HUMAN RIGHTS WATCH

The Illegal Arrest, Arbitrary Detention and Torture of Children in Drug Detention Centers in Vietnam

Submission from Human Rights Watch to the Committee on the Rights of the Child

September 2011

In early September 2011, Human Rights Watch published "The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam." The report documents abuses—including arbitrary detention, torture and other cruel, inhuman and degrading treatment, forced labor and the denial of medically appropriate drug dependency treatment– throughout Vietnam's system of drug detention centers.

This submission draws from the "The Rehab Archipelago" in summarizing key instances when human rights abuses take place during the arrest and detention of children.

In 2000, there were 56 drug detention centers across Vietnam; by early 2011 that number had risen to 123 centers. Between 2000 and 2010, over 309,000 people across Vietnam passed through the centers. These drug detention centers operate as part of the Vietnamese administrative—rather than criminal justice—system. According to Vietnamese law, court orders are not required to round up people who use drugs and detain them at the centers, and normal legal safeguards relating to imprisonment do not apply. Former detainees additionally reported they had no lawyer or hearing, nor were they able to review the decision to detain them.

Vietnamese law also provides that children between the ages of 12 and 18 who are addicted to drugs can be sent to drug detention centers for between one to two years.[1] Children can be sent to

1 The word "child" is used in this report to refer to anyone under the age of 18. The Convention on the Rights of the Child defines as a child "every human being below the age of 18 years unless under the law applicable to the child, majority is

drug detention centers if they continue using drugs having already received home and community-based detoxification or repeated education programs in their localities, or if they have no permanent accommodation.[2] Like adults, children must work as part of their detention.[3]

Human Rights Watch found that former detainees were forced to work in cashew processing, other forms of agricultural production (either for outside sale, such as potato or coffee farming, or for consumption by detainees), garment manufacturing, other forms of manufacturing (such as making bamboo and rattan products), and construction work.

Some former detainees told Human Rights Watch that the labor they were forced to perform was unpaid. More commonly, forced labor is paid at wages well below the minimum wage. Centers often hold the wages of detainees as credit, against which centers levy charges for items such as food, accommodation, and "managerial fees." These charges often represent a significant amount—in some case all—the detainee's wages. Some detainees, when they are released from detention, owe the center money.

Refusing to work, or violating any one of a number of center rules, results in beatings or confinement in disciplinary rooms (*phong ky luat*). Staff beat detainees with wooden truncheons or shock them with electrical batons, sometimes causing them to faint. In disciplinary rooms—either crowded punishment rooms or solitary confinement cells—physical deprivation is used as an additional form of punishment: food and/or drinking water rations are often reduced, access to bathing is restricted, and family visits are prohibited. People held in disciplinary rooms often have to work longer hours or conduct more strenuous work than usual, or are only allowed out of such rooms for 30 minutes each day, if they are allowed out at all.

No one who had been detained described any form of scientifically or medically appropriate drug dependency treatment within a center. Psychosocial counseling involved lectures on the evils of drug use and morning exercises while chanting slogans such as "Healthy! Healthy! Healthy!"

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attained earlier." Vietnam's 2004 Law on Child Protection, Care and Education (Law on Child Protection) defines children as under 16 years of age, while Vietnam's Civil Code (art. 20) defines a child as anyone under 18. Vietnam's Penal Code of 1997 (revised in 1999) defines the age of criminal responsibility to be 14 (for criminal offenses) but 12 for administrative offenses. Vietnam's Labor Law sets the minimum age for employment at 18; however, children as young as 15 can be employed under certain circumstances. Vietnam's Law on Child Protection states in art. 2 that international law takes precedence over domestic in cases where national laws differ from international agreements that Vietnam has signed.

[2] Law on Preventing and Combating Narcotic Drugs, No. 23/2000/QH10, December 9, 2000, art. 29. See also Decree 135/2004/ND-CP, June 10, 2004, art. 24.

3 Decree 135/2004/ND-CP, June 10, 2004, art. 44 states: "Outside of the time spent on education, treatment, adolescent (patients) must participate in therapeutic labor as organized by the Centers for Social Treatment – Education." [Human Rights Watch translation].

Like adults, children detained in drug detention centers are forced to work, beaten, and abused.

Whether committed against adults or children, abuses such as arbitrary detention, torture, inhuman and degrading treatment, and forced labor are illegal under Vietnamese and international law.

Human Rights Watch urges the UN Committee on the Rights of the Child to:

- Publicly call for: i) children in Vietnam's drug detention centers to be released, ii) the closure of the centers iii) an investigation into allegations of human rights violations inside such centers, iv) holding those responsible for such violations to account, and v) reasonable compensation for detainees and former detainees for harm to their physical and mental health suffered during detention.
- Raise concerns with Vietnam's government regarding allegations of arbitrary detention, forced labor, torture, cruel, inhuman or degrading treatment or punishment, and other abuses committed against people who use drugs (including children) by law enforcement officers and staff of drug detention centers in Vietnam.
- Request further information from Vietnam's government in its periodic reports on the detention and treatment of people in drug detention centers, including children.

Methodology

Vietnam does not allow international human rights organizations to freely conduct research or monitor human rights concerns in Vietnam. NGOs and others visiting drug detention centers are rarely, if ever, able to speak privately with detainees or see all parts (e.g., disciplinary rooms) of a center. As a result, obtaining and verifying information about human rights violations in drug detention centers presents great challenges.

Nonetheless, Human Rights Watch was able to conduct in-depth, confidential interviews with 34 people recently detained in 14 of 16 centers under the administration of Ho Chi Minh City authorities.[4] All 34 former detainees had been in detention within five years of the date of their

4 32 individuals interviewed were detained in 14 centers administered by Ho Chi Minh City officials and two individuals had been detained by Ho Chi Minh City authorities before being transferred to centers under the administration of other provinces. In addition to the 16 centers administered by Ho Chi Minh City officials, those authorities also operated an additional center (Trong Diem) in Binh Phuoc province until at least 2008. While Human Rights Watch spoke to former detainees of this particular center, this testimony has not been included in the report as government authorities no longer list it as a center for drug treatment and Human Rights Watch understands it is not currently operating as such.

interview with Human Rights Watch in 2010.[5] Information from former detainees throughout this period was consistent in terms of the forms, severity, and frequency of abuses reported. All former detainees whose testimony is included in this submission come from Ho Chi Minh City or its immediate suburbs.

Of the 34 former detainees whose testimony forms the basis of this submission, 10 are women and three were children (i.e. under the age of 18) when first detained.

All individuals interviewed provided verbal informed consent to participate. Individuals were assured that they could end the interview at any time or decline to answer any questions. Interviews were semi-structured and covered a number of topics related to illicit drug use, arrest, and detention conditions. To protect their confidentiality and safety, interviewees have been given pseudonyms, and in some cases other identifying information has been withheld.

Background

No two drug detention centers in Vietnam are exactly alike. Some are prison-like compounds in major cities, behind high walls topped with barbed wire. Others are sprawling clusters of barracks located in peri-urban industrial zones. Still more resemble expansive agricultural estates in remote border provinces. Regardless of location, all are surrounded by fences or walls and watched over by guards. None provide drug dependency treatment that is humane or effective.

Some centers hold just a few dozen detainees, while some lock up over a thousand. Many hold several hundred detainees. A considerable number of drug detention centers also double as detention centers for sex workers.[6] All rely upon forced labor as "therapy."

In official government terminology, the centers are referred to as "Centers for Social Education and Labor" (*Trung Tam Giao Duc Lao Dong Xa Hoî*), "Centers for Post Rehabilitation Management" (*Trung Tam Quan Ly Sau Cai Nghien*), or "Centers for Vocational Training and Job Placement" (*Co*

5 Human Rights Watch uses the term detainees to refer to those who reported that they were detained against their will, as well as those who entered the centers on a voluntary basis. The term detainee is appropriate for those who enter on a voluntary basis because once inside the centers they are not free to leave. A high proportion of those who entered the centers on a voluntary basis subsequently had their detention extended without being offered an opportunity for release.

6 This submission does not purport to cover the similar—although administratively distinct—system of detention centers for sex workers that operate in Vietnam. For a recent discussion of these centers, see Nguyen-vo Thu-huong, The Ironies of Freedom: sex, culture, and neo-liberal governance in Vietnam (University of Washington Press, 2008).

So Day Nghe Va Giai Quyet Viec Lam).[7] Each center is free to adopt a title with a similarly vague and benign meaning, such as "Center for Receiving Social Subjects," "Center for Labor, Education and Social Sponsorship," and "School for Vocational Training, Education and Job Placement."[8]

Official discourse around the centers is also marked by a plethora of euphemisms. Police do not round people up and detain them; rather they are "gathered" (*thu gom*). Center staff are referred to as "trainers" (*quan giao*), while detainees themselves are "trainees" (*hoc vien*). If a detainee has already been detained for two years, he or she becomes a "post rehabilitation person" (*nguoi sau cai nghien*) undergoing "management, vocational training and job placement for post rehabilitation individuals" (*quan ly, day nghe va giai quyet viec lam cho nguoi sau cai nghien*).

The *Ordinance on Handling of Administrative Violations* (2002) covers a range of administrative detention systems, and provides for the detention of people who use drugs in "medical treatment establishments" [*co so chua benh*]—yet another official term for drug detention centers— "to labor, [and] to receive education, vocational training and rehabilitation treatment."[9]

Drug detention centers form part of a broad system of detention centers for administrative violations in Vietnam. Until mid-2009, Vietnam's Penal Code allowed for criminal charges to be brought against people who continued to use drugs after having "been educated time and again

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7 Centers are also referred to as "06 centers," after the 1993 legislation that gave impetus to the expansion of Vietnam's system of drug detention centers. The two decrees currently governing drug detention centers are Decree 135/2004, "Prescribing the Regime on Application of the Measures of Consignment to Medical Treatment Establishments, the Organization and Operation of Medical Treatment Establishments under the Ordinance on Handling of Administrative Violations and the Regime Applicable to Minors and Volunteers in Medical Treatment Establishments," June 10, 2004 and Decree 94/2009/ND-CP, "Regulating in Detail the Implementation of the Law to Amend and Supplement a Number of Articles of the Law on Drug Prevention Regarding Post-Rehabilitation Management," October 26, 2009.

8 "*Trung Tam Tiep Nhan Doi Tuong Xa Hoi*,""*Trung Tam Giao Duc Lao Dong Bao Tro Xa Hoi*," and "*Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam*" respectively.

9 Ordinance on Handling of Administrative Violations, No. 44/2002/PL-UBTHQH10, July 2, 2002, art. 26(1) [Human Rights Watch translation]. Under Decree 76 (2003), peaceful dissidents, activists and others deemed threats to national security or public order can be detained in "re-education centers" (*Co So Giao Duc*). Decree No. 76/2003/ND-CP, "Prescribing and Guiding in Detail the Application of the Measure of Consignment to Re-Education Centers," June 27, 2003, http://laws.dongnai.gov.vn/2001_to_2010/2003/200306/200306270001_en (accessed May 1, 2011). Amendments to Decree 76 of June 27, 2003 made in December 2008 appear to allow people who use drugs to be detained in re-education centers. See Decree No. 125/2008/ND-CP, "Amending and supplementing some articles of Decree No. 76/2003/ND-CP," December 11, 2008, http://www.chinhphu.vn/portal/page?_pageid=33,638900&_dad=portal&_schema=PORTAL&docid=81315 (accessed May 1, 2011). See also Mai Huong, "Supplementary stipulations on applying the measures of admission in the education establishments," undated 2011, Chinh Phu, http://tintuc.xalo.vn/001987716582/Quy_dinh_bo_sung_ve_ap_dung_cac_bien_phap_dua_vao_co_so_giao_duc.html (accessed May 12, 2011) [Human Rights Watch translation].

and administratively handled through the measure of being sent to compulsory treatment establishments."[10] Despite this provision, drug use in Vietnam has historically been an administrative rather than a criminal matter.

In June 2009, criminal punishment for drug use was eliminated, reinforcing Vietnam's approach of administrative penalties.[11] One consequence of this approach is that administrative detention in Vietnam, unlike detention under criminal procedure law, is not subject to due process and judicial oversight.

Additionally, Vietnam's Drugs Law establishes that a person dependent on drugs must report his or her dependency to his or her local administration or workplace. He or she has a legal obligation to register for detoxification.[12] What the law calls "opposing or obstructing drug detoxification" is strictly prohibited.[13]

Family members of a person dependent on drugs must also report their relative's drug use to local authorities, monitor their relative's drug use, and "prevent them from illicit drug use or any act that disturbs social order and safety."[14] Family members must either assist in home-based detoxification, or

> support the competent agency/agencies in sending such addicted family members to a compulsory detoxification institution and contribute funds to cover the cost of detoxification as stipulated by law.[15]

Compulsory detention is mandated for an individual over 18 "who still indulges in his/her drug-taking habit after being subjected to detoxification at home and/or in the local community or educated repeatedly in his/her own commune, urban ward or district township or who has no fixed place of residence." The duration of "detoxification" is stipulated as being between one and two years.[16]

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10 Penal Code of Vietnam, No. 15/99/QH10, December 21, 1999, art. 199(1). Those who still relapsed were liable for imprisonment from two to five years: art. 199(2).
11 Law Amending and Supplementing a Number of Articles of the Penal Code, No. 37/2009/QH12, June 19, 2009.
12 Law on Preventing and Combating Narcotic Drugs, 23/2000/QH10, December 9, 2000, art. 26(1)(a).
13 Ibid., art. 3(6).
14 Ibid., art. 26(2)(c).
15 Ibid., art. 26(2)(b) and (d).
16 Law on Preventing and Combating Narcotic Drugs, 23/2000/QH10, December 9, 2000, art. 28. For individuals entering a center on a voluntary basis, the minimum period is for six months: Decree 135/2004, June 10, 2004, art. 29. Those who volunteer for detoxification at centers are not classified as being administratively sanctioned: art. 28(3).

Vietnamese law also provides that children between the ages of 12 and 18 who are addicted to drugs can be sent to drug detention centers for between one to two years.[17] Like adults, children must work as part of their detention.[18]

Labor is central to the purported "treatment" of people in drug detention centers. According to government regulations, labor therapy [*lao dong tri lieu*] is one of the official five steps of drug rehabilitation. The centers must "organize therapeutic labor with the aim of recovering health and labor skills for drug addicts."[19]

The concept of labor therapy comprises an element of moral correction through work; work is used to rectify an individual's personality after their perceived moral failings of drug use and idleness. Through labor therapy, detainees supposedly learn (or re-learn) the value of honest work. A 2009 Ministry of Labor assessment of the effectiveness of drug treatment in the centers describes labor therapy in the following terms:

> At [the labor therapy] stage, the drug addicts are organized into manufacturing activities for [the] restoration of their behaviors and labor skills. Through labor, their behavior and dignity will be restored.[20]

Each center has considerable autonomy in establishing its forms of labor therapy and the income of the centers. The 2009 Ministry of Labor assessment continues:

> The Government encourages the centers to create incomes by their own resources and issue policies for them to earn these incomes. These centers are entitled to

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17 Children can be sent to drug detention centers if they continue using drugs having already received home and community-based detoxification or repeated education programs in their localities, or if they have no permanent accommodation. Law on Preventing and Combating Narcotic Drugs, No. 23/2000/QH10, December 9, 2000, art. 29. See also Decree 135/2004/ND-CP, June 10, 2004, art. 24.

18 Decree 135/2004/ND-CP, June 10, 2004, art. 44 states: "Outside of the time spent on education, treatment, adolescent (patients) must participate in therapeutic labor as organized by the Centers for Social Treatment – Education." [Human Rights Watch translation].

19 The five official stages are: 1. Admission and sorting; 2. Treatment for withdrawal, the impact of detoxification and opportunistic infection; 3. Education and counseling to rehabilitate behaviors and personality;4. Labor therapy and vocational training; 5. Preventing and fighting against relapse, preparing for community reintegration. See Interministrial Circular 41/2010/TTLT-BLDTBXH-BYT, "Guiding the Process of Rehabilitation for Drug Addicts at the Centers for Social Education and Labor for Voluntary Rehabilitation Treatment," issued by the Ministry of Labor and the Ministry of Health, dated December 31, 2010, art. 2 [Human Rights Watch translation].

20 Ministry of Labor, "Assessment of effectiveness of treatment for drug addiction and preventative measures, care and treatment for HIV/AIDS at Centers for Treatment-Education-Social Labor in Vietnam," 2009, p. 63. Copy on file with Human Rights Watch.

> agricultural land for production, forestry land and workshop[s] for manufacture and equipment and materials for vocational training and creating incomes.[21]

The assessment also notes that, "[a]s profitable administrative units, the centers do not have to pay taxes for their incomes.[22]

In 2009, the National Assembly amended the Drugs Law to allow one to two years of "post rehabilitation management" at the national level. According to the implementing decree (2009), the additional period of up to two years "post rehabilitation management" can take place either at home (under the supervision of the commune-level People's Committee) or in a drug detention center.[23] Thus, according to current law, a person can spend up to four years in Vietnam's drug detention centers.

People are to be detained for "post rehabilitation management" if deemed to be at "high risk of relapse" —i.e. if they fall into any of the following categories:

1. Have been addicted to drugs for five years or more (or, for injection drug users, for two years or more);
2. Have already been detained in compulsory drug detention centers three times or more;
3. Have been warned more than three times or punished by isolation [in a disciplinary room] more than twice for violating the internal rules of drug detention centers; or
4. Have no occupation, an unstable occupation, or no specific place of residence.[24]

With respect to work, the years spent in "post rehabilitation management" look very similar to the years spent in detention. The 2009 decree provides:

> Throughout the duration [of "post rehabilitation management"] at the center, post rehabilitation individuals must comply with the regulations and policies of the center on management, training, education, living, laboring and self-correction [and] must participate in labor and production to cover the cost of their food supplies and living expenses.[25]

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21 Ibid., pp. 65-66.
22 Ibid., p. 66.
23 Decree 94/2009/ND-CP, "Regulating in detail the implementation of the Law to Amend and Supplement a Number of Articles of the Law on Drug Prevention Regarding Post-Rehabilitation Management," October 26, 2009, art. 33.
24 Decree 94/2009/ND-CP, October 26, 2009, art. 17(1) [translation by Human Rights Watch].
25 Ibid., art. 26 [translation by Human Rights Watch].

Ho Chi Minh City's Centers

Center	Location	Official name in Vietnamese	Official name in English	Run by	Approx. population (2009)
Binh Trieu	Binh Thinh district, Ho Chi Minh City	Trung Tam Tiep Nhan Doi Tuong Xa Hoi Binh Trieu	Binh Trieu Center for Receiving Social Subjects	Ho Chi Minh City Department of Labor	400
Phu Van	Phuoc Long district, Binh Phuoc province	Trung Tam Giao Duc Dong Bao Tro Xa Hoi Phu Van	Phu Van Center for Labor, Education and Social Sponsorship	Ho Chi Minh City Department of Labor	800
Phu Nghia	Phuoc Long district, Binh Phuoc province	Trung Tam Giao Duc Lao Dong Xa Hoi Phu Nghia	Phu Nghia Center for Social Education and Labor	Ho Chi Minh City Department of Labor	300
Binh Duc	Phuoc Long district, Binh Phuoc province	Trung Tam Cai Nghien Ma Tuy Binh Duc	Binh Duc Drug Rehabilitation Center	Ho Chi Minh City Department of Labor	700
Duc Hanh	Phuoc Long district, Binh Phuoc province	Trung Tam Chua Benh Duc Hanh	Duc Hanh Medical Treatment Center	Ho Chi Minh City Department of Labor	500
Phu Duc	Bu Gia Map district, Binh Phuoc province	Trung Tam Chua Benh Phu Duc	Phu Duc Medical Treatment Center	Ho Chi Minh City Department of Labor	500
Bo La	Phu Giao district, Binh Duong province	Trung Tam Cai Nghien Ma tuy Bo La	Bo La Drug Rehabilitation Center	Ho Chi Minh City Department of Labor	600
Phuoc Binh	Long Thanh district, Dong Nai province	Trung Tam Giao Duc Lao Dong Xa Hoi Phuoc Binh	Phuoc Binh Center for Social Education and Labor	Ho Chi Minh City Department of Labor	500
Youth Center No. 2	Cu Chi district, Ho Chi Minh City	Trung Tam Giao Duc Day Nghe Thanh Thieu	Center for Vocational Training and	Ho Chi Minh City Department of Labor	800

Center	Location	Official name in Vietnamese	Official name in English	Run by	Approx. population (2009)
		Nien 2	Education for Youth and Teenagers No. 2		
Nhi Xuan	Hoc Mon district, Ho Chi Minh City	Trung Tam Giao Duc, Day Nghe Va Giai Quyet Viec Lam Nhi Xuan	Nhi Xuan Center for Vocational Training and Job Placement	Volunteer Youth Force	850
Center No. 1	Dak Rlap district, Dak Nong province	Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam So 1	School for Education, Vocational Training and Job Placement No. 1	Volunteer Youth Force	500
Center No. 2	Lam Ha district, Lam Dong province	Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam So 2	School for Education, Vocational Training and Job Placement No. 2	Volunteer Youth Force	1000
Center No. 3	Phu Giao district, Binh Duong province	Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam So 3	School for Education, Vocational Training and Job Placement No. 3	Volunteer Youth Force	500
Center No. 4	Tan Uyen district, Binh Duong province	Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam So 4	School for Education, Vocational Training and Job Placement No. 4	Volunteer Youth Force	600
Center No. 5	Tuy Duc district, Dak Nong province	Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam So 5	School for Education, Vocational Training and Job Placement No. 5	Volunteer Youth Force	1000
Center No. 6	Tuy Duc district, Dak Nong province	Truong Giao Duc Dao Tao Va Giai Quyet Viec Lam	School for Education, Vocational	Volunteer Youth Force	500

Center	Location	Official name in Vietnamese	Official name in English	Run by	Approx. population (2009)
		So 6	Training and Job Placement No. 6		

Some centers are geographically located inside Ho Chi Minh City itself. For example, the Binh Trieu center is on the site of a former Catholic seminary and has existed in various forms since at least 1975.[26] Based on the testimony of former detainees, it appears to be currently used to hold people for relatively short periods of "detoxification" before they are transferred elsewhere.[27]

The large Nhi Xuan center was established in 1994 and is currently used as a showpiece center by Ho Chi Minh City authorities, representing Vietnam's overall system of drug detention centers to international visitors. It primarily detains those under "post rehabilitation management" and is located in the industrial zone of Hoc Mon district.

The Youth Center No. 2 is located in a suburban area of Cu Chi district. Although it is a "Center for Children and Youths," adults are detained there alongside children, while children are also sent to other centers.

Many of the centers under the administration of Ho Chi Minh City are not located in the city itself, but in provinces such as Lam Dong and Dak Nong (in the Central Highlands), or in Binh Duong, Dong Nai, and Binh Phuoc provinces (in the south east).[28]

Many of Vietnam's other provinces have their own centers (under separate provincial administration). In a small number of cases, it appears that drug users from Ho Chi Minh City are sent to centers under the administration of other provinces; for example, the "Centers for Social Education and Labor" in Ninh Thuan province and Long An provinces (in southeast Vietnam).[29]

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26 In 1981, there were reportedly three main centers in Ho Chi Minh City, including Ho Chi Minh City's 'Drug Addiction Reform Center,' opened under Ho Chi Minh City's Department of Veterans and Social Welfare in November 1975 in Binh Trieu. See S. Fraser and T. Knight, "Vietnam: Drug Rehabilitation: Whose Problem? A Case Study from Ho Chi Minh City," *Australian and New Zealand Journal of Criminology*, 14(3) 1981, pp. 138-146.

27 Human Rights Watch interviews with Lang Giang, Xuan Truong, Thach An, Trung Khanh, Quy Hop, Can Loc, Huong Son, Thai Hoa, Kinh Mon, Que Phong, Khoai Chau, Con Cuong, and Dinh Lap, Ho Chi Minh City, 2010.

28 Note that a Volunteer Youth Force order in January 2011 describing the re-organization of entities under its administration describes four centers, not six: Centre No. 1 (Tuy Duc district, Dak Nong province), Center No. 2 (Lam Ha district, Lam Dong province), Center No. 3 (Phu Giao district, Binh Duong province) and the Nhi Xuan center (Hoc Mon district, Ho Chi Minh City). It may be that some centers under Volunteer Youth Force administration have been merged in 2011. See Volunteer Youth Force, Order No. 41/TNXP-TC, "Regarding Allocation of Competitive Units Among Affiliated Agencies in 2011," January 18, 2011, para. 2 [translation by Human Rights Watch].

29 Human Rights Watch interviews with Huu Lung and Cam Khe, Ho Chi Minh City, 2010.

Findings Related to Children

The Vietnamese government reported that in 2007, 3.5 percent of detainees in Ho Chi Minh City centers were children.[30] Children can be detained for between one to two years.[31] Decree 135 of 2004 requires that detained children must take part in "therapeutic labor."[32] There is nothing in the decree on "post rehabilitation management" to prevent a child from being categorized as at "a high risk of relapse" and subject to the additional two years of detention.[33]

Forced Labor

Huu Lung was a child—i.e. under 18-year-old—when detained at a center in Long An province for 2 years.

> There were less than a thousand of us there, a number of women, and we were all drug users. The age range was from 14 to 56-years-old. We slept together, ate together, and worked together. My job was agricultural. I did vegetable farming and watering eight hours a day. Everyone worked. No one refused.[34]

Youth Center No. 2 is nominally a center for youth, where it appears school classes and some voluntary vocational training are offered. Some former detainees told Human Rights Watch that children detained at the facility were allowed to choose between work and educational study.[35] However other former detainees said that work was compulsory and additional to educational study.

Thai Hoa was an adult when detained at Youth Center No. 2. He spent five years in the center, where he said ages ranged from 12 to 24 years and he had a daily quota of three-and-a-half kilos of cashews to skin each day.

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30 Government of the Socialist Republic of Vietnam, "Report to the national Assembly on the result of five years' implementation of Decree No. 16/2003/QH11 on Post rehab monitoring, vocational training and job placement," May 5, 2008, annex 2b.

31 Decree 135/2004/ND-CP, June 10, 2004, art. 24.

32 Decree 135/2004/ND-CP, June 10, 2004, art. 44 states: "Outside of the time spent on education [and] treatment, adolescent [detainees] must participate in therapeutic labor as organized by the Centers for Social Treatment – Education." [Human Rights Watch translation].

33 Decree 94/2009/ND-CP, October 26, 2009, art. 17(1).

34 Human Rights Watch interview with Huu Lung, Ho Chi Minh City, 2010.

35For example, Human Rights Watch interviews with Tan Uyen and Can Loc, Ho Chi Minh City, 2010.

> If someone refused to work on the job the other detainees hit them as they entire group needed to stay until everyone's individual quota was met. No one refused to work by not going to the workplace. Everyone worked, including the children.[36]

Ba Che was in her mid-20s when she spent four years in Youth Center No. 2. She reported:

> In my room there were about 30 females and in my section 300. Among the people in my room there were only four of us over 20. Among the 14 to 16 year olds that I lived with, they all had to work…
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> They worked seven to eight hours a day sewing shirts or sewing plastic decorations on clothing or producing plastic drinking straws…. If they refused to work they were shouted at. Then they had to wash floors or clean the house or hoe the garden for punishment until they agreed to go back to their regular jobs.[37]

Some former detainees told Human Rights Watch that forced labor in the centers was unpaid. More commonly, wages were paid at rates well below the minimum wage. Former detainees said the centers also levy charges on their wages for food, accommodation, and "managerial fees". These charges often constitute a significant amount— in some cases all—of their derisory wages.

Tan Uyen was in his early 20s when he was detained in the Youth Center No. 2 in Ho Chi Minh City for over four years.

> I worked in the vegetable gardens about six hours a day, six days a week. No one refused to work. Our group did well and our vegetables were eaten by the detainees in the center. I got no wages—no cash and no money on my account.[38]

Luc Ngan was a child when detained at Youth Center No. 2, where he spent almost four years.

> There were about eight or nine hundred of us there, all drug users, and the ages were from 12 years to 26 years…. School with the national curriculum was mandatory. There was vocational training in fixing motorbikes and computer work but it was voluntary and I didn't participate. Work was compulsory. We produced

36 Human Rights Watch interview with Thai Hoa, Ho Chi Minh City, 2010.
37 Human Rights Watch interview with Ba Che, Ho Chi Minh City, 2010.
38 Human Rights Watch interview with Tan Uyen, Ho Chi Minh City, 2010.

> bamboo furniture, bamboo products, and plastic drinking straws. We were paid by the hour for work eight-hour days, six days a week.[39]

Luc Ngan believed that the drinking straws were sold to a company called Tran Boi.[40] Vietnamese media reports in 2003 and 2004 describe Tran Boi Co. as working in Youth Center No. 2 to provide detainees with jobs under the "post rehabilitation management" pilot program.[41] Business directories describe Tran Boi Production Co. Ltd. as a plastics company located in Ho Chi Minh City.[42] Human Rights Watch wrote to Tran Boi Production Co. Ltd. in May and again in June 2010 seeking its reply to the information received about the company. Tran Boi Production Co. Ltd. had not provided a response by the time "The Rehab Archipelago" went to print.[43]

Deliberate Confusion with Vocational Training

The Vietnamese government deliberately uses the term vocational training as a euphemism to describe what is nothing less than forced labor in the centers. For example, a 2009 Ministry of Labor assessment states that over 90 percent of the nearly 1000 detainees that the review covers participated in "working treatment therapy" and that, according to regulations, detainees must spend 70 percent of their eight-hour day performing labor therapy. However, in an otherwise detailed report, the review is oddly silent on the forms of "working treatment therapy" that detainees performed.

Yet the review does refer to "one-month vocational training courses" that are performed "in order to exploit the available potentials of the center in order to make products which are helpful for daily life of the residents." Listed as "vocational training courses" are "cashew nut peeling, production of votive objects, art objects, children's toy painting, rock cutting, coal mining, farming, etc." The review laments that the one-month period is insufficient time to provide sufficient experience and training for the detainees.[44]

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39 Human Rights Watch interview with Luc Ngan, Ho Chi Minh City, 2010.
40 Ibid.
41 "A Chance To Rebuild Their Life," *Saigon Times Magazine*, November 6, 2003; Thu Hang, "Factories exclusively for post-rehabilitation individuals," *Vietnam Express*, April 20, 2004 [Human Rights Watch translation], http://vnexpress.net/gl/xa-hoi/2004/04/3b9d1d86/ (accessed February 15, 2011).
42 Panpages (online business directory), "Tran Boi Production Co. Ltd.," undated, http://vietnam.panpages.com/industry-agricultural-and-garment/plastic-products/tran-boi-production-coltd-34116.html (accessed February 15, 2011).
43 Letters from Human Rights Watch to the Director of Tran Boi Production Co. Ltd., May 2, 2011 and June 10, 2011, copies on file with Human Rights Watch.
44 See Ministry of Labor, "Assessment of effectiveness of treatment for drug addiction and preventative measures, care and treatment for HIV/AIDS at Centers for Treatment-Education-Social Labor in Vietnam," 2009, p. 159.

Articles in state-controlled media published shortly after the passage of the decree regulating post rehabilitation management during the Ho Chi Minh City pilot project clearly stated that, under the decree, detainees who "refuse to voluntarily enroll in vocational training and job placement establishments" would be detained for "post-rehabilitation management" for an (additional) period of one to three years.[45]

Few former detainees whom Human Rights Watch spoke to mentioned vocational training in the centers. However, one former detainee identified what appear to be genuine vocational training programs at Youth Center No. 2. According to Luc Ngan, "work was compulsory [but]…. There was [also] vocational training in fixing motorbikes and computer work but it was voluntary and I didn't participate."[46]

For reasons outlined below, Human Rights Watch believes that the overwhelming preponderance of labor performed in Vietnam's drug detention centers is not genuine vocational training.

Rather than any instructive benefit to individuals, most labor in Vietnam's drug detention centers is motivated by a desire to correct perceived moral failings of detainees and to generate income for the centers. A number of additional indicators, taken together, show the labor performed inside the centers is distinct from real vocational training programs. These indicators include:

- **Prolonged periods of menial labor.** Many former detainees told Human Rights Watch they had to perform the same form of basic manual labor for many months or years. Such periods of prolonged repetition of the same basic labor go far beyond any period of genuine skill acquisition.

- **Disregard for the needs and interests of the individual.** There is no consideration of an individual's personal aspirations in the labor in the centers. Rather, labor in the centers takes place on a compulsory basis and *en masse*.[47]

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45 For example, a Viet Bao article published on July 22, 2004—three days after the decree was issued— provides an overview of Decree 146 of 2004. Center directors "must organize the rehab patient to voluntarily enroll in a vocational training and job placement establishment," including those who "refuse to voluntarily enroll in vocational training and job placement" but are deemed at "a high risk of relapse." The decree provides for extensions of one to two years if necessary, but no more than three years. "Vocational training establishments must not reject rehab patients," *Viet Bao*, July 22, 2004, http://pda.vietbao.vn/Viec-lam/Co-so-day-nghe-khong-duoc-tu-choi-nguoi-cai-nghien/20218320/271/ (accessed May 12, 2011) [Human Rights Watch translation].

46 Human Rights Watch interview with Luc Ngan, Ho Chi Minh City, 2010.

47 While not binding on Vietnam, the ILO's C142 Human Resources Development Convention, 1975 is instructive on this point. According to art. 1(5): "The policies and programmes [of vocational guidance and vocational training] shall encourage and enable all persons, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work in their own best interests and in accordance with their own aspirations, account being taken of the needs of society."

- **Detainee enforcement of production quotas.** Detainee guards often oversee work. Their role is to enforce discipline and production quotas, rather than providing training in work skills.

- **Labor law is the applicable law.** Both decrees governing drug detention centers establish that the work carried out in the centers is supposedly governed by Vietnam's Labor Code.[48]

Beatings and Ill-Treatment

Although physical beatings are not sanctioned punishments, infringements of center rules commonly result in staff beating detainees with truncheons. Some infractions of center rules are punished with forms of physical abuse that constitute torture. Human Rights Watch received reports of electric batons being used on detainees as punishment. Former detainees also told Human Rights Watch they were tortured after failed escape attempts. Severe violence against those who attempt escape appears intended to serve both as a punishment, and an example to other detainees

Moreover, much physical abuse inside the centers involves detainees beating other detainees. Rather than being spontaneous acts of fighting between detainees, detainee-on-detainee violence is often an extension of staff control of detainees. Detainee guards are frequently involved in meting out punishments for infringing center rules.

Can Loc was a child when he was detained for five years in Youth Center No. 2. He told Human Rights Watch:

> I was beaten and put into a punishment room for fighting. The staff beat me on the arm and back with a truncheon.... Then I went to the punishment room. It was about six by 12 meters and when I was in there 41 others were, too. It was locked. There was no work and no school. We had no contact with other detainees or relatives.... I was kept there for three months and seven days.

He added, "We are humans but they hit us so hard."[49]

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48 Decree 135/2004/ND-CP, June 10, 2004, art. 32 states "Individuals being taken into rehab centers must comply with the labor policy and working hours stipulated by the Labor Law" [Human Rights Watch translation]. See also Decree 94/2009/ND-CP, October 26, of 2009, art 34(2).

49 Human Rights Watch interview with Can Loc, Ho Chi Minh City, 2010.

Former detainees also reported two basic types of disciplinary rooms. One is a group punishment room where detainees are locked in with other detainees. The room is usually the same size as regular sleeping rooms in the center, although it is often overcrowded.

The other extreme is solitary confinement cells—usually small, cramped cells where a detainee is held in isolation, sometimes in shackles.[50] Some centers have both group punishment rooms and solitary confinement cells.

In such rooms, physical deprivation is used as additional punishment. Former detainees reported that rations of food and/or drinking water were reduced, access to bathing was restricted, and family visits were prohibited. Many such rooms have no beds or mats, forcing detainees to sleep on the floor. Often, detainees are only allowed out of the room for short periods each day, if at all. It is not uncommon for a detainee to spend weeks or even months in such a room, contravening the decrees governing drug detention centers.[51]

While in such rooms, detainees either have to work longer hours or at more strenuous work than usual, or are prohibited from working at all (thus spending even longer locked in the disciplinary room). Placement in a solitary confinement cell is often considered an even more severe form of punishment. Few of the former detainees whom Human Rights Watch talked to had been held in a solitary confinement cell.

No Separation from Adults

A number of former detainees reported that children were detained in the same cells are adults. Tan Uyen, a man in his mid-20s released in 2009, was detained for four years at Youth Center No. 2. He told Human Rights Watch:

> In my room of approximately 30, we all slept on mats of the floor and there were five or six boys ages 15, 16, and 17.[52]

Con Cuong and Thai Hoa were both adults when detained. They also told Human Rights Watch they were detained in the same room as children at Youth Center No. 2.[53]

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50 Human Rights Watch interviews with Lang Giang and Muong Nhe, Ho Chi Minh City, 2010.

51 Human Rights Watch interviews with Tra Linh, Muong Nhe, Ly Nhan, Can Loc, Ouynh Luu, Que Phong, Khoai Chau, Yen The, Tien Du, Xuan Truong, Thach An, Truc Ninh, Dong Van, Quy Hop, Huong Son, Kinh Mon, and Bach Thong, Ho Chi Minh City, 2010.

52 Human Rights Watch interview with Tan Uyen, Ho Chi Minh City, 2010.

53 Human Rights Watch interview with Con Cuong and Thai Hoa, Ho Chi Minh City, 2010.

Applicable Standards

Torture and cruel and inhuman treatment

International law prohibits all forms of ill-treatment described in this report. According to the ICCPR, "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" and "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."[54]

The Convention on the Rights of the Child (CRC) to which Vietnam is a party, obligates the government to protect children from "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."[55]

Forced labor

Forced labor is among the worst forms of child labor and is prohibited for all children. The International Labour Organization's Convention on the Worst Forms of Child Labor (ILO Convention 182) forbids forced or compulsory labor for children, defined as any person under the age of 18, and all ILO members are bound by the Declaration on Fundamental Principles, which requires all ILO members to realize the effective abolition of child labor.[56] Vietnam is obligated to take effective and time-bound measures to prevent the engagement of children in forced labor and to provide direct assistance for removing children from forced labor, among other measures.[57]

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54 ICCPR, arts. 10 and 7. Vietnam acceded to the ICCPR on September 24, 1982.

55 Convention on the Rights of the Child, (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, art. 19(1). Vietnam ratified the CRC on February 28, 1990.

56 ILO Convention (182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, adopted by the General Conference of the International Labour Organization on June 17, 1999, entered into force on November 19, 2000. Vietnam ratified on December 19, 2000. See also [ILO] Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Worst Forms of Child Labour Convention, 1999 (No. 182), http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloeng&document=11108&chapter=6&query=China%40ref&highlight=&querytype=bool&context=0 (accessed July 28, 2011). The ILO Declaration on Fundamental Principles, adopted by the International Labour Conference at its eighty-sixth session, Geneva, June 18, 1998, art.2.

57 ILO Convention No. 182, art. 7.

Additionally, Human Rights Watch believes that the situation in drug detention centers is a form of economic exploitation, given that child detainees must work and are required to do so for wages far below the lowest minimum wage set in law for other categories of workers.[58]

Detention of children as a last resort

The CRC states that any arrest, detention, or imprisonment of a child must conform with the law and can be done only as a "measure of last resort."[59] Moreover, children deprived of their liberty have the right to challenge the legality of their detention before a court or other competent, independent and impartial authority, and are entitled to a prompt decision on any such action.[60] This means that in general a child should not be detained unless it is adjudicated that he or she has committed a violent act against someone or is persistent in committing other serious offenses and there is no other appropriate response.[61] The Committee on the Rights of the Child has said that states should therefore develop non-institutional forms of treatment for children.[62]

No separation of adults and children/lack of age-specific programs or services

The detention of persons under age 18 in the same facilities as adults is prohibited under international human rights law and Vietnamese law.[63] The decrees governing drug detention centers require children to be detained in separate areas.[64]

58 See the Committee on the Rights of the Child, Report on the Fourth Session of the Committee on the Rights of the Child, CRC/C/20, October 25, 1993, paras. 186-196 and Annexes V-VI.
59 CRC, art. 37(b).
60 CRC, art. 37(d).
61 The U.N. Standard Minimum Rules for the Administration of Juvenile Justice ("Beijing Rules"), adopted by General Assembly resolution 40/33 of 29 November 1985, http://www.un.org/documents/ga/res/40/a40ro33.htm (accessed July 28, 2011).
62 See e.g. Committee on the Rights of the Child, Concluding Observations: Latvia, CRC/C/LVA/CO/2,para.. 62(d); Committee on the Rights of the Child, Concluding Observations: Brunei Darussalam, CRC/C/15/Add.219, paras. 53 and 54; and Committee on the Rights of the Child, Concluding Observations: Vincent and the Grenadines CRC/C/15/Add.184, paras. 50 and 51.
63 ICCPR, art 10(2) and 10(3); CRC art. 37(c); Drug law, arts. 29(2) and 31.
64 Decree 135/2004/ND-CP, June 10, 2004, art. 52(1).