

International Labor Migration from Vietnam to ASEAN Receiving Countries - Current Issues and Challenges

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Abstract: Internal migration has been the subject of attention and research in Vietnam for several decades now, but it is only recently that the country's international labor migration has come in for scrutiny, either in theoretical or field studies, and that the active and increasing role played by international labor migration in the national development has been recently recognized and appreciated as Vietnam has been one of the largest labor-sending countries in ASEAN. The actual flows in the case of Vietnam will be much larger if undocumented flows are accounted for. The paper discusses the problems faced by Vietnamese migrant workers in their countries of destination, as well as the problems they face in Vietnam in the process of migration and upon their return. The paper describes the needs, challenges and vulnerabilities of Vietnamese international migrant workers (IMWs), with an emphasis on the violations and abuses of their human rights within global and ASEAN contexts from gender and human rights perspectives, as well as the benefits and the opportunities for IMWs in terms of their financial situation, their contribution, and professional and personal development. The paper argues that the country needs to shift from supplying cheap low-skilled manpower to more regionally and globally competitive and skilled manpower.

Keywords: labor, migration, gender, human rights, laws, policies.

1. Introduction

Vietnam has undergone a major socio-economic transformation over the past three decades, rising from one of the poorest countries in the world to a middle income country. Today it continues to develop rapidly, becoming more integrated with the global economy and undergoing significant regulatory and structural changes.

As the first research paper in Vietnam dealing with this interesting and sensitive subject from a human rights lens, based on

documents, observations, interviews with IMWs and their families, relatives, recruiters, employers, government authorities, members of the National Assembly and local people's councils, civil society organizations, etc. and a review of newspapers, journals and secondary sources, the paper also reviews the current Vietnamese national laws, policies and practice for the protection and empowerment of the Vietnamese

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IMWs, and introduces a multidisciplinary and comprehensive framework with recommendations for future actions. As the present paper argues, these challenges relate equally to civil, cultural, economic, political and social rights as it considers their human rights situation, through an analysis of existing laws, policies and gaps in their practices.

There is great value in the development of such a paper as it would be a major reference document on international labor migration from Vietnam, especially in areas of laws, policies and practices. Such knowledge base benefits diverse players in government, development partners, and academic institutions to CSOs, as well as to influence the development and implementation of the National Socio-economic Development Plan (SEDP) for 2016-2020 and other key policy frameworks.

2. Contents

2.1. Trends and drivers

The Ministry of Labor, Invalids and Social Affairs (MOLISA) in Vietnam estimated that there were approximately 500,000 Vietnamese men and women working on contract overseas in approximately 50 countries and territories all over the world in about 30 different types of occupations and ranging from low to highly skilled laborers and professionals. The majority of them were young men and women from rural areas who obtain low-skilled employment in manufacturing, construction, fishing, agriculture, domestic work, and other service industries. Those migrant workers have made a significant contribution to the economic development of Vietnam through remittances, providing a major source of foreign exchange income [17]. For the last 15 years, there were around

80,000-100.000 contract workers sent overseas for employment each year [15].

Tens of thousands of other migrant workers also worked for construction contractors, on overseas investment projects or as individual contract holders in other ASEAN destinations including Malaysia, Singapore, Brunei Darussalam, Thailand, Lao People's Democratic Republic, and Cambodia [17]. However, it is widely accepted that the actual numbers are much higher, due to the extent of irregular migration as many men and women migrate outside legal channels. The following official figures do not include the number of undocumented/irregular migrants many of whom are women.

This is a stock estimate collected by the Department of Overseas Labor (DOLAB) in MOLISA. This technical department collects data on outflows or deployment of temporary contract-based migrant workers. Agreements between Vietnam and these four top countries concur on the export-import of labor and establish annual quotas of migrant workers [17].

The legal status of migrant workers from Vietnam has also become more varied, with a sizeable number employed irregularly outside the parameters of bilateral agreements and labor migration MOUs, including in Cambodia, Lao People's Democratic Republic (Lao PDR), China, Thailand, Angola, Russia and Cyprus. At the same time, there have been concerns about the rising number of Vietnamese workers overstaying their visas and therefore becoming irregular migrant workers in the Republic of Korea (South Korea), Taiwan and Malaysia. The irregular status of these migrants increases their

vulnerability to exploitation and limits the channels available for seeking assistance. Irregular migration is punishable by fines and other sanctions in Vietnam as well as in destination countries.

Migrant workers have driven more recent growth in the Vietnamese diaspora.

The years of emigration, which date to the end of the war in Vietnam in 1975, have yielded a global diaspora estimated at 4 million in 103 countries all over the world, a small percentage of Vietnam's estimated 2015 population of 93.45 million [34].

Table 1. Number of Vietnamese Contracted Migrant Workers during 2000-2015 in Other Countries

Year	Number of Vietnamese contracted migrant workers	Women	Men
2000	31,500	9,065	22,435
2001	36,168	7,704	28,464
2002	46,122	10,556	35,566
2003	75,000	18,118	56,822
2004	67,447	37,741	29,706
2005	70,594	24,605	45,989
2006	78,855	27,021	51,623
2007	85,020	27,873	55,323
2008	86,990	28,598	58,392
2009	73,028	22,020	51,008
2010	85,546	28,573	56,973
2011	88,298	31,990	56,308
2012	80,320	26,784	53,536
2013	88,155	31,769	56,386
2014	106,840	40,063	66,777
2015	119,530	36,840	82,690

2.2. A choice and reasons for labor out-migration

Various factors, such as globalization, poverty, unemployment or low wages, family obligations, natural disasters or wars and internal military conflicts, limited

social and economic opportunities and the desire to expand their horizons, determine labor migration in the country. Economic and social upheaval can also provide the impetus to leave. In the coming decades, demographic forces, globalization, and

climate change will increase migration pressures both within and across borders.

In the past, labor migration from Vietnam was dominated by men. The usual explanation for recent growth of female labor migration is because of gendered cultural practices and gender-based violence, or to flee abusive marriages and patriarchal traditions that limit their opportunity and freedom. Discrimination against certain groups of women - single mothers, unmarried women, widows or divorcees - also drives many to move elsewhere. For educated women unable to overcome employment discrimination in their own country, migration may offer an opportunity to find work that is more likely to better utilize their skills in the ASEAN regional integration context. However, the number of women migrating has increased steadily over the last decade though reliable data on the destinations and occupations of women and men migrating are still inadequate and many people migrate through irregular channels.

While economic factors may be key reasons for migration, state-sponsored overseas employment, historical legacy of women's mobility, and global economic restructuring ushered in Vietnamese women's migration. In addition, gender ideology and gendered practices in recruitment and deployment process in both destination countries and Vietnam likewise trigger migration. The main destinations in Asia for Vietnamese women have been traditionally Taiwan, Malaysia, South Korea, Macao, mainland China, Laos, Japan and Cambodia [26].

Mostly driven by economic reasons, many women go abroad, often not knowing what lies ahead. They are married or single,

divorced or widows, and homosexuals, mothers and daughters, girls and older women. They are many but they are invisible as there is not enough data or sex-disaggregated statistics on migrant women. Stories of abuse and harassment, of being trafficked into prostitution have not dissuaded others from trying their luck.

The dream of a better life after their contract overseas has kept the numbers growing. They work hard, often under conditions that are difficult and significantly different in terms of culture and work practices. At the same time, they risk separation and alienation from their families, a condition that goes against the grain of traditional Vietnamese values. It is considered sacrifice to provide a better future. In addition, there have been more and more private recruitment agents, overseas employment promoters, human resource suppliers and other legal and illegal intermediaries that have greatly facilitated international female labor migration.

While most women historically migrate for marriage or family reunification, the past decades have seen an increase in women - married and unmarried - who migrate alone or in the company of other women or fellow migrants outside of their family circle. While women increasingly migrate alone or as the primary income earners, their labor migration is often under-reported. Women who migrate for the purpose of marriage, domestic work, or to work in the entertainment and sex industries are particularly vulnerable to exploitation and social isolation, as are those who are trafficked. Such problems are reinforced when those Vietnamese women do not know the language of the country they are living in or do not have access to

supportive social networks or legal aid in case of need [26].

2.3. Economic contributions of migrant workers to Vietnam and countries of destination

Migrant remittances in many countries, including Vietnam are now more important than official development assistance (ODA), and despite the global economic crisis, remain the second largest financial flow to developing countries after foreign direct investment (FDI). In 2015, the World Bank estimated that more than USD12 billion was sent home by Vietnamese migrants, ranking the country 11th in the world in remittance inflows. This figure constitutes over six per cent of Vietnam's annual gross domestic product (GDP), placing the economic importance of its remittances second only to the Philippines in Southeast Asia. Remittances which flow to Vietnam are expected to continue growing despite the current global economic weakness, and in fact have jumped dramatically from USD 135 million in 1991 to USD 13.2 billion in 2015. However, the amount does not include cash and objects that is sent directly and does not go through the banking system (World Bank 2016). For the last four years, remittances have significantly increased. From 1991 to 2014, remittances were over USD 90 billion, equivalent to eight per cent of GDP. It followed FDI, but was higher than ODA. In 2011, the figure was USD 9 billion, in 2012 USD 10 billion, in 2013 USD 11 billion, in 2014 USD 12 billion and last, in 2015, USD 13 billion. Remittances likewise provided the much-needed cushion to the economy during the recent global financial crisis.

Remittances from overseas migrants and migrant workers continue to play an important role in Vietnam's development, as do remittances from internal migrants

(United Nations-Government of Vietnam 2011). Every year, Vietnamese international migrant workers (IMWs) send home around USD1.6-2 billion, though the real cash inflow from them is much higher than the official figure as there are data available on the money that comes through other channels. At present, Vietnam receives close to more than USD3 billion a year from more than 30 bilateral and multilateral donor institutions and foreign assistance represents only about 15 percent of total public spending.

The positive impact of migration in the country is now well-recognized, including the opportunity for men and women to send income to family members back home, the valuable social and cultural contributions migrants make to their country, and the chance for Vietnamese IMWs to gain independence and autonomy, becoming positive role models for others (United Nations 2015).

The IMWs contribute to the economic and social development of their country of destination and their country of origin through their financial contributions from remittances, the improvement of their own skills and their contribution to the improvement of the education and skills of the next generation. The impacts are felt in three principal areas: financial contributions through financial and social remittances, investments by diasporas, and human capital gains when they return.

“Social remittances” – the skills, know-how, networks and other less tangible resources that IMWs contribute to their families and communities – also have a direct impact on the prospects of individuals and their extended families in achieving development targets. Therefore,

there is a strong case for factoring migration into plans to achieve the Sustainable Development Goals [17].

Although not much is known about differences in remitting behavior between male migrant workers and IMWs, some evidence suggests that the latter remit more of their income to their families than male migrants, perhaps because of gender expectations regarding family contact and filial obligations. The higher share of income that women remit appears to be the case for both international migrants and domestic migrants. When women migrate of their own account in order to increase their income, the money that they send back home has a multitude of impacts on household finances - whether on savings or on the purchase of goods and services - on the sexual division of labor and on gender relations; in addition, there is an impact on social stratification and the regional and national economy of the place of origin.

As the migrant workers constitute a significant contribution to poverty reduction and development in Vietnam, it is essential to investigate more thoroughly the role of remittances, their use, impact and possible dependency on them, where they play a central role in the economy and the earning of foreign exchange. There is also a need to identify and assess the contribution of IMWs to the economic development of the country. It is an important oversight, one that has broad consequences not only for the women who migrate, but also for families and communities left behind [26].

2.4. Pre-departure

In pre-departure training, before signing their contracts, IMWs need to pass vocational skills and language training and

pass medical checkups. All documented migrants are assumed to have been trained and educated by the recruitment agencies in Vietnam. They also need to pass the examination and training before being able to sign contracts.

Before departure from their home country, many IMWs are however often uninformed about their rights and the obligations of their sponsors, regardless of whether they enter as family members or through labor channels. Many perceive overseas migration as the only way out of poverty or to assist relatives with education, debts or health problems and information about their rights is often considered of secondary importance. Many of them commit to working abroad without being completely aware of the conditions abroad and sometimes without knowing where to get appropriate information about working abroad. In addition, they are often poorly informed about the skills required in other countries. Many of them are only educated to junior high school level or less, with many required to obtain further training and education appropriate to the needs of overseas employers. Many set out with virtually no knowledge of the language of their destination country, and without any training for the work they are expected to do. Domestic workers from poor backgrounds, for example, will find it difficult to work in affluent homes equipped with modern household labor-saving devices.

As a result, they do not fully understand about work and life overseas and may react or behave in ways that are not compliant with the laws or cultures of the receiving countries. Consequently a large number of these workers are subjected to

maltreatment, physical assault and non-payment of wages by employers. Combined with little knowledge of conditions abroad and their own rights, this means that labor migrants often choose to remain silent about abuses.

Programs aimed at informing them of their rights would help prepare them for migration. This education and training can assist in raising an awareness of their rights. In fact, some pre-departure programs have been implemented, mainly on private household services, as a way of upgrading the skills of IMWs. While offering skills upgrading to IMWs, it is important that training programs not only aim to strengthen their skills in low-wage sectors, but are also offered in other areas such as language and technical skills.

Furthermore, attention should be given to the quality and affordability of such programs as pre-departure training for IMW by some recruitment agencies¹ is even superficial or of poor quality. Better pre-departure training for them that will enable them to qualify for higher paid positions in receiving countries would also help diminish their vulnerability to abuse. Access to training in the language of the receiving country is particularly important for the economic success of women and their ability to access jobs in the formal economy. In turn, employment in the formal economy is likely to help them avoid exploitation at the workplace. An adequate level of education and training is crucial in providing protection for labor migrants abroad. When IMWs are placed overseas, they can encounter a number of situations that they need to be able to handle in order to successfully complete

their contract. This includes familiarizing themselves with the local culture and working conditions, language skills, awareness of their rights and particular skills needed to carry out the work tasks. Many of them expect to benefit significantly from migration.¹

2.5. Vulnerabilities to discrimination, exploitation and abuse in receiving countries

Labor migration from Vietnam is mostly on fixed term contracts representing temporary migration. Female labor migration is not the exception as it involves mostly less skilled workers, with most IMWs engaged in jobs that are concentrated at the bottom of the employment ladder. A large number of them are found in agriculture, construction, labor-intensive manufacturing and cleaning services. For many of them, domestic work is one of the primary employment opportunities available in the global labor market.

Like internal migration within Vietnam, IMWs in other countries also tend to work in sex-segregated sectors. Women typically work as domestic workers within households, as workers in factories manufacturing garments or electronics, or in agriculture.

Though the gender structure of labor migration from Vietnam was characterized by a predominance of males in the past, the

¹ "Recruitment agency" is an enterprise licensed to recruit and send individuals abroad for employment under contract or a state-owned non-profit organization permitted under Vietnamese law to recruit and send workers abroad under contract. The term "recruitment agency" also refers to private migrant labor recruitment companies, commonly described elsewhere as manpower agencies, placement agencies or private employment agencies.

number of IMWs is increasing while their protection and empowerment has been rather neglected in reality. Their specific rights and needs have not received a great deal of attention and have not been well institutionalized in policy, law and related service provision. More than male migrant workers, IMWs are particular vulnerable to multiple violations based on their gender and their status. Gender-based discrimination and limited work options due to low skill levels contribute greatly to this situation. Many IMWs find it difficult to earn enough money due to the excessive pre-departure costs. Human trafficking has been closely associated with people seeking better employment opportunities and government agencies are placing increasing priority on combating unsafe migration and on counter trafficking.

Several distinct categories of IMWs migrate for work purposes, differentiated by their skills, the permanence of their residence in the host country and their legal status. At the lower end of the skills spectrum, they pick fruits and vegetables, manufacture garments and other items, process meat and poultry, work as nursing home and hospital aides, clean restaurants and hotels and provide a myriad of other services. Many IMWs end up at the lower end of the job market. Considered as second class citizens, often relegated to 3D (dirty, dangerous, difficult) jobs in their countries of destination, they are particularly vulnerable to violence and sexual abuse, especially that work as indentured servants, domestic workers, and sex workers and mostly migrating alone, they are more susceptible to incidences of rape, physical and mental abuse, economic

hardships, health hazards, discrimination, and labor inequalities.

Migration can be a positive and empowering experience for many international migrant workers themselves – women as well as men, and for both the home and host societies, as it leads to a better life, to improvement of their economic and social position, and the labor migration process can enhance their earning opportunities, autonomy and empowerment. But for many IMWs, the reality is discrimination, marginalization, exploitation and abuse.

They experience these problems differently from men, and face additional risks related to their gender, including gender-based violence. This disadvantage is grounded in gender inequality and gender stereotypes, and exacerbated for IMWs in the informal sector due to little or no legal protection. They are particular vulnerable to multiple violations based on their gender and their status. They may be victims of violence at home, within their families, in their hosting communities and as migrant workers. Those women can be especially vulnerable to abuse in destination countries due to the gendered patterns of employment in private households as care-givers and nursing assistants, and there are reports of unethical practices by recruitment agencies and employers in those receiving countries. In many contexts, their rights are frequently violated, often with impunity. Continued discrimination, violence and exploitation of IMWs drain economic resources and impede productivity and economic growth. But most importantly, they are gross violations of women's human rights.

Simply as females, often IMWs face disproportionate obstacles and risks,

including discrimination in all stages of migration. Poor and unskilled international migrant workers, both women and men face more challenges and problems, and their problems start right at the recruitment stage when they frequently fall prey to corrupt and illegal employment agents, to be vulnerable to incomplete or deceitful information by recruiters, to contract substitution, to excessive fees and to the promise of non-existing jobs. Outside of the “regulated” labor migration, a large and growing undocumented flow is managed by illegal agents or “snakeheads” or smugglers who recruit potential migrants, targeting migrants from communities. Many potential IMWs are then provided with forged documents and transported to transit stops, and then to the intended country of destination. There are many reports of unethical and illicit or unlawful practices by recruitment agencies and employers.

Currently, there is no effective system in place to protect their rights of those WMWs, especially in receiving countries. From the time they leave Vietnam to the time they reintegrate into their societies, those IMWs are faced with challenges not often encountered by their compatriots who stay behind. They are often vulnerable to abusive, poor and unacceptably harsh working/living conditions, required to work long hours, lack social security and health protection, and experience maltreatment and violence. Cases of false or misleading contracts or contract violation/substitution have frequently been reported. Other major problems also include delayed or non-payment of salaries/wages, immigration document-related problems, and health/medical problems. Another unfortunate trend in

some destination countries is the denial of entry to workers on the basis of HIV/AIDS tests. Such tests are mainly done for purposes of exclusion, and not for the benefit of IMWs, who often are not even informed of the results.

Although many IMWs experience good working conditions in their destination countries, they are at higher risk of discrimination, exploitation and abuse than male migrants or other female workers. Whether they are labor migrants, family migrants, trafficked persons or refugees, they face the triple burden of being female, foreign and, often, working in dangerous occupations. They are outside their own countries, but they may not be entitled to the full range of protections afforded by the host country to its citizens. In addition, it is important to keep in mind that gender intersects with race, ethnicity and religion and can result in differential access to opportunities - among women as well as between women and men. Since many of them are of a different race, ethnicity and religion than their host population, they may face additional discrimination on those bases.

Migration can profoundly affect the health and well-being of both stay at home and migrating women. Determining the extent to which women’s health is affected is complex. It involves an interaction of broader determinants of health (including access to health-care services) and the types of illnesses to which they are exposed. Those factors are, in turn, affected by the ways in which they migrate and their legal status. WMWs who work in hazardous jobs face occupational health problems. For example, unprotected exposure to pesticides

has led to increased pregnancy-related complications, including miscarriages, among IMWs in agriculture. Lack of healthy, regulated working conditions in manufacturing enterprises and/or the garment industry may cause IMWs to experience occupational health concerns. Mental health problems, such as depression, may result from the traumas that accompany migration.

The widespread and illegal practice of confiscation of passports and identity papers by employers constitutes an added infringement to the freedom of employees. This is a practice that restricts worker mobility in a major way since it ties the worker to the same employer. IMWs without proper documentation, a common occurrence when employers take their workers' documents upon arrival, are often subject to penalties. Regulations require foreign migrant workers to carry their original documentation at all times. If they do not carry appropriate documentation, IMWs are subject to arrest and deportation. In other countries, IMWs are unable to receive medical attention without the proper documentation. Some countries give IMWs only single entry visas, making it impossible for women to return home for holidays.

Furthermore, IMWs move between two cultures, that of their home country, and that of the receiving country. For them, adjustment to the new culture can be a difficult process. Barriers to successful adjustment include those within the host society as well as individual or personal ones. Among the former are racial intolerance and sexual and cultural discrimination against foreign women. Many migrants are of a different race from the majority of the

population of their new country. IMWs may face the dual problem of racial and sexual discrimination in seeking employment, training or otherwise participating in the activities of the new country.

Different values, norms and customs, and usually languages, usually cause them psychosocial stress, and often contribute to marginalization and discrimination against themselves in the host society. Added to this is another phenomenon present in the host country, even more so when there is no experience of large-scale immigration: xenophobia and racism. As regards gender, it has been stressed that IMWs face multiple forms of discrimination, in that the factors of class, race/ethnicity, and legal status intersect with their status as women.

The global economic and financial crisis has exacerbated the vulnerability of IMWs. They are frequent targets of hate speech, harassment and violence. They are unfairly blamed for crime and economic difficulties, and are subjected to widespread discrimination. Many countries of destination have tightened restrictions on migration and adopted stronger measures to combat irregular migration. Such measures can increase the risk of exploitation and abuse. They may also reinforce the impression that migrants are partly to blame for the effects of the crisis, fuelling anti-immigrant and xenophobic attitudes. There is also an increasing global trend to frame migration policies solely within a security and border control framework. This is exacerbated by policies which criminalize irregular migrants, and subject them to administrative detention regimes which are punitive in nature and often lack adequate safeguards. Vulnerable IMWs can be

detained for months and even years in immigration detention, in overcrowded and unsanitary conditions. In many countries of destination, labor laws often ignore or explicitly exclude domestic work and workers in ways that contribute to exploitative labor practices and limit avenues for legal redress in cases of violations.

Despite substantial contributions with billions of dollars in cash and services to both their families at home and communities abroad, their needs continue to be overlooked and ignored, and policymakers continue to disregard both their contributions and their vulnerability - even though they tend to send a much higher proportion of their lower earnings back home than their male counterparts.

At the same time, poor and unskilled overseas migrant workers face many similar kinds of problems and rights violations throughout the migration process. Violations include exploitative recruitment and job placement fees, deception about the type of job, contract substitution and other contract violations, low wages, or dismissal and deportation if they are undocumented, pregnant or socially stigmatized if they contract HIV/AIDS.

In receiving countries, many IMWs experience discrimination in the labor market and find themselves in a situation of 'brain waste', when they have to take jobs for which they are over-qualified. Many are professionals who take on jobs that do not utilize their full potential. There is often a downgrading or waste of human capital and deskilling; IMWs often take up jobs mismatched with their educational or skill qualifications. As with male migrants, professional women may find that their

credentials are not recognized or valued in the new country. For better income but lower status abroad, the women understate their qualifications in order to secure a job abroad.

Several distinct categories of IMWs migrate for work purposes, differentiated by their skills, the permanence of their residence in the host country and their legal status. Others are recruited into woman-specific skilled and unskilled jobs in the formal and informal service and manufacturing sectors.

As strangers to a society, many IMWs are frequently unfamiliar with the national language, laws, customs and practice, and may lack social networks to rely on. They are usually recruited for work and then excluded from the community without knowledge of resources that may help them combat the abuse and inequality they may face. This makes them less able than others to know and assert their rights. Human rights violations against them, including denial of access to fundamental economic and social rights such as the right to education or the right to health, are often closely linked to discriminatory laws and practice, and to deep-seated attitudes of prejudice and xenophobia against WMWs. Irregular IMWs are particularly vulnerable, and their invisibility in society often means that they are unable to report such abuses.

Exploitation exists where, for example, such treatment incurs very serious pecuniary or other consequences; IMWs are specifically subjected to unacceptably harsh working and living conditions or are faced with dangers to their personal security or

life; they have transfers of earnings imposed on them without their voluntary consent; they are enticed into employment under false pretences; they suffer degrading treatment or are abused or forced into prostitution; they are made to sign employment contracts by go-betweens who know the contracts will generally not be honored upon commencement of employment; they have their passports or other identity documents confiscated; they are dismissed or blacklisted when they join or establish workers' organizations; they suffer deductions from wages without their voluntary consent which they can recuperate only if they return to their country of origin; they are summarily expelled as a means to deprive them of their rights arising out of past employment, stay or status.

IMWs' legal status is an important factor influencing the ease with which they will be able to protect themselves from exploitation. Immigrants admitted legally for permanent residence generally enjoy all the rights of other residents. Those who move within regions as temporary contract laborers often have rights that are more restrictive. They may be required to leave if they complain about wages or working conditions. Those who enter without authorization or documentation, who are ineligible for any legal status, are in a still more precarious state, unable to work legally or to access services. In some countries, legislation allows women migrant workers to be transferred from one sponsor to another for payment. The practice often subjects women to different jobs and conditions than they had agreed upon when they migrated. IMWs who work

for employers who are immune from criminal penalties in the host country may find it impossible to seek remedies for abuses at the hands of those employers.

Current interventions in countries of destination are usually embedded in market-oriented, morality, law and order, national security/sovereignty paradigms marked by class, gender, ethnic, and nationality biases. They are restrictive, punitive and violating human rights.

Vietnamese IMWs are primarily located in some certain receiving countries that are known for their restrictive policies on women and even so for IMWs. Like most destination countries, they have not acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW) and ILO Convention 189 but are signatories to the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Countries with shortage of brides also become pull factors in Vietnamese women's migration. Marriage migration and the au pair system are examples of this. This could potentially result in trafficking and illegal recruitment.

2.6. Emerging problems at home during IMWs' absence

In Vietnam, when men migrate, leaving their families behind, there appears to be evidence that the women-headed households adjust rapidly to the situation. Women continue their usual activities, but they also take on new roles in the absence of their spouses. Men retain their role as breadwinner, albeit at a distance. Little information is available on the reintegration process when men return, tensions are

likely to arise as women and children readjust to their presence. By contrast, women's migration results in more profound changes in family relationships. The migration of women who are young affects their life cycle trajectories, for example, they may delay marriage and having children. Men do not necessarily take up new domestic roles although some become full-time caregivers. They often continue to work for pay outside the home. Grandmothers, older daughters or other family members typically assume responsibility for childcare and other household activities. Sometimes the children are left behind because the working conditions for the women preclude their having accompanying family members or they have no access to childcare. In Vietnam, caring for women migrant workers' children is normally the responsibility of other women in the family (grandmothers, sisters, older daughters). Without their contribution, it would not be possible for the women to migrate. The children are left with grandparents or other relatives also because the parents prefer a more traditional environment for the children. The impact on the migrating mother who leaves family behind is hard to quantify, but it is likely to involve emotional and social costs which can be a traumatic experience for both the women and their families. The migration of mothers can have a more severe impact on children left behind than the migration of fathers. Children are found to drop out of school or have poor grades, have emotional problems, be drawn into substance abuse, be forced to enter the labor force early, suffer physical or sexual abuse.

When women migrate for work overseas, the families who are left behind also have their share of suffering, not just because of anxiety over loved ones abroad, but also in terms of family displacements and juvenile delinquency. Separated spouses form other relationships that may eventually break up homes and families. In addition to a cold reception from family members, who have been estranged from their over long periods, when they return, IMWs often suffer suspicion and hostility on the part of their home community, loneliness and anxiety over the families back home. Those in risky occupations like domestic helpers, frequently also experience physical and/or sexual abuse and serious attacks on their reputation, self-esteem and morale.

There is also an impact on IMWs' children themselves who remain behind with other family members in the country. Some of the pertinent questions are: how does the greater income from remittances sent by mothers offset their physical, and sometimes, emotional absence? What is the impact on educational opportunities and performance of sons and daughters? and is there an increased likelihood that they themselves will migrate?

2.7. Domestic work and other informal sectors

WMWs in the informal sector may be particularly at risk of isolation or harassment, while those in the formal sector may be particularly vulnerable to poor working conditions. Moreover, as the interest in benefiting from economic opportunities in other countries increases, especially from the rural poor who are

unable to afford the fees, the possibility of an increase in illegal migration and trafficking also rises. Poor women in particular are vulnerable to being trafficked through illegitimate labor export companies.

Many Vietnamese IMWs work in the private sphere as domestic workers - a group that needs special attention and protection. Once they have reached the home of their new employer, such women are often engaged in poorly remunerated labor that isolates them and places them in a subordinate position in a private realm, exposing them to the expropriation of their economic gain. Their common experiences include low wages, long working hours, no time off, loneliness, verbal abuse, being forced to wear uniforms and act in roles of servitude, heavy work demands, homesickness, the denial of a family life of one's own, racism, and vulnerability to sexual abuse and HIV. They are often hired without written contracts or with contracts in languages they cannot understand. Their passports may be retained by their employer or recruitment agent. In some situations they are denied any free time and are forbidden from leaving their place of work without the permission of the household that employs them. They may also be subjected to physical, psychological and sexual abuse. They may be employed outside of the home in family businesses within ethnic enclaves, and may not be paid a salary for such work, but they are nevertheless contributing to the economic viability of the family enterprise. Working in such situations has disadvantages, particularly for IMWs who do not speak the language of the host country. It also presents opportunities for abuse, however,

since there is little if any regulation of the working conditions.

Many IMWs work as domestic workers in unregulated informal sectors that do not fall under national labor laws. On arrival in their host countries their problems often multiply: many of them are saddled with huge debts; they find themselves without legal papers and with no jobs; employers frequently withhold their passports; many are prevented from moving freely outside the house in which they work; their working hours are often ill-defined and very long, with very few days off; salaries are sometimes non-existent and often are low and paid erratically; their living conditions are unsanitary and degrading; they have no social security protection; and many suffer psychological, physical and sexual abuse and harassment. Others routinely lack access to social services and legal protection and are subjected to abuses such as harsh working conditions, low wages, illegal withholding of wages and premature termination of employment. The worst abuses force women into sexual slavery. These risks and vulnerabilities are further aggravated because they may fear deportation if they contact State authorities to seek protection from an abusive employer.

Some domestic workers may find responsible employers, who treat them well, pay them regularly and ensure appropriate working conditions - those workers fuel the widespread perception in their home communities of lucrative and exciting jobs abroad. Unfortunately, finding decent work is often a matter of luck and is not guaranteed, and those who are not so fortunate may risk becoming trapped in highly exploitative situations with few exit options.

Domestic service is a common occupation for many IMWs. They may migrate through official contract labor programs that match workers and employers, or they may obtain such employment after migrating, often through informal networks. In some countries, many IMWs are admitted as temporary workers, and they are granted work authorization for specified periods. They have no right to remain in the destination country beyond the period of authorized employment. As domestic workers and sex workers, they suffer gross human rights violations as they are vulnerable to abusive working conditions, they are required to work long hours, they experience non-payment or deferred payment of salary, they lack social security and health protection, and they experience maltreatment and violence. As women, they are particularly vulnerable to violence and sexual abuse, especially that work as indentured servants, domestic workers, and sexual workers and mostly migrating alone, they are more susceptible to incidences of rape, physical and mental abuse, economic hardships, health hazards, discrimination, and labor inequalities. Those low-wage unskilled workers usually cannot afford to maintain their families in their countries of employment.

2.8. Growth in irregular/undocumented migration

Unauthorized IMWs can be found in almost as diverse a range of jobs and industries as authorized workers, with agricultural and food processing jobs light manufacturing and service jobs being the most common types of employment. Unauthorized IMWs are also smuggled into countries by professional traffickers. While

some IMWs know and accept the expectations of the traffickers, many others have been recruited to work in legitimate occupations and then find themselves trapped into forced prostitution, marriages, domestic work, sweatshops and other forms of exploitation.

The most alarming development in the migration process in terms of its impact on the protection of migrants' rights is the rising share of "undocumented migration" – commonly referred to as "illegal", "irregular" or "clandestine" migration. Since these migrant workers have no legal status in the host countries, their rights are subject to abusive conditions under the threat of repatriation. Incidents of abuse are widespread, but estimating their prevalence is difficult given the lack of reporting mechanisms and restrictions on the freedom of movement of domestic workers. Never the less, Vietnamese embassies and consulates in countries of destination receive many such complaints per years. The authorities do not have a full account of the number of Vietnamese citizens cheated by individuals or organizations seeking overseas jobs using tourist visas.

The main causes of undocumented migration from Vietnam are: extreme poverty and unemployment problems resulting in acute emigration pressures; restrictive immigration policies in labor-shortage receiving countries; cumbersome and costly official procedures which push potential migrants into informal and irregular channels; ineffective border controls in some receiving countries; malpractices of private recruitment agencies, and activities of criminal gangs and traffickers.

Crackdowns on undocumented workers, incarceration, deportations, caning of undocumented workers are being reported. This does not necessarily reduce irregular flows, but prompts more risky movement.

The situation of undocumented IMWs is another matter of concern as “illegal” women workers. They courageously leave all that is familiar to them to face unknown risks. They are especially vulnerable to deprivation, hardship, discrimination and abuse. They face discrimination owing to their status as to migrants as well as to their status as women. They have limited access to employment and generally earn less than men and native-born women. Legally, many of them are vulnerable if their residence is dependent upon a relationship with a citizen or “primary migrant”.

2.9. Return

Reintegration is also often difficult for IMWs because they often return to unstable families, due to the fact that in their absence the family failed to take over domestic duties. Some women suffer forms of stigmatization from their families upon return if they have suffered exploitation or abuse abroad and often no redress is available. There is often also no protection against reprisal from exploitative recruiting agents.

Often there is a lack of control over income and remittances. Some employers send women’s wages directly to husbands or fathers in Vietnam. Even women who receive their salaries often send them to their husbands. There is no guarantee that, upon return, WMWs will be able to enjoy the use of their savings, or that they will not be deprived of their savings/assets in

the instance of divorce, desertion or spousal death.

All too often, throughout the migration cycle, IMWs encounter the denial of their rights, exclusion from labor and social protections and a lack of legal assistance. Many migrant workers consistently lack access to justice, especially where they have suffered human rights violations and need to remain in countries of destination to seek redress. When IMWs can access justice at all, it generally takes the form of either 1) access to assistance from Vietnamese representative missions in the destination country, and/or 2) access to redress upon return home.

Through increased understanding of the process for lodging complaints, and the obstacles to access and just outcomes that occur for IMWs attempting to navigate the system, policy-makers, service providers, non-governmental organizations and employers will be better able to make informed adaptations of policies and programs. In fact, the complaint mechanisms available for IMWs in Vietnam are complex and often inadequate. Challenges remain in providing for fair hearing and resolution of grievances. Coordination with the criminal system and judiciary branch is not clearly defined in law, and the investigation of brokers remains difficult within the framework of the mechanisms available. Much needs to be done to improve the effectiveness, expand the coverage and strengthen the complaint mechanisms available to migrant workers as part of efforts to make the recruitment process safer. This includes evaluating the compensation process for complainants and punitive actions taken

against recruitment malpractice. Complaints relating to the recruitment of IMWs have been documented, but few studies have been able to review the data related to outcomes of complaints and bring together interview research with legal analysis [10].

2.10. The need for data collection, research, monitoring, gender-responsive and rights-based laws and policies

At present in Vietnam, there are no comprehensive figures on labor migration available and generally the issue of labor migration from Vietnam has been the subject of limited research only in recent years. National official statistics on labor migration from Vietnam has been recently in place and a dearth of data on migrant workers makes it difficult to assess the full implications of migration and mobility for women. Data on international migration are lacking in terms of availability, quality and comparability. Statistics on international migration are far from reaching universal coverage and are often published without a classification by sex and age though government agencies collect data as part of their administrative management of migration. Data on certain categories of migrants, for example those who cross borders without the authorization of host countries, are particularly difficult to collect. Many of these migrants without legal status are fearful of stepping forward for censuses and surveys. Quantifying the scale of the movement, however, is made difficult by the limited information on the movements to and from the country, and the fact that there are substantial undocumented flows in and out of Vietnam. Often the data on departures from the country do not match the data on entry into

countries of destination, but it is difficult to determine the reasons for the disparities.

The Law on Vietnamese Guest Contract Workers was passed in 2006 with its accompanying implementation guidelines to promote and better regulate such “labor exporting” companies and make overseas work contracts and fees more transparent, as well as to restrict the number of workers taking illegal jobs abroad for higher pay, and address international community concerns over a lack of worker protections afforded to Vietnamese international migrant workers [26].

At present, all laws and policies concerning international labor migration are being reviewed to strengthen the protection and promotion of the rights of Vietnamese international migrant workers.

Significant efforts are being made to develop a strong legal and policy framework for sending workers abroad, addressing the regulation of labor sending enterprises, the provision of pre-departure orientation training for workers and protections in cases of contract and rights violations [32]. The Labor Code which has been recently revised again has provisions that allow workers to negotiate settlements from labor export companies in cases of fraud or abuse, although precise statistics on these actions is not available.

In Vietnam a legal aid system was set up in 1997 to ensure the rights to access to legal aid, in particularly for the most poor and vulnerable. A number of legal aid providers exist, including a National Legal Aid Agency (NLAA) under the Ministry of Justice (MOJ), and provincial legal aid centers (PLACs) under the provincial departments of justice. Despite these

developments, the system needs to be considerably improved, both through the legal framework in which it operates, and in regard to its implementation including the capacity of providers to reach target groups. The 2006 Law on Legal Aid lists categories of people who are eligible for legal aid (National Assembly of Vietnam 2006B). However, migrant workers are not explicitly mentioned on the list of legal aid beneficiaries which includes (a) poor people; (b) people with meritorious services to the revolution; (c) lonely elderly people, disabled people and helpless children, and (d) ethnic minority people permanently residing in areas with exceptionally difficult socio-economic conditions. Given that many international migrant workers are among Vietnam's most poor and vulnerable, there is an urgent need to discuss how they can access legal support.

Making access to justice a reality also involves dedicating human and financial resources to build capacity and increase awareness on multiple issues, including gender, of all relevant stakeholders and actors. Ultimately, access to justice goes beyond ensuring the right to make legal claims in courts and tribunals. It involves the economic, socio-cultural, political and personal empowerment of migrant workers.

Several government ministries have a role in labor migration, of which the Ministry of Labor, Invalids and Social Affairs (MOLISA) and its Department for Overseas Labor (DOLAB) administers the international labor migration program. MOLISA has stationed more labor attaches or labor management boards in the key receiving countries to look after the welfare

of migrant workers or to assist in resolving workplace disputes [19].

The National Assembly and the Government have also increased their oversight of recruitment practices, pre-departure orientation/training, agency fee, deposit for labor export companies, and the role and responsibilities of relevant ministries, and imposed penalties and sanctions against companies and agencies that violated labor laws or regulations. Efforts to enhance research and analysis on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families have been initially promoted. The possibility of ratifying this human rights convention has been initially discussed² [5].

3. Conclusions

In recent years, the issue of international labor migration is taking on greater importance in Vietnam and "labor exporting" has been considered a major national policy for the past few years. Identified in the recent National Socio-economic Development Plans as a solution

² Vietnam has ratified the following related international human rights: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and its two optional protocols. Vietnam has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and 21 ILO conventions, including five core conventions (C.29, C.100, C.111, C.138 and C.182) and three governance conventions (C.81, C.122 and C.144).

to unemployment, labor export is not only seen as a source of income generation but also job creation, foreign exchange, and a way to improve economic, cultural, science, and technology relation between Vietnam and destination countries, given increasing importance in the future as a way of poverty reduction and a family survival strategy [30]. Vietnam also currently views “labor export” as a cost-free way of getting its workers trained in both technical and foreign language skills while “labor exporting” is lucrative for the country and the foreign partners who will have access to cheap labor, but also for Vietnamese international migrant workers who will earn higher income overseas. The 62 poorest districts have been encouraged to send their people for overseas employment [18].

Like other sending countries, Vietnam however is generally confronted with the dilemma between the promotion of labor emigration and the protection of their national workers abroad, the safety and welfare of the Vietnamese migrant workers are now a source of increasing concern to their National Assembly and the Government, both as a practical and a political necessity, with recent efforts in strengthening their protection.

As Vietnam is continuing its social and economic reform process and speeding up on the road to deeper regional and international integration in light of the global and national dynamics, legal reviews and reforms, first of all - adequately resourced and effectively implemented would be an integral component of the human rights and equality infrastructure

needed to ensure the well-being and human rights of all Vietnamese citizens, including international migrant workers who represent a growing segment of the population and they face particular and urgent human rights challenges.

Below are relevant recommendations for actions to be undertaken by relevant government agencies and other organizations for advancing international labor migration from Vietnam while protecting and promoting the human rights of Vietnamese migrant workers:

- Strengthen and engender the knowledge base on labor migration through data collection, research and dissemination of good practices to inform policy and strategy development;
- Mainstream gender-related migration concerns into national development plans, policies and strategies; and advocacy for policy/legal and institutional reforms as per international human rights standards;
- Research and disseminate good practices to inform policy and strategy development.
- Advocate for policy and legal reforms that empower, protect IMWs and reduce their vulnerabilities;
- Strengthen laws, policies, regulations, procedures and practices on recruitment of IMWs for overseas deployment, and on the protection of rights and the handling of rights violation, including a right to access to justice for IMWs;
- Curb illegal recruitment, trafficking and irregular migration and promote regulation of recruitment;

- Promote dialogue and partnerships between government agencies, NGOs, the private sector and other stakeholders through national consultations to exchange learning and build consensus on key issues and to address national multisectoral dimensions of migration and to ensure ownership and sustainability of initiatives; promote regulation of recruitment;
- Facilitate training and service provision for potential IMWs from the pre-recruitment to reintegration stage to diminish their vulnerability to abuse and exploitation, using CEDAW General Recommendation No. 26 as basis for the pre-employment to reintegration programs and practices;
- Provide legal, educational and social outreach to IMWs and raise awareness of the issues and change perceptions among them, other key stakeholders and the general public;
- Encourage IMWs themselves to build up their own support structures and networks;
- Strengthen IMWs' capacity to control and use their savings and remittances as they wish and to deal with family issues surrounding migration;
- Scale up and expand government's pre-employment orientation programs via social media and mobile application. Potentially, this can prevent illegal recruitment and trafficking and result in informed decisions to migrate.
- Train and involve NGOs more fully and effectively, in activities such as providing pre-departure orientations, networking, and spreading information about protection of IMWs;
- Raise awareness and training embassy personnel, immigration officials, trade unionists on rights and gender.
- Establish an accessible and straightforward grievance redress mechanism for IMWs;
- Guarantee the availability and access to timely and effective redress mechanisms and legal remedies for IMWs;
- Ensure that complaint mechanisms are responsive to the vulnerability of IMWs;
- Strengthen the complaint redress mechanisms and legal assistance systems for addressing the needs of IMWs who seek redress and access to justice;
- Explore dispute resolutions, mediation, and other alternative dispute settlement mechanisms before administrative or judicial litigation processes;
- Adopt state measures to protect IMWs, including those in irregular situations, against all forms of discrimination and violence;
- Standardize and regulate the administrative mediation procedures;
- Support the development of "one-stop" service centre like the Migration Resource Center (MRC) for migrant workers that facilitates access to complaint mechanisms and assistance, including through interpretation and free legal counseling/referral;
- Ensure that complaint redress services are accessible to all IMWs and use new, web-based technology;
- Promote dialogue and partnerships between government agencies, NGOs, the private sector and other stakeholders through national and sub-national consultations to exchange experiences,

good practices and build consensus on key issues on access to justice;

- Ensure and strengthen the roles of labor attaches and embassies officials to include support services on complaint mechanisms and procedures for IMWs; and
- Promote inter-country trade unions collaboration to support IMWs in case of complaints.

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