



**Asia Pacific
Refugee Rights
Network**

JOINT SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE (CCPR)

144th SESSION, 23 JUNE - 25 JULY

**VIETNAM: ISSUES RELATED TO THE DETENTION OF MIGRANTS, ASYLUM
SEEKERS, AND REFUGEES**

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Joint submission by

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ABOUT THE GLOBAL DETENTION PROJECT (GDP)

The Global Detention Project (GDP) is committed to ending arbitrary and harmful migration-related detention practices around the world, and to ensuring respect for the fundamental human rights of all migrants, refugees, and asylum seekers. To achieve this, we seek to:

- Increase public knowledge and awareness of immigration detention policies.
- Expand coverage of immigration detention by human rights monitoring bodies and other international agencies.
- Expand partnerships with local and international civil society organisations working to end arbitrary and harmful immigration detention practices.
- Strategically target research and advocacy so that it effectively challenges arbitrary and harmful detention laws and policies.

ABOUT ASIA PACIFIC REFUGEE RIGHTS NETWORK

The Asia Pacific Refugee Rights Network (APRRN) is an open and growing network consisting of more than 240 civil society organisations and individuals from 28 countries committed to advancing the rights of refugees in the Asia Pacific region.

APRRN aims to advance the rights of refugees and other people in need of protection through joint advocacy, capacity strengthening, resource sharing, and outreach. APRRN envisions a region in which all people in need have equal and adequate access to assistance and protection, and to timely durable solutions. We envision a region in which refugee communities, civil society, UNHCR, States (including those outside the region) and other actors collaborate effectively towards the common purpose of protection.

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This submission has been prepared by the Global Detention Project (GDP) and the Asia Pacific Refugee Rights Network (APRRN) for the Human Rights Committee (CCPR) (“the Committee”) ahead of its examination of Vietnam’s State Report during the 144th Session.

Below, we set out a summary of our concerns in relation to Vietnam’s implementation of the ICCPR, specifically in the context of immigration detention and the violation of the rights of migrants, asylum seekers, and refugees. In particular, the report addresses violations of Articles 9, 10, 11, 13, and 14.

For the purposes of this report, immigration detention is understood to mean “the deprivation of liberty of non-citizens for reasons related to their immigration status.”

IMMIGRATION DETENTION CONTEXT

Vietnam is an increasingly important country with respect to migration and refugee movements in Southeast Asia. While it traditionally has been known for high levels of emigration and the flight of refugees during periods of conflict, in recent years Vietnam has become a destination for labour migrants from neighbouring countries like China as well from countries further away, including Bangladesh. Vietnam recognised the growing complexity of its role in global migration when it joined the Global Compact for Migration, and it has praised itself for being a “top model” country with respect to implementation of this non-binding agreement.¹ Among its important advancements, Vietnam has adopted policies aimed at expanding recognition and protections for certain groups of stateless persons and has adopted a new Law on Identification in 2023, extending civil registration services to migrants and foreigners.

However, there are growing concerns about Vietnam’s harmful migrant detention and deportation practices as it responds to growing numbers of migrant workers who are drawn—and sometimes trafficked against their will—to work in sweatshops that are often controlled by cyber scam syndicates. There are also recent reports of foreigners who have completed criminal prison sentences being kept in indefinite administrative detention after serving their sentences, either to coerce them into paying alleged debts or to await their deportation. Reports suggest that people can languish for years in this detention limbo, with no hope of resolving their situations and leaving detention.

Despite Vietnam’s growing importance in international migration and the increasing numbers of reports about harmful detention practices, to date the country’s immigration enforcement regime has not been adequately scrutinised by international human rights monitoring bodies.

¹ Government of Vietnam, “Viet Nam active in realizing Global Compact for Safe, Orderly and Regular Migration,” 23 January 2023, <https://reliefweb.int/report/viet-nam/viet-nam-active-realizing-global-compact-safe-orderly-and-regular-migration>

In 2023, for instance, the UN Committee on the Elimination of Racial Discrimination noted concerns about reports of discriminatory and harmful treatment of some non-citizens, however its recommendations merely noted “the lack of information on measures in relation to refugees, asylum-seekers, children of returned migrant women with foreign nationalities.” The CERD Committee limited its recommendations to (1) urging the collection of better data on non-citizens; and (2) seeking “technical support for the development of measures to improve the reception, registration, identification and social integration of refugees, asylum-seekers, children of returned migrant women with foreign nationalities and internally displaced persons, and guarantee the protection and promotion of their rights.”²

The lack of attention to Vietnam’s detention and deportation practices is also reflected in the Human Rights Committee’s List of Issues in relation to its fourth periodic report (28 May 2024), which does not raise questions concerning the country’s immigration enforcement practices.

We urge the Committee to take advantage of Vietnam’s review during the 144th Session to take steps to ensure that Vietnam is aware of its binding legal responsibilities concerning this vulnerable population, especially with respect to ICCPR Articles 2, 9, 10, 13, and 14.

LEGAL FRAMEWORK

An indication of the growing importance of immigration control measures in Vietnam is its recent adoption of relevant laws and policies. Although Vietnam’s Law on Foreigners does not provide specific provisions related to immigration detention, over the past five years the country has adopted numerous legal provisions regulating detention and deportation.

In 2020, Vietnam adopted Decree 65/2020/ND-CP which regulates the “stay”—an apparent euphemism for detention³—of people in deportation proceedings at “accommodation” facilities. The decree is intended to “provide guidelines for the management of and regimes ... for persons who are subject to the expulsion sentence, foreigners who face administrative penalty of deportation, and foreigners who have completely served imprisonment sentences at accommodation establishments of the Ministry of Public Security pending the completion of exit procedures (hereinafter referred to as persons in stay).” In 2021, Vietnam adopted Decree 142/2021/ND-CP “on expulsion forms, temporary detention and escort measures of violators under administrative procedures, and management of foreigners violating Vietnamese law whilst expulsion procedure is in progress.” (For an account of relevant recent policy developments, see Vietnam, State Report to the Human Rights Committee, 27 April 2023, paragraph 70.)

RELEVANT CASES

There are reports suggesting that Vietnam is ramping up use of migration-related detention and related enforcement mechanisms in ways that violate its obligations under the ICCPR.

Importantly among those vulnerable to such procedures are victims of trafficking. As the U.S. State Department notes in its 2024 Trafficking in Persons Report, although Vietnam has

² Committee on the Elimination of Racial Discrimination, Concluding observations on the combined fifteenth to seventeenth periodic reports of Viet Nam, 27 December 2023, CERD/C/VNM/CO/15-1.

³ For more on the role of euphemisms and other misleading linguistic practices in immigration detention regimes, see: M. Grange, “Smoke Screens: Is There a Correlation between Migration Euphemisms and the Language of Detention?” Global Detention Project, <https://www.globaldetentionproject.org/smoke-screens-is-there-a-correlation-between-migration-euphemisms-and-the-language-of-detention>

adopted measures aimed at improving the identification of trafficking victims, “Due to a lack of systematic implementation of victim-centered screening procedures during these inspections, authorities may have penalized some unidentified trafficking victims solely for unlawful acts committed as a direct result of being trafficked.” The report further notes that “For the second consecutive year, the government did not identify or assist any foreign national victims.”⁴

Media reports suggest that some victims end up being detained at borders. For instance, a local media article from August 2024 reported that migrants from China had been detained at a border guard station near the border with Laos while being transported as part of an online scam syndicate based in Cambodia. After being processed the migrants were then remanded into the custody of the police.⁵

For victims charged with crimes in relation to their alleged involvement in trafficking, they may face prison sentences and then be forced to pay exorbitant fines in order to be released from detention after serving their sentences, which in effect would mean that immigration detention serves as a form of debtors’ prison in Vietnam. In such cases, non-citizen detainees have reportedly been stranded in detention for periods lasting more than 10 years.

Reports indicate that the 2020 Decree 65 (cited previously) is often used to hold foreigners in indefinite detention when they are unable to pay fines related to administrative procedures or criminal cases. While the law stipulates procedures for resolving cases when a foreigner is unable to pay their fine, according to Al Jazeera in reality the law has created “a legal black hole that is hard to escape without the settlement of the alleged debt or the assistance of a foreign embassy.”⁶

Al Jazeera cited the case of Tye Soon Hin, a 42-year-old Malaysian, who “was jailed for 12 years alongside two of his fellow citizens for using fake credit cards to steal money in 2014. Since completing their sentences more than three years ago — also with a reduction — they have been held in the detention centre owing a combined sum of \$60,000. One of the trio, Teh Chee Wan, can afford to repay the money he owes but has been told he cannot be released until all three, who were tried together, have settled their debts.”⁷

A key facility used for the detention of foreigners in these situations is [Trại Giam Long Hòa](#) (or Long Hoa Prison), which according to media reports is a complex located outside Ho Chi Minh city that “also includes prison and detention facilities for Vietnamese juvenile offenders and sex workers.” A former detainee said that at least 16 foreign detainees were “being held long-term at the detention centre, which he says could hold as many as 100 people. Among the inmates are nationals from Malaysia, Cambodia, South Africa, the Netherlands, Korea, Nigeria, Taiwan, The Philippines, Hong Kong and a Bulgarian dual national. All are being detained until they can repay court fees and fines as well as provide compensation to victims they are deemed to owe as a result of their crimes.” Al Jazeera reported that they had spoken

⁴ U.S. State Department, <https://www.state.gov/reports/2024-trafficking-in-persons-report/vietnam/>

⁵ VN Express, “Chinese nationals traveling to Cambodia to join online scam gangs arrested,” August 2024, <https://e.vnexpress.net/news/news/crime/6-chinese-nationals-traveling-to-cambodia-to-join-online-scam-gangs-arrested-4778297.html>

⁶ Al Jazeera, ‘Prison after prison’: Debts trap foreigners in Vietnamese jails, 17 January 2023, <https://www.aljazeera.com/news/2023/1/17/prison-after-prison-debts-leave-foreigners-in-vietnamese-jails#:~:text=At%20least%2016%20foreigners%20continue,compensation%20despite%20completing%20jail%20terms>.

⁷ Al Jazeera, ‘Prison after prison’: Debts trap foreigners in Vietnamese jails, 17 January 2023, <https://www.aljazeera.com/news/2023/1/17/prison-after-prison-debts-leave-foreigners-in-vietnamese-jails#:~:text=At%20least%2016%20foreigners%20continue,compensation%20despite%20completing%20jail%20terms>.

“to seven other detainees in the detention centre, all of whom said they believe they will never be released due to difficulties in arranging payment of their alleged debts. One man from the Netherlands has been in the centre since it first opened in 2017.”⁸

RECOMMENDATIONS

In light of the above information, the GDP and APRRN encourage the Committee to:

- Urge Vietnam to ensure that all at-risk individuals such as children, victims of trafficking, and asylum seekers are promptly identified, immediately released from any form of migration-related detention, and provided reception and care by appropriate official or non-governmental agency unrelated to immigration enforcement.
- Remind Vietnam of the international norm, as evoked by the Committee on the Rights of the Child in its Joint General Comment No. 23 (2017), which establishes that any deprivation of liberty of children for reasons related to their migration or asylum procedures is a child rights violation because it is inherently harmful to children and thus a clear breach of the Convention’s best interest principle.
- Urge Vietnam to provide details about the numbers of people who are held in detention pending their removal from the country or on the basis of other procedures related to their non-citizen status, as well as statistics on the numbers of people deported from the country for immigration related violations.
- Urge Vietnam to ensure that detention is only used as a last resort after it has been proven absolutely necessary in each individual case by demonstrating that less coercive measures (including community-based “alternatives to detention”) cannot be used to achieve the same outcome, in line with international norms and as re-iterated in Objective 13 of the Global Compact for Migration, which calls on members to work to end arbitrary immigration by prioritizing rights-based and community-based alternatives to detention and adequate care arrangements for all children.
- In cases where detention measures have been imposed as part of a judicial process and on the basis of legally grounded provisions, Vietnam must be urged to abide by binding international norms that establish that people held in administrative forms of detention, including detention for removal proceedings, be held separately from people imprisoned for criminal prosecution, and that they be treated by detention personnel specifically trained to assist people with their specific needs.
- Reiterate the recommendation issued by the CERD Committee in 2023 that Vietnam “improve the reception, registration, identification and social integration of refugees, asylum-seekers, children of returned migrant women with foreign nationalities and internally displaced persons, and guarantee the protection and promotion of their rights and ensure their access to basic services.”
- Reiterate the recommendation issued by the CERD Committee in 2023 that Vietnam ratify international conventions that provide protections for migrants, refugees, asylum seekers, and stateless persons, including in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

⁸ Al Jazeera, ‘Prison after prison’: Debts trap foreigners in Vietnamese jails, 17 January 2023, <https://www.aljazeera.com/news/2023/1/17/prison-after-prison-debts-leave-foreigners-in-vietnamese-jails#:~:text=At%20least%2016%20foreigners%20continue,compensation%20despite%20completing%20jail%20terms.>