has received any compensation from the labour export companies or their recruiters.

Identified traffickers in Vietnam were not investigated, let alone prosecuted by the police. At least three Vietnamese traffickers who operated in Saudi Arabia have returned to Vietnam to avoid investigation by the Saudi police; none of them is under investigation by the Vietnamese authorities. At least one identified trafficker in Saudi Arabia returned to Vietnam and then went to Oman, where she continued her trafficking activities.

Prevention of trafficking

There has been no effort by the government, as a prevention measure, to inform the public of unscrupulous recruitment practices or labour export companies. Not a single Vietnamese-

⁴⁸ Communication UA VNM 5/2021. 25 Oct 2021. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26748>

language media outlet in Vietnam covered any of the trafficking incidents exposed by BPSOS – all Vietnamese-language media outlets are owned or controlled by the state. On the other hand, responsible government officials summarily dismissed all allegations of human trafficking brought up by the victims, UN agencies, or international NGOs.

Retaliation against people who speak out

Compounding this situation, the Vietnamese Government initiated a retaliatory campaign against those who had courageously raised their voices against the scourge of human trafficking. Ms. H'Thai Ayun was a survivor of human trafficking in Saudi Arabia. In April 2021, she, along with other eight victims, raised the situation of labor trafficking of Vietnamese nationals in Saudi Arabia. She has since been targeted by the Vietnamese government. The Labor Attaché from the Vietnamese Embassy and two operatives of Vietnamese-run trafficking rings in Riyadh came to the shelter where Ms. Ayun stayed and threatened with imprisonment upon repatriation for violating Vietnam's and Saudi Arabia's laws. The two operatives later threatened to kill her. Several UN mandate holders sent joint communications highlighting alleged instances of intimidation and reprisals levied against Ms. Ayun and other trafficked victims⁴⁹. In response, the Vietnamese Government has steadfastly maintained its denial of any wrongdoing and has yet to acknowledge that these individuals were in fact victims of labor trafficking under its labor export program.

Due to the rising threat against Ms. Ayun, the Saudi Human Rights Council, the office of the UN High Commissioner for Refugees (UNHCR), IOM, and BPSOS worked collaboratively to relocate her to Thailand, where she was recognized a refugee by the UNHCR. Still, her relatives in Vietnam continue to face threats and harassment.

Ms. Ayun's case highlights the ongoing challenges faced by trafficked victims and anti-TIP advocates, who often face intimidation and retaliation for speaking out. Victims who denounced their traffickers were attacked on social media and labelled as “traitors”, “reactionaries” and/or “opposing the government” by government officials, labour export company representatives, and/or trafficking ring operatives. We have documented 20 instances where authorities sought to

⁴⁹ Communication UA VNM 3/2022. 26 April 2022. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27223>

silence victims who spoke out and requested criminal investigation against the traffickers. Many repatriated victims reported that they were repeatedly interrogated by the local police and, in some cases, by an officer from the Ministry of Public Security, after they sent requests for financial and/or medical assistance and for the investigation of the traffickers. Repatriated victims who shared information about the trafficking syndicates with UN officials, U.S. TIP officers in Vietnam, IOM, and/or BPSOS were intimidated by the police and ordered to stop all communications. Some victims were interrogated by the police about the financial support they had received from IOM, and how this agency learned about their cases.

Some victims were subjected to a public ordeal when the local authority disclosed their names during community meetings, which led to them being shamed for being victims of trafficking. Security police officers also typically came to the residence of the victims to threaten them and/or their family members with detention for their cooperation with BPSOS and Montagnards Stand for Justice (MSFJ)⁵⁰ and ordered them to sever all contacts with “reactionary entities” overseas.

In some cases, victims were harassed and threatened by representatives of responsible labour export companies. BPSOS’ team of legal experts helped these victims to report such incidents to the local authorities and the Ministry of Public Security, which either turned a blind eye after receiving the complaints or demanded the victims to travel to Ha Noi for questioning, which is impossible for victims who are without financial means.

On the other hand, the Government of Vietnam has significantly stepped up labour exports – the first quarter of 2023 witnessed an increase of 1500% compared to the same period in the prior year. In 2022, a total of 142,779 workers were sent to work overseas, or 158.64% above the government’s objective. Increasing the number of exported workers without fundamental policy changes and structural reforms to the state-run labor export program, labor trafficking would only get worse.

Recommendations:

⁵⁰ MSFJ is an organization that has connections with Montagnard (Degar) victims of human trafficking in the Central Highland of Vietnam, they passed information about victims to BPSOS for intervention.

- (1) Delineate a clear link between human trafficking and the migration of workers within Vietnamese law to tackle human trafficking under Vietnam's labor export program.
- (2) Revise the definition of a child in Vietnamese law to be below 18 years old, and amend the Penal Code to criminalize both labor and sex trafficking offenses involving 16- and 17-year-old children, consistent with international law.
- (3) Vigorously prosecute all forms of trafficking and convict and punish traffickers, including responsible government officials, labor export company executives, and recruiters in the state-run labor export program.
- (4) Ensure that all repatriated victims receive effective remedies, including proper assistance and just compensation from the perpetrators, including repayment of the exorbitant airfares they paid for the "rescue flights".