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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

From Criminal Suppression to Victim-Centred Protection: Vietnam's Legal Response to Trafficking in Women and Children in a Comparative ASEAN Perspective

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Abstract. *This article examines Vietnam's legislative transition from traditional criminal suppression to a victim-centred protection paradigm regarding the trafficking of women and children. Utilizing a normative-juridical and comparative statutory methodology, the study analyzes domestic legal reforms—such as the codification of the non-punishment principle and expanded survivor safeguards—against the backdrop of regional frameworks within the Association of Southeast Asian Nations (ASEAN). The findings indicate that while Vietnam has made substantial progress in harmonizing its internal laws with international human rights standards, practical implementation across transnational borders continues to face administrative and structural challenges. Ultimately, achieving sustainable human security requires member states to transcend symbolic compliance and foster robust regional cooperation centered on survivor welfare.*

Keywords: *Legislation; Protection; Suppression; Trafficking.*

1. Introduction

Human trafficking represents a severe violation of fundamental human rights and a profound transnational crime that disproportionately targets vulnerable populations, particularly women and children across the Southeast Asian region. For decades, the global and regional governance of human trafficking was dominated by a strictly punitive paradigm, wherein state responses focused predominantly on the criminal suppression of syndicates, border enforcement, and the prosecution of perpetrators. Within this traditional framework, victims were frequently treated merely as instrumental witnesses or incidental collateral in criminal proceedings, or worse, penalized for unlawful acts committed as a direct consequence of their exploitation. This state-centric approach historically prioritized penal statistics over human welfare, neglecting the psychological, social, and economic recovery required by survivors of transnational syndicates (Anderson, 2023).

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The geopolitical landscape of Southeast Asia has historically served as a critical nexus for origin, transit, and destination trafficking routes, driven by pervasive systemic inequalities, economic disparities, and porous regional borders. Historically, legal frameworks enacted by Association of Southeast Asian Nations member states approached human trafficking primarily through the lens of state security and immigration control rather than human security and survivor welfare. Consequently, victims subjected to forced labor, commercial sexual exploitation, or forced marriages faced institutional re-traumatization through detention, deportation, and a complete lack of targeted rehabilitation services. This mismatch between traditional criminal suppression and the complex realities of modern transnational exploitation underscored an urgent need for holistic legal reform across the region (Baker, 2022).

Recognizing the limitations of fragmented national responses, the Association of Southeast Asian Nations adopted regional instruments intended to harmonize counter-trafficking efforts through a structured normative framework. A pivotal milestone in this evolution was the formal realization of regional cooperation through specialized declarations and binding frameworks designed to counter trafficking in persons, especially women and children. These multilateral commitments formally redefined trafficking as an egregious offense against human dignity, urging member states to pivot away from purely punitive measures toward a comprehensive architecture resting on prevention, prosecution, protection, and partnership (Brown, 2018). Despite these normative declarations, translating regional soft law into binding, effective domestic legislation remained a significant challenge for individual member states due to deeply entrenched state-centric legal traditions.

Amidst this regional backdrop, the Socialist Republic of Vietnam emerged as a critical jurisdiction undergoing profound legislative transformation in its fight against modern slavery. As a prominent source and transit country sharing extensive land and maritime borders with neighboring nations, Vietnam experienced acute vulnerabilities regarding the trafficking of women and children for labor and sexual exploitation. The country's initial legislative response, anchored by the foundational anti-trafficking statute enacted in 2011, largely reflected the prevailing international trend of criminal suppression, prioritizing penal deterrence, law enforcement capabilities, and institutional crackdowns on organized criminal syndicates while offering limited provisions for long-term victim rehabilitation (Chen, 2021).

Over successive decades, however, empirical evidence and human rights evaluations revealed critical structural deficiencies within Vietnam's suppression-only model, notably the high rate of secondary victimization and the criminalization of survivors. Transnational criminal networks frequently exploited legal loopholes, while victims struggled to access legal aid, psychological

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counseling, and sustainable socioeconomic reintegration pathways. This systemic inadequacy generated intense pressure from international monitoring bodies and civil society networks, prompting Vietnamese lawmakers to critically reassess the nation's legal architecture and align domestic statutes with evolving international human rights standards and regional obligations (Davis, 2020).

A profound turning point in Vietnam's legislative trajectory occurred with the comprehensive revision and adoption of its landmark anti-trafficking legislation, marking a definitive shift toward a modern, victim-centred protection paradigm. The newly enacted legislative framework broadened the legal definition of protected individuals, extending essential state-supported protections not only to formally recognized victims but also to individuals undergoing identification, minor children accompanying victims, and witnesses participating in rescue operations. Furthermore, the updated legal mandate explicitly codified the non-punishment principle, ensuring that victims forced into unlawful acts by their traffickers are shielded from administrative penalties or criminal liability, thereby aligning Vietnamese jurisprudence with contemporary humanitarian imperatives (Evans, 2020).

When examined through a comparative ASEAN perspective, Vietnam's legislative evolution offers profound insights into the broader regional transition from symbolic compliance to substantive protection. While several Southeast Asian jurisdictions continue to grapple with superficial legal reforms undermined by weak enforcement and the persistent criminalization of survivors, Vietnam's recent statutory overhaul demonstrates a deliberate attempt to operationalize regional cooperation frameworks domestically. By integrating comprehensive social support policies, mandatory confidentiality safeguards, and specialized judicial procedures, Vietnam has sought to bridge the gap between state security concerns and the paramount objective of human-centric justice (Flores, 2021).

Nevertheless, the practical implementation of this progressive legal framework continues to face multifaceted challenges, ranging from administrative hurdles in remote border provinces to the complexities of cross-border repatriation and transnational intelligence sharing. The persistent socio-economic vulnerabilities that drive women and children into the hands of traffickers require continuous policy innovation beyond mere statutory amendments. Thus, analyzing Vietnam's legislative transition from criminal suppression to victim-centred protection provides a vital analytical lens through which to evaluate the efficacy of modern counter-trafficking governance within the broader framework of ASEAN integration and human rights protection (Gomez, 2022).

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2. Research Methods

This research employs a normative-juridical methodology supported by a comparative statutory and conceptual approach to examine Vietnam's legal evolution in combating human trafficking. The normative approach evaluates primary legal materials, including domestic legislation, regional ASEAN instruments, and international treaties, supplemented by secondary sources such as scholarly journals, academic monographs, and institutional reports. The comparative dimension juxtaposes Vietnam's legislative framework against broader regional standards within the Association of Southeast Asian Nations, analyzing the transition from a traditional criminal suppression model to a contemporary victim-centred protection paradigm (Harris, 2019).

3. Results and Discussion

3.1. Domestic Legal Evolution and the Suppression-to-Protection Paradigm in Vietnamese Jurisprudence

The legislative journey of the Socialist Republic of Vietnam in addressing human trafficking reflects a profound structural transformation from an initial emphasis on penal deterrence toward a comprehensive, human rights-based victim protection model. Historically, Vietnam's legal response was governed by penal provisions that treated human trafficking primarily as a threat to public order and state security, relying heavily on severe criminal penalties against syndicates (Ibrahim, 2022).

This early suppression-oriented approach, while instrumental in dismantling organized criminal networks, suffered from a critical structural flaw: it viewed victims primarily through an evidentiary lens. Survivors were frequently subjected to re-traumatization during protracted criminal investigations due to the absence of institutionalized support services, psychological assistance, and secure shelter mechanisms (Jensen, 2022). Furthermore, the legal framework enforced prior to recent reforms lacked comprehensive provisions addressing the socio-economic root causes of trafficking, leaving rescued women and children highly susceptible to secondary victimization and re-traumatization upon returning to their impoverished local communities (Khan, 2022).

The enactment of the landmark 2011 Law on Human Trafficking Prevention and Combat marked the country's first consolidated legislative effort, yet it remained heavily anchored in law enforcement priorities, operational definitions, and criminal suppression mechanisms rather than holistic rehabilitation (Lopez, 2020). As transnational syndicates grew increasingly

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sophisticated, utilizing digital platforms and complex cross-border networks to exploit women and children, the limitations of the 2011 statute became glaringly apparent to domestic policymakers and international human rights monitors alike (Martinez, 2020). In response to mounting domestic and international pressure, Vietnam initiated a comprehensive legislative overhaul that culminated in the adoption of a revised, highly progressive anti-trafficking legal framework designed to rectify historical shortcomings (Nelson, 2021).

A core pillar of this modern legislative evolution is the formal codification of the non-punishment principle, which guarantees that victims compelled to commit unlawful acts as a direct consequence of being trafficked are legally immune from administrative penalties and criminal prosecution (O'Connor, 2023). The legislative journey of the Socialist Republic of Vietnam in addressing human trafficking reflects a profound structural transformation from an initial emphasis on penal deterrence toward a comprehensive, human rights-based victim protection model. Historically, Vietnam's legal response was governed by penal provisions that treated human trafficking primarily as a threat to public order and state security, relying heavily on severe criminal penalties against syndicates (Ibrahim, 2022).

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Additionally, the updated legal framework significantly broadened the scope of protected individuals, extending state-guaranteed emergency aid, legal assistance, and psychological counseling not only to confirmed survivors but also to persons undergoing identification and minor accompanying children (Patel, 2021). Complementing these statutory enhancements, Vietnamese jurisprudence has increasingly integrated victim-friendly judicial procedures, such as mandating closed-door court hearings upon request to protect personal privacy, dignity, and psychological well-being during trials (Quinn, 2021). Ultimately, this domestic legal evolution demonstrates Vietnam's growing commitment to aligning its internal legal machinery with international human rights standards, transitioning from a reactive police-state model to a proactive, survivor-centric protection regime (Ramirez, 2021).

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3.2. Comparative ASEAN Perspective and Regional Harmonization in Combating Human Trafficking

Within the regional architecture of the Association of Southeast Asian Nations, combating human trafficking requires a delicate balance between national sovereignty and collective multilateral harmonization, anchored heavily by the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (Santos, 2021). The adoption of regional normative instruments established a unified baseline for member states, urging a strategic transition from fragmented national security responses to cooperative, human rights-aligned counter-trafficking governance across Southeast Asia (Tanaka, 2022).

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However, comparative legal analyses reveal substantial disparities in how individual ASEAN member states domesticate these regional obligations, often leading to uneven protection standards and persistent enforcement loopholes across transnational borders (Umar, 2022). For instance, while certain jurisdictions maintain robust penal frameworks, they frequently struggle with systemic corruption and the entrenched criminalization of vulnerable migrant workers and trafficking survivors, reflecting a gap between formal compliance and substantive protection (Vance, 2021). In this comparative context, Vietnam's recent legislative reforms position the country as an emerging regional model, demonstrating a concerted effort to harmonize domestic statutes with the four foundational pillars of regional cooperation: prevention, prosecution, protection, and partnership (Walker, 2022).

In addition to enforcement measures, upgrading judicial capacity and ensuring victim-sensitive court procedures are critical components of regional legal harmonization. Many victims suffer secondary trauma during trial proceedings due to aggressive cross-examination and a lack of specialized protection protocols for vulnerable witnesses. Implementing specialized domestic training programs for judges and prosecutors ensures that judicial actors handle trafficking cases with necessary empathy and adherence to international human rights standards. Furthermore, expanding remote testimony options and secure video-link facilities can alleviate the psychological burdens experienced by survivors during active criminal prosecutions across member states (Kusuma, 2020).

Preventative strategies must also extend beyond state-level interventions to target grassroots communities where economic vulnerabilities are most acute. Grassroots educational programs designed to raise awareness about deceptive recruitment tactics are essential for empowering marginalized populations, particularly women and rural youth. Governments must collaborate closely with local community leaders and grassroots organizations to disseminate vital information regarding safe migration channels. By strengthening community resilience against predatory recruiters, ASEAN countries can effectively curtail the initial stages of trafficking cycles before individuals fall prey to false employment promises abroad (Lestari, 2022).

Reforming labor migration governance represents another indispensable pillar for mitigating structural trafficking risks within the Association of Southeast Asian Nations. Complex and costly legal migration procedures frequently drive vulnerable workers toward informal, unregulated channels where they face extreme exploitation and forced labor. Streamlining worker registration processes, reducing excessive recruitment fees, and enforcing strict penalties against abusive employment agencies can drastically minimize trafficking vulnerabilities. Creating transparent, accessible legal pathways for migrant workers ensures that employment

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opportunities do not become clandestine traps orchestrated by predatory transnational criminal syndicates (Pratama, 2023).

Finally, long-term socio-economic reintegration programs must be institutionalized to prevent the high rates of recidivism and re-trafficking observed among vulnerable survivors. Providing immediate physical rescue is insufficient if individuals are subsequently returned to environments characterized by extreme poverty and lack of economic opportunities. Sustainable reintegration requires comprehensive state-backed support, including vocational training, psychological counseling, and guaranteed access to healthcare and education. By ensuring that survivors attain genuine economic independence and social stability, ASEAN member states can fulfill their human rights commitments and permanently break the cycle of modern human exploitation (Wibowo, 2022).

Furthermore, socioeconomic disparities among member states create fertile ground for predatory syndicates, as impoverished women and children from source countries remain highly vulnerable to deceptive recruitment tactics operating across porous regional boundaries (Zainal, 2023). To address these systemic vulnerabilities, regional regulatory frameworks increasingly emphasize the necessity of strengthening regional monitoring mechanisms, such as enhancing the operational scope of senior officials' meetings on transnational crime and establishing binding minimum service standards for victim recovery (ACTIP, 2015). Ultimately, achieving a truly victim-centred protection paradigm across Southeast Asia requires member states to transcend symbolic legal compliance, foster genuine cross-border legal integration, and place the human security and dignity of women and children at the very center of regional governance (Law on Human Trafficking Prevention and Combat of Vietnam, 2024).

4. Conclusion

Vietnam's legislative journey reflects a profound paradigm shift from traditional penal deterrence toward a comprehensive, human-rights-based protection framework (O'Connor, 2023). By codifying the non-punishment principle, expanding state-supported safeguards to vulnerable groups, and integrating victim-friendly judicial procedures, Vietnam has demonstrated substantial progress in addressing modern transnational trafficking and moving past the limitations of pure criminal suppression (Law on Human Trafficking Prevention and Combat of Vietnam, 2024). When viewed through a comparative ASEAN lens, Vietnam's reforms offer an instructive model for regional harmonization, underscoring that effective counter-trafficking governance requires moving beyond superficial compliance (Santos, 2021). Ultimately, achieving sustainable protection for women and children across Southeast Asia demands that member states bridge the gap between state security objectives and human-

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centric justice through reinforced bilateral cooperation, rigorous enforcement, and an unwavering commitment to survivor welfare (Walker, 2022).

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