




# **Human Trafficking Prevention and Combat Under Regulations of International Law and Practice in Vietnam**

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## **Abstract**

The situation of human trafficking crime is becoming increasingly complicated, evidenced by an increasing trend in severity, number of cases, and the use of sophisticated methods and tricks. Human trafficking is identified by the United Nations as one of the four most dangerous crimes in the world, as outlined in the Global Crime Prevention Program 2013. It is conducted by organized, transnational criminal groups. Therefore, international cooperation in addressing it is an indispensable and objective requirement. Vietnam has been actively participating in international commitments to combat human trafficking prevention, such as International Convention on the Rights of the Child (1989), the Optional Protocol to the International Convention on the Rights of the Child, Trafficking in Children, Child Prostitution and Child Pornography (2000), United Nations Convention against Transnational Organized Crime (2000), the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP Convention), among others.

By analyzing both international and Vietnamese laws on human trafficking prevention, combined with the practice of anti-trafficking efforts in Vietnam, this paper highlights that while current Vietnamese law has been promoting its positive effects, some limitations and shortcomings need to be addressed in order to comply with international law and meet practical requirements of anti-trafficking efforts. Thereby, the paper proposes some recommendations for improving Vietnamese law on human trafficking prevention to align with the requirements of international legal standards and the actual needs of human trafficking prevention in Vietnam.

### Keywords

*Human Trafficking; Human Rights; International Law; Vietnam.*

### Introduction

Human trafficking has become increasingly complicated in recent years, with more sophisticated methods, particularly human trafficking through illegal migration. This crime directly harms the life, health, honor, and dignity of victims who are mostly women and children<sup>1</sup>. According to statistics in May 2011, among the 2.7 million trafficking victims, 80% are women and girls, and 50% are children under adolescence; the average age of girls sold into sexual slavery is 12 (UNODC, 2020). In recent years, the Asia-Pacific region, including Vietnam, has been significantly affected by transnational crimes. Common crimes in the region include drug crimes and human trafficking, among others.<sup>2</sup> Particularly, Southeast Asia, including Vietnam, is considered a hotspot for human trafficking and illegal migration. A 2006 study revealed that one-third of trafficked women and children in the world come from Southeast Asia. In 2015, the International Organization for Migration (IOM) and the United

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<sup>1</sup> Raneé Khooshie Lal Panjabi, *Born Free Yet Everywhere in Chains: Global Slavery in the Twenty-First Century*, *Denver Journal of International Law & Policy*, Volume 37:1 p18

<sup>2</sup> Tom Obokata, *The Value of International Law in Combating Transnational Organized Crime in the Asia-Pacific*, *Asian Journal of International Law*, Open Development Laos, 7 (2017), pp. 39–60

Nations High Commissioner for Refugees (UNHCR) reported that human trafficking was rampant in Southeast Asia, with a significant increase in sea migration from less developed countries such as Bangladesh, Indonesia, Myanmar and Thailand to more developed countries such as Singapore and Australia<sup>3</sup>.

In the past, human trafficking was mainly for the purpose of labor exploitation. Today, traffickers have diverse objectives, including sexual exploitation and organ trafficking, among others.<sup>4</sup> Therefore, it is urgent to establish an international convention to provide appropriate regulations and solutions to prevent violations of women's human rights and provide a unified and clear concept of human trafficking for member states to comply with.<sup>5</sup> Discussing this issue, Kneebone and Kebeljak argue that human trafficking is the dark side of globalization; after half a century of studying the human trafficking problem from the perspective of human rights and many other aspects, the international community still lacks a unified approach to the nature and practice of human trafficking to find appropriate solutions.<sup>6</sup>

Since the early 1990s, Vietnam has become a source, transit hub, and destination for transnational human trafficking. Despite challenges in accurately assessing the scale and activities of human trafficking due to its clandestine nature, both national and international agencies consistently report that human trafficking in Vietnam, particularly involving women and children, is a serious and escalating issue. Official estimates indicate that tens of thousands of women and children have

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<sup>3</sup> Jadice Lau, (2019), Voluntarism and Regional Intergration: ASEAN's 20 Years of Cooperation on Human Trafficking, *Journal of Human Development*, at: [https://data.opendevelopmentmekong.net/lo/library\\_record/voluntarism-and-regional-integration-aseans-20-years-of-cooperation-on-human-trafficking/resource/9168c451-1dc4-441b-ad04-fcc4fa004fa9](https://data.opendevelopmentmekong.net/lo/library_record/voluntarism-and-regional-integration-aseans-20-years-of-cooperation-on-human-trafficking/resource/9168c451-1dc4-441b-ad04-fcc4fa004fa9)

<sup>4</sup> Kalen Fredette, (2009), "Revisiting the UN Protocol on Human Trafficking: Striking Balances for More Effective Legislation", *Cardozo Journal of International and Comparative Law*, (17), 101-103.

<sup>5</sup> Anne T Gallagher, (2010) "*The International Law of Human Trafficking*", Cambridge University Press, (13), page.182

<sup>6</sup> Susan Kneebone và Julie Debeljak, (2012), "*Transnational Crime and Human Rights: Responses to Human Trafficking in the Greater Mekong Sbrigion*", Routledge, page.121.

been trafficked to countries such as Cambodia, China, Hong Kong, Macau, Taiwan, Australia, Europe, and North America.

Located right in the heart of the Mekong sub-region, Vietnam has become a source, transit hub, and destination for transnational human trafficking since the early 1990s. Despite challenges in accurately identifying the scale and constituent activities of human trafficking due to its illegal nature, both national and international agencies consistently report that human trafficking in Vietnam, particularly involving women and children, is highly serious and escalating issue. Official estimates indicate that tens of thousands of women and children have been trafficked to countries such as Cambodia, China, Hong Kong, Macau, Taiwan, Australia, Europe and North America (UNICEF Vietnam, 2017). Human trafficking in Vietnam, especially transnational human trafficking, has become more prevalent and sophisticated as it tends to increase in both quantity and quality with diverse and complex methods and tricks<sup>7</sup>. Moreover, globalization and international integration have heightened concerns that human trafficking could be more severe. Based on these facts, this paper aims to address these following issues (i) assessing the current situation of human trafficking in Vietnam; (ii) analyzing international commitments and Vietnamese legal framework on human trafficking prevention and combat; (iii) identifying the challenges in implementing activities to prevent human trafficking in Vietnam; and, (iv) proposing solutions for Vietnamese Government to improve the law and strengthen the capacity to prevent human trafficking in the future.

As reported by the Ministry of Public Security of Vietnam, in 5 years (from January 1, 2018 to December 31, 2022), Vietnam detected 394 cases of human trafficking. In only 3 months, from July to September 2024, the authorities received and resolved 46 cases of human trafficking with 110 defendants and 149 victims. Among those, 37 cases are for trafficking persons under 16 years old with 130 defendants and 120 victims, of which, 32 cases were prosecuted with 92 defendants. There was no foreign victim in these cases. The number of male victims accounted for 37.55%, female victims accounted for 62.45%, victims

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<sup>7</sup> Michele Anne Clark (2003) *Trafficking in Persons: A Human Security Issue*, *Journal of Human Development*, 4:2, 247-263, DOI : 10.1080/146498803200008757

under 16 years old accounted for 43.87%, victims from 16 years old to under 18 years old accounted for 14.13%, and victims over 18 years old accounted for 42%. Domestic trafficked victims accounted for 59.48%, including 61 infants.<sup>8</sup>

Generally, between 2012 and 2020, human trafficking in Vietnam was predominantly transnational, accounting for over 85% of case. However, recent years have seen a significant rise in domestic trafficking incidents. Notably, in 2022, domestic trafficking cases represented more than 45% of the total number of cases. Emerging cases include trafficking of fetuses, children, and men for forced labor on fishing boats. Additionally, Vietnam serves not only as a source country but also a transit hub for human trafficking from neighboring nations to third countries.

In Vietnam, human trafficking predominantly affects women and children who constitute over 90% of victims. A significant portion of these victims are from ethnic minority groups, accounting for more than 80%, and reside in rural and mountainous areas, particularly in remote regions with challenging economic conditions. The majority of female victims are deceived and sold abroad, where they are forced into marriages with local men and subjected to sexual exploitation, representing about 80% of cases. Additionally, there is a concerning rise in male trafficking victims, with individuals under 16 years old comprising 17.5% of the total. Regarding the perpetrators, 92.3% are over 18 years old. Notably, 11.4% of traffickers are individuals who were previously victims of trafficking, and 6.3% are relatives of the victims.<sup>9</sup>

Human trafficking offenders in Vietnam span various age groups, with a predominance of individuals over 30 years old. Most of them possess extensive social knowledge of local customs and practices, and are familiar with border areas, checkpoints, and forest paths. Notably, some

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<sup>8</sup> Vietnam Ministry of Public Security, 'Quarter III/2024: Investigated and handled 83 cases with 240 defendants related to human trafficking' (<https://mps.gov.vn>), accessed January 8, 2025, <https://bocongan.gov.vn/tin-hoat-dong-cua-bo/quy-iii2024-da-dieu-tra-xu-ly-83-vu-voi-240-bi-can-lien-quan-den-hanh-vi-mua-ban-nguoi-d2-t41951.html>.

<sup>9</sup> Bao Yen, Pham Thang (2023), 'The Increase of Domestic Human Trafficking Crimes and more and more male trafficked victims', <https://quochoi.vn>, accessed 7 January 2025, <https://quochoi.vn/tintuc/pages/phiengiaitrich.aspx?ItemID=75558>.

traffickers were once victims themselves, having been trafficked to China as prostitution or illegal marriages. Upon returning to Vietnam to visit relatives, they colluded with others to deceive and sell new victims, especially their relatives, into trafficking networks to China.<sup>10</sup>

Furthermore, globalization and integration raise concerns within the state and society about the escalating severity of human trafficking. In light of Vietnam's current context, the article aims to address the following issues: (i) assessing the current situation of human trafficking in Vietnam; (ii) analyzing Vietnam's international commitments and legal framework on preventing and combating human trafficking; (iii) identifying challenges in preventing human trafficking in Vietnam; and (iv) proposing solutions for the Vietnamese Government to improve laws and enhance capacity to prevent human trafficking.

### **Research objects and methods**

Through analyzing and comparing the content of international law and Vietnamese law on human trafficking prevention, the article reveals that despite continuous amendment and improvement, certain regulations in Vietnamese law are not fully compatible with international law. By collecting data through searching for information in related books, internet sources, other scientific research, and data reported from competent state agencies, this paper highlights both the achievements and the limitations and challenges in preventing human trafficking in Vietnam. Employing inductive and interpretive methods, the article proves that the incompatibility between Vietnamese law and international law on human trafficking prevention poses many significant disadvantages for Vietnam's human trafficking prevention, underscoring the necessity in improving Vietnamese law to ensure its compliance with international law.

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<sup>10</sup> Le Thi Thu Dung (2018), 'The current situation of human trafficking crimes and some preventive solutions' (<http://vksndtc.gov.vn>), accessed January 8, 2025, <https://vksndtc.gov.vn/tintuc/Pages/lists.aspx?Cat=14&ItemID=7696>.

## Research results and discussion

### **A. International laws on human trafficking prevention concern the international community, recognized and adjusted in many different documents**

Human trafficking is a complex that intersects with various different aspects and issues of social life. Consequently, provisions to prevent human trafficking are directly and indirectly addressed in numerous international conventions across diverse fields, including: International Convention on the Rights of the Child (1989); Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000); United Nations Convention against Transnational Organized Crime (2000); Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, etc. These documents focus on the following basic contents:

First, International law defines concept of human trafficking and affirms that human trafficking is a serious crime that requires strict sanctions. Human trafficking is obviously a complex issue and approached from many different perspectives. One opinion defines that human trafficking is an act of putting a person in an exploitation situation and thus is an organized process.<sup>11</sup> One opinion defines that human trafficking is an act of putting a person in an exploitation situation and thus is an organized process. Another opinion argues that there is a connection between human trafficking and transnational migration, therefore, the concept of human trafficking requires a harmonious combination of these two factors.<sup>12</sup>

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<sup>11</sup> Nicola Piper, (2005), “*A Problem by a different Name? a Review of Research on Trafficking in South – East and Oceania*”, Special Issue of International Migration (vol 43), 203- 222.

<sup>12</sup> International Human Rights Network, (2000), “*Definition of Trafficking: Transnational Crime Convention, Trafficking in Persons Protocol*”, Statement submitted to Sessions 2–11 of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime (2000), cited in Gallagher, The International Law of Human Trafficking

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1949 (Convention 1949), adopted by the United Nations shortly after its establishment in 1945, expanded its scope of application by using the concept of “human trafficking” to include both trafficking in women and men.<sup>13</sup> Although the Convention 1949 is titled “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others”, it does not define human trafficking. Article 1 mandates that member states are required to punish two categories of acts, including (i) Procuring, enticing or leading away another person for prostitution, even with that person’s consent; and (ii) Exploiting another person’s prostitution, even with that person’s consent. Therefore, both 1933 and 1949 Conventions consider human trafficking a punishable crime, regardless of the victim’s consent; in other words, the victim’s consent is irrelevant in determining the act of human trafficking under these Conventions. Furthermore, Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000) defines that “*Human trafficking*” is the procurement, transportation, transfer, harboring, or receipt of persons for the purpose of exploitation, by means of threat or violence or other forms of coercion, abduction, fraud, deceit, abuse of power or a position of vulnerability or by giving or receiving payments or benefits to obtain the consent of a person controlling another person. Thereby, human trafficking crime is composed of the following three basic elements: (1) committing one of the following acts: Recruiting, transporting, transferring, harboring, receiving; (2) using threats, violence, coercion, abduction, deception, abuse of power or vulnerable position or by exploiting the victims’ weakness; giving or receiving payments or benefits to obtain the consent of one person having control over another; (3) for the purpose of exploiting victims, including prostitution or other sexual exploitation, forced labor or services, slavery or practices similar to servitude, and the removal of organs. The Protocol is the first instrument to provide a concise definition of the term

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<sup>13</sup> Anne T Gallagher, (2010), *The International Law of Human Trafficking*, Cambridge University Press 2010 (13), page.57



“Human Trafficking” and offers an effective framework encompassing prevention, legislation, enforcement, protection and repatriation to combat human trafficking.<sup>14</sup> However, it is argued that the intention to exploit persons should be included in the concept of human trafficking. In other words, the crime of human trafficking must be considered complete even if exploitation has not actually occurred. The purpose to force the trafficked person to exploitation is sufficient to define the act of human trafficking. The intent to exploit can emerge at any time during the trafficking process; it is not necessary for this intent to be present from the outset.<sup>15</sup> The concept of human trafficking defined by the Protocol focuses on the process rather than on the consequences of human trafficking, focusing on the acts rather than the exploitation. Exploitation is identified as the intended purpose of these actions rather than the actual result. This perspective can lead to incorrect and unified understanding of human trafficking, making it challenging to address the nature of exploitation in human trafficking cases.<sup>16</sup>

That analysis indicates that the Protocol’s definition of human trafficking is cumbersome, general, and lacks specificity. However, as the most comprehensive and official regulatory document on human trafficking, issued in a complex context marked by migration, forced labor, prostitution, child labor exploitation, among others (Malloch, 2016), the Protocol has garnered consent, support, and acceptance from many countries. This is evidenced by the participation of 174 among 193 United Nations member states in the Protocol. A total of 134 countries, including Vietnam, have developed national legal frameworks for human trafficking prevention, often citing the Protocol’s on human trafficking (Limoncelli, S. A., 2016). However, interpretation of aspects of the

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<sup>14</sup> Kelly E. Hyland, ‘The Impact of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children’, *WCL Journals & Law Reviews* 2001 (HRBRIEF Vol. 8 Iss. 2)

<sup>15</sup> Nicola Piper, (2005), “A Problem by a Different Name? A Review of Research on Trafficking in SouthEast Asia and Oceania”, *Special Issue of International Migration* (vol 43), 203 - 222.

<sup>16</sup> Susan Kneebone and Julie Debeljak, (2012), *Transnational Crime and Human Rights: Responses to Human Trafficking in the Greater Mekong Subregion*, Routledge Inc, 121-232.

definition, such as "coercion", "exploitation", and "consent of a person" varies by country.

On the basis of the Palermo Protocol, Clause A, Article 2 of ASEAN Convention Against Trafficking in Persons (ACTIP), the definition of human trafficking is relatively similar to the Protocol against Trafficking in Persons supplementing to the United Nations Convention on Transnational Organized Crime that "*Human trafficking is the recruitment, transportation, transfer, harboring or receipt of people for the purpose of exploitation by the use or threat of use of force or other forms of coercion, abduction, or fraud, deceit, abuse of power or vulnerable position, or by giving or receiving money or benefits to obtain the consent of a person having control over another person. Exploitation includes, 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 forced labor or the removal of body parts*" (ASEAN, 2015). Therefore, according to the provisions of Clause A, Article 2 of the ACTIP Convention, the general definition of human trafficking in the two conventions remains the same. However, ACTIP introduces the definition of "child trafficking" in Clause C, Article 2 that "recruitment, transportation, transfer, harboring or receipt of children for exploitation will be considered *trafficking in persons* even if it is carried out without using any means specified in Clause (a) of this Article." According to the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP), the definition of child trafficking differs from human trafficking. Specifically, child trafficking requires only "one action" among others, such as recruiting, buying and selling for the "purpose" of exploitation. In other words, child trafficking constitutes a crime when children are subjects to recruitment or transportation for exploitation, without the necessity of using coercion, deception, or other means.

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956 states "*Every act of transporting or attempting to transport slaves from one country to another by any means of transport, or of being accessory thereto, shall be a criminal offense under the laws of the States Parties to this Convention and persons convicted shall be liable to very severe penalties*" (Article 3). Convention for the Suppression of the Traffic in Persons and

of the Exploitation of the Prostitution of Others 1949 confirms that *“Prostitution and the accompanying evil of human trafficking for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the well-being of individuals, families and communities”* (Preamble to the Convention)<sup>17</sup>.

Second, international law affirms that the basic human right is freedom from trafficking, forced labor and slavery. Specifically, at the global level, Article 4 of Universal Declaration of Human Rights 1948 (UDHR) states that *“No one shall be submitted to slavery or servitude; slavery and slave-trade shall be prohibited in all forms”* (UN, 1948). Article 8, International Covenant on Civil and Political Rights 1966 (ICCPR) provides that *“1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited. No one shall be required to perform forced or compulsory labor”* (UN, 1966); The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption 1993, states in Article 32 that *“No person shall derive unjust or other financial advantage from an activity relating to the international adoption of children”*. Article 11, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 specifies that *“No migrant worker or member of his or her family shall be held in slavery or servitude [...] (or) required to perform forced or compulsory labor”*. The ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP) addresses the rights of trafficked victims. Specifically, trafficked persons should not be penalized for their illegal acts committed as a direct consequence of human trafficking (Clause 7, Article 14 ACTIP). Additionally, trafficked victims are not subject to arrest when identified as victims of trafficking in accordance with the law (Clause 8, Article 14 ACTIP). It is important to note that the right to immunity is closely related to the decriminalization of trafficked victims. However, no provision in international law mandates that member states ensure trafficked persons are not criminalized for crimes committed as a direct

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<sup>17</sup> Anne Gallagher The International Law of Human Trafficking, *Human Rights Law Review*, Volume 12, Issue 3, September 2012, Pages 606–608, <https://doi.org/10.1093/hrlr/ngs006>

consequence of human trafficking<sup>18</sup>. The Protocol does not have any provision on the decriminalization of trafficked victims.

Third, international law stipulates the obligations that the states must implement to prevent and combat human trafficking, as well as to protect trafficked persons. The Preamble to the Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (UNTIP) affirms: "An effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in in the countries of origin, transit and destination, including the measures to prevent such human trafficking, to punish the trafficker, and to protect trafficked victims by protecting their human rights that are internationally recognized". A victim of human trafficking is understood as any person who is the subject of human trafficking.<sup>19</sup> Identifying a victim of human trafficking is relatively complex and depends on the legal framework, political efforts to address the problem, resources, and human resources of countries.<sup>20</sup>

The Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons also specifically stipulates the cooperation activities to prevent and combat human trafficking, including repatriation of trafficked victims, exchange of information and training, preventative measures at the border, security and control of travel documents and criminal legal assistance in human trafficking cases.<sup>21</sup>

Convention on Suppression of Slavery and the Slave Trade 1926 recognizes the obligation of states to "*prevent and suppress the slave trade*" and gradually "*completely abolish slavery in all its forms*" (Article 2) (UN,

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<sup>18</sup> Hoshi, B. (2013). The trafficking defence: A proposed model for the non-criminalisation of trafficked persons in international law. *Groningen Journal of International Law*, 1(2).

<sup>19</sup> Sembacher, A. (2005). The council of Europe convention on action against trafficking in human beings. *Tul. J. Int'l & Comp. L.*, 14, 435

<sup>20</sup> Aronowitz, A. A. (2017). *Human trafficking: A reference handbook*. ABC-CLIO, trang 93

<sup>21</sup> Duong Dinh Cong (2021), Vietnam and the Fulfillment of Member Obligations on Cooperation in Preventing and Combating Human Trafficking According to Multilateral and Regional International Treaties, *Journal of Procuracy Science*, At <https://vjol.info.vn/index.php/tks/article/download/60738/50961/>

1926). In the 1979 Convention on the Elimination of All Forms of Discrimination against Women which, Article 6 calls on states parties to *"take all appropriate measures, including laws, to prevent all forms of trafficking in women and exploitation of women in prostitution"* (UN, 1979); The 1989 Convention on the Rights of the Child requires states parties to *"take all appropriate national, bilateral and multilateral measures to prevent the abduction, trafficking or transportation of children for any reason for any purpose and in any form"* (UN, 1989); Optional Protocol to the 2000 Convention on the Rights of the Child, on the Sale of Children, Child Prostitution, and Child Pornography (UN, 2000) states in Article 10 that states parties must *"take all necessary steps to strengthen international cooperation by multinational, regional and bilateral agreements to prevent, detect, investigate, prosecute and punish those responsible for acts related to the sale of children, child prostitution, child pornography and child sex tourism"*. ACTIP requires member states to criminalize 5 categories of acts directly or indirectly related to human trafficking crimes, including (1) Trafficking in persons; (2) Participation in an organized crime group; (3) Laundering of proceeds of crime; (4) Corruption; and (5) Obstruction of justice. Furthermore, ACTIP stipulates the responsibilities of each member state in detecting, preventing, and punishing human trafficking crime, corruption, money laundering, participation in organized crime groups, obstruction of justice related to human trafficking; confiscation of property, tools, and means used to commit crimes or obtained from crimes. ACTIP also stipulates the responsibilities of member states in coordinating to detect, prevent, and punish related crimes (Articles 16 and 17). It is evident that the provisions in the above international documents clearly define the obligations of member states, reflecting the unity of the international community's will, and recognize the efforts and achievements of member states in preventing and combating both transnational crimes and human trafficking crimes. Criminalizing human trafficking is one of important obligations affirmed consistently in many international documents, as well as in the United Nations Global Action Plan adopted by the General Assembly in 2010<sup>22</sup>.

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<sup>22</sup> Anne T Gallagher, *The International Law of Human Trafficking* (Cambridge University Press, 2010)

In summary, in response to the complex situation of human trafficking and its impact on human rights, the international community has made significant efforts to develop new laws, policies, plans, and programs to combat the threat of transnational human trafficking. These efforts focus on addressing human trafficking through law enforcement and criminal justice, with reference to international conventions to manage human trafficking prevention in a direct and comprehensive manner (Limoncelli, S. A., 2016).

**B. The law on human trafficking prevention in Vietnam has been improving and promoting its positive impact on the prevention of human trafficking in the country.**

As analyzed, to prevent human trafficking and ensure the fulfillment of member obligations in human trafficking international commitments, Vietnam has been continuously building and improving its laws. The country has taken action and implemented many measures to prevent human trafficking. In terms of institutions, in 2012, Vietnamese Government ratified the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as United Nations Convention against Transnational Organized Crime (TOC), the ASEAN Convention on Preventing and Combating Trafficking in Persons, Especially Women and Children, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children complementing TOC Convention, among others. Vietnam is also a participant in The Global Compact for Safe, Orderly and Regular Migration—the first intergovernmental agreement on migration—and has developed a plan to implement this agreement with specific and comprehensive solutions aimed at preventing the risk of human trafficking in international migration. On a bilateral cooperation, Vietnam maintains effective cooperation in the agreements between Vietnam and Cambodia, Laos, Thailand, China, and the UK, working on human trafficking prevention and combating it through annual meetings with agreement agencies and coordinated efforts to organize major operations to suppress human trafficking crimes (Nguyen Thi Oanh, 2021). These international treaties serve as crucial legal foundations for international cooperation in preventing human trafficking in Vietnam and cross-border human trafficking.

Furthermore, Vietnam participates in most of the fundamental international conventions on human rights and international humanitarian law, always fulfilling its responsibilities and obligations as a member, especially the duty to internalize the provisions of those conventions.

In the current Vietnamese legal system, regulations on human trafficking prevention are prescribed in many different documents, such as the 2015 Penal Code amended and supplemented in 2017 (the 2015 Penal Code), the 2017 Law on Legal Aid, among others. Additionally, there are many decrees and legal documents, such as Decree No. 09/2013/ND-CP dated January 11, 2013 of the Government which details the implementation of several articles of the Law on Human Trafficking Prevention and Combat; Circular No. 35/2013/TT-BLDTBXH dated December 30, 2013 issued by the Ministry of Labor, War Invalids and Social Affairs, which guides the implementation of certain articles of Decree No. 09/2013/ND-CP; Decree No. 62/2012/ND-CP dated August 13, 2012, which stipulates the criteria for identifying trafficked victims and protecting the victims and their families; and Joint Circular No. 01/2014/TTLT-BCA-BQP-BLDTBXH-BNG dated February 10, 2014, issued by the Ministry of Public Security, Ministry of National Defense, Ministry of Labor, War Invalids and Social Affairs and Ministry of Foreign Affairs, which guides the order, procedures and coordination in verifying, identifying, receiving and returning trafficked victims. Furthermore, there are several other legal documents relevant to this issue, such as the Law on Marriage and Family 2014, the Children's Law 2016, the Labor Code 2019, and the Law on Gender Equality 2006. Other legal documents related to the prevention of human trafficking in vulnerable sectors include the Law on Child Adoption 2010, the Law on Vietnamese Workers Working Abroad Under Contracts 2020 and the Ordinance on Prevention and Combat of Prostitution 2003 (the management of business and service activities that are vulnerable to prostitution). Regarding the control of exit, entry, cross-border commercial transportation and residence in Vietnam, relevant legal documents include the National Border Law 2003, the Law on Entry, Exit, Transit, and Residence of Foreigners in Vietnam 2014.

These contents can be summarized as follows:

In accordance with international conventions to which Vietnam is a member, the 2015 Vietnamese Penal Code defines the scope of the crime of trafficking in persons, including those under 16 years old, in articles 150, 151. Specifically, Clause 1, Article 150 of the 2015 Penal Code stipulates three types of human trafficking acts: (1) Transferring or receiving people to deliver or receive money, property or other material benefits; (2) Transferring or receiving people for sexual exploitation, forced labor, the removal of body parts from victims, or for other inhumane purposes; (3) Recruiting, transporting, harboring persons to commit the acts specified in Point (a) or Point (b) of this Clause.

Regarding criminalization, the 2015 Penal Code divides human trafficking into five separate categories. Article 150 of the 2015 Penal Code prescribes three basic constitutive signs for human trafficking crime, including (1) Tricks (using force, threats to use force, deception or other tricks); (2) Actions (transfer or reception, recruitment, transportation, harboring or receipt of persons) and; (3) Purposes (giving or receiving money, property or other material benefits; sexual exploitation, forced labor, the removal of body parts from victims, or for other inhumane purposes). These are basic and essential changes in the Vietnamese Penal Code concerning the crime of "Human Trafficking," aligning it with the provisions of International Conventions on Human Trafficking and contributing to overcoming difficulties and obstacles in the practice of preventing human trafficking crimes.

Regarding the penalty for human trafficking, the prison sentence is from 5 to 10 years as prescribed in Clause 1, Article 150 of the 2015 Penal Code, from 8 to 15 years according to Clause 2, and from 12 to 20 years according to Clause 3. Clause 4 prescribes a fine of from 20,000,000 VND to 100,000,000 VND, a probation penalty from 1 to 5 years, or confiscation of all or part of the property. Moreover, Clauses 2 and 3, Article 150 of the 2015 Penal Code introduce several aggravating circumstances, such as committing the crime for despicable motives, taking the victim out of the territory of the Socialist Republic of Vietnam, and using professional tricks, among others. Penalties in the 2015 Penal Code are higher than those in the 1999 Penal Code, with additional aggravating circumstances to align with Vietnam's commitments to international conventions on human rights. This



demonstrates Vietnam's determination to combat human trafficking crime.

From January 1, 2012 to August 30, 2020, the number of prosecuted cases of human trafficking was 1,461 with 2,501 defendants. The Investigation Agency proposed to prosecute 1,323 human trafficking cases, involving 2,316 defendants. The number of cases with temporarily suspended investigation was 77, involving 92 defendants. Nine cases were suspended due to the defendants' deaths, involving 12 defendants (due to deaths of the defendants). The number of remaining cases being handled was 52, with 81 defendants. The number of human trafficking cases prosecuted by the Procuracy according to regulations was 100%. The total number of cases prosecuted by the Procuracy was 1,336 with 2,316 defendants; two cases were temporarily suspended due to the defendant's escape.<sup>23</sup> In the process of resolving and adjudicating human trafficking cases, in addition to judging the criminals with correct crime and law, the Court always emphasizes the protection of victims in human trafficking cases. This includes protecting the victim's body, honor, and dignity, ensuring compensation for damages, and providing social support services to reintegrate victims into the community. The provisions on lawyers, legal aid, and defenders helps the victims; when they and their families cannot afford to hire a lawyer, the Court will instruct them to contact legal aid centers, where legal aid officers will be sent to protect their rights in court.

Regarding measures to prevent human trafficking, current Vietnamese law provides relatively specific regulations on implementation measures, including improving propaganda and education about the methods, new tricks, and key areas of human trafficking; strengthening the coordination and information exchange by establishing hotlines between international law enforcement agencies, international organizations, and non-governmental organizations; agreement with the countries sharing the borders about a coordination

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<sup>23</sup> Supreme People's Procuracy Vietnam, *Report No. 213/BC-VKSTC dated October 29, 2020 of the Supreme People's Procuracy summarizing 9 years of implementing the Law on Human Trafficking Prevention and Combat in 2011*, at: [https://moj.gov.vn/qt/tintuc/Lists/ChiDaoDieuHanh/Attachments/3709/4.%20BaocaoTongket09namthihanhLuat\\_compressed.pdf](https://moj.gov.vn/qt/tintuc/Lists/ChiDaoDieuHanh/Attachments/3709/4.%20BaocaoTongket09namthihanhLuat_compressed.pdf)

mechanism in exchanging information on human trafficking and repatriating trafficked victims. Vietnam prepares a comprehensive propaganda content on human trafficking, focusing on the methods and tricks of human trafficking crimes, providing knowledge to recognize signs of human trafficking crimes for timely prevention. Many forms of propaganda, dissemination, and legal education on the prevention and combat of human trafficking are proactively conducted, including publishing documents, such as books, pictures, leaflets, brochures, CDs, special shows on radio and television, publishing printed newspapers, electronic newspapers, and visual propaganda methods, including rallies, agitations, exhibitions, billboards, posters, talks, seminars, verbal propaganda, and competitions to learn about the law and knowledge about human trafficking. Visual forms of information and propaganda through billboards, posters, banners, propaganda paintings, and bulletins of mobile propaganda teams on human trafficking prevention and combat in various fields, such as Culture, Information, Border Guard, Police, and Fatherland Front, among others, reaches many remote areas, especially villages, communes, and hamlets with complex human trafficking crimes.

Regarding the protection of repatriated victims and supporting mechanisms for reintegration: According to the provisions of Law on Human Trafficking Prevention and Combat 2011, the Vietnamese government facilitates cooperation between Vietnamese authorities and foreign agencies to rescue and protect the victims. The Vietnamese government also facilitates foreign victims to repatriate to their country of nationality or last permanent residence. The measures for repatriating victims must adhere to legal regulations and agreements between Vietnam and other countries, ensuring the safety of victims' life, health, honor, and dignity. In February 2021, the Government issued the Program on Human Trafficking Prevention and Combat for the period of 2021-2025, with a vision toward 2030. Furthermore, the Government provides significant attention, support, and care to trafficked victims through Decree No. 20/2021/ND-CP, which regulates social assistance policies for individuals benefiting from social protection.

In localities, 100% of trafficked victims returning officially, returning on their own or being rescued receive appropriate support. The support includes providing temporary accommodation, psychosocial

counseling, and initial treatment support for cases of illness and poor health, subsidizing travel and food expenses to return home. In addition, victims also receive legal assistance, such as completing household registration procedures, issuing identity cards, birth certificates, and consulting to participate in litigation. Specifically, according to data from localities nationwide, from 2014 to June 2020, 312 cases of free legal assistance for 312 trafficked victims who are mainly women and children are carried out by Legal Aid Centers. The victims are also provided with vocational training, employment support, education, while the victims reporting crimes are protected.<sup>24</sup>

Moreover, trafficked victims in Vietnam are assisted through the following forms: (1) Support at the Center and Shelter for victims: the victims who are trafficked and returned are provided with food, accommodation, psychosocial counseling and access to other services to study, learn a profession or receive medical treatment according to their needs and affordability; (2) Support through integrated activities to prevention crimes and reintegration into the community in communes, wards and towns, such as organizing vocational training classes for women and children from poor households, create job opportunities to ensure their stable income; supporting credit loans, granting tuition fees, scholarships associated with communication activities to raise awareness about human trafficking prevention and combat; (3) Support through models funded and technically consulted by international projects, such as "Self-help group" implemented in the provinces of Thanh Hoa, Bac Giang, Tay Ninh, Thua Thien – Hue, Quang Binh; the model of "combining support for trafficked victims with prevention and combating prostitution, preventing HIV/AIDS infection" in Hai Phong City, among others. These models are highly appreciated for their effectiveness and practicality that help victims to overcome difficulties by using capital for their livelihood to bring stable income and accessing to supportive services for sustainable community integration.

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<sup>24</sup> Vietnam Ministry of Public Security, *Summary report on 9 years of implementing the Law on Human Trafficking Prevention and Combat*, at <https://chinhphu.vn/du-thao-vbqppl/ho-so-de-nghi-xay-dung-du-an-luat-phong-chong-mua-ban-nguoi-sua-doi-5293> accessed on July 10, 2024

Regarding international cooperation to prevent human trafficking: In principle, international cooperation between Vietnam and countries around the world is based on the principle of respect for independence and sovereignty. The implementation of international cooperation in human trafficking prevention and combat is based on international treaties to which Vietnam is a state party. Regarding criminal legal assistance, including human trafficking crimes, Vietnam joined the ASEAN Criminal Legal Assistance Agreement in 2004 and promulgated the Law on Mutual Legal Assistance in 2007. The scope of mutual legal assistance in criminal cases between Vietnam and other countries thereby focuses on serving relevant papers and documents; summoning witnesses and assessors; collecting and providing evidence; criminal prosecution; information exchange, and other criminal assistance requests. During the procedural stages of a human trafficking case, when one of mutual legal assistances is needed, the prosecution agency shall prepare a judicial mandate dossier to request the relevant country to offer mutual legal assistance. Regarding signing and joining international documents, Vietnam signs and participates in many international conventions and legal documents directly related to the prevention and combat of human trafficking, such as the Convention on the Elimination of All Forms of Discrimination Against Women (adopted on February 17, 1982), the Convention on the Rights of the Child (adopted on September 28, 1990), the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (adopted on December 20, 2001), the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict (adopted on December 20, 2001), the Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (adopted on December 19, 2000), the United Nations Convention on the Rights of the Child (adopted on September 28, 1990), the United Nations Convention against Transnational Organized Crime (signed on December 13, 2000 but not yet adopted). Moreover, Vietnam signs Mutual Legal Assistance Agreements with many countries in the world, creating an important legal basis for international cooperation in fighting against crime, including human trafficking, especially women and children. Vietnam also signed bilateral agreements with China and Australia regarding the cooperation in

fighting against certain types of crime, including human trafficking. Additionally, Vietnam participates in regional initiatives to prevent the trafficking of women and children. The Ministry of Labor, War Invalids and Social Affairs are assigned by Vietnamese Government to be the national focal point to participate in two projects on combating trafficking of women and children in Mekong sub-region, funded by ILO//PEC and UNDP (code RAS/98/H01). Vietnam signs the Memorandum of Understanding and Action Plan of 06 countries of the Mekong Sub-region (Laos, Cambodia, Thailand, China, Myanmar and Vietnam), bilateral agreements with Cambodia (2005), agreement with Thailand (2008), agreement with China (2010), and will sign agreement with Laos in the near future. Furthermore, Vietnam signs 15 bilateral agreements and 13 mutual legal assistance treaties on crime prevention and control with other countries, which include the prevention and combat of human trafficking. Due to its transnational nature, human trafficking has become a global issue, and international organizations have programs and projects on preventing and combating human trafficking. As human trafficking is a transnational crime, it has become a global problem, thus, international organizations conduct many programs and projects on preventing and combating human trafficking. Vietnam actively participates in the projects, such as Assessment and Proposal for Amendments to Policies and Strategic Plans on Preventing and Combating Child Sexual Abuse during 2001-2010, Improving Legal Policies on Preventing and Combating Child Sexual Abuse" funded by UNICEF, Preventing Sexual Abuse and Exploitation of Children and Adolescents funded by ESCAP. The country deploys regional projects on preventing trafficking in women and children, including the Project on Preventing and Combating Trafficking in Women and Children in the Mekong Sub-region funded by the International Coalition, code RAS/98/H01; Regional Project on Preventing and Combating Trafficking in Women and Children in the Mekong Sub-region funded by ILO/IPEC. Both projects focus on information and communication activities, raising awareness, investigating and assessing the causes and current situation, building intervention models, vocational training, job creation, and reintegrating trafficked victims into the community for the common goal of mitigating the development and overcoming the consequences of trafficking in women and children. Additionally, the

Department of Social Vices Prevention and Combat pilots the project "Improving Community Capacity in Preventing and Combating Child Sexual Abuse" in the two provinces of Dong Thap and Ba Ria - Vung Tau, funded by prostitution prevention and combat program. In addition, the bilateral agreements with China and Australia are important legal tools for Vietnam to prevent, detect, investigate, prosecute, and punish human traffickers.

Human trafficking prevention and combat is a regular and long-term political task of Vietnam. By implementing the Program on Human Trafficking Prevention and Combat during 2021-2025 with a vision toward 2030, Vietnam has been promoting the implementation of tasks and solutions to prevent and combat human trafficking. This effort involves the active participation and high concentration of all ministries, branches, and localities. Many policies and legal documents aim at preventing human trafficking, forced labor, supporting trafficked victims, and protecting children have been issued in Vietnam. On May 10, 2016, the Prime Minister issued Decision No. 793/QĐ-TTg, which designate July 30 as "Day for All Citizens to Prevent and Combat Human Trafficking". The Law on Legal Popularization and Education, along with its guidance, define the roles of ministries, branches, and localities in spreading awareness and educating the public about the law, including human trafficking prevention, to improve the understanding and ability to prevent and combat human trafficking in Vietnam. Regarding legal assistance, the Ministry of Justice issued guidance on legal assistance for trafficked victims. In 2011, the Ministry of Justice issued Circular No. 07/2011/TT-BTP on March 31, 2011 to ensure gender equality in organizations and activities of legal assistance. This was later replaced by Circular No. 11/2014/TT-BTP on April 17, 2014 issued by the Ministry of Justice, which continued to regulate gender equality in legal assistance, including regulations on legal assistance for trafficked victims.

Human trafficking prevention in Vietnam is conducted both socially and professionally. Many human trafficking rings have been dismantled, and the process for receiving, verifying, and protecting trafficked victims are handled quickly. International cooperation has been strengthened through numerous bilateral and multilateral activities in various regional and global forums. From January 1, 2011, to February 2023, a total of 1,744 human trafficking cases were prosecuted, involving

3,059 defendants, all of whom were handled according to legal regulations (all defendants were controlled in accordance with regulations). People's Courts at all levels addressed 1,661 cases and 3,209 defendants therein, with 1,634 cases (98.4%) and 3,137 defendants (97.8%) being resolved and adjudicated. Identification and support for victims have achieved significant progress, contributing to the protection of human rights and the well-being of trafficked victims. According to the Minister of Public Security, since 2012, 7,962 victims have been received and provided with essential services, including travel assistance, medical care, psychological support, legal aid, education, vocational training, hardship allowance, and loans.<sup>25</sup>

Human trafficking prevention in Vietnam is integrated into broader social programs by the content of human trafficking prevention and combat into poverty reduction, vocational training, employment, social protection, gender equality and child protection programs. By developing and implementing economic, cultural, and social development programs, Vietnam has worked to create jobs and improve living-standard of people in border areas, thereby gradually reducing crimes and limiting the causes and conditions that enable human trafficking. As a result of these efforts, more than 2,000 "Border Shelter" houses have been donated to poor families, and more than 200 civil projects have been constructed in border communes, with a total investment of over 200 billion VND. Additionally, programs such as "Breeding cows for the poor in the border areas", which has donated nearly 7,000 cows, and "Accompanying women in the border" have been successfully implemented. The Ministry of Labor, Invalids and Social Affairs actively incorporates the content of human trafficking prevention efforts and supporting repatriation of trafficked victims into the program of poverty reduction, vocational training, job creation, gender equality and children protection.<sup>26</sup>

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<sup>25</sup> Le Hoa, Amending the Law to meet the requirements on promoting human trafficking prevention and combat, *Vietnam Ministry of Public Security's electronic information portal* at: <https://bocongan.gov.vn/phong-chong-I-pham-buy-ban-people/sua-doi-law-de-bao-dam-dap-ung-tot-hon-love-cau-day-manh-phong-chong-buy-ban-people-d143-t37383.html>

<sup>26</sup> Vietnam Ministry of Public Security, Summary report on 9 years of implementing the Law on Human Trafficking Prevention and Combat, at

Moreover, the construction and improvement of the legal system for preventing and combating human trafficking demonstrate the determination of Vietnam to implement international commitments on human trafficking prevention and combat, as well as promote the protection of human rights in Vietnam.

### **C. The relationship between international law and Vietnamese law on preventing and combating human trafficking**

To wholeheartedly and willingly implement international commitments, Vietnam actively revises, supplements and promulgates domestic legal documents to specify the content of international commitments and strengthen international cooperation to prevent and combat human trafficking. While Vietnamese legal regulations on preventing and combating human trafficking are consistent with international commitments to which Vietnam is a member, some regulations are different from and incompatible with international commitments. These regulations are analyzed in detail in the next part of this article. According to the provisions of current Vietnamese law, in cases where a legal document and a treaty to which Vietnam is a party, contains different provisions on the same matter, the provisions of the treaty shall prevail.<sup>27</sup> However, these shortcomings shall certainly hinder the uniform application of the law in preventing and combating human trafficking. Specifically:

In general, current Vietnamese law on human trafficking is comprehensive and consistent with international conventions to which Vietnam is a state party. However, some contents are different:

*First*, regarding the concept of “human trafficking”, the 2015 Penal Code stipulates two crimes related to human trafficking, including Crime of Human Trafficking (Article 150) and Crime of Human Trafficking Under 16 Years Old (Article 151). Accordingly, human

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<https://chinhphu.vn/du-thao-vbqppl/ho-so-de-nghi-xay-dung-du-an-luat-phong-chong-mua-ban-nguoi-sua-doi-5293> accessed on July 10, 2024

<sup>27</sup> National Assembly of Vietnam, (2026) ‘Law on International Treaties 2016 No. 108/2016/QH13 6 <https://thuvienphapluat.vn/van-ban/Linh-vuc-khac/Luat-dieu-uoc-quoc-te-2016-303284.aspx>.



trafficking is a crime of committing one of three types of acts: (1) Transferring or receiving people to deliver or receive money, property or other material benefits; (2) Transferring or receiving people for sexual exploitation, forced labor, the removal of body parts from victims or for other inhumane purposes; (3) Recruiting, transporting, or harboring people to commit the acts specified in Point a or Point b of this Clause. These provisions are quite similar to the concept of human trafficking crime stipulated in Palecmo Protocol and ACTIP Convention as they affirm that the act of "human trafficking is a serious crime that needs to be severely punished." The bases for determining the crime of human trafficking are signs of violations rather than signs of consequences, confirming the distinction between human trafficking and child trafficking crime. However, some points are not fully aligned. Specifically, following the same approach as ACTIP, the 2015 Penal Code regulates human trafficking under Article 150 and the crime of trafficking people under 16 years of age under Article 151. As a result, the concept of human trafficking in Vietnamese law is somewhat narrower than that defined in the Anti-Trafficking Protocol supplementing the Convention against Transnational Organized Crime 2000 and ACTIP. Specifically, point c, clause 1, Article 150 and point c, clause 1, Article 151 of Penal Code stipulate that the act of recruiting, transporting, or harboring people (or people under 16 years of age) for the purpose of transferring or receiving persons is considered an act of human trafficking. Meanwhile, the Protocol requires the state parties to criminalize and handle the crime of human trafficking in cases of recruiting, transporting, or harboring people for the purpose of exploitation. Nevertheless, if a person illegally recruits, transports, or harbors another person for the purpose such as sexual exploitation, forced labor, or the removal of body parts, the provisions of Article 157 in the 2015 Penal Code—regarding the crime of illegally arresting or detaining individuals—could be applied. Other relevant provisions for unsuccessful crime include rape (Article 141), rape of a person under 16 years of age (Article 142), crime of rape (Article 143), rape of persons from 13 to under 16 years of age (Article 144), crime of forced labor (Article 297), and crime of buying, selling, appropriating human tissues or body parts (Article 154). However, the application of these crimes to judge shall not accurately reflect the nature and danger of the acts of

recruiting, transporting, and harboring people for the purpose of sexual exploitation, forced labor, the removal of body parts, or other inhumane purposes. Furthermore, there is a big difference in the handling policy for the above crimes and unsuccessful crimes of human trafficking or human trafficking of persons under 16 years of age.

Thus, the concept of "human trafficking" in Vietnamese law differs from that in the Protocol, leading to challenges in identifying victims. In many cases, foreign courts consider persons as trafficked victims according to their ruling, whereas, under Vietnamese law, there may be insufficient grounds to classify them as such (Vinh Hoang, 2021). For example, there was a case where Vietnamese fishermen were identified by Thai authorities as victims of human trafficking on fishing boats. However, upon their return to Vietnam, they did not meet the legal criteria to be recognized as trafficked victims under Vietnamese law. This inconsistency creates obstacles in identifying both trafficked victims and suspected traffickers in human trafficking cases.

Furthermore, the provisions of Law on Human Trafficking Prevention and Combat to identify victims and guidelines in relevant legal documents for victims to receive assistance policies are not practical in many cases. Many victims were trafficked a long time ago and cannot recall exact details or identify the perpetrators, making it difficult for authorities to confirm their status as trafficked victims. However, these victims still require assistance during the verification process to prove them as victims. In fact, authorities often provide support for these victims during verification, but after verification process, they do not meet the conditions to be identified as victims. As a result, it is difficult to pay the costs of assistance. Moreover, there is no standardized procedure for verifying, identifying and rescuing victims for the sectors, forces and localities to implement consistently.

Because the law does not provide specific regulation on the criteria for identifying victims of human trafficking in the Law—specifically regulations on several concepts (such as human trafficking; transfer or receipt of transfer; recruitment, transportation, harboring for the purpose of human trafficking) and specific regulations on criteria for papers, documents and practical criteria to identify a person as a victim of human trafficking. As a result, many trafficked victims, especially ethnic minorities who cannot speak Vietnamese, those who have lost their

identity papers, individuals with low education levels, or those who cannot recall their exact address in Vietnam, face significant challenges in being recognized as victims. Some were trafficked at such a young age that they no longer remember their identities. This creates difficulties for competent authorities in verifying their status, delaying much-needed assistance and support.

In addition, instead of regulating the crimes of trafficking in person and children (Anti-Trafficking Protocol supplementing the 2000 Convention against Transnational Organized Crime and ACTIP define children as people under 18 years of age), the current Vietnamese Penal Code regulates human trafficking and trafficking in persons under 16 years old. As a result, if the trafficked person is under 16 years old, the offender will be prosecuted for the crime of "Trafficking persons under 16 years old" (Article 151, the 2015 Penal Code); If the person being trafficked is 16 years old or older, the offender will be prosecuted for the crime of "Human trafficking" (Article 150, the 2015 Penal Code). This incompatibility creates an obstacle in protecting victims from 16 years old to under 18 years old as these persons are not specifically protected by the law.

*Second*, in Vietnamese law, when it comes to human trafficking or smuggling, it is related to the purpose of profit. Judicial practice reveals that Vietnamese prosecution agencies must investigate and determine the purpose of profit of human traffickers while international law does not consider it a mandatory sign of trafficking in persons, especially persons under 18 years of age, who are children according to international law.<sup>28</sup> This is one of the differences between ACTIP and current Vietnamese criminal law.

*Third*, Vietnamese law does not regulate that commercial legal entities could be offenders of trafficking in persons and child trafficking involving individuals under 16 years old. These crimes exhibit outstanding characteristics of transnational organized crime. Many countries and territories stipulate criminal liability of commercial legal

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<sup>28</sup> Bui Thi Ngoc Lan, Tran The Linh, Vấn đề nội luật hóa Công ước ASEAN về phòng chống buôn bán người đặc biệt là phụ nữ và trẻ em, *Kiemsat Journal Issue 1/2022*, at: <https://vksndtc.gov.vn/thong-tin/thong-tin-khoa-hoc-kiem-sat/van-de-noi-luat-hoa-cong-uoc-asean-ve-phong-chong--d16-t9907.html>

entities to this crime, including Thailand, Malaysia, Philippines, China, the United States, Canada, Australia, and New Zealand, among others, and this is also one of the requirements of the TOC Convention for state parties.<sup>29</sup> The absence of regulations holding commercial legal entities criminally liable for human trafficking in Vietnam may create difficulties and challenges in international cooperation efforts. This legal gap can lead to conflicts with the laws of other countries and territories, hindering coordinated efforts to combat human trafficking effectively.

*Fourth*, Vietnamese law is compatible with the United Nations Convention against Transnational Organized Crime (UNTIP) and Protocol on the Prevention, Suppression and Punishment of Trafficking in Persons, Convention on the Abolition of Slavery and the 1926 Slave Trade, and ASEAN Convention against Trafficking in Persons, Especially Women and Children. Vietnamese law places significant emphasis on helping trafficked victims and preventing human trafficking through communication of mass media campaigns and direct community outreach using diverse methods and measures. It organizes specialized and integrated training programs on human trafficking prevention and combat to equip people with the knowledge needed to protect themselves and actively prevent trafficking crimes. Notably, the Vietnamese Law on Human Trafficking Prevention and Combat emphasizes the responsibility of state agencies, social organizations and communities in both preventing crimes and helping trafficked victims. These provisions not only strengthen the role of competent agencies in law enforcement but also encourage the active participation of society. Additionally, Vietnamese law promotes international cooperation and the involvement of global organizations in combating human trafficking, enhancing law enforcement capabilities, and ensuring the protection of trafficked victims worldwide. However, the current law stipulates that trafficked victims receive psychological support only during the period they stay at social protection centers and victim support centers. Meanwhile, many victims returning with psychological trauma, panic, and fear of retaliation after providing information to the police, border

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<sup>29</sup> Bui Le Hieu, Duong Lan Phuong, Những bất cập trong quy định về tội “mua bán người, mua bán người dưới 16 tuổi và kiến nghị hoàn thiện, *Vietnam Lawer Journal*, Volume 1/2024

guards, and coast guard, being discriminated by local people need psychological support. Moreover, the regulations stipulate that only victims from poor households are considered for education support, vocational training, and hardship allowance; The hardship allowance for the victims is low (1 million VND/person), not enough to ensure a stable life when returning to the homeland and integrating into the community; The regulations on the order and procedures to receive the support are not clear and unified. In addition, current law does not have regulations on interpretation costs for foreign victims, and ethnic minority victims when receiving the victims for testimony or supporting them at victim support centers and social protection centers; Some regulations are not consistent in different documents; etc.

However, the current law has limitations in supporting trafficked victims. Psychological support is only provided while victims stay at social protection and victim support centers. This neglects the long-term needs of victims who return with psychological trauma, fear of retaliation after cooperating with law enforcement, and social discrimination. Additionally, only victims from poor households qualify for education support, vocational training, and hardship allowances. The hardship allowance (1 million VND per person) is insufficient to help victims reintegrate and achieve stability. Moreover, regulations on the procedures for receiving support lack clarity and consistency. Another significant gap is the absence of provisions covering interpretation costs for foreign victims and ethnic minorities when providing testimony or receiving support. Furthermore, inconsistencies across legal documents create additional challenges in effectively assisting trafficked victims.

To harmonize the laws and ensure compatibility between Vietnamese and international laws, Vietnam is amending Law on Human Trafficking Prevention and Combat. The draft Law on Prevention and Combating Human Trafficking in Vietnam is being developed with some basic new points as follows:

Adding the group of "relatives of victims, persons in the process of being identified as victims" to the group of trafficked victims. This addition is to align the terms used in the draft Law with the Protocol on the Prevention, Punishment and Suppression of Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the ASEAN

Convention on Prevention and Combating Trafficking in Persons, Especially Women and Children and international treaties to which Vietnam is a member. It helps identify the legal status of people during the victim-verifying process and specify the group of policies regulating the support regime for people in the process of being identified as victims.

Prohibited acts are amended and supplemented: (1) Tolerating, shielding, failing to handle or improperly handling human trafficking acts; (2) Obstructing the rescue, reception, protection, verification, and support of victims and persons in victim-verifying process; (3) Taking advantage of cyberspace to commit human trafficking acts; and (4) Violating the provisions of law and the provisions of this Law in participating in preventing and combating human trafficking.

The principles and policies of the Vietnamese State on preventing and combating human trafficking are supplemented to meet practical requirements and align with international treaties to which Vietnam is a member. In particular, important principles are added, such as: (1) Complying with Vietnamese Constitution and laws, international laws and practices; properly implementing Vietnam's commitments to international organizations, agreements and international treaties on preventing and combating human trafficking to which Vietnam is a member; (2) Considering victims and persons in victim-verifying process as the center; (3) Ensuring gender equality; and (4) Ensuring that victims and persons in victim-verifying process are able to use a language they can understand and enjoy assistance policies that fit their beliefs and religions within the framework of Vietnamese law, and fit their age, gender and personal characteristics. At the same time, the following policies are supplemented: (1) Protecting and assisting agencies, organizations, businesses, and individuals participating in preventing and combating human trafficking and supporting trafficked victims; (2) Prioritize the application of science and technology in preventing and combating human trafficking; improve training and capacity building for those working in preventing and combating human trafficking.

In particular, the rights of trafficked victims are added to refuse protection measures applied by competent agencies, organizations and authorized person. Victims can be responsible for their own safety when refusing protection measures or not fully complying with the requests of

competent agencies, organizations and authorized person when they apply protection measures. Victims can refuse other rights as prescribed by law related to the prevention and combating of human trafficking. The regime and measures to support trafficked victims are also supplemented. However, the Draft still has some limitations, such as financial resources for assisting measures, the issue of human trafficking on the Internet, or gender sensitivity in measures and policies because women and girls are more vulnerable to human trafficking for the purpose of sexual exploitation, while men and boys are the targets of human traffickers for the purpose of labor exploitation or criminal activities. The injury levels of male victims are quite different from female victims.

In summary, international law on human trafficking prevention and combat has a positive impact and partly contributes to the improvement and development of Vietnamese law. Vietnam has made constant efforts to improve its institutions and laws on preventing and combating human trafficking. Right after signing multilateral and regional international treaties on human trafficking prevent and combat, relevant agencies promptly have specific action plans to assess, review, amend and promulgate new national legal regulations in accordance with international commitments. Generally, a series of legal regulations, such as Law on Human Trafficking Prevention and Combat, Penal Code, Criminal Procedure Code, promptly internalizes the member obligations on preventing and combating human trafficking stipulated in UNTOC, UNTIP, ACTIP, creating a national legal framework for cooperation on preventing and combating human trafficking. Current Vietnamese legal regulations are compatible and consistent with international law on preventing and combating human trafficking. For some provisions that are not compatible with international law as analyzed above, according to current Vietnamese law, the provisions of international treaties shall prevail. Specifically, “In cases where a legal document and a treaty to which the Socialist Republic of Vietnam is a party, contains different provisions on the same matter, the provisions of the treaty shall prevail” (Article 6, Vietnamese Law on Treaties 2016).

Based on legal regulations, Vietnam implements many synchronous solutions to prevent human trafficking crimes and support trafficked victims. Specifically, propaganda, dissemination and

education of laws on human trafficking prevention and combat are carried out synchronously with diverse contents and channels suitable for the receivers; social prevention and professional prevention are deployed synchronously and drastically; detection and handle violations of the law on human trafficking prevention and combat gains a lot of achievements. It is witnessed by the discovery of many human trafficking rings, prompt prevention and strict punishment of violations, promptly receiving, verifying and protecting trafficked victims, ensuring the rights of victims, supporting victims by all levels and sectors, and ensuring the best conditions to support victims. Moreover, international cooperation is enhanced by many bilateral and multilateral activities in many regional and global forums. As the result of implementing Law on Human Trafficking Prevention and Combat, the investigation, prosecution and trial of human trafficking crimes gain many achievements, specifically: from January 1, 2012, when the Law came into effect, to February 15, 2023, the total number of human trafficking cases prosecuted was 1,744 with 3,059 defendants; People's Courts at all levels accepted 1,661 cases at first instance with 3,209 defendants, tried 1,634 cases with 3,137 defendants (finishing 98.4% of total number of cases and 97.8% of total number of defendants). Identifying and supporting trafficked victims are improved, contributing to the protection of human rights and victims. Accordingly, from 2012 to February 2023, 7,962 trafficked victims were received and supported. The results reveals that the implementation of Law on Human Trafficking Prevention and Combat has helped reduce human trafficking, contributing to ensuring social order and safety, serving the cause of socio-economic development of the country, strengthening State management of prevention and combat of human trafficking and international cooperation in this field. It can be seen that Vietnam has been applying many synchronous solutions to prevent and combat human trafficking. However, the current human trafficking situation in Vietnam is still complicated due to both objective and subjective reasons, including the lack of synchronization and incompleteness in Vietnamese law.



## **D. Incompatibility of Vietnamese Law with International Norms on Human Trafficking and Proposed Solutions**

Despite significant efforts and notable achievements in combating human trafficking, the crime in Vietnam is highly complex and tends to increase with diverse and complex methods and tricks. Human trafficking has been reported in all 63 provinces and cities across Vietnam. According to the report of the government's Prevention and Control Steering Committee (138/CP), between 2016 and 2020, authorities discovered 1,266 cases involving 1,690 criminals and 2,956 trafficked victims. The crime has expanded dramatically, operating on a large scale with more intricate tactics and stronger networks between buyers and sellers. Particularly, offenders based inland collaborate with those in border areas or Vietnamese people residing abroad to form a well-organized criminal ring, luring victims and trafficking them across borders for profit.

Trafficked victims include not only women and children but also many working-age men who, due to difficult living conditions and low legal awareness, are exploited by criminals and sent abroad for labor exploitation. Most victims live in rural and mountainous areas, especially remote areas facing with economic difficulty. Women make up the majority of trafficked victims, with approximately 80% being deceived and sold abroad for forced marriage with indigenous people and subjected to sexual exploitation and forced labor (European Union, 2018). Traffickers take advantages of social networks such as Zalo and Facebook to collude with overseas Vietnamese and foreign criminals, forming well-organized rings that lure, defraud, and traffic domestic victims across borders. Offenders frequently exploit social networks to seduce, deceive, and recruit Vietnamese workers to work in Cambodia with false promises of high salaries and leisure jobs. Once recruited, victims are illegally transported across the border and sold to illicit businesses, including online gambling organizations, massage parlors, and karaoke service providers operated by foreign countries. Additionally, traffickers target individuals suffering from kidney failure who need transplants, acting as brokers to negotiate prices. They arrange medical examination, test, and necessary procedures for both kidney sellers and buyers, profiting illegally from the transactions. Another

sophisticated tactic involves creating closed groups on social media under names like "Giving Child for Adoption," where traffickers seek out pregnant women facing economic hardship or unwilling to raise their children, ultimately selling the infants for profit. Furthermore, some victims are deceived and sold to ship owners operating on the high seas, where they are subjected to forced labor. Human trafficking in Vietnam continues to increase and evolve into increasingly complex schemes due to multiple factors, such as:

*Economic difficulty, poverty, lack of education, and employment opportunities:* Trafficked victims in Vietnam are predominantly poor ethnic minorities living in rural and mountainous areas with particularly difficult economic conditions. Ethnic minorities account for only 15% of Vietnam's population but 70% of the extreme poor, measured by the national extreme poverty line. After two decades of rapid growth, ethnic minorities in Vietnam have living standards improved but their gains still lag far behind those of the Kinh majority. Many victims crossed the border with initial purpose in search of job opportunities and better income, but they are deceived or forced to work in fishing vessels, agricultural, construction, and service establishments. The negative impact of the market economy and international integration, such as the widening gap between rich and poor, along with the disparity in development between urban and areas—particularly in remote and disadvantaged regions—have exacerbated human trafficking issues. Factors like high unemployment, low education levels, and a lack of awareness contribute significantly to the vulnerability of many individuals, particularly women and children from ethnic minorities. In these areas, traditional customs and practices, such as visiting relatives or wife kidnapping, can further complicate the situation. These factors make many people, especially women and children from ethnic minorities, highly vulnerable, making it easier for criminals to lure and deceive them.

*People's limited education and awareness:* The education and occupation details of trafficked victims were not thoroughly documented in the court. However, based on available data from 71 out of 76 victims with detailed information, it is evident that most of the victims are illiterate or have not completed 12th grade of general education. Disadvantaged circumstances, poverty, and a lack of

awareness about the law and human trafficking crime are significant factors contributing to the rise in cross-border human trafficking crimes.<sup>30</sup> The majority of trafficked victims have limited education and awareness. Many are illiterate or only have a primary school education. Before being trafficked, their occupations mainly consisted of farming or they were unemployed. The difficult conditions in their lives and their limited awareness make them vulnerable, serving as "easy targets" for human traffickers who promise them stable, high-paying jobs (World Vision, 2020).

Vietnam has recently strengthened its international and regional integration across political, economic, cultural, and social fields comprehensively, making travel, trade, and international exchange become increasingly convenient. However, this also creates favorable conditions for criminals to engage in cross-border human trafficking. Vietnam shares a long border with three countries, Laos, Cambodia, and China. The border features many pathways, small roads, and shortcuts, particularly along the Vietnam-China border, which is characterized by complex geography with mountains and rivers, providing easy access for people on both sides to travel and trade. China has recently implemented policies to promote the development of border trade and infrastructure construction in its border area, including restaurants, hotels, entertainment venues, border markets, farms, and mines, and has encouraged the migration of people living near the border. As a result, many types of services, such as karaoke, massage, among others, have emerged, contributing to uncontrollable social issues and attracting many participants and Vietnamese people seeking work as hired laborers. Additionally China's longstanding gender imbalance—due to its population policy, which has resulted in a surplus of men—has led to a situation where Chinese men of marriageable age struggle to marry Chinese women and thus seek to marry Vietnamese women.

*The downside of globalization and the development of science and technology, especially the 4.0 scientific and technical revolution, creates conditions for turning migrant workers into victims of human trafficking.*

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<sup>30</sup> 'Why are ethnic minorities in Vietnam persistently poor?', World Bank Blogs, accessed 10 January 2025, <https://blogs.worldbank.org/vi/eastasiapacific/vn-why-ethnic-minority-poverty-persistent-vietnam>.

Human traffickers utilize and use technology as a tool to deceive and sell people more quickly, cost-effectively, and undetectably. Additionally, due to the strong globalization, human traffickers often take advantage of open policies in immigration procedures to organize the rings to send people abroad for tourism, visiting relatives, and illegal labor. Once abroad, victims' personal documents and passports were confiscated, residence procedures remain incomplete, and they are forced into labor and sexual exploitation.

*Gender inequality is partly responsible for the increase in human trafficking.* Gender inequality stemming from the ideology of male chauvinism leads to many men being unable to find wives, especially poor and uneducated men. Consequently, they have a need for physiological satisfaction, causing many social problems, such as prostitution, trafficking of women and children, sexual slavery, and promiscuous sexual activities, among others. Thereby, trafficking in women and children increases (UNICEF, 2017). Vietnam, a Southeast Asian country, has gender stereotypes that have created a demand for female workers in the sex industry, where sex workers are often treated as commodities to fulfill men's sexual needs. The majority of sex workers are women and girls. According to a study by the International Labor Organization (ILO), there are an estimated 101,272 sex workers in Vietnam, of which 72,000 are women, and the majority of their clients are men.<sup>31</sup> The increasing demand for sex not only drives migration flows but also exacerbates human trafficking situation. In addition, differences in socio-cultural practices and gender stereotypes across different societies partly contribute to the increased demand for human trafficking. The growing marriage market and bride trafficking are outstanding examples of differences in culture and social expectations, and the consequences of gender discrimination. It is witnessed by the typical example of the marriage market between Vietnam and China or Korea. On one hand, the gender gap, combined with the male-dominated ideology of East Asian culture in China and Korea lead to a surplus of

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<sup>31</sup> CSAGA, 'Human Trafficking and a Rights-Based Gender-Sensitive Approach: Gender in Support Service for Community Reintegration through the Shelter Model', CSAGA, accessed 10 January 2025, <http://csaga.org.vn/buon-ban-nguoi-vatiep-can-nhay-cam-gioi-dua-tren-quyen-gioi-trong-dich-vu-ho-tro-tai-hoa-nhap-cong-dong-qua-mo-hinh-nha-tam-lanh-n315.html>.

men and a shortage of women, thereby increasing the demand for brides originated from neighboring countries, such as Vietnam. On the other hand, the pressures from society and family responsibilities in Vietnam, where patriarchal culture prevails, force many women to migrate in search of jobs or to marry foreigners. As the result, a rapid development of the Chinese marriage market, often disguised as marriage brokerage, contributes to the rise in human trafficking. In Vietnam, many women, enticed by the promise of a better life abroad, are deceived and trafficked through fake marriages, only to be exploited for forced labor or prostitution.<sup>32</sup>

*Challenges from the judiciary and law enforcement.* In Vietnam, human resources assigned to implement legal activities for preventing human trafficking in localities are limited. Furthermore, the forms of awareness campaigns in many places are not adequately tailored to the characteristics of the target audience, such as education level, age, customs, and practices—especially in remote regions with a high proportion of ethnic minorities and illiterate individuals. Training courses held by ministries and branches are insufficient to cover all provinces and cities, merely focusing on border provinces with high number of trafficked victims. Training activities provided by localities are mainly training on documents and policies without knowledge and skills, especially skills of receiving and supporting trafficked victims based on psychological trauma. Additionally, the persons in charge of receiving and supporting victims often change their jobs, leading to insufficient knowledge and skills to ensure their duties. Some provinces do not afford to focus on training and capacity building for their staff. The integration of knowledge on human trafficking into other programs to support trafficked victims is not as effective as expected. There is no truly effective way to organize and realize the integration at both the central and local levels. Resources are not fully exploited and utilized to support victims, especially the support in vocational training and employment. Moreover, the current provider of support services for trafficked victims is social

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<sup>32</sup> Luke S Bearup (2016), Reintegration as an Emerging Vision of Justice for Victims of Human Trafficking, International Migration doi: 10.1111/imig.12248 at: [https://bettercarenetwork.org/sites/default/files/Bearup\\_LS\\_International\\_Migration.pdf](https://bettercarenetwork.org/sites/default/files/Bearup_LS_International_Migration.pdf)

assistance facilities (social protection facilities and social work centers). The skills and expertise of the investigation force do not meet the requirements of investigating and verifying human trafficking condition. In fact, human trafficking cases are investigated, verified and resolved mainly by complaints from victims or their families; the number of cases verified proactively by the investigating agency is very few.

*Challenges from international cooperation in preventing and combating human trafficking.* International cooperation in preventing and combating human trafficking still have many limitations, especially the lack of international treaties and agreements in preventing and combating human trafficking crimes, making it difficult to coordinate, exchange information, support investigation, verification, arrest of criminals, as well as rescue and return trafficked victims.

The last but not least reason is the lack of compatibility between the provisions of Vietnamese law and international law, lack of uniformity between Vietnamese law on human trafficking prevention and other national legal documents. As a result, it is difficult to identify human trafficking crimes and establish an international cooperation mechanism for human trafficking prevention between Vietnam and other countries.

## Conclusion and recommendations

Preventing human trafficking is a special concern of the international community, including Vietnam. From the perspective of international law, human trafficking prevention and combat are regulated in many international documents at multilateral, global, regional, and bilateral levels. In Vietnam, the complicated development of human trafficking always concerns the Party and State. Vietnamese laws on human trafficking prevention and combat are regularly supplemented and improved to promote the effectiveness of human trafficking prevention and combat activities. Nevertheless, Vietnamese law on human trafficking prevention and combat still has shortcomings as some contents are not compatible with international law. This leads to difficulties in identifying human trafficking criminals for punishment and identifying trafficked victims to facilitate them to repatriate and reintegrate into the community. In the context of globalization, the 4.0 industrial revolution and digital transformation bring many challenges to Vietnam. To eliminate the impacts of corruption and negativity and increase the effectiveness of human trafficking prevention and combat, it is necessary to amend and supplement legal policies to ensure that legal regulations are transparent, clear, appropriate, applicable to practice, and compatible with the trend of development and international integration.

It is essential for Vietnam to review and improve its domestic laws, especially the Law on Human Trafficking Prevention and Combat. By amending this law, Vietnam can not only address existing limitations but also consider adding regulations related to human trafficking prevention and combat in cyberspace. With a high Internet penetration rate, Vietnam has an increase of five million Internet users from 2021 in 2022. As of early 2022, nearly 80 million people—over 78% of the population—were using social networks, with Facebook users accounting for 97.6% of total social network users.<sup>33</sup> Human trafficking in cyberspace is popular, therefore, it is a good consideration to supplement the regulations on human trafficking, victim identification, and cyber trafficked victim policies as model of Philippine to combat

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<sup>33</sup> Simon Kemp, *Vietnam Digital Report Social, Digital And Mobile In Vietnam* (2023) at <https://wearesocial.com/uk/blog/2012/10/social-digital-mobile-vietnam>

human trafficking crimes and ensure the rights of trafficked victims in cyberspace.

Furthermore, Vietnam should consider supplementing the principle of ensuring gender equality and victim-centeredness. Women and girls are more vulnerable to human trafficking for sexual exploitation, while men and boys are targeted by human traffickers for labor exploitation or criminal activities. The severity of the injuries between male and female victims is also relatively different.<sup>34</sup>

In the near future, Vietnam needs to review and improve national law by reviewing and enhancing the compatibility between the provisions of Vietnamese law and the content of international conventions, thereby improving legal regulations on human trafficking prevention and combat in accordance with the Conventions. Moreover, it is important to research and propose amendments and supplements to the provisions of the Penal Code, the Criminal Procedure Code, the Law on Human Trafficking Prevention and Combat; the Law on Legal Assistance; the Law on International Treaties; the Law on Enforcement of Custody and Temporary Detention; the Law on Children; the Law on Organization of Criminal Investigation Bodies and other relevant legal documents to ensure their compliance with the provisions of International Conventions on Human Trafficking Prevention, and their association with the National Program on Human Trafficking Prevention and Combat.

The provisions on human trafficking and child trafficking in Article 150 and Article 151 of the 2015 Penal Code should be researched and improved by focusing on the following issues: (1) Expanding the scope of criminal handling for crimes of trafficking in human and persons under 16 years old in term of recruiting, transporting, harboring people for the purpose of sexual exploitation, forced labor, the removal of body parts or for other inhumane purposes; (2) The aggravating circumstance of criminal liability "*already took the victim's body parts*" at Point b, Clause 3, Article 150 and Point d, Clause 3, Article 151 of Penal

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<sup>34</sup> Dang Huong Giang, Recommendations for amending the Law on Human Trafficking Prevention and Combat, *Xay Dung Dang Journal* (2024) <https://www.xaydungdang.org.vn/nhan-quyen-va-cuoc-song/nhung-kien-nghi-gop-y-doi-voi-viec-sua-doi-luat-phong-chong-mua-ban-nguoi-20535>



Code should be removed; (3) The age of trafficked victims in Article 151 should be changed to under 18 years old instead under 16 years old; and the crime name thereby should be change accordingly; (4) The regulation "*except for humanitarian purposes*" in Article 151 of Penal Code should be removed; and (5) Commercial legal entity must be considered an entity of criminal liability for the crime of trafficking in human and people under 16 years of age.

Furthermore, we shall enhance the efficiency of support for trafficked victims by: (1) Improving the receipt, verification, and identification of trafficked victims to implement support regimes according to the provisions of law; (2) Taking measures to protect victims as prescribed by law, ensure temporary housing for trafficked victims, especially women and children; support them for physical, psychological, social recovery and community reintegration through calling for the active participation of social organizations, socio-professional organizations, and businesses; (3) Ensuring that trafficked victims can use the language they understand; and (4) Explaining about legal rights and interests of trafficked victims and help them to access support services; ensure the defense rights of trafficked victims in accordance with the ACTIP Protocol and Convention.

Lastly, we strengthen the detection and handling of human trafficking crimes, particularly those involving organized criminal groups participating in human trafficking. Additionally, Vietnam will strictly prosecute the officials, civil servants, and public employees who engage in acts of corruption and money laundering, participate in or facilitate human trafficking, or obstruct judicial activities related to prevention and combat of human trafficking, as prescribed by law in accordance with United Nations Convention against Corruption, the United Nations Convention against transnational organized crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

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