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**SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, AND HUMAN RIGHTS**

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Mr. Chairman and distinguished members of the Subcommittee,

Vietnam anti-trafficking in persons (TIP) law became effective a few weeks ago, on Jan 1 of this year. However, I don’t foresee any significant change from the present practices and policies. The new law does not address the two gravest venues of modern-day slavery in Vietnam: labor export and forced labor in rehabilitation centers and prisons. These legal venues to modern-day slavery take cover under Vietnam’s national policies, involve billions of dollars, and are fiercely protected by well-placed stakeholders in the government.

The government of Vietnam has not investigated, let alone prosecuted, a single case of human trafficking that took place under its labor export program. In 2008 my organization, BPSOS, co-founded the Coalition to Abolish Modern-day Slavery in Asia (CAMSA). Over the past 3.5 years we have rescued over three thousand Vietnamese migrant workers subjected to slavery-like conditions in different countries – one of them is testifying today. Through interviews with the rescued victims, we have identified 35 Vietnamese labor export companies who were involved in human trafficking, engaged in fraudulent recruitment practices, or violated existing labor export laws of Vietnam. For the past three years and through different means we have communicated such findings to the Vietnamese authorities at multiple levels.

Instead of investigating these labor export companies, many of which are state-owned, the police has instead interrogated and threatened the victims who spoke out against slavery. Almost routinely, the Vietnamese government has sent its officials from Ha Noi to “trouble spots” in order silence the victims, take side with the traffickers, or to impede justice. In multiple occasions we had to deal with such delegations in the American Samoa, in Jordan, in Malaysia, and even in Houston.

In February of last year, the Ministry of Labor, War Invalids and Social Affairs (MOLISA) issued a circular, accusing CAMSA of “taking advantage of our worker’s ignorance” to sabotage Vietnam’s labor export program and requesting Vietnamese labor export companies to “post personnel in countries hosting large numbers of Vietnamese workers so that those representatives may monitor, detect early, and take timely action when such issues first arise.” (Circular dated February 15, 2011)

To completely disempower migrant workers from defending themselves, the Vietnamese government bars all migrant workers from joining local trade unions. For example, the Vietnamese embassy has issued a sample contract that Malaysian employers must use when hiring Vietnamese workers. This sample contract stipulates that Vietnamese workers *“shall not strike or being* [sic] *involved in any strike or industrial actions as well as any political activities and activities of those related with Trade Union in Malaysia, or instigate others to commit such acts,”* even though the law in Malaysia allows migrant workers to join trade unions. Actual contracts are even more restrictive, prohibiting Vietnamese workers from entering into romantic relationship with the locals, getting married to the locals, or, for female workers, becoming pregnant.

In my recent trip to Thailand I met four victims of labor trafficking, all Montagnards from Vietnam’s Central Highlands, who in 2008 came to our newly opened CAMSA office in Penang, Malaysia to seek help. They were severely exploited; the two female victims were also sexually abused by their employers. Before we could act, some local Catholic nuns helped these victims escape from their employer and return to Vietnam. Upon return to their village, they were immediately summoned by the police, detained and interrogated for two days; their interrogators beat them up and threatened that “whoever opens mouth about Malaysia will be killed.” They were ordered to pay the labor export companies double the already exorbitantly large amount of service fees they owed these companies. Knowing that they would never be able to pay back that larger debt, they escaped to Thailand. Unfortunately, all four of them have been denied refugee status by the UNHCR.

I would like to touch briefly on the issue of drug rehabilitation centers, which are also run by MOLISA. Human Rights Watch’s report “The Rehab Archipelago” points out that inmates are subjected to forced labor, producing cashews, sewing garments, or manufacturing other items. Through my interviews with asylum seekers in Thailand, I have discovered that many individuals imprisoned because of their political opinions or because of their faith had also been subjected to exactly the same type of forced labor. One Montagnard, jailed from 2002-2009, had to do this for 7 years. His hands were eaten by the acid from the cashew nuts because he was not allowed to use gloves. Another Montagnard jailed in 2005-2009 at Dai Binh Prison in Lam Dong described prisoners being divided into production teams (cashew production, farming, vegetation, packaging fish for exporting). Those failing to meet quota were beaten with a whip and kicked. A Vietnamese dissident who successfully fled to Thailand reported that during his incarceration at the Z 30A Xuan Loc prison, he had to break cashew shell - about 22 kg/day. Human Rights Lawyer Nguyen Van Dai, a recently released prisoner of conscience, also reported the wide use of force labor in prison to manufacture products that are then exported to Western countries.

Some individuals or agencies may report improvements in the fight against human trafficking in Vietnam. They must be talking about the illegal venues of human trafficking, including the sex trafficking of women and children to neighboring countries and the internal trafficking for child labor. The government of Vietnam has played up its efforts to fight these forms of human trafficking, which usually involve small-time criminals and low-ranking cadres. The government invites international NGOs into Vietnam to fight human trafficking, but prohibits them from touching the forms of modern-day slavery taking place under programs managed by government agencies. We are not aware of any NGOs working in Vietnam, even those funded by US government programs, that speak out against modern-day slavery in the labor export program, in rehab centers or in prisons. Vietnam has deftly deceived public opinion by showcasing its efforts to fight the illegal forms of human trafficking while protecting the legal forms of modern-day slavery.

**Recommendations:**

1. To the US government:
	1. Vietnam belongs in Tier 3 and must be ranked as such.
	2. Our government, especially GTIP, USAID, and PRM, should fund projects that focus at least equally on both the legal and illegal venues of human trafficking.
	3. DRL should interview political prisoners about the practice of forced labor in prison and include the findings in its annual country conditions report.
	4. GTIP should use the following benchmarks in its ranking of Vietnam in its annual report:
		1. Elimination of contract provision that prohibits migrant workers from joining labor unions in destination countries.
		2. Statistics on investigation and prosecution relating to labor trafficking under the labor export program.
		3. Statistics on victims of trafficking under the labor export program accessing assistance, including legal assistance to seek remedies against implicated labor export companies.
		4. An end to the use of forced labor in rehab centers and in prisons.
	5. The Office of the US Trade Representative should investigate Vietnam’s use of forced labor to produce goods for export to the US, Canada, European countries, and other countries.
2. To the UNHCR:
	1. Refugee status determination should take into consideration the risks faced by those who expose human trafficking in the Vietnamese government’s labor export program or the use of forced labor in rehab centers and prisons.