

Viet Nam Policy Brief 1: Addressing forced labour at its root in Viet Nam

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Forced labour is violation of labour and human rights. It is a global challenge faced by many countries and sectors. It also affects women, men and children across Viet Nam. Poverty, informal economic activity, lack of access to social protection, and low awareness of labour and human rights are some of the factors that increase vulnerability to forced labour.

The following actions taken by Government together with the private sector, including local and foreign-owned business as well as those employing migrant workers overseas, and other stakeholders, presents a path to addressing forced labour.

What can be done in Viet Nam to address forced labour?

1. Raise awareness of forced labour prevention.
2. Increase availability of vocational and skill-based training opportunities for groups in situations of vulnerability.
3. Take proactive steps to ensure that the business, investment and regulatory environment are conducive to a transition from informal to formal economy.
4. Strengthen social protection mechanisms, at a minimum providing basic social security guarantees for all.
5. Implement fair recruitment practices, including eliminating worker-borne recruitment fees and related costs.

This policy brief sets out that:

- Viet Nam has made much progress in setting up the legal framework necessary to eradicate forced labour.
- However, Vietnamese migrant workers are at risk of forced labour.
- Forced labour cannot be eradicated without tackling its root causes.
- Stakeholders must work together.
- The rural poor should be targeted as a matter of priority.
- Five actions that will help Viet Nam eradicate forced labour have been identified.

Vietnamese migrant workers are already at risk of forced labour. COVID-19 is further increasing this risk.

The benefits of labour migration for Viet Nam are significant, with annual inflows of remittances by Vietnamese labour migrants reaching around US\$17billion (6.5 per cent of GDP) in recent years.¹ There are also significant risks and challenges associated with labour migration, including

¹ These policy briefs are intended to be living documents. Readers should regularly check for updates.

the violation of rights of workers, informal networks of recruitment, and the violation of government regulations on recruitment procedures. In the worst-case scenarios, workers can become trapped in forced labour.

WHAT IS FORCED LABOUR?

Forced labour constitutes work that is performed involuntarily and under the menace of any penalty. It refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities. The ILO's Forced Labour Convention, 1930 (No. 29) defines all forced (or compulsory) labour as *'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'*.

Migrants are vulnerable to forced labour. For example, they can become victims of human trafficking, which is also forced labour. The exceptions to this are cases of trafficking for organ removal, forced marriage or adoption, unless the latter practices result in forced labour. Forced labour can be imposed to adults and children, by State authorities, by private enterprises, or by individuals. It happens in all types of economic activity, such as domestic work, construction, agriculture, manufacturing, sexual exploitation, forced begging, and more, and in every country.

Forced labour is different from sub-standard or exploitative working conditions. The ILO's 11 indicators of forced labour can be used to ascertain when a situation amounts to forced labour.

The ILO's 11 indicators of forced labour			
Isolation	Physical and sexual violence	Intimidation and threats	Retention of identity documents
Withholding of wages	Debt bondage	Deception	Excessive overtime
Abuse of vulnerability	Abusive working and living conditions	Restriction of movement	

Regional forced labour estimates and national migrant worker data suggest that forced labour of Vietnamese migrant workers is a concern.

- Two-thirds of all those in forced labour worldwide are in the Asia and the Pacific region.¹ 16.5 million person in forced labour are located in this region, with women and girls disproportionately affected.ⁱⁱ
- In 2019, a total of 152,530 Vietnamese left for work abroad using formal channels. Just over a third (36 per cent) were women.ⁱⁱⁱ However, numbers are likely to be much higher given that many Vietnamese migrant workers use informal channels to find work abroad.

Viet Nam has made much progress in setting up the legal framework necessary to eradicate forced labour.

Viet Nam has taken important steps in eradicating forced labour through its legal framework:

- Viet Nam has ratified ILO's Forced Labour Convention, 1930 (No. 29), which prohibits all forced labour, and ILO's Abolition of Forced Labour Convention, 1957 (No. 105). The

ratification of the latter was a component of the Viet Nam's Free Trade Agreement with the EU.

- **Law No. 45/2019/QH14 New Labour Code:** prohibits:
 - The extraction of forced labour
 - The enticement, making of false promises, or false advertising to deceive a worker
 - Using employment services or activities to send workers abroad with the intention of committing illegal acts
- **Law No. 66/2011/QH12 on Human Trafficking Prevention and Combat** prohibits the transferring or receiving, recruiting, transporting or harbouring of a person for forced labour
- **Law No. 72/2006/QH11 Law on Vietnamese Migrant Workers:** sets out the rights and obligations of both migrant workers and employment agents sending them abroad.

Forced labour cannot be eradicated without tackling its root causes.

- The ILO identifies poverty, weak governance, informal economic activity, lack of access to social protection, low awareness of labour and human rights, humanitarian crises, and discrimination as the root causes of forced labour.
- The majority of forced labour occurs in the informal economy, which is unregulated.
- Those in poverty or lacking livelihood options will be at higher risk of being employed in jobs where forced labour practices are present.
- Discrimination also increases vulnerability to forced labour. For example, minority religious or ethnic groups can be especially vulnerable to abuse and are more often in forced labour.^{iv}
- The factors that make a person vulnerable to forced labour are often also those that reduce their ability (real or perceived) to leave situations of forced labour. These include restricted movement, excessive working hours, lack of information, and not speaking the local language. Intimidation and threats, and an irregular migration/informal employment status, can also limit a person's ability to seek support.

The rural poor are most vulnerable.

- Two thirds of Viet Nam's poor live in rural areas. The average income in urban Viet Nam is double that of rural Viet Nam, creating a pull for the rural poor into urban environments – and in some cases to migrate overseas.
- Whilst literacy levels in Viet Nam are relatively high, two thirds of internal migrants have no professional or technical qualifications, limiting them to low-skilled labour.
- Moreover, the rural poor have limited access to accurate and reliable information on their labour rights and what to expect from recruitment agents and the migration experience overall. This makes it easier for unscrupulous recruitment practices for the purposes of (or that lead to) forced labour in Viet Nam or countries of destination.
- The Government of Viet Nam has taken an important step in the right direction by creating a 'social beneficiary' status. It targets people from rural areas and ethnic minorities who are disadvantaged and therefore vulnerable to forced labour. The 'social beneficiary' status allows for longer periods of training under the government's migration scheme, run by the Center of Overseas Labour. However, the time taken to access this method of migration leads them to choose private or unregulated options.

The following actions will address forced labour at its root:

- **Raise awareness of forced labour prevention:** Working with all relevant stakeholders, develop and implement a campaign that informs the public of the nature of forced labour, its prevalence, and how people can find themselves in situations of forced labour, including in circumstances that do not involve human trafficking. Increase access to accurate information on labour migration and rights at local level, and build and strengthen collective support networks.
 - For example, focusing awareness raising campaigns in transportation hubs is an approach used in many countries. In Peru, a mini-series on forced labour is broadcast on the inter-city bus routes in the country, with transport staff mobilised to raise awareness with passengers of dangerous situations.^v
- **Improve access to livelihoods:** Vocational and skills-based training that lead directly to employment, or is provided alongside income support, will increase access to livelihoods.
- **Take proactive steps to ensure that the business, investment and regulatory environment are conducive to a transition from informal to formal economy:** Ensuring that the business and investment environment is conducive to the transition from informal to formal economy, and supported by regulatory mechanisms that promote greater transparency, reporting and accountability.
- **As an intermediary step, organize workers in the informal economy:** Promoting the organization of informal economy workers, through new associations or under the umbrella of existing unions, to enable them to advocate for their rights.
 - For example, the Sierra Leone Labour Congress, a national trade union in Sierra Leone, set up trade unions for specific categories of informal economy workers. Members benefit from collective advocacy that has improved their working conditions.
- **Strengthen social protection mechanisms:** Provide basic social security guarantees to all, including all migrant workers, to prevent poverty.
 - An integrated approach with other stakeholders is important. The ILO's Work in Freedom programme works to reduce vulnerability to human trafficking and forced labour of women and girls in South Asia and the Middle East by taking an integrated and targeted approach in partnerships with multiple organizations and stakeholders. The programme engages in a series of interventions that address the multiple facets of forced labour simultaneously.
- **Implement fair recruitment practices:** Fair recruitment is critical to eradicating forced labour. Unfair recruitment practices can lead to the exploitation and abuse of migrant workers. For further information, please see the other ILO GBNFL policy briefs in this series.
 - A strong political statement, followed by effective follow-up action, can make a positive impact. For instance, in 2018, Thailand made a first step by ratifying the Protocol of 2014 to the ILO's Forced Labour Convention, 1930, which recognizes recruitment risks, thereby expressing a 'strong political will to join forces with the global community to eradicate forced labour'.^{vi}

ⁱ World Bank.2019. Migration and Remittances. See <https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS?locations=VN>

ⁱⁱ ILO. 2018. Ending forced labour by 2030: A review of policies and programmes See: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_653986.pdf

ⁱⁱⁱ Department of Overseas Labour, Ministry of Labour, Invalids and Social Affairs (2019)

^{iv} ILO. 2012. ILO Indicators of Forced Labour

^v ILO. 2018. Ending forced labour by 2030: A review of policies and programmes.

^{vi} Thailand joins the global movement to combat forced labour. ILO Press Release (4 June 2018). See: https://www.ilo.org/global/standards/information-resources-and-publications/news/WCMS_631435/lang-en/index.htm