



VIETNAM

# The Rehab Archipelago

Forced Labor and Other Abuses in Drug Detention Centers  
in Southern Vietnam

HUMAN  
RIGHTS  
WATCH

*“Those who refused to work were beaten  
by the guards and then put into the disciplinary  
room. In the end they agreed to work.”*

QUY HOP, FORMER DETAINEE OF BINH DUC CENTER



## **The Rehab Archipelago**

**Forced Labor and Other Abuses in Drug Detention  
Centers in Southern Vietnam**

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# **The Rehab Archipelago**

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## Summary

Binh Phuoc is a remote border province in southern Vietnam renowned for its agriculture. So many cashew farms are strewn throughout its verdant fields and hills that media have dubbed the province Vietnam's "cashew kingdom."

In March 2010 Binh Phuoc hosted the "Golden Cashew" festival. Held in Dong Xoai, the provincial capital, the three-day trade fair was attended by foreign dignitaries, representatives of various cashew organizations, and a host of Vietnamese government officials, including the country's then-president. At one point during the event's three-hour singing and dancing-filled opening extravaganza, fireworks exploded and a model of a giant golden cashew rose up over proceedings—a symbol, national media reported, of the cashew industry's growing success. Indeed, Vietnam is today the world's leading exporter of cashew nuts, which it exports mainly to the United States (US) and European Union (EU).

Just a few dozen kilometers from Dong Xoai are a number of centers involved in cashew production. Formally classified as "Centers for Social Education and Labor" (*Trung Tam Giao Duc Lao Dong Xa Hoi*) or "Centers for Post Rehabilitation Management" (*Trung Tam Quan Ly Sau Cai Nghien*), they purportedly provide treatment for drug dependency to thousands of people. According to the testimony of former detainees, husking cashews is their "labor therapy."

One recent resident of one such center is Que Phong. He was in his late 20s when his family encouraged him to go to one of the Binh Phuoc centers for drug dependency treatment. He agreed to get help for his heroin addiction and signed up for what he thought would be 12 months of treatment. Instead, he endured five years of forced labor, torture, and abuse.

During his time at the center, Que Phong was given a daily quota of cashews to husk and peel. Although the caustic resin from the cashews burnt his hands, he was forced to work for six or seven hours a day. Asked why he performed such hazardous work, he said:

If you refused to work they slapped you. If you still refused to work then they sent you to the punishment room. Everyone worked.

He estimates there were some 800 people at the center, performing different types of agricultural work. He was paid for his cashew production but at a fraction of the minimum

wage. The center reduced his meager wages even further, taking three-quarters in fees ostensibly to pay for his food. He estimated that he ended up with 50,000 Vietnamese dong (VND) each month (just over US\$3), which the center kept for him.

Although he had entered voluntarily, Que Phong was not free to leave: the center management told him that his time in “drug treatment” was extended, first by an extra year, then by an extra three. Throughout he continued to work and receive beatings. On one occasion, when caught playing cards with other detainees, center staff tied his hands behind his back and beat him with a truncheon for an hour.

After his release and return to the capital, Ho Chi Minh City, in 2008, Que Phong returned to smoking and injecting heroin. When Human Rights Watch spoke to him in 2010, he said that he had not used heroin for several months. When asked to reflect on his time in the Binh Phuoc center, he stated simply: “The time and work in the center didn’t help me.”

Vietnam’s system of forced labor centers for people who use drugs has expanded over the last decade. 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.

The length of time in detention has also grown. At the beginning of 2000, the law provided for a person dependent on drugs to be detained for treatment from three months to a year. In 2009 the National Assembly passed a law allowing for individuals to be held for up to four years for supposed drug treatment.

This report describes the experiences of people from Ho Chi Minh City or its immediate suburbs recently detained in 14 of 16 drug detention centers under the city’s administration. Some centers are located in the city itself, although most are scattered around other provinces in southern Vietnam.

Many of the laws, regulations, and principles that govern drug detention centers in Ho Chi Minh City apply to all of Vietnam’s drug detention centers. Human Rights Watch is concerned that the abuses described in this report are present in the centers—over a hundred of them—in other parts of Vietnam.

Que Phong’s story is typical of the experiences recounted to Human Rights Watch, except in one regard: most people enter the centers on a compulsory basis after being detained by police or local authorities.

Ho Chi Minh City's 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. Whether they enter voluntarily or after being taken into police custody, former detainees reported they had no lawyer or hearing, nor were they able to review the decision to detain them. When their detentions were extended, detainees reported that they did not receive a warning, explanation, or opportunity for appeal.

There is no standard type of labor performed in the centers. Most have a variety of labor arrangements, some involving outside businesses, although cashew processing is common. Former detainees told Human Rights Watch that they knew of cashew production in 11 of the 16 centers under the administration of Ho Chi Minh City authorities.

Former detainees also described how they are forced to work in 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.

Human Rights Watch received reports about particular products that were allegedly manufactured or processed in drug detention centers. Under Vietnamese law, companies who source products from these centers are eligible for tax exemptions. However, there is no public record in Vietnam listing all the companies that have commercial or contractual relations with the centers. Some of the products produced as a result of forced labor may make their way into the supply chain of companies who sell goods abroad, including to the US and Europe.

Consistent with the responsibility in international law of all businesses to respect human rights and avoid complicity in abuses, companies that source products from Vietnam such as cashews or other goods identified in this report should undertake vigorous reviews to identify whether they are directly or indirectly purchasing from these centers. If they are, they should immediately sever those commercial ties.

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 commonly 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 cases 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.

In addition to adults, children who use drugs are also held in drug detention centers. Like adults, they 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.

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!”

While compulsory healthcare interventions that involve restricting rights can be ethically justifiable in exceptional circumstances, such circumstances are rare. When they do occur, the decision to impose coercive medical treatment should be taken on an individualized basis; be overseen by judicial protections and due process; and respect best practices and international standards. Long-term, *en masse* detention of drug users for labor therapy is incompatible with the tenets of scientifically and medically appropriate drug dependency treatment and contravenes international law.

Vietnamese authorities and the international community acknowledge that Vietnam’s system of forced labor in detention centers is not effective drug dependency treatment. Rates of relapse to drug use after “treatment” in the centers have been reported at between 80 and 97 percent. Yet Vietnamese officials have simply redoubled their efforts, lengthening periods of detention and institutionalizing labor therapy on an industrial scale.

While it is estimated that between 15 and 60 percent of individuals in drug detention centers in Vietnam are infected with HIV, few centers provide appropriate medical care for HIV, tuberculosis (TB), or other opportunistic diseases. Recognizing the high rates of HIV inside drug detention centers, some bilateral and multilateral donors have supported interventions targeting detainees, citing an intention to relieve detainee suffering.

Some external organizations provide detainees with HIV prevention information and/or HIV treatment and care, or fund government authorities to do so. Other organizations provide drug dependency services for detainees or fund training and capacity building for detention center staff on drug dependency treatment.

Among the most significant donors providing funding support for activities inside Vietnam's drug detention centers are the US President's Emergency Plan for AIDS Relief (PEPFAR), the Global Fund to Fight AIDS, Tuberculosis and Malaria (the GF), and the World Bank. The United Nations Office of Drugs and Crime (UNODC) and the US Department of State's International Narcotics and Law Enforcement Affairs (INL) have funded capacity building programs for staff of the centers. PEPFAR and the GF have recently proposed to expand their funding of projects in Vietnam's drug detention centers.

Under Vietnamese law, HIV-positive individuals in detention have a right to be released if drug detention centers cannot provide appropriate medical care. While the provision of HIV treatment can be life-saving, donor support for expanded HIV treatment inside centers has had the perverse impact of enabling the government to maximize profits from the centers by detaining HIV-positive drug users—and subjecting them to forced labor—for more time. Human Rights Watch believes that donor support should focus on releasing detainees from these centers so they can access appropriate treatment in the community.

External support also raises questions about the effectiveness of conducting HIV interventions inside abusive and illegitimate centers, and the ethics of addressing HIV while seeming to ignore serious human rights abuses. The failure of donors and the implementing partners to monitor the human rights conditions of detainees renders impossible any accurate assessment of the impact of donor's humanitarian assistance.

Forced labor and physical abuse are not an adjunct to drug dependency treatment in Vietnam. Rather, they are central to how the centers operate. Developing the capacity of Ho Chi Minh City's centers to provide drug dependency services ignores the fact that even if relapse rates could be reduced to zero, what happens in Vietnam's drug detention centers

(such as arbitrary detention, torture, inhuman and degrading treatment, and forced labor) is illegal under Vietnamese and international law.

People currently detained against their will in Vietnam's drug detention centers in violation of international and Vietnamese law should be immediately released. The Vietnamese government should permanently close the country's drug detention centers. It should also launch a prompt, thorough investigation capable of leading to the criminal prosecution of those who have committed acts of torture or cruel and inhuman treatment and other abuses amounting to criminal acts in the drug detention centers.

At the same time, Human Rights Watch calls on the Vietnamese government to expand access to voluntary, community-based drug dependency treatment and ensure that such treatment is medically appropriate and comports with international standards.

In situations where individuals are unjustifiably detained, Human Rights Watch believes that donor funds should not contribute towards that detention, nor should private companies be able to benefit from their labor. Adding an additional profit motive into the operations of drug detention centers creates too much human rights risk for companies and the detained. Foreign and Vietnamese companies working with Vietnam's drug detention centers, including through sub-contractors and sub-sub-contractors, should cease such commercial relationships immediately. Separately, donors and their implementing agencies should review all funding, programming, and activities directed to assisting Vietnam's drug detention centers to ensure no funding is supporting policies or programs that violate international human rights law.

Vietnam's trading partners—in particular those countries negotiating or engaged in preferential trade programs with Vietnam—should urgently review those arrangements to ensure that products subject to preferential benefits are not made at drug detention centers in light of reports of abuses, such as forced and child labor at those facilities.

## **Key Recommendations**

### **To the Vietnamese Government**

- Instruct the Ministry of Labor, Invalids and Social Affairs (Ministry of Labor) to release current detainees in Vietnam's drug detention centers, as their continued detention cannot be justified on legal or health grounds.
- Instruct the Ministry of Labor to permanently close Vietnam's drug detention centers.
- Carry out prompt, independent, thorough investigations into the use of torture, cruel, inhuman or degrading treatment or punishment and other human rights abuses and criminal acts in Vietnam's drug detention centers. Follow up with appropriate legal actions (including criminal prosecution) of identified perpetrators of abuses.

### **To Vietnamese and Foreign Companies with Commercial Relationships with Drug Detention Centers in Vietnam**

- Cease all commercial relationships (including through sub-contractors and sub-sub-contractors) with Vietnam's drug detention centers.

### **To Bilateral and Multilateral Donors and Nongovernmental Organizations (NGOs) Providing Assistance to Vietnam on Drugs or HIV/AIDS Issues**

- Review all funding, programming, and activities directed to assisting Vietnam's drug detention centers to ensure no funding is supporting policies or programs that violate international human rights law, including prohibitions on arbitrary detention, forced labor, torture and cruel, inhuman or degrading treatment or punishment.

## Map of Drug Detention Centers Under Ho Chi Minh City Administration



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## Methodology

Vietnam does not allow international human rights organizations to freely conduct research or monitor human rights concerns in Vietnam. Nongovernmental organizations 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.<sup>1</sup> All 34 former detainees had been in detention within five years of the date of their interview with Human Rights Watch in 2010.<sup>2</sup> 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 report come from Ho Chi Minh City or its immediate suburbs.

Of the 34 former detainees whose testimony forms the basis of this report, 10 are women and 3 were children (i.e. under the age of 18) when first detained.<sup>3</sup>

Human Rights Watch spoke to an additional six people who had been held in drug detention centers elsewhere in Vietnam. Testimony from these six people, largely consistent with testimony from individuals in the centers administered by Ho Chi Minh City,

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<sup>1</sup> 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

<sup>2</sup> 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.

<sup>3</sup> 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 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.

is not included in this report because they had been detained in centers outside the geographic scope of inquiry.

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.

Human Rights Watch also interviewed 17 current or former staff members of international organizations who have knowledge and experience regarding the situation of people who use drugs in Vietnam. As this report describes the experiences of former detainees, these interviews have not been included in this report although some information they provided has been used to corroborate testimony.

All US dollar equivalents to Vietnamese dong are approximate and based on an exchange rate of US\$1: VND 19,500.

In May 2011, Human Rights Watch wrote to the head of the Vietnam's Ministry of Labor to request information on Vietnam's drug detention centers and solicit her response to violations documented in this report. This correspondence is attached in Annex 1.

Human Rights Watch also wrote to a number of companies whose goods were alleged by at least one former detainee to have been made in drug detention center asking for information on their operations. A template of this correspondence is attached in Annex 2. Human Rights Watch also contacted a number of donors and implementers who funded or implemented programs in Vietnam's drug detention centers. A template of such correspondence is attached in Annex 3.

# I. Vietnam's Drug Detention Centers

## Overview

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.<sup>4</sup> 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 Hoi*), “Centers for Post Rehabilitation Management” (*Trung Tam Quan Ly Sau Cai Nghien*), or “Centers for Vocational Training and Job Placement” (*Co So Day Nghe Va Giai Quyet Viec Lam*).<sup>5</sup> 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.”<sup>6</sup>

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

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<sup>4</sup> This report does not purport to cover the similar—although administratively distinct—system of detention centers for sex workers that operates 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).

<sup>5</sup> Centers are also referred to as “o6 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.

<sup>6</sup> “*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.



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*).

Drug detention centers form part of a broad system of detention centers for administrative violations in Vietnam. 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.”*<sup>7</sup>

Vietnam’s drug detention centers began to take their current form shortly after the end of the US-Vietnam war in 1975: key components of the approach to drug dependency treatment at that time are still in place.<sup>8</sup> But it would be wrong to view drug detention centers as simply a remnant of earlier Communist ideology in resolving social issues.

Despite a degree of political openness and new social policies associated with *doi moi* (renovation)—the economic reform program launched in 1986—the drug detention system

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<sup>7</sup> Ordinance on Handling of Administrative Violations, No. 44/2002/PL-UBTHQH10, July 2, 2002, art. 26(1) [translation by Human Rights Watch]. 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](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](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](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) [translation by Human Rights Watch].

<sup>8</sup> Drug users and sex workers were among many people detained in re-education camps established after 1975, along with former officials and military from the Republic of Vietnam. See, for example, P. Limquenco, “Notes on a visit to Vietnam,” *Journal of Contemporary Asia*, vol. 6(4) 1976, pp. 405-423; R. Templer, *Shadows and Wind: A View of Modern Vietnam* (Penguin Books, 1998), p. 242. For a description of “re-education through labor” in the Binh Trieu center in Ho Chi Minh City in the late 1970s, 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.

has expanded rather than contracted in recent years. The Ministry of Labor reports that in 2000 there were 56 centers in Vietnam with capacity to detain 27,000.<sup>9</sup> The number of centers steadily increased. By early 2011, the Ministry of Labor reported there were 123 drug detention centers across Vietnam, holding 40,000 people and with the capacity to hold 70,000.<sup>10</sup> Between 2000 and 2010, around 309,000 people had been detained in Vietnam's centers.<sup>11</sup>

At the national level, the Ministry of Labor is responsible for coordinating the overall management of the centers and the regulations governing their operation.<sup>12</sup> Direct operation of drug detention centers is undertaken by the provincial-level Department of Labor, Invalids and Social Affairs (Department of Labor) or mass organizations such as Ho Chi Minh City's Volunteer Youth Force (*Luc Luong Thanh Nien Xung Phong*).<sup>13</sup> Center directors are appointed by the chairperson of the provincial-level People's Committee, while deputy-directors are appointed by the Department of Labor. The provincial-level Department of Public Security (the police department) is responsible for ensuring the security of the centers and preventing escapes.<sup>14</sup>

While local administration may vary, national laws, regulations, and principles that govern drug detention centers outline the fundamental approach to detention center operations.

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<sup>9</sup> Ministry of Labor, "Vocational training and job placement for rehab patients," January 25, 2011, Ministry of Labor website, <http://www.molisa.gov.vn/news/detail/tabid/75/newsid/52334/seo/Day-nghe-tao-viec-lam-cho-nguoi-cai-nghien/language/vi-VN/Default.aspx> (accessed May 12, 2011) [translation by Human Rights Watch].

<sup>10</sup> Ibid. See also the US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2010: Vietnam," April 8, 2011, [www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.htm](http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.htm) (accessed June 6, 2011). The report states under the heading "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment" that "[t]he government reported that more than 33,000 drug users were living in forced detoxification labor camps. The overwhelming majority of these individuals were administratively sentenced to two years without judicial review."

<sup>11</sup> Ministry of Labor, "Vocational training and job placement for rehab patients."

<sup>12</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 63.

<sup>13</sup> Ho Chi Minh City's Volunteer Youth Force is one of many mass organizations in Vietnam. Mass organizations—such as the Women's Union, the Youth Union, the Farmer's Union, the Trades Unions, etc.—come under the umbrella of the Vietnam Fatherland Front, the primary function of which is to organize mass support for the Vietnamese Communist Party.

<sup>14</sup> Decree 135/2004/ND-CP, June 10, 2004, arts. 50-62.

## Government Policies towards Drug Use

### *Ideological Underpinnings*

Beginning in the mid-1990s, the intensification of a broad campaign against “social evils” triggered frantic legislative activity.<sup>15</sup> The government adopted detailed regulations in an effort to control an array of activities, ranging from sex work to vagrancy to the influence of foreign culture, going so far as to ensure karaoke rooms had transparent glass doors and that advertising signage had larger Vietnamese lettering than foreign language lettering.<sup>16</sup>

In January 1993, the Vietnamese government issued resolutions 05/CP and 06/CP on “the prevention and control of prostitution” and “strengthening the guidance in drug control” respectively.<sup>17</sup> In resolution 06/CP, drug use was described as “opposed to the moral tradition of the nation.” The resolution, in line with the 1989 health law and the 1992 Vietnamese constitution, stated that people dependent on drugs must be compulsorily treated for their dependency.<sup>18</sup>

The Vietnamese government put in place a complex set of laws formalizing the principle of forced treatment for drug dependency. For example:

- Decree 53/CP of 1994 empowered the chairman of the People’s Committees at the provincial and city levels to impose a range of administrative sanctions against people dependent on drugs, including the authority to “issue a decision to take him or her to a medical treatment center or detoxification center for forcible labor.”<sup>19</sup>

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<sup>15</sup> Some researchers view the “social evils” campaign of the mid-1990s as an attempt by the Vietnamese Communist Party to protect and bolster Vietnamese “traditional values” against Western “values” after the market liberalization of the *doi moi* reform process. See, for example, W. Wilcox, “In their Image: the Vietnamese Communist Party, the West and the Social Evils Campaign of 1996,” *Bulletin of Concerned Asian Scholars*, vol.34(4), pages 15-24.

<sup>16</sup> Decree 87/CP, “On strengthening the management of cultural activities and cultural services and promoting the fight against a number of serious social evils,” December 12, 1995, arts. 23 and 31.

<sup>17</sup> Resolution 05/CP, “On Prevention and Control of Prostitution,” January 29, 1993 and Resolution 06/CP, “On Strengthening Guidance in Drug Control,” January 29, 1993. Vietnam’s drug detention centers are sometimes referred to as “06” centers, while detention centers for sex workers are referred to as “05” centers, based on these two resolutions.

<sup>18</sup> Resolution 06/CP, 29 January 1993, art. (1)(e). The relevant provision in the “Law on People’s Health Protection” June 30, 1989 includes drug dependency as a condition requiring compulsory treatment in medical facilities: art. 29(1). The Constitution of Vietnam (1992) provides that, “The State shall enact regulations on compulsory treatment of drug addiction and treatment of dangerous social diseases.” Constitution of the Socialist Republic of Vietnam, art. 61. The 8th National Assembly unanimously approved the constitution at its 11st sitting on April 15, 1992. This is taken from the official translation.

<sup>19</sup> Decree 53/CP, “Providing for Measures to Handle State Officials and Employees and Other Persons Convicted of Acts Related to Prostitution, Drug abuse, Gambling and Drunkenness,” June 28, 1994, art. 9(5).

- The 1995 *Ordinance on the Handling of Violations of Administrative Regulations* imposed compulsory treatment on people dependent on drugs in specific conditions. It established that, “Frequent drug abusers and prostitutes who have been reprimanded by local authorities and people without showing any repentance shall be sent to medical treatment establishments for treatment, education and manual labor for from three months to one year.”<sup>20</sup>

At the end of 2000, the national *Law on Preventing and Combating Narcotic Drugs* (the Drugs Law) was adopted, incorporating many elements of the existing legal regime of compulsory drug treatment. The law is still in force.

The 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.<sup>21</sup> What the law calls “opposing or obstructing drug detoxification” is strictly prohibited.<sup>22</sup> Family members of a person dependent on drugs must 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.”<sup>23</sup>

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.<sup>24</sup>

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.<sup>25</sup>

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<sup>20</sup> Ordinance on the Handling of Violations of Administrative Regulations, No. 41/L/TCN, July 6, 1995, art. 24.

<sup>21</sup> Law on Preventing and Combating Narcotic Drugs, 23/2000/QH10, December 9, 2000, art. 26(1)(a).

<sup>22</sup> Ibid., art. 3(6).

<sup>23</sup> Ibid., art. 26(2)(c).

<sup>24</sup> Ibid., art. 26(2)(b) and (d).

<sup>25</sup> 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).

## DRUG USE IN VIETNAM

Recent research into drug use in Vietnam highlights a relatively widespread use of opiates (primarily heroin) and cannabis, with a smaller but growing use of amphetamine type stimulants.<sup>28</sup> Detainees of drug detention centers are usually young men, most of whom have completed some level of secondary schooling. While the majority are single and were previously living with their parents before their detention, roughly a third are married. A small but significant number of detainees are women and some are children. The overwhelming majority of detainees were using heroin before they were detained.<sup>29</sup>

The 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.<sup>26</sup> Like adults, children must work as part of their detention.<sup>27</sup>

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 and administratively handled through the measure of being sent to compulsory treatment establishments."<sup>30</sup>

Despite this provision, drug use in Vietnam has historically been an administrative rather than a criminal matter. In 2003, the state-controlled *Saigon Times* quoted Nguyen Thanh Tai, vice-chairman of Ho Chi Minh City People's Committee, explaining: "We do not consider drug addicts as criminals but patients who need help to correct personality shortcomings."<sup>31</sup>

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<sup>26</sup> 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.

<sup>27</sup> 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," [translation by Human Rights Watch].

<sup>28</sup> See V. Nguyen and M. Scannapieco, "Drug abuse in Vietnam: a critical review of the literature and implications for future research," *Addiction*, vol. 103 (2008) pp. 535-543; R. Ray, "Commentary: National drug abuse situation in Vietnam- how accurate are the projections?," *Addiction*, vol. 103 (2008) pp. 544-545.

<sup>29</sup> A government report profiling the detainees in Ho Chi Minh City centers in 2007 states that 92.3 percent were male and 7.7 percent were female. 88.7 percent were aged between 18 and 35 and 3.49 percent were aged under 18. 47.8 percent had completed middle schooling, while 21.6 percent had completed high school. 99 percent were heroin users. See 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, appendix 2b [translation by Human Rights Watch].

<sup>30</sup> 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).

<sup>31</sup> Quoted in "A Chance To Rebuild Their Life," *Saigon Times Magazine*, November 6, 2003.

In June 2009, criminal punishment for drug use was eliminated, reinforcing Vietnam's approach of administrative penalties.<sup>32</sup> 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.

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."<sup>33</sup>

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.<sup>34</sup>

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 agricultural land for production, forestry land and workshop[s] for manufacture and equipment and materials for vocational training and creating incomes.<sup>35</sup>

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<sup>32</sup> Law Amending and Supplementing a Number of Articles of the Penal Code, No. 37/2009/QH12, June 19, 2009.

<sup>33</sup> 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 Interministerial 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 [translation by Human Rights Watch].

<sup>34</sup> 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.

<sup>35</sup> *Ibid.*, pp. 65-66.

The assessment also notes that, “[a]s profitable administrative units, the centers do not have to pay taxes for their incomes.”<sup>36</sup>

### *The Ho Chi Minh City Pilot Project*

In 2001, Ho Chi Minh City authorities launched a “three reductions” campaign to intensify their fight against three particular “social evils:” drugs, sex work, and crime. As part of the campaign, large numbers of drug users were detained in centers.<sup>37</sup>

By April 2003, official media reported that according to Nguyen Minh Triet, then-secretary of the Ho Chi Minh City Party Committee and later president of Vietnam, the goal was for all drug users to be brought to centers by 2003, all sex workers by 2004, and all homeless people by 2005.<sup>38</sup>

At the same time, Ho Chi Minh City (and six other provinces) applied to the National Assembly for permission to extend periods of detention beyond the two years established by the Drugs Law.<sup>39</sup> The proposal was to add “one to two years if necessary, but not longer than three years” of what was referred to as “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 proposal was not without opponents in the National Assembly. Official media reported that one member of the National Assembly’s Committee on Social Affairs objected to the proposal on the grounds that extending detention for another two to three years would negatively affect the detainees’ rights to freedom, to residence, and to choose their own job. In a similar vein, the vice chairman of the Legal Committee of the National Assembly observed that forced labor is prohibited under the existing international conventions to which Vietnam is a party.<sup>40</sup>

Despite such objections, the National Assembly approved the proposal in the form of a pilot project over five years.<sup>41</sup> At the start of the pilot project, the *Saigon Times* explained:

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<sup>36</sup> Ibid., p. 66.

<sup>37</sup> “HCM City will gather 20,000 addicts for rehab treatment,” *Vietnam Express*, February 16, 2002, <http://vnexpress.net/gl/phap-luat/2002/02/3b9b9275/> (accessed May 12, 2011) [translation by Human Rights Watch].

<sup>38</sup> “Ho Chi Minh City continues bringing IDUs/DUs into o6 centers,” *Tuoi Tre*, April 19, 2003.

<sup>39</sup> The other provinces were Ba Ria-Vung Tau, Binh Duong, Hanoi, Long An, Quang Ninh, and Tay Ninh.

<sup>40</sup> Cited in Ngia Nhan, “Ho Chi Minh City proposes to manage post rehab patients in centers,” *Vietnam Express*, April 24, 2003, <http://vnexpress.net/gl/xa-hoi/2003/04/3b9c72c8/> (accessed May 12, 2011) [translation by Human Rights Watch].

<sup>41</sup> National Assembly’s Resolution No.16/2003/QH11, “On the pilot management and vocational education of, and job creation for, detoxified persons in Ho Chi Minh City and a number of other provinces and centrally run cities,” June 17, 2003.

Under the program, after the two-year compulsory detoxification as required by the law, drug addicts must spend an additional two or three years living in a healthy environment to undergo further personal improvement and learn job skills. They are isolated from the drug environment but are not completely detached from the community. They will stay at rehabilitation schools and centers or special industrial parks and work at national construction sites, projects of the Voluntary Youth Force, cooperatives, workshops and production establishments developed by their families or other individuals and businesses.<sup>42</sup>

The *Saigon Times* described Nguyen Minh Triet as the “mastermind of the program” and quoted him justifying the additional two to three years of detention:

Two years is too short a time, as drug addicts can easily relapse to the habit after they return to the community. Moreover, they can be lured back to drugs because they have no job skills or jobs. Most importantly, we want to have time to make a clean sweep of the drug environment and eliminate drug supply channels so that rehab people can have no access to [drugs] when they return to the community.<sup>43</sup>

A key component of the pilot project involved close collaboration between drug detention centers and private enterprises. During their “management, vocational training and job placement for post rehabilitation individuals” (“post rehabilitation management”), detainees would work in the centers, in industrial zones near the centers, or with businesses located outside the centers. The *Saigon Times* reported:

Between now and the year's end HCM City will develop two industrial-residential complexes in Nhi Xuan, Hoc Mon district, and An Nhon Tay [commune], Cu Chi district, to attract businesses and provide jobs for post-rehabs. Some VND400 billion (US\$ 2 million) will be invested in the 78-hectare Nhi Xuan area, which is expected to start operation next year and to provide jobs for 5,000-6,000 post-rehabs, mainly in the garment, footwear, woodwork, electrical, electronic, mechanical engineering and handicraft sectors. Special

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<sup>42</sup> “A Chance To Rebuild Their Life,” *Saigon Times Magazine*, November 6, 2003.

<sup>43</sup> Ibid.



incentives will be offered to businesses investing in the [post-rehabilitation] project, such as land rent reduction, preferential credit and tax exemption.<sup>44</sup>

“Post rehabilitation management” was intended for those considered to be at high risk of relapse, which was defined as detainees who had been in centers twice or more, detainees who had been disciplined twice or more, or those without stable family or employment support.<sup>45</sup> The provision that those who had been disciplined twice or more in drug detention centers could be subject to “post rehabilitation management” indicates that the additional detention could be ordered on punitive grounds.

In principle, the decision to detain them for “post rehabilitation management” was to be taken by the chairman of the People’s Committees at the provincial or municipality level.<sup>46</sup> However, in practice, the extension of detention orders was largely an automatic bureaucratic process. Between 2003 and 2008, while the pilot project lasted, at least 30,681 people were detained for the additional two to three years of “post rehabilitation management.”<sup>47</sup> During the same period, just 263 people were allowed to leave the centers without the additional two to three years of detention.<sup>48</sup>

From the point of view of detainees, the system changed very little regardless of whether one was in “rehabilitation” or “post rehabilitation management.” Some detainees were transferred to other centers. The main difference in the lives of detainees was that periods of detention and forced labor were arbitrarily extended: detainees were held for far longer than they had initially understood or (in the case of voluntary admissions) requested. Many detainees told Human Rights Watch that after extension of their detention they simply stayed at the same center performing the same form of labor.

### *The Ho Chi Minh City Pilot Goes Nationwide*

The National Assembly reviewed the results of the pilot project in April 2008. In a glowing report the government claimed that the approach had “opened up a new path of treatment

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<sup>44</sup> Ibid.

<sup>45</sup> Decree 146/2004/ND-CP, “Stipulating the Procedures and Authority to Issue the Decision of Taking the Post Rehab Individuals into the Establishments for Management, Vocational Training and Job Placement,” July 19, 2004, art. 5(1).

<sup>46</sup> Decree 146/2004/ND-CP, July 19, 2004, art. 3.

<sup>47</sup> The figure is taken from the Report to the National Assembly and is likely incomplete since it is dated from mid-2008, not the end of the year. See “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, appendix 2A [translation by Human Rights Watch].

<sup>48</sup> Ibid.

and post rehabilitation recovery for drug addicts.” The government claimed that only six percent of those involved in the pilot project relapsed to drug use.<sup>49</sup>

Again, some National Assembly deputies and official media criticized the project, especially its cost. Ho Chi Minh City reported the pilot project had cost authorities VND1.3 trillion (\$75 million). Part of this included VND460 billion (\$ 23.5 million) for constructing new centers.<sup>50</sup> Some criticisms went further. For example, one media report noted:

National Assembly deputies also don’t believe that only six percent of rehabilitated people return to drugs. Chairman of the National Assembly Legal Committee Nguyen Van Thuan cited a government report, which said that 70-80 percent of rehabilitated people return to drugs. He emphasized that rehabilitation depends on each addict, not on the compulsory measures at rehabilitation centers.<sup>51</sup>

Despite the debate, Ho Chi Minh City authorities ultimately prevailed and the National Assembly agreed that the approximately 6,000 people detained at that time for “post rehabilitation management” could continue to be detained beyond the project’s end date.<sup>52</sup>

More significantly, 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.<sup>53</sup> Thus, according to current law, a person can spend up to four years in Vietnam’s drug detention centers.

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<sup>49</sup> Ibid., section III, para. 1. The figure of 6 percent was also reported widely in official media at the time. See, for example, “Deputy PM emphasizes vocational training for ex-addicts,” *Thanh Nien News*, April 14, 2008, <http://www.thanhniennews.com/2008/Pages/200841411927037646.aspx> (accessed July 28, 2011).

<sup>50</sup> “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, Section II, part 1.

<sup>51</sup> “City to end post-drug rehabilitation programme,” Vietnam Net, April 24, 2008 <http://english.vietnamnet.vn/social/2008/04/780042/> (accessed July 28, 2011).

<sup>52</sup> The extension was legalized under National Assembly Resolution 16/2008/NQ-QH12, on May 3, 2008. See also Huong LeTuyet Nhung, “Drug addicts: criminals or patients?” *Thanh Nien News*, May 17, 2008 <http://www.thanhniennews.com/2008/Pages/2008517113642038597.aspx> (accessed July 28, 2011).

<sup>53</sup> 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.

Similar to the Ho Chi Minh City pilot project, people are to be detained 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.<sup>54</sup>

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.<sup>55</sup>

## Ho Chi Minh City’s Centers

CENTER	LOCATION	OFFICIAL NAME IN VIETNAMESE	OFFICIAL NAME IN ENGLISH	RUN BY	APPROX. POPULATION (2009)
<b>BINH TRIEU</b>	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
<b>PHU VAN</b>	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
<b>PHU NGHIA</b>	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
<b>BINH DUC</b>	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

<sup>54</sup> Decree 94/2009/ND-CP, October 26, 2009, art. 17(1) [translation by Human Rights Watch].

<sup>55</sup> Ibid., art. 26 [translation by Human Rights Watch].

CENTER	LOCATION	OFFICIAL NAME IN VIETNAMESE	OFFICIAL NAME IN ENGLISH	RUN BY	APPROX. POPULATION (2009)
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 Nien 2	Center for Vocational Training and Education for Youth and Teenagers No. 2	Ho Chi Minh City Department of Labor	800
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 So 6	School for Education, Vocational Training and Job Placement No. 6	Volunteer Youth Force	500

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.<sup>56</sup> 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.<sup>57</sup>

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 southeast).<sup>58</sup>

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).<sup>59</sup>

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<sup>56</sup> 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.

<sup>57</sup> 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.

<sup>58</sup> 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].

<sup>59</sup> Human Rights Watch interviews with Huu Lung and Cam Khe, Ho Chi Minh City, 2010.

## II. Findings

### Detention without Due Process

I was caught by police in a roundup of drug users. They saw me with other users. They took me to the police station in the morning and by that evening I was in the drug center.... I saw no lawyer, no judge.

—Quy Hop, a man in his early thirties who spent four years in detention<sup>60</sup>

#### *Detention by Police*

None of the people whom Human Rights Watch interviewed saw a lawyer, judge, or court at any time before or during their detention in drug detention centers and—despite regulations providing for appeal of administrative decisions— were unaware of means to appeal the decision to detain them in a center.<sup>61</sup>

Most detainees enter centers on a compulsory basis. Cam Khe was a regular heroin user in his late 20s when he was taken into police custody in Ho Chi Minh City in 2007.

In less than two days [after being detained by the police] I was put into a center in another province.... I signed nothing. I did not go voluntarily. The police read the decision [to detain me] out loud to me. The decision said I was to be in a drug center for two years.... I saw no courtroom and I was told nothing about appeals.<sup>62</sup>

Lang Giang is a woman in her late 20s who was released from her second period of detention in mid-2010. After her first period of detention (for five years), she was released in 2006 and eventually returned home because she ran out of money.

I didn't know that there were already papers ready for me. A policeman and two members of the civil defense force (*dan phong*) detained me.<sup>63</sup> They took me to the local police station. My urine test was positive. I was given a

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<sup>60</sup> Human Rights Watch interview with Quy Hop, Ho Chi Minh City, 2010.

<sup>61</sup> Ordinance 44, art. 118 allows for administrative decisions to be appealed.

<sup>62</sup> Human Rights Watch interview with Cam Khe, Ho Chi Minh City, 2010.

<sup>63</sup> The civil defense force (*dan phong*) is a voluntary security force under the authority of ward-level People's Committees that often collaborates with local police.

paper which was a decision from the People's Committee with my name on it saying it had been decided that I would undergo compulsory detention in a drug center for 24 months. My parents and I signed some papers. I didn't want to go but had to follow the decision as it was compulsory.<sup>64</sup>

Among those who spoke with Human Rights Watch, not all were sent immediately to drug detention centers after being taken into police custody. Muong Nhe, in his late 30s, told Human Rights Watch that police picked him up in a round-up of drug users, gave him a drug test (which was positive), then released him.

I lived at home and continued to use for a month-and-a-half and then the police [came for me and] told me I was going to a center for 24 months. I didn't sign anything and my family didn't sign anything. I never got a document telling me about my detention or the terms of the decision.<sup>65</sup>

In many cases, individuals told Human Rights Watch that police pressured them and/or their families into signing a document prior to their detention. Many former detainees did not comprehend what the document said and feared what would happen if they or family members did not sign.<sup>66</sup>

Tra Linh was in her late 20s in 2006 when the police came for her while she was at home. She told Human Rights Watch that she suspected her neighbors reported her drug use to the police. She was taken to a police station and tested for drugs.

[The police] told me to sign a paper or I would be slapped. I was shocked and worried so I signed it. So did a family member. I was not given a copy so I don't know if it said how long my term was. That very night I was put in the drug center on a compulsory basis.<sup>67</sup>

Tra Linh was detained for almost two years in total.

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<sup>64</sup> Human Rights Watch interview with Lang Giang, Ho Chi Minh City, 2010.

<sup>65</sup> Human Rights Watch interview with Muong Nhe, Ho Chi Minh City, 2010.

<sup>66</sup> For example, Human Rights Watch interviews with Tra Linh, Trung Khanh, Truc Ninh, Quy Hop, Ly Nhan, Ouyinh Luu, Yen The, Ba Che and Tien Du, Ho Chi Minh City, 2010.

<sup>67</sup> Human Rights Watch interview with Tra Linh, Ho Chi Minh City, 2010.

On occasion, police pressure families to convince their detained family member to sign. Ly Nhan was in his late 20s when he was detained by police. He told Human Rights Watch that he was held in the district police station for a week “while they got enough people to send to the center.” He explained:

[In the district police station] they gave me a paper telling me I would be detained for two years. They told me if I didn't sign it they would make trouble for me and they told my family to push me to sign. Finally I signed and my family signed.<sup>68</sup>

Ly Nhan was detained for five years in total.

### *Voluntary and Supposedly Voluntary Detention*

It is unclear to what extent the general public is aware of what goes on inside the centers. A number of detainees told Human Rights Watch that they agreed to go to a center because they thought it would help them. However, detainees admitted to a center on a voluntary basis are unable to leave until authorities release them.

In 2006, Khoai Chau was in her late 20s when she agreed to her mother's suggestion to go into a center to deal with her heroin addiction. She explained that prior to that decision, “I tried to quit many times on my own. There were no community services to use.”<sup>69</sup>

Xuan Truong is a man in his mid-30s who has used heroin since his early 20s. He told Human Rights Watch that his attempts to stop using on his own had not been successful and that he volunteered to enter a center because “I knew I needed to stop using... I recognized the cost of using heroin on my life and I decided to go.” He said:

I was treated the same as compulsory detainees. If I had been caught by the police it would be different, but they treated me like I was not human. So I tried to escape two times. For this I was punished.<sup>70</sup>

Voluntary admission need not mean that the person gave informed consent to enter a center. Rather, it can mean that a person's family “volunteered” them to be admitted to a center. Tien Du, a man in his early 20s, was released in early 2010 after more than two

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<sup>68</sup> Human Rights Watch interview with Ly Nhan, Ho Chi Minh City, 2010.

<sup>69</sup> Human Rights Watch interview with Khoai Chau, Ho Chi Minh City, 2010.

<sup>70</sup> Human Rights Watch interview with Xuan Truong, Ho Chi Minh City, 2010.



years. He explained to Human Rights Watch that his family informed the local police that he was addicted to drugs because they “wanted me to have a good life.”

[The police] came to get me one morning when I was still in bed. My mother told me there was someone there to see me. The police arrested me and took me to the local police station where a urine drug test was positive. Two hours later they took me to the drug center. I didn’t want to go. I signed the paper that was prepared for me with the signatures of the head of the local administration, the police, the center I was sent to, and my mother. If I didn’t sign I would still have been detained.<sup>71</sup>

### *Extension of Detention*

Human Rights Watch spoke with a number of people detained during the Ho Chi Minh City “post rehabilitation management” pilot project. Regardless of whether they were sent to centers on a voluntary or compulsory basis, former detainees said their periods of detention were extended without prior warning or opportunity for appeal.

Muong Nhe was in his early 30s when he was detained in Center No. 5 in Dak Nong province. Police told him when he was initially picked up in mid-2005 that he would be detained for two years. There was little explanation of his extension of detention.

When I had almost finished 24 months [in the center], the staff of the center told me I would have to stay another 24 months.<sup>72</sup>

Kinh Mon was in his early 30s when police detained him. He said he was told he would be detained for two years.

When I had served my two years they told me that a new decision had been made that made five years compulsory. That’s all I was told. I got no other papers, there was no hearing, no judge, no way to appeal.<sup>73</sup>

The decision to extend sentences also affected people admitted to the centers on a voluntary basis. Cho Don was in her mid-20s when she volunteered to go to a center because she thought “it was only a matter of time before I would be caught and sent for

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<sup>71</sup> Human Rights Watch interview with Tien Du, Ho Chi Minh City, 2010.

<sup>72</sup> Human Rights Watch interview with Muong Nhe, Ho Chi Minh City, 2010.

<sup>73</sup> Human Rights Watch interview with Kinh Mon, Ho Chi Minh City, 2010.

mandatory time in a drug center.” The admission letter she received stated she would be in the center for two years.

Then the rules for detention of drug users changed. Longer mandatory detention was to be used. My mother heard about it in the news before I was told. They transferred me to Phu Van [center] and then told me and my family that I must stay there longer. I wanted to escape but my mother persuaded me not to do so.<sup>74</sup>

An Thi was in her mid-20s when her family convinced her to go to a center. She said:

The local police told me that I should sign a paper for two years and if I was good I could come home in a year. Near the end of [the second year] I was told that my total stay would be four years. Then when I had been there four years they told me my release paperwork wasn't done yet and I stayed another year.<sup>75</sup>

Many detainees met the news that their time in detention would be extended by a number of years with despair and dismay.

Cho Don explained that some women tried to commit suicide—one successfully—when they heard of the decision to extend their detention at Phu Van Center.<sup>76</sup> Truc Ninh told Human Rights Watch that at Duc Hanh Center the decision was met with hunger strikes and escape attempts.<sup>77</sup>

Quynh Luu decided to escape from Center No. 3 in Binh Duong when he heard that his detention was being extended by an additional three years.

When the decision was made to extend our terms there were a lot of us who wanted to escape. Over the space of a few days, several hundred of us did. I swam across a river and ran off into a rubber tree plantation. But I was caught.<sup>78</sup>

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<sup>74</sup> Human Rights Watch interview with Cho Don, Ho Chi Minh City, 2010.

<sup>75</sup> Human Rights Watch interview with An Thi, Ho Chi Minh City, 2010.

<sup>76</sup> Human Rights Watch interview with Cho Don, Ho Chi Minh City, 2010.

<sup>77</sup> Human Rights Watch interview with Truc Ninh, Ho Chi Minh City, 2010.

<sup>78</sup> Human Rights Watch interview with Quynh Luu, Ho Chi Minh City, 2010.

After being returned to the same center, he was punished for escaping. He said he was beaten, shocked with an electric baton, and locked in a punishment room for a month. He was eventually released in 2008 after being detained for over five years.

### *Legal Principles*

#### **Arbitrary Detention**

Ho Chi Minh City's drug detention centers operate as part of the Vietnamese administrative—rather than the 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. However, under Vietnam's international legal obligations, the classification of drug detention centers as administrative centers rather than prisons does not alter the rights of the people dependent on drugs to liberty and security and the right not to be deprived of their liberty without due process.

The formal process for detention is perfunctory. In principle, the chairman of the commune-level or ward-level People's Committee prepares a person's file. Local police conduct the actual investigation for this file, which is then transferred to an advisory council (established by the chairman of the district-level People's Committee) who then makes a recommendation to the chairman of the district-level People's Committee as to whether to send the person to a drug detention center.<sup>79</sup> If the chairman of the district-level People's Committee so orders, police transfer the person to a drug detention center.<sup>80</sup>

Police may be involved at all stages of the procedure: in taking a person into custody, investigating and providing information in the person's file, sitting in on advisory council meetings that recommend the detention order, and transferring the person to the center.<sup>81</sup>

The formal process for detention for “post rehabilitation management” is equally cursory. The center's director establishes a file on the detainee determining if the person is at a “high risk of relapse.” The file is then transferred to the chairman of the district-level People's Committee. If he or she so orders, the person is transferred to “post rehabilitation

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<sup>79</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 10.

<sup>80</sup> See Decree 135/2004/ND-CP, June 10, 2004, arts. 9-22 and Ordinance 44, arts. 93-101.

<sup>81</sup> See Joint Circular 22/2004/TTLT-BLDTBXH-BCA, “Guiding the Implementation of a Number of Articles of the Government's Decree No. 135/2004/ND-CP of June 10, 2004,” issued by the Ministry of Labor and the Ministry of Public Security, dated December 31, 2004, section B.

management.”<sup>82</sup> The regulations provide for situations where the rehabilitation center and post rehabilitation center are the same center.<sup>83</sup>

None of the people whom Human Rights Watch interviewed were aware of provisions in administrative detention regulations providing for detainees to be able to lodge complaints or appeals regarding detention decisions. None attempted to appeal their detention.<sup>84</sup>

Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR) to which Vietnam is a party provides that, “No one shall be subjected to arbitrary arrest or detention [or] be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.”<sup>85</sup> Detention is considered “arbitrary” if it is not in accordance with law, or when it is random, capricious, or not accompanied by fair procedures for legal review.<sup>86</sup> International law grants a detainee the right to challenge the lawfulness of his or her detention by petitioning an appropriate judicial authority to review whether the grounds for detention are lawful, reasonable, and necessary.<sup>87</sup>

## Forced Labor

If you refused to work you were sent to the punishment room and after a month you agreed to work again.

—Vu Ban, detained at Center No. 2 for five years<sup>88</sup>

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<sup>82</sup> See Decree 94/2009/ND-CP, October 26, 2009, arts.17- 25.

<sup>83</sup> Ibid., art. 22.

<sup>84</sup> Appeals of administrative decisions can be appealed under Ordinance 44, art. 44 and Decree 76, art. 35.

<sup>85</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Vietnam on September 24, 1982.

<sup>86</sup> An arbitrary detention includes detentions for which there is no basis in law, or which are not carried out in accordance with the law, but also include detentions with “elements of inappropriateness, injustice, lack of predictability and due process of law.” See, Communication No. 458/1991, A. W. Mukong v. Cameroon (Views adopted on 21 July 1994), in U.N. doc. GAOR, A/49/40 (vol. II), p. 181, para.. 9.8. The UN Human Rights Committee has confirmed that art. 9(1) “is applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, for example, mental illness, vagrancy, drug addiction, educational purposes, immigration control, etc.” See Human Rights Committee, “General Comment 8: Right to liberty and security of the person (art.9),” June 30, 1982, para. 1.

<sup>87</sup> ICCPR, art. 9 (4).

<sup>88</sup> Human Rights Watch interview with Vu Ban, Ho Chi Minh City, 2010.

### *Beatings and Other Punishments for Refusing to Work*

Work in the centers is not optional and center directors are authorized to punish detainees for refusing to obey center regulations, including the obligation to work.<sup>89</sup> According to government decrees, such punishments may take the form of reprimands, warnings, or “education in a disciplinary room.”<sup>90</sup>

In practice, those who refuse to work are beaten and/or held in disciplinary rooms (a punishment discussed below). When asked if any detainees in the centers refuse to work, some former detainees simply responded: “Everyone worked and no one refused.”<sup>91</sup> However, another detainee, echoed by others, told Human Rights Watch:

Those who refused to work were beaten by the guards and then put into the disciplinary room. In the end they agreed to work.<sup>92</sup>

Dinh Lap is a man in his early 40s who spent four years at Center No. 5 in Dak Nong province before being released in 2009. He said he witnessed beatings of fellow detainees who refused to work while detained. He explained:

If you refused to work you were beaten by the staff or by the team leader chosen by the staff, or both. They beat us with anything nearby. I saw people beaten with hoe handles.<sup>93</sup>

Thach An is a man in his mid-20s who was released in late 2009 after spending more than two years in detention, mostly in Phu Duc Center. He told Human Rights Watch what he witnessed when one man at that center refused to work:

[The man] was beaten with a truncheon and then spent a week in solitary confinement before he agreed to work again.<sup>94</sup>

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<sup>89</sup> Regarding the legal obligation of detainees to abide by center rules, the 2009 decree establishes that detainees have a responsibility “to actively participate in laboring and production [and] to complete the assigned target on volume and quality of work.” Decree 94/2009/ND-CP, October 26, 2009, art. 34(1)(b) [translation by Human Rights Watch]. See also Decree 135/2004/ND-CP, June 10, 2004, arts. 30 and 32. Regarding the director’s authority to punish detainees, see Decree 135/2004/ND-CP, June 10, 2004, art. 57(1) and Decree 94/2009/ND-CP, October 26, 2009, art. 43(1).

<sup>90</sup> See Decree 135/2004/ND-CP, June 10, 2004, art. 70(3) ; Decree 94/2009/ND-CP, October 26, 2009, art. 31(2).

<sup>91</sup> For example, Human Rights Watch interview with Can Loc, Ho Chi Minh City, 2010.

<sup>92</sup> Human Rights Watch interview with Quy Hop, Ho Chi Minh City, 2010.

<sup>93</sup> Human Rights Watch interview with Dinh Lap, Ho Chi Minh City, 2010.

Ly Nhan was in his late 20s when he was detained in the Nhi Xuan Center: he was held there for over four years. He told Human Rights Watch:

People did refuse to work but they were sent to the disciplinary room. There they worked longer hours with more strenuous work and if they balked at that work then they were beaten. No one refused to work completely.<sup>95</sup>

In the centers it is also common practice that some detainees are designated as “guards” who play a central role in the day-to-day control of other detainees, including overseeing work. It is these detainee guards, as much as center staff, who force detainees to work.

Que Phong, whose story appears in the Summary section of this report, was a detainee guard in a center in Binh Phuoc province. He explained that detainee guards’ main function is to “observe work and monitor security.” The authority delegated to detainee guards includes the power to beat detainees for refusing to work.

Que Phong explained that a detainee who refused to work would be slapped by detainee guards, then handed over to staff for further punishment. If the detainee continued to refuse to work, he or she would be sent to a disciplinary room.<sup>96</sup>

Cam Khe, who was released in 2009 after 2 years in detention, explained how staff use detainee guards to force detainees to work, in his case in a center in Ninh Thuan province.

[Detention center] staff chose a detainee to be chief of the room. He was in charge of the workers, handed out tasks, and kept watch for security issues. If you worked too slowly he brought it up in the daily group meeting and then slapped you in front of the others. He then gave you the hard work of taking the entire team's agricultural tools to [the] field for everyone. If you refused to work, the chief of the room would beat you and might call in the staff to beat you with their truncheons and kick you. If the staff saw that you were opposing the room chief then they will come to help him in the beating. Then you had to go back to work.<sup>97</sup>

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<sup>94</sup> Human Rights Watch interview with Thach An, Ho Chi Minh City, 2010.

<sup>95</sup> Human Rights Watch interview with Ly Nhan, Ho Chi Minh City, 2010.

<sup>96</sup> Human Rights Watch interview with Que Phong, Ho Chi Minh City, 2010.

<sup>97</sup> Human Rights Watch interview with Cam Khe, Ho Chi Minh City, 2010.

Detainee guards also serve as workplace overseers. Former detainees reported that detainee guards beat people to enforce conditions of work; for example, being late for work or working slowly.<sup>98</sup>

### *Types of Labor*

[The] therapeutic working [i.e. labor therapy] approach was used in the centers.... The center staff said the therapy, on the one hand, helped recover the working functions for the residents and on the other hand helped them understand the values of working while preventing problems related to laziness or idleness.

—A 2009 Ministry of Labor assessment<sup>99</sup>

In the course of researching this report, former detainees and others told Human Rights Watch about different types of work and various products that they were required to manufacture or process. Detainees mentioned a number of companies that may be benefiting from forced labor in the centers. Human Rights Watch wrote to those companies we were able to identify setting out the allegations and requesting further information about potential commercial relations that they had with the centers.

The extensive testimony from detainees regarding the use of forced labor in the centers suggests that many companies may be directly or indirectly sourcing products or manufacturing services from drug detention centers. Although there are many different products on which detainees are forced to work this report includes only the names of those companies where Human Rights Watch was able to reach a reliable conclusion that products sold, processed, or handled by the company were likely produced in the centers.

In a few cases, multinational companies contacted by Human Rights Watch denied that their products were being manufactured in the centers, or suggested the possibility of counterfeit goods being produced. In one case, in response to our inquiry, the company strengthened their existing monitoring mechanisms to ensure that their supply chain is free of any connections with the centers.

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<sup>98</sup> For example, Human Rights Watch interviews with Trung Khanh and Quynh Luu, Ho Chi Minh City, 2010.

<sup>99</sup> 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. 117. Copy on file with Human Rights Watch.

As contracts with centers vary center-by-center, and over time, Human Rights Watch believes that the companies named in this report represent a small fraction of the overall commercial interests in the centers. Consequently, Human Rights Watch's investigation is ongoing. Human Rights Watch calls on the Ministry of Labor to publish a full list of companies that currently work and have previously worked with drug detention centers. Human Rights Watch believes that any company that may be sourcing from Vietnam in the industries named in this report should also urgently examine whether their supply chains might be tainted with products from drug detention centers and take adequate steps to remedy the problem if it is found.

### **BUSINESSES' INTERNATIONAL HUMAN RIGHTS RESPONSIBILITIES**

While governments have the primary responsibility for respecting, protecting, and fulfilling human rights they are not the only ones who bear rights responsibilities. There is a broad consensus that businesses of all types have a responsibility to respect human rights, including workers' rights. This basic principle has achieved wide international recognition and is reflected in various norms and guidelines.<sup>100</sup>

The longstanding concept that businesses have human rights responsibilities secured additional support, including from the UN Human Rights Council and from business organizations, during the 2005-2011 tenure of Professor John Ruggie, the United Nations special representative on business and human rights.<sup>101</sup> As elaborated in the "Protect, Respect and Remedy" framework and the

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<sup>100</sup> The preambles to key human rights treaties recognize that ensuring respect for human rights is a shared responsibility that extends to "every organ of society," not only to states. In addition, the preambles of both the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights recognize that "individuals" have human rights responsibilities, a term that can incorporate juridical persons (including businesses) as well as natural persons. The fundamental concept that businesses have human rights responsibilities is also reflected in the decisions of the UN Human Rights Council on business and human rights, discussed further below, as well as in the International Labour Organization's Tripartite Declaration of Principles, the UN Global Compact, and elsewhere.

<sup>101</sup> For example, the International Chamber of Commerce (ICC) issued a policy statement that reads in part: "Respect for human rights constitutes a baseline expectation for companies operating in any country. All companies, regardless of their size or home country, are expected to obey applicable laws and regulations, including those aimed at protecting human rights. Where national law is absent, or not enforced, companies are expected to respect the principles of relevant international instruments." International Chamber of Commerce, "Policy statement: ICC views on business and human rights," December 10, 2008. This statement expanded on a joint statement ICC issued with two other business groupings in May 2008. See [www.biac.org/statements/investment/o8-05\\_IOE-ICC-BIAC\\_letter\\_on\\_Human\\_Rights.pdf](http://www.biac.org/statements/investment/o8-05_IOE-ICC-BIAC_letter_on_Human_Rights.pdf)



“Guiding Principles on Business and Human Rights” for their implementation, which the UN Human Rights Council unanimously endorsed, businesses should respect all human rights, avoid complicity in abuses, and adequately remedy them if they occur.<sup>102</sup> Elsewhere, Ruggie has explicitly noted that “[t]he corporate responsibility to respect human rights ... applies across an enterprise’s activities and through its relationships with other parties, such as business partners, entities in its value chain, other non-state actors and state agents.”<sup>103</sup>

The UN Framework and Guiding Principles outline basic steps that businesses should adopt consistent with their human rights responsibilities. This includes undertaking adequate due diligence that encompasses risk assessments and monitoring, in order to identify and prevent or effectively mitigate human rights problems.<sup>104</sup> Properly conducted due-diligence reviews have clear relevance to ensuring that a company is not implicated in forced labor and other abuses through its supplier relationships. As described by Ruggie, “not knowing about abuses [in the supply chain] is not a sufficient response by itself to allegations of either legal or non-legal complicity if the enterprise should reasonably have known about them through due diligence.”<sup>105</sup>

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<sup>102</sup> See United Nations Human Rights Council (HRC), Resolution 8/7, “Mandate of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises,” June 18, 2008; and HRC, Resolution A/HRC/17/L.17/Rev.1, “Human rights and transnational corporations and other business enterprises,” June 16, 2011.

<sup>103</sup> Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, “The Corporate Responsibility to Respect Human Rights in Supply Chains,” Discussion Paper for the 10th OECD Roundtable on Corporate Responsibility, June 30, 2010, <http://www.oecd.org/dataoecd/17/50/45535896.pdf>.

<sup>104</sup> Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, “Protect, Respect and Remedy: a Framework for Business and Human Rights,” UN document A/HRC/8/5, April 7, 2008; and Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework,” UN document A/HRC/17/31, March 21, 2011.

<sup>105</sup> Emphasis removed from the original. Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, “The Corporate Responsibility to Respect Human Rights in Supply Chains,” Discussion Paper for the 10th OECD Roundtable on Corporate Responsibility, June 30, 2010, <http://www.oecd.org/dataoecd/17/50/45535896.pdf> (accessed August 24, 2011).

## Cashew Processing

Vietnam is currently the world's leading exporter of cashew nuts. In 2011, the country had 350,000 hectares of cashew plantations.<sup>106</sup> In 2010 Vietnam earned \$ 1.14 billion from cashew nut exports, an amount that was expected to rise to \$ 1.4 or \$ 1.5 billion in 2011.<sup>107</sup> The main importers of Vietnamese cashews are the US, which purchases 35 percent of exported cashews, and the EU, which purchase 25 percent.<sup>108</sup> China, Japan and Australia are also important cashew importers.<sup>109</sup>

Between 1999 and 2005, the number of hectares dedicated to cashew trees nationwide grew rapidly, from 185,200 to 328,000.<sup>110</sup>

Former detainees told Human Rights Watch about their knowledge of cashew production in 11 of the 16 centers under the administration of Ho Chi Minh City authorities. According to reports from former detainees, cashew processing takes place in at least four centers located in Binh Phuoc: Binh Duc, Phu Van, Duc Hanh, and Phu Duc.<sup>111</sup> Cashew production work was also reported by former detainees of centers located in other provinces: in Center No. 1 (Dak Nong province), Center No. 2 (Lam Dong province), Center No. 3 (Binh Duong

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<sup>106</sup> "Domestic cashew prices top VND 30,000/kilo, *Vietnam Business News*, February 18, 2011, <http://vietnambusiness.asia/domestic-cashew-prices-top-vnd30000kg/> (accessed May 12, 2011).

<sup>107</sup> "Vietnam cashew nut export revenue soars," *Commodity Online*, March 17, 2011, <http://www.commodityonline.com/news/Vietnam-cashew-nut-export-revenue-soars-37338-3-1.html> (accessed May 12, 2011).

<sup>108</sup> "Nation stays atop cashew heap," *Vietnam News*, January 8, 2011, <http://vietnamnews.vnnet.vn/Economy/207434/Nation-stays-atop-cashew-heap.html> (accessed May 12, 2011).

<sup>109</sup> See, for example, Son Phuong, "New Height for Cashew Nuts," undated, Vietnamese Business Forum, [http://vccinews.com/news\\_detail.asp?news\\_id=3479](http://vccinews.com/news_detail.asp?news_id=3479) (accessed July 28, 2011); "Vietnam cashew nut export revenue soars," *Commodity Online*, March 17, 2011.

<sup>110</sup> Le Thanh Loan et al., "Cashew nut supply chains in Vietnam: A case study in Dak Nong and Binh Phuoc provinces, Vietnam," *Southeast Asian Network for Agroforestry Education*, August 2006, quoting government sources, <http://www.socialforestry.org.vn/Research%20&%20Extension.htm> (accessed July 28, 2011). Binh Phuoc—an agriculturally productive province that borders Cambodia and the southern Central Highlands—accounted for about a third of this area, and cashew plantations in that province grew in proportion: the number of hectares planted with cashew trees in Binh Phuoc province expanded from 64,830 (1999) to 116,029 (2005): Le Thanh Loan et al., "Cashew nut supply chains in Vietnam," *Southeast Asian Network for Agroforestry Education*.

<sup>111</sup> Binh Duc center- Quy Hop, Que Phong; Phu Van center- Lang Giang, Luong Tai, Kinh Mon, Hai Duong; Duc Hanh center- Truc Ninh; Phu Duc center- Thach An. The fifth center in Binh Duong province is Phu Nghia. The former detainee from Phu Nghia with whom Human Rights Watch spoke gave little information on that center as she was only detained there for one year (out of a total of five years in detention).

province), Center No. 5 (Dak Nong province), Phuoc Binh center (Dong Nai province), Nhi Xuan (Ho Chi Minh City), and Youth Center No. 2 (Ho Chi Minh City).<sup>112</sup>

Cashew processing consists of roasting the cashew nut (to make the shell brittle), shelling or husking the roasted nut to remove the kernel, then removing the kernel's thin skin. Cashew kernels (whole or broken) are then graded. In addition to the cashew kernel, both the bell-shaped cashew "apple" and oil from the cashew shell have commercial value.<sup>113</sup>

From an economic perspective, the processing of cashews in drug detention centers has a number of advantages. Large-scale cashew operations often use machinery to husk the nuts and other mechanized equipment to remove the cashew nut shell liquid. Manual husking in smaller factories avoids the costs of specialized machinery and involves less kernel breakage than machine husking. It also minimizes the possibility of fragments of the cashew nut shell remaining after processing, thus increasing the product's value. Hence small factories that perform manual husking have economic advantages over larger, highly mechanized factories.<sup>114</sup>

In addition, production costs are kept low by paying detainees wages well-below the minimum wage. The companies that utilize processing facilities in drug detention centers are also eligible for a complete exemption from paying business income tax.<sup>115</sup>

Manual husking of cashew nuts is monotonous and hazardous. It takes an average worker about 4,800 nuts to achieve five kilos of kernels. This requires one nut to be opened about

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<sup>112</sup> Phuoc Binh center (Dong Nai province)- Thach An, Huong Son; Center No. 1 (Dak Nong province)- An Thi, Khoai Chau; Center No. 2 (Lam Dong province)- Vu Ban, Trung Khanh, Xuan Truong; Center No. 3 (Binh Duong province)- Quynh Luu; Center No. 5 (Dak Nong province)- Muong Nhe, Dong Van, Cua Lo, Dinh Lap, Bac Thong, Tien Du; Nhi Xuan center- Ly Nhan; Youth Center No. 2 (Ho Chi Minh City)- Thai Hoa.

<sup>113</sup> The cashew "apple" can be eaten. The oil from the cashew shell, actually contained between the shell's two layers, also has industrial and medicinal uses.

<sup>114</sup> B. Hilton, "Additional Comments About Cashew." ECHO Development Notes, Issue 63, 1999. See also Quang Thuan, "Cashew exporters won't benefit from high prices: Vinacas," *Thanh Nien News*, August 22, 2004, <http://www.thanhniennews.com/2004/Pages/20048232323540.aspx> (accessed July 7, 2011).

<sup>115</sup> The Law on Business Income (2008) provides that, "Income from the production, trading and service operations of enterprises exclusively employing the disabled, post rehabilitation people and HIV-positive persons" will be exempt from tax. See Law on Business Income, No. 14/2008/QH12 dated June 3, 2008, art. 4. <http://baoquangnam.com.vn/component/content/article/102-van-ban-phap-luat/21126-luat-the-thu-nhap-doanh-nghiep.html> (accessed May 12, 2011) [translation by Human Rights Watch].

every 6 seconds (at a rate of about 10 nuts per minute) for 8 hours.<sup>116</sup> Manual cashew processing can have negative health effects, including skin rashes, other allergic reactions, and respiratory problems.

Former detainees commonly told Human Rights Watch they worked between six and eight hours a day in cashew production. Some worked longer: for example, Trung Khanh told Human Rights Watch he had to work 10 hours a day skinning cashews in Center No. 2 (Lam Dong province) before he was allowed to rest.<sup>117</sup>

Tien Du, who spent six months skinning cashews in Center No. 5 (Dak Nong province), described skinning cashews as “hard work.”

We worked from morning to early afternoon skinning about six kilos each....  
You sit on a stool at a table and use a knife to remove the silky skin and  
then sort them.<sup>118</sup>

Former detainees told Human Rights Watch that cashew resins from the nuts caused their skin to burn or itch and that that dust from the cashew skins made them cough.

Cua Lo spent two years in detention, the last 18 months of which was in Center No. 5. He worked eight hours a day husking cashews for a private company to meet the daily quota of seven or eight kilos of cashews, although he told Human Rights Watch it was customary for the slowest person in the work unit to be forced to skin an extra kilo. When reflecting on his period of detention, he stated adamantly “the work didn't help me recover” and stressed the harmful effects of the work on his health.

I would sometimes inhale the dust from the skins and that would make me  
cough. If the fluid from the hard outer husk got on your hands it made a burn.<sup>119</sup>

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<sup>116</sup> See Practical Action, “Technical Brief: Cashew Nut Processing,” p. 5, [http://practicalaction.org/practicalanswers/product\\_info.php?products\\_id=77](http://practicalaction.org/practicalanswers/product_info.php?products_id=77) (accessed July 28, 2011). Cashew nut shell liquid is found in the shell around the cashew kernel. It contains 90 percent anacardic acid and 10 percent cardol, caustic substances that can cause skin blisters. Because of these hazards, India has banned children from working in cashew husking or skinning; see e.g. India’s Child Labour (Prohibition & Regulation) Act, 1986.

<sup>117</sup> Human Rights Watch interview with Trung Khanh, Ho Chi Minh City, 2010.

<sup>118</sup> Human Rights Watch interview with Tien Du, Ho Chi Minh City, 2010.

<sup>119</sup> Human Rights Watch interview with Cua Lo, Ho Chi Minh City, 2010.

Vu Ban was in his late 20s when he was detained in Center No. 2 (Lam Dong province). He told Human Rights Watch:

My team was 30 to 40 who did cashews, forming part of the cashew work force of 400. I operated the machine that broke open the hard cashew shells. Others skinned them. I had a quota of 30 kilos a day and worked until they were done. If you refused to work you were sent to the punishment room and after a month [there] you agreed to work again.<sup>120</sup>

Kinh Mon was in his early 30s when he was detained. He was at the Phu Van center for all but the first month of his five years in detention, which he described as “a waste of time.” He said:

I did cashew husking for three years. I worked six and a half to eight hours a day to finish my quota. After I got used to the work it was easy to meet my quota of 20 to 30 kilos of unhusked cashews, but the fluid from the cashew shells burned my skin. They gave me one pair of rubber gloves a day but if I needed a new pair I had to pay for it.<sup>121</sup>

Like Kinh Mon, Lang Giang (who was also detained at Phu Van) said that the work was done for a private company. She continued:

We began work at seven in the morning and when each woman had done her portion of cashews she could stop work, usually after four and one-half to seven and one-half hours. We worked six days a week. If someone refused to work the group leader reported this to the center management. One woman refused to work. They discussed it with her. She still did not work. She was sent to the solitary confinement cell for a while. Then she agreed to work.<sup>122</sup>

Both Kinh Mon and Lang Giang said the cashew processing company they worked for in Phu Van center (Binh Phuoc province) was called Son Long.<sup>123</sup> A 2005 Vietnamese media article shows a photo of detainees processing cashews, with an explanation that the cashew workshop in the photo was in the Binh Duc center (in Binh Phuoc province) and

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<sup>120</sup> Human Rights Watch interview with Vu Ban, Ho Chi Minh City, 2010.

<sup>121</sup> Human Rights Watch interview with Kinh Mon, Ho Chi Minh City, 2010.

<sup>122</sup> Human Rights Watch interview with Lang Giang, Ho Chi Minh City, 2010.

<sup>123</sup> Human Rights Watch interviews with Lang Giang and Kinh Mon, Ho Chi Minh City, 2010.

belonged to Son Long J.S.C.<sup>124</sup> In January 2011, a journalist visiting another Binh Phuoc province center (Duc Hanh center) had a detailed discussion of cashew production with the center's director who said "the company we work with is Son Long."<sup>125</sup>

In April 2011, Son Long J.S.C. was listed as a "reliable exporter" on the Vietnam Ministry of Trade and Industry's website, where the company was described as a Vietnamese agricultural trading company based in Binh Phuoc province.<sup>126</sup> Human Rights Watch wrote to Son Long J.S.C. in May and again in June 2010 seeking its reply to the information received about the company. Son Long J.S.C. had not provided a response by the time this report went to print.<sup>127</sup>

### Farming

A number of former detainees told Human Rights Watch that they worked on coffee plantations.<sup>128</sup> For example, Kinh Mon was in his early 20s when he was first detained. He spent most of his five years in a center in Phu Van.

On arrival I did farm work for two years, cleaning the plots, softening the ground, harvesting the vegetables, and doing coffee plant work. The vegetables went to the center but I don't know where the other agricultural products went.<sup>129</sup>

Que Phong spent four years at Binh Duc center. Before he worked in cashew production, he "worked on the farm doing everything related to coffee." A period in the punishment room for selling tobacco was combined with more strenuous labor related to coffee farming.

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<sup>124</sup> Dong Hung, "Post rehab individuals in HCM city: Experimenting with re-integrating into the community," Viet Bao, October 15, 2005, <http://vietbao.vn/Xa-hoi/Nguoi-sau-cai-nghien-tai-TP-HCM-Thi-diem-tai-hoa-nhap-cong-dong/40103202/157/> (accessed July 25, 2011) [translation by Human Rights Watch].

<sup>125</sup> Human Rights Watch interview (name withheld), Phnom Penh, January 2011.

<sup>126</sup> See Ministry of Industry and Trade, "Son Long Joint Stock Company," undated, <http://dnxnk.moit.gov.vn/EntpDetail.asp?ID=5776&Langs=2> (accessed April 2, 2011). Copy on file with Human Rights Watch. The Ministry of Industry and Trade's list of reliable exporters is intended to create "a reliable focal point for enterprises searching for business opportunities, especially for the foreign enterprises while searching for Vietnamese export partners." See Ministry of Industry and Trade, "Criteria of Selection," undated, <http://dnxnk.moit.gov.vn/chitieuxetchon.asp?Langs=2> (accessed July 27, 2011).

<sup>127</sup> Letters from Human Rights Watch to the Director of Son Long J.S.C., May 2, 2011 and June 10, 2011, copies on file with Human Rights Watch.

<sup>128</sup> Human Rights Watch interviews with Kinh Mon, Que Phong, and Dinh Lap, Ho Chi Minh City, 2010.

<sup>129</sup> Human Rights Watch interview with Kinh Mon, Ho Chi Minh City, 2010.

For a month they put me in the punishment room with five or six others. It was a small room with the toilet inside. We had no beds and showered only once a week. We ate only the center's food and got no visitors. We still worked, but were assigned the hardest jobs on the coffee farm.<sup>130</sup>

Many former detainees told Human Rights Watch they worked in other forms of agricultural production as well. For example, Huong Son was in his mid 30s when he was released from the Phuoc Binh center at the end of 2009. He told Human Rights Watch that, in addition to cashew production, “I worked in the potato fields where the potatoes were grown for monosodium glutamate production.”<sup>131</sup>

Quynh Luu described a range of work, including growing potatoes, at Center No. 3.

There were several kinds of work and I did them all. Clearing agricultural land and making roads was one. Raising and drying potatoes to make monosodium glutamate was another.<sup>132</sup>

### Construction and Construction Materials

Some former detainees said their forced labor involved working in construction. Dinh Lap spent four years in Center No. 5 before being released in 2009. He explained:

I did three jobs in my four years there: grass cutting, building houses, and painting houses. The houses were near the camp but outside the perimeter. I don't know who got them. I worked eight hours a day six days a week.<sup>133</sup>

Some detainees told Human Rights Watch they worked making bricks or floor tiles. Trung Khanh said he worked at the Nhi Xuan center eight hours a day, six days a week making floor tiles.<sup>134</sup> Ly Nhan was also detained at the Nhi Xuan center. He said:

I made bricks for four years, working six hours a day, paid by the brick, with a team quota, and a team leader who was also a guard in charge of me.<sup>135</sup>

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<sup>130</sup> Human Rights Watch interview with Que Phong, Ho Chi Minh City, 2010.

<sup>131</sup> Human Rights Watch interview with Huong Son, Ho Chi Minh City, 2010. Monosodium glutamate, a common flavor enhancer for food, can be produced by fermenting carbohydrates, including those found in potatoes.

<sup>132</sup> Human Rights Watch interview with Quynh Luu, Ho Chi Minh City, 2010.

<sup>133</sup> Human Rights Watch interview with Dinh Lap, Ho Chi Minh City, 2010.

<sup>134</sup> Human Rights Watch interview with Trung Khanh, Ho Chi Minh City, 2010.

## Garment and Bag Manufacturing

Many former detainees told Human Rights Watch that their labor involved sewing or embroidering clothes.<sup>136</sup> An Thi was in her 20s in late 2008 when she was released from Center No. 1, where she was detained for five years. She sewed for almost all that time.

The days were all the same. We awoke at six a.m. and exercised. If your family gave you money you had breakfast.<sup>137</sup> Work began at 7:30 a.m. and we knocked off for lunch and a nap at 11 a.m. We worked again from one to four p.m. for a total of a six-and-a-half hour workdays. We were 300 women [in the center] divided into eight rooms, each room having two or three staff guards. Then the staff chose detainee leaders to lead us in our work. I sewed for almost five years except right before I left, when I skinned cashews. I sewed uniforms for detainees in drug centers, as well as trousers and t-shirts.<sup>138</sup>

Truc Ninh was in her late 20s when she was detained. She was transferred between various centers before being held at Nhi Xuan center for 18 months prior to release. “At Nhi Xuan there were 1000 detainees and 300 of us were women,” she said. “I sewed t-shirts and nylon jackets for eight hours a day.”<sup>139</sup>

Hai Duong spent five years in detention, the last three-and-a-half years at Phu Van center. She did agricultural work at the beginning, and was later reassigned to embroidery work.

I did embroidery eight hours a day and was paid piecework. I was good at it. We embroidered the top of a Korean garment called a *hanbok*. They were many colors and patterns.... If you refused to work they sent you out to do more field work. Everyone worked.<sup>140</sup>

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<sup>135</sup> Human Rights Watch interview with Ly Nhan, Ho Chi Minh City, 2010.

<sup>136</sup> Human Rights Watch interviews with Tra Linh, Truc Ninh, Quy Hop, Hai Duong, An Thi, Khoai Chau, Yen The, Ba Che, Cho Don, Tien Du, and Vu Ban, Ho Chi Minh City, 2010.

<sup>137</sup> Former detainees explained that families pay money into detainees’ accounts, both to meet the charges levied by the centers and to give their relatives some credit. Detainees then use credit in their account— which either exists because family members deposited money or from wages that remained after center-imposed deductions—to purchase personal items from the center canteen. However, these items are not luxuries. They include sufficient food such as breakfast (which otherwise is not provided) and personal hygiene items such as soap and toothpaste. For example, Human Rights Watch interviews with Duc Tho, Can Loc, An Thi, Vu Ban, and Dinh Lap, Ho Chi Minh City, 2010.

<sup>138</sup> Human Rights Watch interview with An Thi, Ho Chi Minh City, 2010.

<sup>139</sup> Human Rights Watch interview with Truc Ninh, Ho Chi Minh City, 2010.

<sup>140</sup> Human Rights Watch interview with Hai Duong, Ho Chi Minh City, 2010.



A number of former detainees told Human Rights Watch they were forced to make shopping bags.<sup>141</sup> Xuan Truong is a man in his mid-30s who was released in 2009 after being transferred to various centers, including Center No. 2 in Lam Dong province, where he spent over three years. In addition to working in cashew production, he told Human Rights Watch of being forced to glue paper shopping bags.

I also produced paper bags. The paper was printed and cut and we had assemble them and to glue them together. They were blue, grey, or white.... Our work group had a daily quota of 250 bags. If you didn't do your part then the other detainees beat you.<sup>142</sup>

### Manufacturing

Some former detainees told Human Rights Watch that detainees were involved in making other products, such as goods made from wood, bamboo and rattan, plastic goods such as straws, and making paper money (used as offerings for the dead).

Con Cuong was detained for four years in Center No. 4 in Binh Duong province. He did agricultural work, but explained various other types of work at the center.

There were other jobs at the center: making bamboo baskets, embroidery, woodworking, and making paper offerings that would be burned for the spirits of the dead.... If you refused to work you were sent to the punishment room for two months. You might be beaten with hands, kicked, and beaten with a truncheon. Then you would go back to work again.<sup>143</sup>

The production of rattan and bamboo products by detainees was reported in other centers.<sup>144</sup>

Luc Ngan was released in late 2009 after being detained for three-and-a-half years at Youth Center No. 2.

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<sup>141</sup> Human Rights Watch interviews with Trung Khanh, Quy Hop, and Xuan Truong, Ho Chi Minh City, 2010.

<sup>142</sup> Human Rights Watch interview with Xuan Truong, Ho Chi Minh City, 2010.

<sup>143</sup> Human Rights Watch interview with Con Cuong, Ho Chi Minh City, 2010.

<sup>144</sup> Centers No. 3, No. 4, No. 5, the center in Long An province and Phu Van center. Human Rights Watch interviews with Quynh Luu, Con Cuong, Dinh Lap, Huu Lung, and Cho Don, Ho Chi Minh City, 2010.

Work was compulsory. We produced bamboo furniture, bamboo products, and plastic drinking straws. We were paid by the hour for work: eight-hour days, six days a week.<sup>145</sup>

Luc Ngan believed that the drinking straws were sold to a company called Tran Boi.<sup>146</sup> 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.<sup>147</sup> Business directories describe Tran Boi Production Co. Ltd. as a plastics company located in Ho Chi Minh City.<sup>148</sup> 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 this report went to print.<sup>149</sup>

#### CASE STUDY: VESTERGAARD FRANDSEN

Vestergaard Frandsen SA is an international company headquartered in Switzerland that specializes in products designed for disease control and complex emergency responses, including insecticide treated mosquito nets.<sup>150</sup> The company has stated policies on respect for international labor standards and human rights principles.<sup>151</sup> In late 2010, Human Rights Watch received information that mosquito bed nets bearing tags with the company name Vestergaard Frandsen SA were being produced in “Rehabilitation Center No. 2” in Haiphong city (northern Vietnam).<sup>152</sup>

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<sup>145</sup> Human Rights Watch interview with Luc Ngan, Ho Chi Minh City, 2010.

<sup>146</sup> *Ibid.*

<sup>147</sup> “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 [translation by Human Rights Watch], <http://vnexpress.net/gl/xa-hoi/2004/04/3b9d1d86/> (accessed February 15, 2011).

<sup>148</sup> Panpages (online business directory), “Tran Boi Production Co. Ltd.,” undated, <http://vietnam.panpages.com/industry-agricultural-and-garment/plastic-products/tran-boi-production-coldt-34116.html> (accessed February 15, 2011).

<sup>149</sup> 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.

<sup>150</sup> Vestergaard Frandsen, “PermaNet 2.0: Long-lasting Insecticidal Net,” undated, [http://www.vestergaard-frandsen.com/component/docman/cat\\_view/51-product-brochures/61-permanetr/62-permanetr-20](http://www.vestergaard-frandsen.com/component/docman/cat_view/51-product-brochures/61-permanetr/62-permanetr-20) (accessed July 5, 2011).

<sup>151</sup> Vestergaard Frandsen, “Business Conduct Principles,” undated, [www.vestergaard-frandsen.com/our-passion/business-conduct-principles](http://www.vestergaard-frandsen.com/our-passion/business-conduct-principles) (accessed July 5, 2011).

<sup>152</sup> Human Rights Watch interview (name withheld), Phnom Penh, Cambodia, September 8, 2010. This report of production of bed nets is unrelated to the mention of bed nets by Vu Ban in Center No. 2 (page 65).

In April 2011, Human Rights Watch wrote to the chief executive officer of Vestergaard Frandsen SA seeking information on the company's manufacturing practices in Vietnam.<sup>153</sup> Vestergaard Frandsen SA responded to the letter immediately, sending senior staff members to Vietnam to investigate the claim and to New York to meet Human Rights Watch.

The same month, the company met with Human Rights Watch and reported on their investigation. In brief, the company stated that:

- They contracted with one company in Vietnam who managed production using 71 approved sub-contractors. Four of these sub-contractors engaged companies to produce bed nets by detainees in drug detention centers without authorization.
- Detainees in drug detention centers produced approximately 250,000 bed nets for Vestergaard Frandsen SA between April and November, 2010.<sup>154</sup>

Following its investigation, Vestergaard Frandsen SA terminated all relationships with the identified sub-contractors. The company also consulted with an international accounting firm to develop a strengthened "responsible supply chain management system," encompassing a supplier code of conduct, site visits (with a standardized check-list), and third-party auditing.<sup>155</sup>

The company reiterated in a communication with Human Rights Watch its commitment:

...to performing all of its duties in a highly ethical, transparent and responsible manner for the benefit of society. Disseminating our Business Conduct Principles into the supply chain is of the highest priority and will not only improve quality and mitigate business and reputational risk, but more importantly, will advance responsible business practices among suppliers... Vestergaard Frandsen therefore wants to work with suppliers based on the following principles that derive from internationally agreed conventions on human rights and labour rights, including the Universal

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<sup>153</sup> Letter from Human Rights Watch to Mikkel Vestergaard Frandsen, chief executive officer of Vestergaard Frandsen SA, April 1, 2011. Copy on file with Human Rights Watch.

<sup>154</sup> Human Rights Watch interview with Vestergaard Frandsen executives, New York, April 19, 2011.

<sup>155</sup> Email communication from Jaques Bogh, Corporate Tax and Compliance manager, Vestergaard Frandsen, to Human Rights Watch, July 1, 2011.

Declaration of Human Rights, ILO's [International Labour Organization] Declaration of Fundamental Principles and Rights at Work and the ten principles of the UN Global Compact.<sup>156</sup>

Human Rights Watch believes that Vestergaard Frandsen SA responded to the allegations brought to its attention with appropriate seriousness and speed, and welcomes the company's commitment to prevent such incidents in the future. Nonetheless, Vestergaard Frandsen SA and other companies manufacturing in Vietnam should have effective systems in place to proactively detect and respond to abuse on their own, rather than responding to outside reports.

Moving forward, Vestergaard Frandsen SA and other businesses should be vigilant and transparent in monitoring for human rights abuses, reporting incidents, and taking specific action in response.

### *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.<sup>157</sup>

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<sup>156</sup> Vestergaard Frandsen, "Responsible Supply Chain Management- Detailed system description," unpublished document, June 2011, p. 4. Copy on file with Human Rights Watch.

<sup>157</sup> 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.

This deception is also present in official Vietnamese media coverage of labor in the centers. To cite just one example from state-controlled media, one article explains that detainees in the Thai Binh center “are given the chance to learn the skill of cashew nuts processing.”<sup>158</sup>

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.<sup>159</sup>

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.”<sup>160</sup>

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:

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<sup>158</sup> “The need to closely monitor the local area and prevent social illness at an early time,” Cong An Nhan Dan, April 28, 2008, <http://ca.cand.com.vn/News/PrintView.aspx?ID=126407> (accessed May 12, 2011) [translation by Human Rights Watch].

<sup>159</sup> 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) [translation by Human Rights Watch].

<sup>160</sup> Human Rights Watch interview with Luc Ngan, Ho Chi Minh City, 2010.

- **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*.<sup>161</sup>
- **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.<sup>162</sup>

### *Legal Principles*

Forced labor is prohibited under international law.<sup>163</sup> According to the ILO Convention on Forced Labor (No. 29), forced or compulsory labor “shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person

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<sup>161</sup> 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.”

<sup>162</sup> 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” [translation by Human Rights Watch]. See also Decree 94/2009/ND-CP, October 26, of 2009, art 34(2).

<sup>163</sup> The International Covenant on Civil and Political Rights (art. 8) and the regional human rights conventions—the European Convention on Human Rights (art. 4.2), the American Convention on Human Rights (art. 6.2), the African Charter on Human and People's Rights (art. 15), prohibit forced or compulsory labor. ILO Convention No. 29 concerning Forced Labour (adopted June 28, 1930, entered into force May 1, 1932) and the ILO Convention No. 105 concerning the Abolition of Forced Labour (adopted June 25, 1957—entered into force January 17, 1959) prohibit the practice, and in 1998 the ILO adopted the Declaration on Fundamental Principles (adopted by the International Labour Conference at its eighty-sixth session, Geneva, June 18, 1998) which declares that all ILO members—of which Vietnam is one—even if they have not ratified either of the above conventions are obliged to respect, promote, and realize the elimination of all forms of forced or compulsory labor (art.2).

has not offered himself voluntarily.”<sup>164</sup>The ban on forced labor in international law extends to the practice of labor therapy in Vietnamese drug detention centers.

In principle, a scheme of education or training does not fall within the meaning of the prohibition on compulsory “work or service” prohibited by Convention No. 29.<sup>165</sup> However, as the ILO’s Committee of Experts has observed:

[It is] only by reference to the various elements involved in the general context of a particular scheme of training that it becomes possible to determine whether such scheme is unequivocally one of vocational training or on the contrary involves the exaction of work or service within the definition of “forced or compulsory labor.”<sup>166</sup>

The ban on forced labor in international law does not cover “[a]ny work or service exacted from any person as a consequence of a conviction in a court of law” if certain preconditions are met. However, people held in drug detention centers under Ho Chi Minh City administration have not been detained due to a conviction in a court of law.

In some of the cases documented in this report, detainees initially entered the centers on a voluntary basis. This has no bearing on the nature of these situations as forced labor since they are not free to leave the centers once they have entered.<sup>167</sup>

Forced labor is also prohibited under Vietnam’s labor law.<sup>168</sup>

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<sup>164</sup> ILO Convention No. 29 concerning Forced or Compulsory Labor, art. 2, ratified by Vietnam on March 5, 2007.

<sup>165</sup> For example, the ILO’s Special Youth Schemes Recommendation 1970 (1970) indicates that obligatory schemes of education and training may be compatible with the forced labor conventions, but limits such schemes to those involving the obligatory enrolment of unemployed young people for a definite period, and clarifies that any schemes involving an obligation to serve require prior consent (paras. 7(1) and (2)(a) and (b)).

<sup>166</sup> See, for example, International Labour Conference, General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105) (Geneva: ILO, 2007), para. 36.

<sup>167</sup> The ILO states that workers have the right to revoke freely-given consent, noting “many victims enter forced labor situations initially of their own accord ... only to discover later that they are not free to withdraw their labor. They are subsequently unable to leave their work owing to legal, physical or psychological coercion.” See International Labour Organization, *A Global Alliance Against Forced Labor: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights of Work* (Geneva: ILO, 2005), p. 6.

## Prohibitions on Forced Labor by Vietnam's Trade Partners

In addition to international prohibitions on forced labor, many of Vietnam's key trade partners prohibit the import of goods and products produced by forced labor programs.

The US Tariff Act of 1930, as amended in 2006, specifically prohibits import of goods and merchandise “produced or manufactured wholly or in part in any foreign country by convict labor or forced labor.” The amended Tariff Act also prohibits the import of goods “made in factories or workshops that violate core labor standards.”<sup>169</sup>

The US Department of Labor (DOL) is authorized to develop and publish a list of goods from around the world that are produced by forced or child labor.<sup>170</sup>

The Generalized System of Preferences (GSP) is a US trade program that grants preferential, duty-free treatment to the products of certain designated “developing countries.” In 2008, Vietnam petitioned the US to consider Vietnam a “developing country” under the GSP program.<sup>171</sup> The US has not yet granted the trade benefits to Vietnam. In its request for GSP designation, the Vietnamese government focused on its partnership with the International Labour Organization and its ratification of several of the ILO's conventions as demonstrating its commitment to comply with international labor rights standards.

The European Community and Vietnam signed a framework cooperation agreement in 1995 that explicitly includes preferential trade measures.<sup>172</sup> Respect for human rights constitutes

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<sup>168</sup> The Vietnamese labor law establishes that “all forms of forced labor are prohibited.” See Vietnam Labor Code, June 23, 1994, art. 5.

<sup>169</sup> Smoot-Hawley Tariff Act of 1930 (19 USC. 1307); amended in 2006. The US “Definition of Core Labor Standards,” as amended by the 109th Congress states in section 3 (a): “In General- In this Act, the term ‘core labor standards’, means-- (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”

<sup>170</sup> See US Department of Labor, “The Department of Labor’s List of Goods Produced by Child Labor or Forced Labor: Report required by the Trafficking Victims Protection Reauthorization Acts of 2005 and 2008,” 2009, [www.dol.gov/ilab/programs/ocft/pdf/2009tvpra.pdf](http://www.dol.gov/ilab/programs/ocft/pdf/2009tvpra.pdf) (accessed August 2, 2011).

<sup>171</sup> Socialist Republic of Vietnam, “Statement in Support of Designation of Vietnam as a Beneficiary Developing Country Under the US Generalized System of Preferences,” May 9, 2008, in List of Public Comments for Socialist Republic of Vietnam, Country Eligibility Review (In Response to Federal Register Notice in Vol. 73, No. 120, Friday, June 20, 2008, Page No. 35173.) August 4, 2008, [http://www.ustr.gov/sites/default/files/uploads/gsp/asset\\_upload\\_file29\\_15061.pdf](http://www.ustr.gov/sites/default/files/uploads/gsp/asset_upload_file29_15061.pdf) (accessed August 24, 2011).

<sup>172</sup> (accessed August 2, 2011). European Community, Government of Vietnam, “Cooperation Agreement between the European Community and the Socialist Republic of Vietnam,” July 17, 1995, art. 3.



as an essential element of that agreement.<sup>173</sup> The European Commission and Vietnam signed a new Framework Agreement on Partnership and Cooperation in October 2010 which, when it becomes operational, will supersede the 1995 agreement.<sup>174</sup> The EU grants Vietnam preferential trade benefits under its own system of Generalized System of Preferences. The European Council Regulation governing this system allows for “the suspension of preferential arrangements, regarding all or certain products originating in a beneficiary country, where it considers that there is sufficient evidence that temporary withdrawal would be justified,” including where there are “serious and systematic violations of principles” laid down in certain international human rights and labor rights conventions, on the basis of the conclusions of the relevant monitoring bodies.<sup>175</sup>

Where the European Commission receives information that may justify temporary withdrawal of GSP status, it shall request consultations, which must take place within one month. Following the consultations, the commission may decide to initiate an investigation that should be completed within one year. In the light of its findings, the commission may take appropriate action either to confirm the continuation of GSP benefits or to propose to EU member states in the council that they be temporarily withdrawn.<sup>176</sup>

## Labor Rights and Conditions of Detention

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.

### *Unpaid Labor*

Dinh Lap was detained for four years in Center No. 5 (in Dak Nong province), where he cut grass, worked in construction, and painted houses outside the center. He said he “worked eight hours a day, six days a week” and “never received any wages” during his detention.<sup>177</sup>

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<sup>173</sup> Ibid., art. 1.

<sup>174</sup> “Vietnam, EC ink PCA in Brussels,” [Vietnam] ministry of Planning and Investment press release, October 5, 2010, [www.mpi.gov.vn/portal/page/portal/mpi\\_en/32343?pers\\_id=417323&item\\_id=15611811&p\\_details=1](http://www.mpi.gov.vn/portal/page/portal/mpi_en/32343?pers_id=417323&item_id=15611811&p_details=1) (accessed July 28, 2011).

<sup>175</sup> EC Council Regulation No 732/2008, arts. 15 [1a] and 16 [3].

<sup>176</sup> EC Council Regulation No 732/2008, arts. 17-19.

<sup>177</sup> Human Rights Watch interview with Dinh Lap, Ho Chi Minh City, 2010.

Cam Khe was in his mid-20s when he was sent to a center in Ninh Thuan province. He was forced to work in agricultural fields for almost two years.

We raised sugar cane, corn, and rice. We worked eight or nine hours a day, longer during harvest hours. We weren't paid at all.<sup>178</sup>

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.<sup>179</sup>

### *Payment below the Minimum Wage*

Many interviewees told Human Rights Watch that their wages—before center-imposed deductions—were well below the minimum wage.

The minimum wage in Vietnam was adjusted five times between 2006 and the end of 2010. It is also divided into three (or in some years, four) different rates for different geographic areas of the country, reflecting different levels of economic development nationwide.

Although not all centers are in rural areas, as a comparison, the minimum monthly wages for the least developed areas of Vietnam are as follows:

2006: VND350,000 (\$17)  
2007: VND450,000 (\$21.50)  
2008: VND540,000 (\$26)  
2009: VND650,000 (\$31)  
2010: VND730,000 (\$35)<sup>180</sup>

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<sup>178</sup> Human Rights Watch interview with Cam Khe, Ho Chi Minh City, 2010.

<sup>179</sup> Human Rights Watch interview with Tan Uyen, Ho Chi Minh City, 2010.

<sup>180</sup> The minimum wage of VND350,000 (approximately \$17) a month in 2005 and 2006 was established by Decree No.118/2005/ND-CP, "Adjusting the Common Minimum Wage," September 15, 2005. The minimum wage of VND 450,000 (approximately \$21.50) a month in 2007 was established by Decree No.94/2006/ND-CP, "Adjusting the Common Minimum wage Level," September 7, 2006. The minimum wage of VND 540,000 (approximately \$26) a month in 2008 was established by Decree No.166/2007/ND-CP, "Providing for the Common Minimum Wage level," November 16, 2007. The minimum wage of VND 650,000 (approximately \$31) per month in 2009 was established by

A wage sheet from one center under Ho Chi Minh City administration that Human Rights Watch obtained shows the monthly wages of over 50 detainees performing cashew processing in September 2010 (Annex 4). After deductions, detainees received between 16,000 and 149,000 VND (\$0.75 to \$ 7.50) per month.

Former detainees interviewed in the course of research reported being paid wages that, even prior to any deductions, were below the minimum wage.

For example, these were for:

- Garment manufacturing work (six-and-a-half hours a day) performed from 2006 to 2008 in Center No. 1: An Thi told Human Rights Watch that her monthly wage was VND170,000 (\$8).<sup>181</sup>
- Garment manufacturing work (up to 10-and-a-half hours a day) from 2006 to 2008 in the Phu Van center: Cho Don was paid around VND160,000 (\$7.50) a month.<sup>182</sup>
- Garment manufacturing work (eight hours a day) in 2007 and 2008 in the Nhi Xuan center: Truc Ninh explained she was paid VND400,000 (\$19) a month.<sup>183</sup>
- Making bricks (six hours a day) from 2006 until 2008 in the Nhi Xuan center: Ly Nhan told Human Rights Watch he was paid a salary of VND300,000 (\$14.50).<sup>184</sup>
- Processing cashews (six or seven hours a day) from 2006 until 2008 in Center No. 5: Dong Van was paid VND100,000 (\$5) a month.<sup>185</sup>
- Cashew processing (six to seven hours a day) from mid-2006 to mid-2008 in Binh Duc center: Que Phong was paid around VND200,000 (\$9.50) a month.<sup>186</sup>
- Agricultural work, cashew processing, and making bamboo products (eight hours a day) from 2006 until 2008 in Center No. 3: Quynh Luu earned VND120,000 (\$5.50) a month.<sup>187</sup>

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Decree No. 110/2008/ND-CP, "Prescribing Region-based Minimum Wage Levels for Laborers Working for Vietnamese Companies, Enterprises, Cooperatives, Cooperative Groups, Farms, Household s and Individuals and other Vietnamese Organisations Employing Laborers," October 10, 2008. The minimum wage of VND 730,000 (approximately \$35) per month was established by Decree No. 97/2009/ND-CP, "Prescribing Region-based Minimum Wage Levels for Laborers Working for Vietnamese Companies, Enterprises, Cooperatives, Cooperative Groups, Farms, Household s and Individuals and other Vietnamese Organisations Employing Laborers," October 30, 2009.

<sup>181</sup> Human Rights Watch interview with An Thi, Ho Chi Minh City, 2010.

<sup>182</sup> Human Rights Watch interview with Cho Don, Ho Chi Minh City, 2010.

<sup>183</sup> Human Rights Watch interview with Truc Ninh, Ho Chi Minh City, 2010.

<sup>184</sup> Human Rights Watch interview with Ly Nhan, Ho Chi Minh City, 2010.

<sup>185</sup> Human Rights Watch interview with Dong Van, Ho Chi Minh City, 2010.

<sup>186</sup> Human Rights Watch interview with Que Phong, Ho Chi Minh City, 2010.

- Agricultural work and cashew processing (eight hours a day, sometimes more) from 2006 until the end of 2009 at the Phuoc Binh center: Huong Son was paid between VND200,000 and 300,000 (\$9.50 to \$14.50) a month.<sup>188</sup>

All figures are for wages before center-imposed deductions. The US dollar equivalents are approximate, based on an exchange rate of US\$1: VND 19,500.

### *Center-Imposed Deductions from Wages*

On paper I earned [VND] 120,000 a month but they took it. The center staff said it paid for our food and clothes.

—Quynh Luu, who spent over five years at Center No. 3, Binh Duong province<sup>189</sup>

Ly Nhan was detained for four years in Nhi Xuan center. He explained the types of deductions that the center levied:

I earned a wage of VND300,000 (\$14.50) a month [making bricks] but the net amount was VND100,000 to 120,000 (\$5.50) after center staff deducted money for accommodation, water, electricity and a management fee.<sup>190</sup>

Truc Ninh told Human Rights Watch that during her year-and-a-half at the Nhi Xuan center:

I made VND400,000 (\$19) a month but they took money for food and housing so I really only got VND200,000 to 300,000 (\$9.50 to \$14.50).<sup>191</sup>

Some detainees—such as Huong Son who was detained for four years at the Phuoc Binh center and released in late 2009—told Human Rights Watch that center-levied charges subsumed all their nominal payment for work. Huong Son said:

I earned money, about VND200,000 to 300,000 (\$ 9.50 to \$ 14.50) a month, but all of it was taken by the center to pay for my food.... I left the center with no money.<sup>192</sup>

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<sup>187</sup> Human Rights Watch interview with Quynh Luu, Ho Chi Minh City, 2010.

<sup>188</sup> Human Rights Watch interview with Huong Son, Ho Chi Minh City, 2010.

<sup>189</sup> Human Rights Watch interview with Quynh Luu, Ho Chi Minh City, 2010.

<sup>190</sup> Human Rights Watch interview with Ly Nhan, Ho Chi Minh City, 2010.

<sup>191</sup> Human Rights Watch interview with Truc Ninh, Ho Chi Minh City, 2010

Many former detainees explained that the food the centers provided was insufficient.<sup>193</sup> Consequently, detainees are forced to purchase food from the centers using the credit left on their accounts or money that family members deposit. The amount spent by detainees on food rations and personal hygiene items can be considerable. Vu Ban was released in 2008 after spending five years in Center No. 2 in Lam Dong province.

The money I made working I used for soap and extra food and personal items, but it was not enough. When I left I owed the center VND700,000 (\$ 33.50).<sup>194</sup>

Dinh Lap was detained for five years in Center No. 5 (Dak Nong province). When it was time for his release, his family had to pay for his expenses.

My family gave me VND800,000 (\$ 38.50) a month. I spent the money my family gave me on food like fish, meat, and vegetables that I cooked with my mates. When I left, my family gave the center VND1.2 million (\$ 57.50) for unpaid expenses.<sup>195</sup>

### *Legal Principles*

Under Vietnamese labor law, employers are required to pay each worker wages that cannot be lower than the applicable minimum wage.<sup>196</sup> Deductions from wages are also regulated: for example, employees have the right to be aware of reasons for deductions, which require trade union discussions and are limited to 30 percent of the monthly wage.<sup>197</sup>

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<sup>192</sup> Human Rights Watch interview with Huong Son, Ho Chi Minh City, 2010.

<sup>193</sup> Human Rights Watch interviews with Muong Nhe, Quy Hop, Ly Nhan, An Thi, and Con Cuong, Ho Chi Minh City, 2010.

<sup>194</sup> Human Rights Watch interview with Vu Ban, Ho Chi Minh City, 2010.

<sup>195</sup> Human Rights Watch interview with Dinh Lap, Ho Chi Minh City, 2010.

<sup>196</sup> Vietnam Labor Code 1992, art. 55.

<sup>197</sup> Ibid., art. 60(1).

### III-Treatment of Detainees

#### *Torture and other Forms of Physical Abuse*

A poster displays the rules for detainees at the Duc Hanh center, Binh Phuoc province.  
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2011



HCM City DOLISA  
Duc Hanh Medical Treatment Center  
Binh Phuoc, Socialist Republic of Vietnam

INDEPENDENCY—FREEDOM—HAPPINESS

December 01, 2009

**BYLAWS**

(Applied to the center's trainees)

Based on the Decision No. 114/2001/QĐ-UB dated 26 November 2001, issued by the Municipal People's Committee of Ho Chi Minh City permitting the establishment of Duc Hanh Medical Treatment Center under HCMC's DOLISA.

In order to ensure safety, security and order at Duc Hanh Medical Treatment Center, the Board of Directors regulates as follows:

- **Article 1:** Trainees shall absolutely comply with every regulation of the Board of Directors and every directive of the immediate staff-in-charge.
- **Article 2:** [Detainees must] absolutely comply with the timetable assigned for labor, studying and personal activities. Every activity of trainees must be reported and subject to the approval of the immediate staff-in-charge.
- **Article 3:** [Detainees are ordered] to enthusiastically labor, study and improve one's dignity and personality, to elevate one's organizational awareness to participate in every treatment and therapy program throughout the period of undergoing rehab treatment at the Medical Treatment Center.
- **Article 4:** [Detainees are ordered] to protect Socialist property, not to vandalize public and private properties, not to steal properties for private use, not to take advantage and beg for favors, not to organize violent gangs to bully, and not to escape the center or organize escapes.
- **Article 5:** [Detainees are ordered] to practice a civilized lifestyle and a healthy culture. No swearing, lying, no shaving the head, no trouble-causing [behavior] to jeopardize solidarity. [Detainees are ordered] to maintain personal and public hygiene and keep their belongings in good order.

- **Article 6:** The infiltration, possession, circulation and use of depraved cultural products [i.e. publications], sharp objects, bank notes, precious metal and gemstones, drugs, alcoholic drinks and other stimulating substances is strictly prohibited; no trading of personal belongings in any form.
- **Article 7:** All acts of abuse and corporal punishment are absolutely prohibited. [Detainees must] not create a tattoo on anyone nor let anyone give them a tattoo. Homosexual abuse is prohibited.
- **Article 8:** Trainees exiting the center's gate must dress decently in uniform with hair well-groomed. When receiving visitors, trainees must maintain a polite and courteous attitude, not harassing nor making demands of their family.
- **Article 9:** All trainees currently undergoing rehab treatment at the center must comply absolutely with the above regulations. Violations will be strictly dealt with.

Director  
(signed)  
Dang Thanh Van

Former detainees described severe beatings and other forms of physical violence as “normal life” in Ho Chi Minh City’s drug detention centers. Dong Van was detained for over four years in Center No. 5.

If we opposed the staff they beat us with a one-meter, six-sided wooden truncheon. Detainees had the bones in their arms and legs broken. This was normal life inside.<sup>198</sup>

Former detainees reported being beaten to “welcome” them to the center.<sup>199</sup> Trung Khanh spent three years in Center No. 2 in Lam Dong province. He reported:

When I first arrived I was beaten for no reason at all. The staff made me lie down on my stomach and they beat my buttocks with a truncheon. I was also struck with their hands and kicked.<sup>200</sup>

<sup>198</sup> Human Rights Watch interview with Dong Van, Ho Chi Minh City, 2010. Also Human Rights Watch interview with Muong Nhe, Ho Chi Minh City, 2010.

<sup>199</sup> Human Rights Watch interviews with Xuan Truong, Trung Khanh, and Cua Lo, Ho Chi Minh City, 2010.



Centers commonly issue a detailed list of internal rules (such as those detailed above). Although physical beatings are not sanctioned punishments, infringements of center rules commonly result in staff beating detainees with truncheons. Truc Ninh, in her late 20s when she was detained, told Human Rights Watch of being beaten for gambling.

The supervisor took me to the management room and said that I couldn't play cards and gamble alone so I should tell him who I played with. I didn't tell him. He put me face down on a bed and beat my buttocks twice with a truncheon. I cried out. He said that was a warning.<sup>201</sup>

Cua Lo, who was released in early 2010, was beaten by staff at Center No. 5 while being interrogated about selling tobacco.

I was hit on the buttocks and the legs while lying face down on a table. I was also kicked and slapped.<sup>202</sup>

Some infractions of center rules are punished with forms of physical abuse that constitute torture. Tien Du said he was tortured to reveal how he smuggled tobacco into a center.

Once when I worked outside the center I got some tobacco and I brought it into the center. I was caught. They questioned me about my supply and who gave it to me. I was beaten by staff with a wooden truncheon, struck by hand, and kicked when I was being questioned. This went on for hours. At the beginning I told them that I didn't keep any tobacco but in the end I had to say I did. Then I had to stay in the punishment room for a month.<sup>203</sup>

Human Rights Watch received reports of electric batons being used on detainees as punishment. Con Cuong, who was in his mid-20s when he was detained in Center No. 4, said he was tortured as punishment for using drugs in detention and to force him to divulge information about where he got them. He said:

In the camp I injected drugs. When I tested positive for drugs I was taken for questioning to determine where I got the drugs. The staff beat me with

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<sup>200</sup> Human Rights Watch interview with Trung Khanh, Ho Chi Minh City, 2010.

<sup>201</sup> Human Rights Watch interview with Truc Ninh, Ho Chi Minh City, 2010.

<sup>202</sup> Human Rights Watch interview with Cua Lo, Ho Chi Minh City, 2010.

<sup>203</sup> Human Rights Watch interview with Tien Du, Ho Chi Minh City, 2010.

truncheons on my legs and used an electric baton to shock me on my back. This lasted over half a day. Then they put me in the punishment room with over twenty others, including those who had refused to work.<sup>204</sup>

Former detainees also told Human Rights Watch they were tortured after failed escape attempts. Quynh Luu, who tried to escape by swimming across a river, described what happened when he was caught:

First they beat my legs so that I couldn't run off again. Then they took me back to the center and put me into the punishment room. They shocked me with an electric baton. They kept me in the punishment room for a month.<sup>205</sup>

Huong Son, in his late 30s, was released in late 2009 after four years in detention. He told Human Rights Watch of a similar experience after trying to escape. He turned himself in to police and was returned to the same center, where he was punished.

On my return [to the center] I was kicked in the flanks and got an electric baton applied to my neck by the staff. I fainted.<sup>206</sup>

Severe violence against those who attempt escape appears intended to serve both as a punishment and an example to other detainees. Cam Khe was in his mid-20s when he was detained in a center in Ninh Thuan province. He told Human Rights Watch:

Punishment for escaping was the worst. I saw a beating that frightened me. The staff beat the escapee with their fists, kicked him and tied him to the flagpole in the sun.<sup>207</sup>

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. Huong Son described the use of detainee guards to enforce discipline in the Phuoc Binh center:

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<sup>204</sup> Human Rights Watch interview with Con Cuong, Ho Chi Minh City, 2010.

<sup>205</sup> Human Rights Watch interview with Quynh Luu, Ho Chi Minh City, 2010.

<sup>206</sup> Human Rights Watch interview with Huong Son, Ho Chi Minh City, 2010.

<sup>207</sup> Human Rights Watch interview with Cam Khe, Ho Chi Minh City, 2010.

We had detainee guards. They were chosen by the staff. They were meant to observe us, prevent fights, lead us to work, and show us what to do. They beat other detainees for smoking and fighting. They had permission to strike us with their hands and with steel or plastic truncheons. This happened both in private and in public. I think I saw 20 or 30 beatings.<sup>208</sup>

### *Disciplinary Rooms (Phong Ky Luat)*

The decrees that govern drug detention centers provide that infringement of center rules—including refusal to work—can be punished by “education in a disciplinary room.”<sup>209</sup> Time spent in such a room is supposedly limited to seven days.<sup>210</sup> In reality, it is often longer—and the experience more brutal—than regulations allow.

Former detainees 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. Some former detainees describe how gangs of other detainees rule these punishment rooms.

The other extreme is solitary confinement cells—usually small, cramped cells where a detainee is held in isolation, sometimes in shackles.<sup>211</sup> 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.<sup>212</sup>

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<sup>208</sup> Human Rights Watch interview with Huong Son, Ho Chi Minh City, 2010.

<sup>209</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 70 [translation by Human Rights Watch]. See also Decree 94/2009/ND-CP, October 26, 2009, art. 31(2).

<sup>210</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 70; Decree 94/2009/ND-CP, October 26, 2009, art. 31 (2).

<sup>211</sup> Human Rights Watch interviews with Lang Giang and Muong Nhe, Ho Chi Minh City, 2010.

<sup>212</sup> 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.

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).

Ly Nhan described being locked in a punishment room for three months while detained at the Nhi Xuan center.

It was a 10 by 15 meter room. There were usually about 20 people, being held there for one to six month terms. Rice was restricted. We worked longer hours with more strenuous work, had little water and wore the clothes of those who lived there before us. There were no visitors allowed and the room was locked most of the time. I spent three months there: it was very hard.<sup>213</sup>

Vu Ban was detained in Center No. 2.

There were 10 to 40 people in this [punishment] room at one time. They got no visitors or extra money from visitors. They slept on mats on the floor instead of in beds and they had no mosquito nets or blankets. They were locked in except when working. They worked longer hours with no lunch break.<sup>214</sup>

Some former detainees told Human Rights Watch that the people locked in the punishment room in the center where they were held were not allowed to work and spent all but 30 minutes of each day locked up. Quynh Luu explained that he was beaten and shocked with an electrical baton after attempting to escape from Center No. 3. For this he was locked in a punishment room for one month.

There were 20 of us in a four meter by four meter room. We all slept on the floor. Except for a half an hour in the morning, when they let you out to go to the toilet, we were locked in all day long.<sup>215</sup>

Placement in a solitary confinement cell is often considered an even more severe form of punishment. Cho Don, in her late 20s when detained, described the solitary confinement cell in Phu Van center.

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<sup>213</sup> Human Rights Watch interview with Ly Nhan, Ho Chi Minh City, 2010.

<sup>214</sup> Human Rights Watch interview with Vu Ban, Ho Chi Minh City, 2010.

<sup>215</sup> Human Rights Watch interview with Quynh Luu, Ho Chi Minh City, 2010.

No cash was allowed in the center.... My friend used cash in the center so she was sent [to the solitary confinement cell]. It was about two meters by two meters with a small seat and small window. A toilet hole led outside. You could be held alone there for one to four months.<sup>216</sup>

Lang Giang, also in her late 20s when detained, described the solitary confinement cell in the same center.

Big infractions [of center rules] were punished by sending a woman to the solitary confinement cell. This was a two meter by two meter room where she was ankle shackled. One woman spent three months there for picking a fight with another detainee over the choice of group leader.<sup>217</sup>

Few of the former detainees whom Human Rights Watch talked to had been held in a solitary confinement cell. One who had is Tra Linh; she was locked in a solitary confinement cell in Trong Diem center (now inactive as a drug detention center) for one month after trying to escape.

When I was caught I was beaten with a truncheon and then locked alone in the solitary confinement cell for one month. It was bad. There was no water in the toilet or for showering or feminine hygiene. I was given only rice and soy sauce for food, no meat or fish. I saw only the guards and the detainee who delivered my food tray. At night I had no blanket and I was cold and hungry and afraid of ghosts.<sup>218</sup>

### *Legal Standards*

International law prohibits all forms of ill-treatment described in this report. According to the International Covenant on Civil and Political Rights, “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.”<sup>219</sup>

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<sup>216</sup>Human Rights Watch interview with Cho Don, Ho Chi Minh City, 2010.

<sup>217</sup> Human Rights Watch interview with Lang Giang, Ho Chi Minh City, 2010.

<sup>218</sup> Human Rights Watch interview with Tra Linh, Ho Chi Minh City, 2010.

<sup>219</sup> ICCPR, arts. 10 and 7. Vietnam acceded to the ICCPR on September 24, 1982.

The UN's Standard Minimum Rules for the Treatment of Prisoners states that "[c]orporal punishment ... and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences."<sup>220</sup> It also states that "[n]o prisoner shall be employed in any disciplinary capacity."<sup>221</sup>

Some of the ill-treatment unquestionably constitutes torture. For example, the special rapporteur on torture has considered administration of electric shocks and beatings (including blows with a bludgeon) a form of torture.<sup>222</sup>

The conditions of small group confinement and solitary confinement in Ho Chi Minh City's drug detention centers—with overcrowded rooms/prolonged periods of solitary confinement, restricted food and/or water, restricted access to bathing and prohibited family visits—all deny detainees the ability to carry out a minimum range of activities that are fundamental parts of human life.

The practice of locking detainees in punishment rooms or solitary confinement cells without releasing them, or releasing them for only 30 minutes a day, does not comport with the minimum outdoor time stipulated by the Standard Minimum Rules.<sup>223</sup>

Particularly harsh conditions of detention, including deprivation of food, constitute inhuman conditions of detention in violation of the ICCPR.<sup>224</sup> The UN Minimum Standard Rules for the Treatment of Prisoners provides: "Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served."<sup>225</sup>

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<sup>220</sup> U.N. Standard Minimum Rules for the Treatment of Prisoners, para. 31.

<sup>221</sup> *Ibid.*, para. 28(1).

<sup>222</sup> Report of the U.N. Special Rapporteur on Torture (1986), E/CN.4/1986/15, para. 119.

<sup>223</sup> Article 21(1) states, "Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits." U.N. Minimum Standard Rules for the Treatment of Prisoners, art 21(1).

<sup>224</sup> Manfred Nowak, U.N. Covenant on Civil and Political Rights, CCPR Commentary (2nd edition) (Kehl: N.P. Engel, 2005), pp. 165, 172 - 175, 244 - 9. See for example cases against Uruguay such as *Buffo Carball v. Uruguay*, No. 33/1978, *Massiotti v. Uruguay*, No. 25/1978; Madagascar: *Marais v. Madagascar*, No. 49/1979, *Wight v. Madagascar*, No. 115/1982; Jamaica: *Robinson v Jamaica* No. 731/1996, *Pennant v Jamaica*, No. 647/1995; Russia: *Lantsova v Russian Federation*, No. 763/1997.

<sup>225</sup> Para. 20(1).

According to the regulations that govern Vietnam’s drug detention centers, “any act infringing upon the body, health, honor and dignity of any individual who has been taken into the rehabilitation center” is strictly prohibited.<sup>226</sup>

## Abuses against Children

The Vietnamese government reported that in 2007, 3.5 percent of detainees in Ho Chi Minh City centers were children.<sup>227</sup> Like adults, children can be detained for between one to two years.<sup>228</sup> Decree 135 of 2004 requires that detained children must take part in “therapeutic labor.”<sup>229</sup> 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.<sup>230</sup>

### *Forced Labor*

Huu Lung was a child—i.e. under 18 years 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.<sup>231</sup>

Dinh Lap, a man in his forties, told Human Rights Watch that children were forced to work alongside him at Center No. 5 in Dak Nong province. Like others, they were forced to work by beatings.

There were some boys 16 and 17. I think there were younger ones too but I'm not sure. They were treated exactly the same as adults. We lived the

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<sup>226</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 6.

<sup>227</sup> 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.

<sup>228</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 24.

<sup>229</sup> 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,” [translation by Human Rights Watch].

<sup>230</sup> Decree 94/2009/ND-CP, October 26, 2009, art. 17(1).

<sup>231</sup> Human Rights Watch interview with Huu Lung, Ho Chi Minh City, 2010.

same, ate the same, and worked the same. If you refused to work you were beaten by the staff or by the team leader chosen by the staff or both. Sixteen and seventeen year olds were beaten the same as adults.<sup>232</sup>

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.<sup>233</sup>

However other former detainees said that work was compulsory and additional to educational study. 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 bamboo furniture, bamboo products, and plastic drinking straws. We were paid by the hour for work: eight-hour days, six days a week.<sup>234</sup>

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.

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.<sup>235</sup>

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

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<sup>232</sup> Human Rights Watch interview with Dinh Lap, Ho Chi Minh City, 2010.

<sup>233</sup> For example, Human Rights Watch interviews with Tan Uyen and Can Loc, Ho Chi Minh City, 2010.

<sup>234</sup> Human Rights Watch interview with Luc Ngan, Ho Chi Minh City, 2010.

<sup>235</sup> Human Rights Watch interview with Thai Hoa, Ho Chi Minh City, 2010.



In my room there were about 30 females and in my section 300. Among the people in my room there were only 4 of us over 20. Among the 14 to 16 year olds that I lived with, they all had to work...

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.<sup>236</sup>

### *Beatings and Ill-Treatment*

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 6 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.”<sup>237</sup>

### *No Separation from Adults*

A number of former detainees reported that children were detained in the same cells as 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.<sup>238</sup>

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.<sup>239</sup>

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<sup>236</sup> Human Rights Watch interview with Ba Che, Ho Chi Minh City, 2010.

<sup>237</sup> Human Rights Watch interview with Can Loc, Ho Chi Minh City, 2010.

<sup>238</sup> Human Rights Watch interview with Tan Uyen, Ho Chi Minh City, 2010.

<sup>239</sup> Human Rights Watch interview with Con Cuong and Thai Hoa, Ho Chi Minh City, 2010.

## *Legal Principles*

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.”<sup>240</sup>

Just as with adults, all children detained must be treated with dignity and there is an absolute prohibition on subjecting a child to torture or to cruel, inhuman or degrading treatment or punishment.<sup>241</sup>

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.”<sup>242</sup> 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.<sup>243</sup> 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.<sup>244</sup> The Committee on the Rights of the Child has said that states should therefore develop non-institutional forms of treatment for children.<sup>245</sup>

The detention of persons under age 18 in the same facilities as adults is prohibited under international human rights law and Vietnamese law.<sup>246</sup> The decrees governing drug detention centers require children to be detained in separate areas.<sup>247</sup>

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<sup>240</sup> 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.

<sup>241</sup> ICCPR art. 7; CRC art. 37(a). See also Special Rapporteur on torture and other cruel, inhuman or degrading treatment, Report to General Assembly 2000, A/55/290, paras. 11 and 12, <http://www.un.org/documents/ga/docs/55/a55290.pdf> (accessed July 28, 2009).

<sup>242</sup> CRC, art. 37(b).

<sup>243</sup> CRC, art. 37(d).

<sup>244</sup> 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/a40r033.htm> (accessed July 28, 2011).

<sup>245</sup> 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.

<sup>246</sup> ICCPR, art 10(2) and 10(3); CRC art. 37(c); Drug law, arts. 29(2) and 31.

The CRC guarantees all children the right “to be protected from economic exploitation and from performing any work that is likely to be ... harmful to the child’s health or physical, mental, spiritual, moral or social development.”<sup>248</sup> 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.<sup>249</sup>

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.<sup>250</sup> 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.<sup>251</sup>

## Drug Treatment

Khoai Chau is a woman in her early 30s who spent two years in Center No. 1 in Dak Nong province. Her assessment of the drug treatment available in her center was blunt:

Other than the labor there was no help for addiction. I worked until the time expired and then I went home.<sup>252</sup>

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<sup>247</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 52(1).

<sup>248</sup> Convention on the Rights of the Child, art. 32(1).

<sup>249</sup> 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.

<sup>250</sup> 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=o> (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.

<sup>251</sup> ILO Convention No. 182, art. 7.

<sup>252</sup> Human Rights Watch interview with Khoai Chau, Ho Chi Minh City, 2010.

Some centers implement what are termed “collective therapy” classes.<sup>253</sup> Cua Lo spent 18 months in Center No. 5 in Dak Nong province. He explains that the content of the classes in his center involved the portrayal of drugs as a “social evil.”

They talked to us a lot about the evils of drug use, how it got more serious with time, and how people with addictions spent more and more money and then robbed people. We sometimes shouted slogans, maybe once every few months. Usually we just worked.<sup>254</sup>

Huong Son, who was released in late 2009, told Human Rights Watch that marching while chanting slogans was the only attempt at drug dependency treatment at Phuoc Binh.

No treatment for the disease of addiction was available there. Once a month or so we marched around for a couple of hours chanting slogans.<sup>255</sup>

Thai Hoa related that morning exercises at his center involved shouting the slogan “Try your best to quit drugs!” three times.<sup>256</sup> Similarly, Kinh Mon explained he had to shout “Healthy! Healthy! Healthy!” while performing morning exercises.<sup>257</sup>

## Legal Principles

The right to health includes the principle of treatment following informed consent. Article 12 of the International Covenant on Economic, Social and Cultural Rights addresses the right to health which the Committee on Economic, Social and Cultural Rights deems to include “the right to be free from ... non-consensual medical treatment and experimentation.”<sup>258</sup> The special rapporteur on the right to health has stated that:

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<sup>253</sup> According to law, “collective therapy” classes include: “Arranging for drug addicts to study about morality, life styles, citizen rights and responsibilities, learning about the Drugs Law as well as other legal documents, enforcing a healthy way of behavior and living free from drugs.” Ministry of Labor and Ministry of Health, Interministerial Circular No. 41/2004/TTLT/BLDTBXH-BYT dated December 31, 2010, art. 5 [translation by Human Rights Watch].

<sup>254</sup> Human Rights Watch interview with Cua Lo, Ho Chi Minh City, 2010.

<sup>255</sup> Human Rights Watch interview with Huong Son, Ho Chi Minh City, 2010 .

<sup>256</sup> Human Rights Watch interview with Thai Hoa, Ho Chi Minh City, 2010.

<sup>257</sup> Human Rights Watch interview with Kinh Mon, Ho Chi Minh City, 2010.

<sup>258</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200 A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1996), 993 U.N.T.S. 3, entered into force January 3 1976, accede to by Vietnam on September 24, 1982. The Committee on Economic, Social and Cultural Rights is the U.N. body responsible for monitoring compliance with the ICESCR. U.N. Committee on Economic, Social and Cultural Rights, General Comment No. 14: The right to the highest attainable standard of health, UN Doc. E/C.12/2000/4, adopted August 11, 2000, para. 34.

Informed consent is not mere acceptance of a medical intervention, but a voluntary and sufficiently informed decision, protecting the right of the patient to be involved in medical decision-making, and assigning associated duties and obligations to health-care providers. Its ethical and legal normative justifications stem from its promotion of patient autonomy, self-determination, bodily integrity and well-being.<sup>259</sup>

As the World Health Organisation (WHO) and the United Nations Office on Drugs and Crime (UNODC) note, “only in exceptional crisis situations of high risk to self or others, compulsory treatment should be mandated for specific conditions and periods of time as specified by the law.”<sup>260</sup>

Compulsory treatment in such exceptional circumstances can only be legally justified if the treatment provided is scientifically and medically appropriate. Absent such conditions, there is no justification for compulsory treatment.

The CESCR has stated that a state’s health facilities, goods, and services amongst others things should be acceptable and of good quality.<sup>261</sup> Forcing people to undergo supposed “treatment” that is not evidence-based violates this requirement.

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<sup>259</sup> Special Rapporteur on the Right to Health, “Report to the General Assembly, August 10, 2009,” UN Doc. A/64/272, para. 9.

<sup>260</sup> UNODC/WHO, “Principles of Drug Dependency Treatment,” March 2008, p.9.

<sup>261</sup> CESCR General Comment No. 14, para. 12.

### III. External Involvement

#### Overview

Although the Vietnamese government bears responsibility for the human rights abuses described in this report, the involvement of external organizations raises serious ethical concerns and, in some cases, may indirectly facilitate human rights abuses.

Several external organizations—bilateral and multilateral donor agencies, UN agencies, and international and national NGOs—provide detainees with HIV prevention information and/or HIV treatment and care in centers, or fund government authorities to do so. Some organizations provide drug dependency services for detainees. Other organizations fund training and capacity building for center staff on drug dependency services and/or HIV related issues.

The human rights concerns that some projects raise are particularly stark. For example, both the US government and United Nations Office of Drugs and Crime have funded training for government addictions counselors on the principle that drug treatment “does not have to be voluntary to be effective.”<sup>262</sup>

Implementing agencies and the donors who support them do not seem to have systems in place to report any human rights abuses that project staff would likely witness if present in the centers. More generally, different forms of involvement in centers (whether direct or indirect) builds the capacity of such centers, thus undermining the need to close them. Funding the provision of healthcare services, irrespective of intention, also effectively has the impact of subsidizing the costs of detention, which means the centers can be more profitable.

In the course of researching this report, Human Rights Watch wrote to a number of external donors and implementing organizations requesting information about their involvement in the centers and specific information about their mechanisms for monitoring for human rights abuses against detainees. A number did not respond to Human Rights Watch’s correspondence by the time this report went to print.

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<sup>262</sup> UNODC, “Advanced Level Training Curriculum for Drug Counsellor,” 2008, Handbook 1, p. 31; Family Health International, “Case Management for Recovering Drug Users in Vietnam: A Training Curriculum Participants Manual” March 2009, p. 74. Both the World Health Organization (WHO) and the United Nations Office on Drugs and Crime (UNODC) note, “only in exceptional crisis situations of high risk to self or others, compulsory treatment should be mandated for specific conditions and periods of time as specified by the law.” UNODC/WHO, “Principles of Drug Dependency Treatment,” March 2008, p.9.

While the exact content of their correspondence varied amongst those who did respond, organizations tended to provide a number of similar responses. Some correspondence did not address certain questions. Other correspondence denied awareness of reports of human rights abuses in the centers, and other correspondence did not identify any specific reporting mechanisms for human rights abuses experienced by detainees or witnessed by project staff in the course of implementing the projects.

Below is a table listing previous or current activities of donors and implementing agencies in drug detention centers in southern Vietnam.

## Major Donors and Specific Projects

DONORS	IMPLEMENTING AGENCIES	DATES	LOCATION (northern centers in parentheses)
US Government (President's Emergency Plan for AIDS Relief/ Centers for Disease Control and Prevention/US Agency for International Development/Department of Labor)	Vietnamese government (Ho Chi Minh City Peoples AIDS Committee)	2006	Nhi Xuan center
	Academy for Educational Development	2005 to 2008	Ho Chi Minh City (and Haiphong, Quang Ninh and other northern centers)
	Family Health International (FHI)	2000 to 2011	Binh Dinh, Dong Nai, Nhi Xuan, Phu Nghia, Phu Duc, Binh Trieu, Duc Hanh, Binh Duc, Phuoc Binh, Phu Van, Bo La (and numerous in northern Vietnam)
US State Department (Bureau of International Narcotics and Law Enforcement Affairs)	Daytop International	1994, 2005 to 2006	Da Nang, Ba Ria- Vung Tau, Dak Lak, Dong Nai, Phu Van, Duc Hanh, Binh Trieu, Soc Trang, Kien Giang, An Giang (and 10 in northern Vietnam)
Global Fund to Fight AIDS, Tuberculosis and Malaria	Government of Vietnam	2008 to present	Currently 30-35 centers across Vietnam, proposed 65 centers
World Bank	Government of Vietnam	2005 to present	An Giang, Ben Tre, Hau Giang, 12 centers under Ho Chi Minh City administration, Khanh Hoa, Kien Giang, Tay Ninh, Tien Giang, Vinh Long, (Bac Giang, Hanoi, Haiphong, Lai Chau, Nam Dinh, Nghe An, Son La, Thai Binh, Thai Nguyen, Thanh Hoa, Yen Bai)
UNODC	Government of Vietnam/ Centre for Community Health and Development (COHED)	2006 to present	Numerous
Australian Agency for	CARE Australia/ Government of	2005 to 2008	Can Tho

DONORS	IMPLEMENTING AGENCIES	DATES	LOCATION (northern centers in parentheses)
International Development (AusAID)	Vietnam	2008 to present	An Giang, Can Tho
Royal Netherlands Embassy	COHED	2003 to 2004	Binh Dinh
Ford Foundation	COHED	2003 to 2005	Khanh Hoa, (Hanoi, Thai Nguyen)
Private	Living Values Education	2002 to present	Numerous

### *The US President's Emergency Plan for AIDS Relief/ US Agency for International Development*

Vietnam is one of 15 countries supported by PEPFAR, a program of the US State Department under the direction of the Office of the Global AIDS Coordinator (OGAC).<sup>263</sup> A number of US government agencies, including USAID, implement PEPFAR's activities in Vietnam.<sup>264</sup> According to USAID:

Approximately \$102 million in PEPFAR funding is expected to be available (for Vietnam) in FY 2011, and then annual allocations are expected to decrease steadily. Vietnam's primary donor for HIV/AIDS programs is the [US government] through PEPFAR, which comprises over 85% of the total HIV/AIDS funding, and of the [US government] agencies managing PEPFAR funds in Vietnam, USAID is the largest implementer.<sup>265</sup>

In correspondence to Human Rights Watch, a USAID official noted that USAID "shares [Human Rights Watch's] concerns about the lack of due process and treatment of detainees, and continues to regularly advocate with the Government of Vietnam for the centers' closure."<sup>266</sup>

<sup>263</sup> PEPFAR began funding projects in Vietnam in 2004.

<sup>264</sup> Other implementing agencies include the US Centers for Disease Control and Prevention (CDC), Department of Defense (DoD) and the Substance Abuse and Mental Health Services Administration (SAMHSA).

<sup>265</sup> USAID, "Request for applications: Pathways for Participation: Strengthening the Civil Society Response to HIV in Vietnam Project," February 2, 2011, p. 17.

<sup>266</sup> Letter from Gregory Beck, acting assistant administrator, bureau of Asia, United States Agency for International Development, to Human Rights Watch, undated [received by Human Rights Watch July 1, 2011].



Between 2003 and 2008, the Academy for Educational Development (AED) implemented the SMARTWork project in Vietnam with funding from USAID.<sup>267</sup> An abstract of a presentation regarding the project given at the 16th International AIDS Conference held in Toronto, Canada (2006), noted that:

Under the PEPFAR program, SMARTWork Vietnam responded to a long-standing request for comprehensive training assistance for the staff of these centres (designated o5 for sex workers and o6 for drug users) in 2005. The project designed and implemented this program for centres in Haiphong, Ho Chi Minh City and Quang Ninh provinces. Outreach training was also conducted for the staff of centres across a number of other northern provinces.<sup>268</sup>

A project description posted on the project website (now inactive) claimed that the AED project worked with a private garment manufacturing company in Ho Chi Minh City “to integrate and transition [injection drug users] from o6 centers into the workforce.”<sup>269</sup> Human Rights Watch wrote to AED seeking further information, but had received no response by the time this report went to print.<sup>270</sup>

Since 2006, PEPFAR has supported FHI to provide HIV and TB screening and care, as well as drug addiction and relapse prevention services, in the Nhi Xuan center (in Ho Chi Minh City) as part of its “transitions program.” FHI has trained center staff in case management and addiction counseling.<sup>271</sup> On its website, PEPFAR lists the Nhi Xuan center as a PEPFAR sub-

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<sup>267</sup> In June 2011, FHI announced it had acquired the programs, assets and other expertise of AED. “FHI and AED Sign Asset Purchase Agreement,” FHI and AED press release, June 8, 2011, <http://www.aed.org/News/Releases/asset-purchase-agreement.cfm> (accessed August 23, 2011).

<sup>268</sup> “Addressing HIV/AIDS capacity needs in sex worker and drug user rehabilitation in Viet Nam: SMARTWork Viet Nam,” P. Burke, Abstract no. WEPE0510, AIDS 2006 - XVI International AIDS Conference, August 13-18, 2006. Copy on file with Human Rights Watch.

<sup>269</sup> SMARTWork, “SMARTWork/Vietnam,” undated, [www.smartwork.org/programs.vn.shtml](http://www.smartwork.org/programs.vn.shtml) (accessed February 17, 2010). Copy on file with Human Rights Watch.

<sup>270</sup> Letter from Human Rights Watch to Gregory R. Niblett, president and chief executive officer, Academy for Educational Development, May 24, 2011.

<sup>271</sup> “HCMC PAC/PEPFAR o6 Center Program, Supporting Prevention, Care and Treatment for o6 Center Residents,” presentation to the Vietnam HIV Technical Working Group Meeting February 11 2009, [http://www.unaids.org.vn/sitee/images/stories/pepfar\\_o6\\_pilot\\_program\\_-\\_nhi\\_xuan\\_center\\_-\\_revised\\_10feb09.pdf](http://www.unaids.org.vn/sitee/images/stories/pepfar_o6_pilot_program_-_nhi_xuan_center_-_revised_10feb09.pdf) (accessed August 23, 2011), presentation and minutes on file with Human Rights Watch; PEPFAR, “Populated Printable Country Operating Plan, 2009, Vietnam,” 2009, p. 115 [www.pepfar.gov/documents/organization/140426.pdf](http://www.pepfar.gov/documents/organization/140426.pdf) (accessed August 23, 2011). In a frank assessment of its “transitions project” in the Nhi Xuan center, FHI reported that “90 percent [of detainees involved in the project] relapsed or were lost to follow-up within 6 months.” See Family Health International, “Evaluation of

partner.<sup>272</sup> Human Rights Watch wrote to FHI to request information on its projects in drug detention centers, but had not received a response by the time this report went to print.<sup>273</sup>

FHI's training is discussed below, in the section entitled "Training in Compulsory Treatment."

PEPFAR also funds the Ho Chi Minh City Provincial AIDS Committee to provide HIV counseling, testing and treatment, as well as "[Injection Drug User] peer education," in the Nhi Xuan center.<sup>274</sup> Human Rights Watch wrote to the Ho Chi Minh City Provincial AIDS Committee seeking further information, but had received no response by the time this report went to print.<sup>275</sup>

In correspondence to Human Rights Watch, USAID confirmed it had funded capacity building for staff from 20 centers (in addition to the Nhi Xuan center) in Hanoi and Ho Chi Minh City, along the following lines:

Training on drug and society for leaders in 06 centers in HCMC and Hanoi...  
[and] [t]raining on drug addiction counseling for counselors in 06 centers in  
Hanoi and Ho Chi Minh City to provide them with counseling techniques and  
skills so that counselors and clients can work together in finding a way to solve  
a client's problem. Relapse prevention skills have also been introduced.<sup>276</sup>

PEPFAR has stated plans to expand the model of the Nhi Xuan project to a further five drug detention centers.

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USAID/Vietnam's support for HIV/AIDS: The FHI Program: HIV/AIDS Prevention, Care and Treatment in Vietnam, Final Report for USAID/Vietnam," 2010, p. 20.

<sup>272</sup> According to the website, "A sub partner is defined as an entity to which a prime partner [in this case FHI] allocates funding." See, for example, PEPFAR, "FY2008 Vietnam partners," <http://www.pepfar.gov/partners/2008/128099.htm> (accessed July 28, 2011). Copy on file with Human Rights Watch.

<sup>273</sup> Letter from Human Rights Watch to Albert Seimens, chairman and chief executive officer, Family Health International, May 17, 2011. Human Rights Watch identified information on earlier projects implemented by FHI in drug detention centers. For example, USAID funded Family Health International (FHI) to implement projects in centers in Binh Dinh province (2000-2002) and Dong Nai (2002-2003). See Family Health International, "HIV/AIDS Prevention and Care in Vietnam: Lessons learned from the FHI/IMPACT Project 1998-2003," 2004, pp. 74- 85, 124-131.

<sup>274</sup> PEPFAR, "Populated Printable Country Operating Plan, 2009, Vietnam," 2009, p. 115. [www.pepfar.gov/documents/organization/140426.pdf](http://www.pepfar.gov/documents/organization/140426.pdf) (accessed August 123, 2011).

<sup>275</sup> Letter from Human Rights Watch to Hua Ngoc Thuan, chairman, Ho Chi Minh City Provincial AIDS Committee, May 2, 2011.

<sup>276</sup> Letter from Gregory Beck, acting assistant administrator, bureau of Asia, United States Agency for International Development, to Human Rights Watch, undated [received by Human Rights Watch July 1, 2011].

The [Nhi Xuan] pilot, while achieving promising results, is limited in scope and coverage. With this in mind, PEPFAR has engaged the Vietnamese government to establish training and in-reach models using existing community-based staff to bring needed pre-release services to residents of five more centers without building additional center infrastructure... <sup>277</sup>

### *US Bureau of International Narcotics and Law Enforcement Affairs*

In correspondence with Human Rights Watch, an official with the US Department of State's Bureau of International Narcotics and Law Enforcement Affairs noted that in 1994 it funded the US-based drug treatment organization Daytop International to provide "one-time drug counseling training" for Ministry of Labor staff.<sup>278</sup>

In 2005 and 2006, INL funded Daytop International training for staff from 20 centers in a series of two month courses between November 2005 and October 2006.<sup>279</sup> The training addressed individual/group counseling methods and therapeutic community processes.<sup>280</sup>

An INL "Information Brief" reports that the 2005-2006 training led to reduced rates of drug use among detainees, measuring drug use prior to detention (100 percent) against drug use of those detainees with whom it apparently still had contact after six months, which was less than 65% of the detainees in the study.<sup>281</sup> It also reports increased staff capacity

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<sup>277</sup> PEPFAR, "Vietnam Country Operational Plan Report: FY2010," March 19, 2010, p. 18, [www.pepfar.gov/documents/organization/145740.pdf](http://www.pepfar.gov/documents/organization/145740.pdf) (accessed July 28, 2011). "In-reach" refers to providing services in detention settings from outside the center.

<sup>278</sup> Letter from Gregory Stanton, demand reduction programme officer, Bureau for International Narcotics and Law Enforcement Affairs, US Department of State, to Human Rights Watch, June 16, 2011.

<sup>279</sup> US Department of State, Bureau of International Narcotics and Law Enforcement Affairs, "Information Brief: Vietnamese Drug Treatment Outcome study," April 2009. Copy on file with Human Rights Watch.

<sup>280</sup> Letter from Gregory Stanton, demand reduction programme officer, Bureau for International Narcotics and Law Enforcement Affairs, US Department of State, to Human Rights Watch, June 16, 2011. The project trained staff from a number of centers covered by this report, including the Duc Hanh center (the location of the photos presented in this report). Danya International, "Effectiveness of INL Drug Treatment Training in Vietnam: A 2008 Follow-Up Study," February 2009. Copy on file with Human Rights Watch.

<sup>281</sup> US Department of State, Bureau of International Narcotics and Law Enforcement Affairs, "Information Brief: Vietnamese Drug Treatment Outcome study," April 2009. The "Information Brief" summarizes research on the training undertaken by Danya International. See Danya International, "Effectiveness of INL Drug Treatment Training in Vietnam: A 2008 Follow-Up Study," February 2009. The study did not identify a control group. The study involved interviewing 615 residents at 30 days after release and (of this number) 392 at 6 months after release. The INL "Information Brief" only reports on the rates of drug use among the 392 people at the 6 month mark (with results showing that among this group, drug use fell from 100 percent "before treatment" to 27 percent six months after release). It appears that 223 former residents were lost to follow-up between 30 days and 6 months after release. If

in the therapeutic community (TC) model and improvements in staff and resident behavior. It recommends that “[t]he TC model should be implemented in all Vietnamese drug treatment centers.”<sup>282</sup> However, certain defining characteristics of the therapeutic community model (people enter on a voluntary basis, people are free to leave, people are not held in government centers) are not present in practice in Vietnamese drug detention centers, a key fact apparently ignored in reaching this recommendation.

### *The Global Fund to Fight AIDS, Tuberculosis and Malaria*

Since 2008, the Global Fund to Fight AIDS, Tuberculosis and Malaria has funded Vietnam’s government to provide HIV and TB prevention, testing, and treatment services in drug detention centers.<sup>283</sup> GF resources have also funded the training of drug detention center staff on drug relapse prevention and HIV and TB prevention, treatment, and care.<sup>284</sup>

In correspondence to Human Rights Watch, the GF executive director summarized the fund’s support to the Vietnamese government in the following terms:

Funds from the Round 9 HIV grant support activities in approximately 30 detention centers, provide antiretroviral treatment to approximately 1,250 patients, and provide voluntary counseling, testing, and other services to 13,500 patients. Funds from the tuberculosis grants support activities in approximately 35 detention centers and provide direct services to 6,000 detainees.<sup>285</sup>

In 2010, Vietnam’s Country Coordinating Mechanism (CCM) sought additional GF money to expand support for training and services in 30 more centers, which would bring the

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rates of return to drug use were high among these 223 former residents, then the overall rates of drug use at the six month mark could be considerably higher.

<sup>282</sup> Ibid., p. 2.

<sup>283</sup> The funds have been provided to the Vietnamese government under HIV/AIDS round 6 (January 2008- March 2010), HIV/AIDS round 8 (beginning April 2010), TB round 9 (beginning January 2011) and HIV/AIDS round 10 (beginning January 2011). Note that Vietnam’s Country Coordinating Mechanism (CCM) and The Global Fund refer to Vietnam’s drug detention centers as “Treatment and Education Centers” or (more recently) as “Training, Education and Social Labor Centers.”

<sup>284</sup> The Global Fund and the Ministry of Health of Vietnam, “[TB round 6] Consolidated Program Grant Agreement,” undated, annex A; The Global Fund and the Ministry of Health of Vietnam, “[TB round 9] Program Grant Agreement,” signed November 25, 2010, annex A; The Global Fund and the Ministry of Health of Vietnam, “[HIV round 6] Program Grant Agreement,” signed October 29 and 30, 2007, annex A; The Global Fund and the Ministry of Health of Vietnam, “[HIV round 8] Program Grant Agreement,” signed November 5, 2009, annex A.

<sup>285</sup> Letter from Michel Kazatchkine, executive director, the Global Fund to Fight AIDS, Tuberculosis and Malaria, to Human Rights Watch, June 11, 2011.

total number of drug detention centers receiving GF support to 65 (over half the total number in Vietnam).<sup>286</sup>

In his correspondence the GF executive director stated, “We strongly reinforce our view that detention centers for drug users and sex workers do not provide effective treatment and rehabilitation and we do not support their use.”<sup>287</sup> He continued:

It is our view, however, that depriving detainees from accessing life-saving treatments and the means to protect themselves from HIV and other preventable conditions is inhuman. Until these centers are closed, the Global Fund will not exclude funding effective, evidence-based HIV prevention and AIDS treatment in the centers if detainees are otherwise unable to access these services.<sup>288</sup>

In the same correspondence, the executive director outlined a recent process of limiting GF funding to the Vietnamese government to a more restricted range of services in drug detention centers than previously funded.

In September 2010, the Global Fund took action to ensure that all activities implemented with funds disbursed under our grants in Viet Nam are compliant with human rights laws, norms and obligations and standards.... First, we reprogrammed existing grants in Viet Nam in late September 2010 such that they focus only on support, treatment and prevention of HIV and TB in detention centers. Second, at the signing of the Round 9 grants in early 2011, we committed to undertake a thorough review of activities conducted with grant funds in Vietnamese detention centers after six months’ implementation of the Round 9 grants. Finally, in early May 2011, we initiated a broad consultative process that will result in a further reprogramming of Global Fund grants in Viet Nam aimed at disallowing all peripheral activities in detention centers.

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<sup>286</sup> Vietnam’s Country Coordinating Mechanism, “Proposal Form, Round 10,” 2010. Country Coordinating Mechanisms (CCMs) include representatives from governments, multilateral or bilateral agencies, non-governmental organizations, academic institutions, private businesses and people affected by the diseases (HIV, TB and malaria) that the Global Fund focuses on. Country Coordinating Mechanisms develop proposals to The Global Fund and oversee implementation of Global Fund grants. The Ministry of Labor is represented on Vietnam’s CCM.

<sup>287</sup> Letter from Michel Kazatchkine, executive director, the Global Fund to Fight AIDS, Tuberculosis and Malaria, to Human Rights Watch, June 11, 2011.

<sup>288</sup> Ibid.

The letter did not provide detailed information about “support, treatment and prevention of HIV and TB in detention centers,” or how the GF would ensure the Vietnamese government abided by this limitation.

### *The World Bank*

Since 2005, the World Bank has funded Vietnamese government authorities to provide HIV prevention, treatment, and care in drug detention centers. The project grant agreement (2005) provides \$35 million to Vietnamese (mostly provincial) government authorities, of which \$1.5 million has been used in drug detention centers.<sup>289</sup>

In correspondence to Human Rights Watch, the World Bank’s country director noted:

The World Bank targeted the centers because avoiding them would have resulted in serious public health risk, including many more infections and deaths. The overriding factor in our decision was the risk to the people in these centers and their right to lifesaving prevention and treatment.<sup>290</sup>

From 2005 to 2010 the World Bank project funded HIV clinics in three centers in what it described as a pilot program.<sup>291</sup> Under this component, funds were provided recruiting temporary consultants (doctors and nurses) and renovating health clinics and medical equipment. As a separate component of the same project, government authorities in 20 provinces were given funds to implement various HIV-related services in drug detention centers.<sup>292</sup>

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<sup>289</sup> Development Grant Agreement (Vietnam HIV/AIDS Prevention Project) between Socialist Republic of Vietnam and International Development Association,” IDA Grant Number 152- VN, May 26, 2005, Schedule 2 “Description of the project.” Project documents available via: <http://web.worldbank.org/external/projects/main?Projectid=Po826o4&theSitePK=40941&pagePK=64283627&menuPK=228424&piPK=73230> (accessed July 28, 2011); Letter from Victoria Kwarka, Vietnam country coordinator, The World Bank, to Human Rights Watch, June 9, 2011.

<sup>290</sup> Ibid.

<sup>291</sup> The three centers under this component of the project are centers in Hanoi, Hai Phong and Khanh Hoa. See, for example, [World Bank] Procurement Plan 2007, Vietnam HIV/AIDS Prevention Project, document 41502, p. 5. <http://web.worldbank.org/external/projects/main?pagePK=51351038&piPK=51351152&theSitePK=40941&menuPK=51351213&query=&fromDate=&docType=4&IRISF=&docTitle=&author=&aType=&owner=&origu=&colTitle=&displayOrder=DOCNA%2CDOCDT%2CREPNB%2CDOCTY&callBack=&siteName=PROJECTS&sType=&report=&loan=&trustfund=&projid=Po826o4&credit=&sourceCitation=&projectId=Po826o4&sortDesc=DOCDT&dAtts=DOCDT%2CDOCNA%2CREPNB%2CDOCTY%2CLANG%2CVOLNB%2CREPNME&startPoint=0&pageSize=10> (accessed July 28, 2011).

<sup>292</sup> Development Grant Agreement (Vietnam HIV/AIDS Prevention Project) between Socialist Republic of Vietnam and International Development Association,” IDA Grant Number 152- VN, May 26, 2005, Annex to Schedule 2; Letter from Victoria Kwarka, Vietnam country coordinator, The World Bank, to Human Rights Watch, June 9, 2011.

## *United Nations Office of Drugs and Crime*

In correspondence to Human Rights Watch, UNODC's regional representative noted:

In co-operation with the Vietnamese government, UNODC is engaged to ensure improvements for the treatment of drug users, to protect the human rights of drug users, as well as for them to have access to basic healthcare, prevention and treatment services. UNODC also promotes a shift from compulsory drug treatment services to community-based services.<sup>293</sup>

UNODC has funded the training of drug detention center staff in Vietnam. For example, from 2006-2007 the UNODC country office in Vietnam oversaw a project (I66) training center staff and detainees on HIV prevention.<sup>294</sup> The project was funded to \$55,866 and implemented by the Ministry of Labor and the Vietnamese nongovernmental organization COHED. The project involved training some 550 drug detention center staff and detainees on HIV prevention in over 20 centers.<sup>295</sup>

From 2007-2010 UNODC oversaw a separate project (H68) which aimed to build the capacity of drug treatment services (including counseling, communication, care, and social work) in the community and also in drug detention centers.<sup>296</sup> As part of this project \$134,347 was spent on activities and equipment in drug detention centers. The project has involved training drug detention center staff from 10 provinces in drug addiction and treatment counseling, and also funded drug prevention workshops, films, performances and billboards in various centers.<sup>297</sup> The project also funded allowances and equipment for counselors working in seven centers, as well as study visits to Australia and Malaysia for Ministry of Labor staff and drug detention center staff.<sup>298</sup>

Project H68 is discussed in greater detail below, in the section entitled "Training in Compulsory Treatment."

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<sup>293</sup> Letter from Gary Lewis, regional representative, UNODC, to Human Rights Watch, June 30, 2011.

<sup>294</sup> UNAIDS, "United Nations Office of Drugs and Crime (UNODC) in Vietnam," undated, <http://www.unaids.org.vn/about/cosponsor/unodc.htm> (accessed March 24, 2011).

<sup>295</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>296</sup> The project was slated to end in 2010 although of May 2011 it was listed as active on the UNODC Vietnam website. UNODC, "AD/VIE/H68 - Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level," [http://www.unodc.org/eastasiaandpacific/en/Projects/2006\\_01/rehabilitation.html](http://www.unodc.org/eastasiaandpacific/en/Projects/2006_01/rehabilitation.html) (accessed May 1, 2011).

<sup>297</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>298</sup> Ibid.

### *The Australian Agency for International Development*

AusAID is the Australian government's international development agency. In correspondence to Human Rights Watch, AusAID's director general stated that "Australia believes compulsory drug detention centers should be closed. We have advocated for them to be replaced with community-based support centers."<sup>299</sup>

AusAID's director general also stated: "We will continue to provide services and support to detainees to help improve their circumstances and the spread of the disease [i.e. HIV]. We see this as an important and practical manifestation of harm reduction and human rights in Vietnam."<sup>300</sup>

One of the organizations AusAID funds to work in drug detention centers is CARE Australia, an NGO that works in two southern centers (one near Can Tho city and the other in Ang Giang province).<sup>301</sup> CARE Australia outlined in correspondence to Human Rights Watch that the primary project objectives of this project are i) to reduce transmissible diseases in the centers and the community, ii) increase access to support services for those in the centers,, iii) reduce violence (including gender based violence) in the centers and community, and iv) improve reintegration opportunities for people on release from the centers.<sup>302</sup>

### **Inadequate Attention to Human Rights Abuses**

Based on the widespread and systematic nature of abuses in Vietnam's drug detention centers, it is reasonable to assume that staff of organizations working in the centers will witness some forms of abuse.

Human Rights Watch wrote to donors and implementing agencies requesting, among other things, information on mechanisms for reporting human rights abuses witnessed in the centers or how such agencies would seek redress for victims of those abuses.

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<sup>299</sup> Letter from Peter Baxter, director general, AusAID, to Human Rights Watch, May 30, 2011.

<sup>300</sup> Ibid.

<sup>301</sup> AusAID/CARE, "Striving for Transformation through Empowered People (STEP)," undated. Copy on file with Human Rights Watch. See also CARE Australia, "Vietnam, Help her learn," undated, <http://www.care.org.au/Page.aspx?pid=222> (accessed April 12, 2011). AusAID previously funded CARE Australia in Vietnam for a three year project (2005-2008) in the Can Tho drug detention center. Vietnam HIV Research Network, "Peers Leading Understanding and Support for Positive Living and User- friendly Services (PLUS PLUS)," undated, [http://aids.vn/AIDS\\_en/index.php?option=com\\_project&id=9&task=view&Itemid=70](http://aids.vn/AIDS_en/index.php?option=com_project&id=9&task=view&Itemid=70) (accessed April 12, 2011).

<sup>302</sup> Letter from Julia Newton-Howes, chief executive, CARE Australia, June 21, 2011.



Organizations either did not identify a specific mechanism in their correspondence or did not respond to the inquiry.

Human Rights Watch also sought information on whether organizations funding or providing services in the centers were aware of any reports of human rights abuses against detainees. In their responses, organizations either claimed that they were not aware of any human rights abuses or did not respond to the question.

Omitting any monitoring of the human rights conditions of detainees means that project descriptions, reports, and evaluations routinely point out the success of project activities in drug detention centers while failing to reflect any human rights abuses suffered by project “beneficiaries.” In this way, implementing agencies and the donors who support them risk ignoring the widespread and systematic human rights abuses that their project staff or “beneficiaries” witness.

### *The US President’s Emergency Plan for AIDS Relief/ US Agency for International Development*

In July 2010 PEPFAR issued a policy to guide its HIV funding for people who inject drugs. The policy notes that PEPFAR-supported HIV prevention and intervention strategies “should be carried out in a manner consistent with human rights obligations.”<sup>303</sup> Further, according to US law, USAID, and State Department funds may not be used to provide “assistance for any program, project or activity that contributes to the violation of international recognized workers rights.”<sup>304</sup>

USAID’s monitoring and evaluation indicators for projects in drug detention centers include indicators such as “the number of staff trained per training” and “[n]umber of trainees receiving [behavioral change communication] message[s],” but do not include any human rights indicators.

USAID did not provide any information in response to Human Rights Watch’s request in May 2011 for details on reports of human rights abuses in centers in which it has been involved.<sup>305</sup> Human Rights Watch repeated the request in July 2011 and USAID indicated it

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<sup>303</sup> PEPFAR, Comprehensive HIV Prevention for People Who Inject Drugs, Revised Guidance, July 2010, p. 5.

<sup>304</sup> See FY 2010 Appropriations Act, Sec. 7029. The term “internationally recognized worker rights” includes “a prohibition on the use of any form of forced or compulsory labor” and “and a prohibition on the worst forms of child labor” (which includes forced or compulsory labor of children). See 19 USC. 2467(4).

<sup>305</sup> Letter from Gregory Beck, acting assistant administrator, bureau of Asia, United States Agency for International Development, to Human Rights Watch, undated [received by Human Rights Watch July 1, 2011].

was in the process of preparing a response, although that response was not provided by the time this report went to print.<sup>306</sup>

As noted above, Human Rights Watch wrote to organizations that have implemented USAID-funded projects in drug detention centers (FHI, AED, and the Ho Chi Minh City Provincial AIDS Committee) requesting information on any existing mechanisms to monitor human rights abuses in the centers, or existing reports of human rights abuses against detainees. However, by the time this report went to print Human Rights Watch had not received a response from any of these organizations.<sup>307</sup>

### *US Bureau of International Narcotics and Law Enforcement Affairs*

The US State Department's "Information Brief" on the INL-funded project discussed above makes no reference to the existence of forced labor or other human rights abuses in detention centers.

INL's response to Human Rights Watch's letter did not include any information in relation to the request for details of reports of human rights abuses in centers in which it has been involved.<sup>308</sup> Human Rights Watch wrote to Daytop International to request information on

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<sup>306</sup> Letter from Human Rights Watch to Dr. Rajiv Shah, July 8, 2011, administrator, USAID, requesting a response by July 29, 2011; Letter from Francis Donovan, mission director, USAID in Vietnam, to Human Rights Watch, August 4, 2011.

<sup>307</sup> Letter from Human Rights Watch to Albert Seimens, chairman and chief executive officer, Family Health International, from Human Rights Watch, May 17, 2011; Letter from Human Rights Watch to Gregory R. Niblett, president and chief executive officer, Academy for Educational Development, May 24, 2011; Letter from Human Rights Watch to Hua Ngoc Thuan, chairman, Ho Chi Minh City Provincial AIDS Committee, May 2, 2011.

<sup>308</sup> Letter from Gregory Stanton, demand reduction program officer, Bureau for International Narcotics and Law Enforcement Affairs, US Department of State, to Human Rights Watch, June 16, 2011. Recent State Department reports from bureaus other than INL do identify the existence of forced labor in detention centers. See the US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2010: Vietnam," April 8, 2011, [www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.htm](http://www.state.gov/g/drl/rls/hrrpt/2010/eap/154408.htm) (accessed June 6, 2011). The report states under the heading "Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment" that "[t]he government reported that more than 33,000 drug users were living in forced detoxification labor camps. The overwhelming majority of these individuals were administratively sentenced to two years without judicial review." Under the heading "Arbitrary Arrest or Detention" the report notes that police "can propose that one of five "administrative measures" be imposed by people's committee chairpersons at district and provincial levels without a trial. ...Terms of 24 months were standard for drug users and prostitutes. Individuals sentenced to detention facilities were forced to meet work quotas to pay for services and the cost of their detention." See also US State Department, "Trafficking in Persons Report— 2011: Vietnam," June 27, 2011, <http://www.state.gov/g/tip/rls/tiprpt/2011/164233.htm> (accessed July 11, 2011). The report states, "There continued to be evidence of forced labor in drug treatment centers in which drug offenders, sentenced administratively, are required to perform low-skilled labor, though this practice is reportedly declining."

its projects in drug detention centers, including whether it was aware of reports of human rights abuses against detainees. By the time this report went to print Human Rights Watch had not received a response.<sup>309</sup>

### *The Global Fund to Fight Aids, Tuberculosis and Malaria*

The GF publishes detailed progress reports of the progress of its grants in Vietnam, including services in drug detention centers. For example, as evidence of successful use of the GF money for HIV/AIDS, a progress report notes that 99 percent of detainees in drug detention centers “correctly identify ways of preventing the sexual transmission of HIV and... reject major misconceptions about HIV transmission.”<sup>310</sup> Vietnam’s Country Coordinating Mechanism also reports regularly to the GF on progress made in the number of detainees who are tested for HIV or on HIV treatment.<sup>311</sup>

Vietnam’s CCM does not provide, nor does the GF require, any information on the human rights conditions of detainees. In correspondence to Human Rights Watch, the GF’s executive director stated, “We are fully aware of and share your concerns regarding the nature of activities being funded under our grants in these centers.”<sup>312</sup> He did not provide any information on whether GF had received reports of human rights abuses in drug detention centers in which GF funds have been used.

### *The World Bank*

The World Bank has stated its support for the realization of human rights.<sup>313</sup> Its website notes that “[r]egarding forced labor, the Bank has repeatedly made it clear that it has not and would not support projects in which forced labor was or would be employed.”<sup>314</sup>

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<sup>309</sup> Letter from Human Rights Watch to Aloysius Joseph, vice president, Daytop International, May 24, 2011.

<sup>310</sup> The Global Fund, “[HIV round 8] Grant Performance Report: Vietnam VTN-809-Go7-H,” 2010, p. 12.

<sup>311</sup> See, for example The Global Fund, “[HIV round 8] Grant Performance Report: Vietnam VTN-809-Go7-H,” 2010, p. 12.

<sup>312</sup> Letter from Michel Kazatchkine, executive director, the Global Fund to Fight AIDS, Tuberculosis and Malaria, to Human Rights Watch, June 11, 2011.

<sup>313</sup> The World Bank, “FAQs- Human Rights,” October 2009, <http://web.worldbank.org/WBSITE/EXTERNAL/EXTSITETOOLS/o,,contentMDK:20749693~pagePK:98400~piPK:98424~theSitePK:95474,00.html> (accessed May 1, 2011).

<sup>314</sup> The World Bank, “Core Labor Standards and the World Bank,” June 2000, <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALPROTECTION/EXTLM/o,,contentMDK:20310132~menuPK:390633~pagePK:148956~piPK:216618~theSitePK:390615~isCURL:Y,00.html> (accessed May 1, 2011). A discussion of the World Bank’s relationship with human rights published in 1998 noted: “When the Bank has concerns with the level or kind of child labor in a borrowing country, it raises the issue, with an eye toward helping the government to address the problem. This may take the form of including a provision in

The World Bank claimed monitoring of projects in three drug detention centers in 2005 would “meet the highest ethical standards.”<sup>315</sup> However, human rights abuses were not identified as an indicator for monitoring.

[Monitoring and evaluation] indicators will include specific monitors of program activities (such as the numbers of residents tested, [anti-retroviral therapy] and medications dispensed, patient consultations performed and injecting equipment exchanged and appropriately disposed of) as well as indicators developed to gauge the efficacy of this model of harm reduction integrated with treatment and care (including rates of recidivism, and continuity of patient care).<sup>316</sup>

In correspondence to Human Rights Watch, the World Bank country director stated:

We are not aware of World Bank staff receiving any reports of human rights violations in the drug rehabilitation clinics supported by the Project. If we do receive such a report, we would make this a focus of a supervision mission to ensure all Bank policies are met and that any concerns are fully examined.<sup>317</sup>

### *United Nations Office on Drugs and Crime*

With respect to UNODC, the Charter of the United Nations states that the UN shall promote universal respect for, and observance of, human rights and fundamental freedoms.<sup>318</sup> UNODC is one of six core UN agencies comprising an Inter-Agency Team that forms part of the governance framework of the “United Nations Global Compact on Human Rights, Labour, the Environment and Anti-Corruption” (the Global Compact).<sup>319</sup> Included among the

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lending agreements that the borrower would undertake to enforce its laws where there is good reason to believe that exploitative child labor with negative development effects may occur.” The World Bank, “Development and Human Rights: The Role of the World Bank,” 1998, p. 23.

<sup>315</sup> The World Bank, “Project Appraisal Document on a Proposed Grant in the Amount of SDR 23.1 million (US\$ 35.0 million equivalent) to the Socialist Republic of Vietnam for the Vietnam HIV/AIDS Prevention Project,” Report No. 30319-VN, March 7, 2005, p. 9.

<sup>316</sup> Ibid., p. 38.

<sup>317</sup> Letter from Victoria Kwarka, Vietnam country coordinator, The World Bank, to Human Rights Watch, June 9, 2011.

<sup>318</sup> United Nations Charter, arts. 1(3), 55

<sup>319</sup> The Global Compact is an initiative to encourage businesses to embrace and promote a series of 10 widely accepted principles.

Global Compact's principles are "the elimination of all forms of forced and compulsory labor" (principle four) and "the effective abolition of child labor" (principle five).<sup>320</sup>

In correspondence with Human Rights Watch, UNODC's deputy executive director noted that UNODC's policy (on the handling of reports of human rights abuses witnessed or received by staff or those implementing UNODC projects) is that "any reports will be raised and addressed" and that "[a]n internal policy for UNODC, in the form of a guidance note for our staff, is being prepared and will be distributed to our field network when completed."<sup>321</sup>

The correspondence notes that one of the purposes of UNODC's dialogue with the Vietnamese government is to "improve the quality of treatment services and reduce the likelihood of human rights violations." However, human rights abuses were not identified as an indicator for monitoring.

All UNODC projects have a monitoring and evaluation framework... In the case of the activities conducted in relation to the centers our process indicators have focused on the numbers of staff with improved knowledge about what constitutes effective drug treatment programmes, the number of quality treatment services for drug users, the extent of improved treatment outcomes, the improvement of existing structures and approaches, among others.<sup>322</sup>

Despite monitoring and evaluation of project H68 project sites by UNODC staff, neither UNODC's project documents nor its mid-term evaluation of the project acknowledge that that forced labor occurs in the centers.<sup>323</sup> The sole reference to the issue of labor in the mid-term evaluation of project H68 is the observation that:

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<sup>320</sup> UN Global Compact, "About the UN Global Compact: The Ten Principles," at <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html> (accessed May 1, 2011). These are also Fundamental Principles two and three of the ILO Declaration of 1998 which is binding on all ILO member states.

<sup>321</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>322</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>323</sup> UNODC, "VIEH68: technical assistance to Treatment and Rehabilitation at Institutional and Community Level, 2006 Annual Project Progress Report," 2006; UNODC, "VIEH68: technical assistance to Treatment and Rehabilitation at Institutional and Community Level, 2007 Annual Project Progress Report," 2007; UNODC, "VIEH68: technical assistance to Treatment and Rehabilitation at Institutional and Community Level, 2008 Annual Project Progress Report," 2008; UNODC, "VIEH68: technical assistance to Treatment and Rehabilitation at Institutional and Community Level, 2009 Annual Project Progress Report," 2009; UNODC, "Mid-term Evaluation Report AD/VIE/H68: Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level," 2008, <http://www.unodc.org/unodc/en/evaluation/project-evaluations-2007.html> (accessed April 11, 2011).

[Since the implementation of project activities in the Lao Cai drug detention center] communication between residents and staff has improved, with staff more willing to listen to the specific needs of residents and residents indicating a greater readiness to participate in education and labor programs within the centers.<sup>324</sup>

The deputy executive director's correspondence noted that UNODC staff travel to various drug detention centers to monitor the implementation of project activities, such as counseling services. He also stated that "UNODC has not received any specific reports of suspected human rights violations [in Vietnam's drug detention centers]."<sup>325</sup>

### *The Australian Agency for International Development*

AusAID has stated its "strong support for civil and political rights throughout our aid work" and that it "seeks to maximise the benefits for human rights in all development assistance activities."<sup>326</sup> In response to Human Rights Watch's inquiry on reports of abuses, AusAID's director general commented "AusAID expects officers that become aware of violations of human rights to report those activities to their supervisors," and noted:

We are not aware of any reporting by AusAID staff or those implementing our programs of suspected human rights violations (such as torture and other forms of ill treatment, arbitrary detention, forced labour).<sup>327</sup>

In response to Human Rights Watch's inquiry on reports of abuses, CARE Australia noted that its projects are guided by various codes of conduct, but that those codes do not specifically cover handling suspected human rights violations that staff witness or receive reports about while implementing projects.<sup>328</sup> CARE Australia confirmed that CARE staff routinely visit the centers in An Giang and Can Tho and that staff implementing and overseeing the project had not observed, or been made aware of, any human rights abuses.<sup>329</sup>

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<sup>324</sup> UNODC, "Mid-term Evaluation Report AD/VIE/H68: Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level," 2008, <http://www.unodc.org/unodc/en/evaluation/project-evaluations-2007.html> (accessed April 11, 2011).

<sup>325</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>326</sup> AusAID, "Human rights and Australia's aid program," December 2010, <http://www.ausaid.gov.au/keyaid/humanrights.cfm> (accessed May 1, 2011).

<sup>327</sup> Letter from Peter Baxter, director general, AusAID, to Human Rights Watch, May 30, 2011.

<sup>328</sup> Letter from Julia Newton-Howes, chief executive, CARE Australia, June 21, 2011.

<sup>329</sup> Ibid.

One of the stated project goals is to reduce violence (including gender-based violence) among center residents. CARE Australia reported to Human Rights Watch that an achievement of its project was that “there was no reported violence, including [gender-based violence] inside the 05/06 centers.”<sup>330</sup>

## Training in Compulsory Treatment

Some of the principles of the technical assistance provided by external organizations are directly antithetical to the protection of the human rights of people who use drugs. As noted above, the H68 project has involved training drug detention center staff from 10 provinces in drug addiction and treatment counseling, as well as funding allowances and equipment for counselors working in seven centers.<sup>331</sup> The H68 training manual is made up of five handbooks. The first handbook in the series includes a summary of “evidence-based drug treatment approaches.” As part of that section, the handbook notes:

Treatment does not need to be voluntary to be effective. Sanctions or enticements in the family, employment setting, or criminal justice system can significantly increase treatment entry, retention, and success.<sup>332</sup>

The “case management training manual” for government addictions counselors developed by FHI and funded by PEPFAR/USAID makes the same point.<sup>333</sup>

Human Rights Watch believes that, in a system that routinely forces drug users to undergo compulsory drug treatment in detention *en masse*, without due process, and subjects them to ineffective and abusive forms of drug treatment, training staff in the principle that “treatment does not need to be voluntary to be effective” will perpetuate those abuses.

FHI and USAID/PEPFAR did not respond to questions from Human Rights Watch regarding the use and rationale of their training manual.

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<sup>330</sup> Ibid. Human Rights Watch is surprised by this conclusion which is wholly inconsistent with the frequent reports of violence received from former detainees during the course of researching this report.”

<sup>331</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>332</sup> UNODC, “Advanced level Training Curriculum for Drug Counselor,” 2008, Handbook 1, p. 31.

<sup>333</sup> Family Health International, “Case Management for Recovering Drug Users in Vietnam: A training Curriculum Participants Manual” March 2009, p. 74.

In correspondence with Human Rights Watch, UNODC's deputy executive director noted that "human rights principles, including those relating to privacy and client confidentiality, were included in the [H68] training programme." A question on whether the training discussed forced labor or "labor therapy" was answered "N/A" (i.e. not applicable).<sup>334</sup>

Neither training manual mentions labor therapy or forced labor. Neither training manual mentions the UNODC and WHO position that "only in exceptional crisis situations of high risk to self or others, compulsory treatment should be mandated for specific conditions and periods of time as specified by the law."<sup>335</sup> While WHO and UNODC have stated elsewhere that, "neither detention nor forced labor have been recognized by science as treatment for drug use disorders," that significant point is omitted from both training manuals.<sup>336</sup>

## HIV-Focused Engagement

In 2009, adult HIV prevalence in Vietnam was 0.4%.<sup>337</sup> The HIV epidemic in Vietnam is concentrated among people who inject drugs, female sex workers, and men who have sex with men.<sup>338</sup> HIV prevalence among drug detention center detainees is hard to ascertain with any degree of accuracy. One study that measured HIV prevalence among detainees in six specific centers from 2000 to 2005 recorded rates between 30 and 60 percent.<sup>339</sup>

Many organizations base their involvement in drug detention centers on humanitarian grounds, with the stated position that external donors and their implementing partners have an obligation to relieve the suffering of detainees and provide access for them to life-saving treatment. For instance, the Vietnam CCM's most recent proposal to the GF notes that the requested funding:

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<sup>334</sup> Letter from Sandeep Chawla, deputy executive director, UNODC, to Human Rights Watch, August 10, 2011.

<sup>335</sup> UNODC/WHO, "Principles of Drug Dependency Treatment," p.9.

<sup>336</sup> *Ibid.*, p. 14.

<sup>337</sup> UNAIDS, "Report on the global AIDS epidemic 2010," p. 188, [http://www.unaids.org/globalreport/Global\\_report.htm](http://www.unaids.org/globalreport/Global_report.htm) (accessed July 28, 2011).

<sup>338</sup> *Ibid.*

<sup>339</sup> "Does drug rehabilitation in closed settings work in Vietnam," Duc T. Tran, presentation at Harm Reduction 2009, Bangkok, April 21, 2009, direct attendance by Human Rights Watch researcher. Vietnam's CCM stated that in 2008 the rate of detainees who were HIV positive was an average of 40-50 percent, although in 2010 it claimed that the HIV prevalence rates of detainees was 15-20 percent. Vietnam Country Coordinating Mechanism, "Proposal Form-Round 8," 2008, p. 30; Vietnam Country Coordinating Mechanism, "Proposal Form- Round 10," 2010, p.21.



... is a humanitarian response to the circumstances of [people living with HIV] in these settings, and should not be interpreted as support for the policy of incarcerating [injecting drug users] and [female sex workers].<sup>340</sup>

The issue of HIV in the centers is a serious health and human rights concern. However, under Vietnamese law, ill detainees may be released to receive treatment when the center is unable to provide adequate healthcare services.<sup>341</sup> Thus, in practice, external provision of such services has the perverse impact of facilitating the continued detention of individuals who would otherwise be eligible for release from detention and transferred to a government hospital or returned home for treatment and care.

Responses from a number of donors indicated that this policy is indeed followed. The World Bank's country director noted:

Upon the approval by the health staff at the district level, detainees can be referred to other government health facilities or be sent home for care and treatment if the illness of the detainee is outside the capacity of the clinic... Our understanding is that this policy is in effect. For example, in the 3 rehabilitation centers supported under the pilot program, a total of 221 detainees/patients were transferred for medical treatment in health facilities outside the rehabilitation centers during the period of 2007 to 2010.<sup>342</sup>

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<sup>340</sup> Vietnam Country Coordinating Mechanism, "Proposal Form- Round 10," 2010, p. 3.

<sup>341</sup> Decree 135 of 2004 establishes that people certified as having contracted a serious illness shall be exempt from the decision to detain them or have that decision delayed. The same decree provides, "In cases an individual serving the decision contracted a serious illness or fatal disease that exceeds the caring capacity of the Center for Social Treatment, Education and Labor, he/she shall be transferred to a state run hospital, or returned to the family for caring and treatment. The duration of caring and treatment shall be accounted for as part of the period of serving the decision." The 2009 decree governing post-rehabilitation management has similar provisions. See Decree 135/2004/ND-CP, June 10, 2004, art. 18 and 34(1). Also see Decree 94/2009/ND-CP, October 26, 2009, art. 32(1). The principle that people suffering a serious illness should be released from drug detention has been present in Vietnam's drug detention center regulations since the mid-1990s. See, for example, Decree 20/CP of 1996, art. 36.

<sup>342</sup> Letter from Victoria Kwarka, Vietnam country coordinator, The World Bank, to Human Rights Watch, June 9, 2011. Similarly, AusAID noted, that "During AusAID discussions with the Provincial Government in the three provinces (Hoa Binh, Tuyen Quang, Bac Kan) [i.e. northern provinces in which AusAID funds the project HIV/AIDS Asia Regional Program (HAARP) to work in the centers] we have raised the question of implementation with health and law enforcement officers. We were told by these officials that seriously ill drug users are transferred to provincial health centers or hospitals. We are considering the possibility of HAARP providing funding for Hepatitis B and Hepatitis C treatment in hospitals to which intravenous drug-users that became seriously ill would be transferred as an incentive to implement the decree." Letter from Peter Baxter, director general, AusAID, to Human Rights Watch, May 30, 2011.

Human Rights Watch believes that people living with HIV currently detained in the centers should be released from detention and treated in the community where their HIV infection can be effectively managed and they do not face the abuses they face in detention.

In situations where torture and other forms of inhumane treatment, forced labor, and other human rights abuses are widespread and systematic, healthcare professionals operating there have an ethical obligation to address those human rights abuses.

The World Medical Association's Declaration of Tokyo states that:

The physician shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offense of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives.<sup>343</sup>

The International Council of Nurses' position on "the care of detainees and prisoners" states:

Nurses who have knowledge of abuse and maltreatment of detainees and prisoners [are expected to] take appropriate action to safeguard their rights.... Nurses [are expected to] abstain from using their nursing knowledge and skills in any manner, which violates the rights of detainees and prisoners.<sup>344</sup>

The failure of donors and the implementing partners to monitor the human rights conditions of detainees renders impossible any accurate assessment of the impact of donor's humanitarian assistance. Thus, while donors are driven by a stated intention to relieve detainee suffering, there is no adequate means to assess whether detainee suffering is indeed relieved.

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<sup>343</sup> World Medical Association: Guidelines for medical doctors concerning torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment. Adopted by the 29th WMA Assembly, Tokyo, Japan, October 1975.

<sup>344</sup> International Council of Nurses, "Nurse's role in the care of detainees and prisoners," Geneva, 2006, <http://www.icn.ch/publications/position-statements/> (accessed May 1, 2011). See also International Federation of Social Workers (IFSW), International Association of Schools of Social Work (IASSW), "Ethics in Social Work, Statement of Principles," approved at the General Meetings of the International Federation of Social Workers and the International Association of Schools of Social Work in Adelaide, Australia, October 2004, <http://www.ifsw.org/f38000032.html> (accessed May 1, 2011).

## Capacity Building of Centers

In recent years, some UN agencies and international organizations have begun to express concern about Vietnam's drug detention centers. In a plenary address in July 2010 at the 18th International AIDS Conference (held in Vienna, Austria) the Executive Director of the Global Fund, Dr. Michel Kazatchkine, called for the closure of all compulsory drug detention centers, specifically saying that he had conveyed this message to Vietnamese delegates at the meeting.<sup>345</sup>

This call has been echoed by UNAIDS, UNODC, UNDP, Unicef, WHO, and the UN High Commissioner for Human Rights. The UN Special Rapporteurs on Torture and Health have also spoken out against abuses in drug detention centers; the Director of the Drug Policy Coordination Unit of the European Commission, said: "I believe that [these types of centers] are an abomination."<sup>346</sup>

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<sup>345</sup> "Providing Impact, Promoting Rights. The Global Fund to Fight AIDS, Tuberculosis and Malaria," Michel Kazatchkine, presentation at AIDS 2010 - XVIII International AIDS Conference, July 18-23, 2010. Available at: [www.theglobalfund.org/documents/executive\\_director/ED\\_ProvingImpactPromotingRights\\_Speech\\_en/](http://www.theglobalfund.org/documents/executive_director/ED_ProvingImpactPromotingRights_Speech_en/) (accessed August 23, 2011).

<sup>346</sup> Letter from Michel Sidibé, Executive Director of UNAIDS to Human Rights Watch, March 30, 2010, on file with Human Rights Watch; UN Commission on Narcotics Drugs, "Drug Control, Crime Prevention, and Criminal Justice: A Human Rights Perspective, Note by the Executive Director," E/CN.7/2010/CRP.6\*-E/CN.15/2010/CRP.1, March 3, 2010, [http://www.unodc.org/documents/commissions/CND-Uploads/CND-53-RelatedFiles/ECN152010\\_CRP1-6eV1051605.pdf](http://www.unodc.org/documents/commissions/CND-Uploads/CND-53-RelatedFiles/ECN152010_CRP1-6eV1051605.pdf) (accessed May 12, 2011); Comments by Mandeep Dhaliwal, Cluster Leader: Human Rights, Gender & Sexual Diversities, United Nations Development Programme, "Harm Reduction 2010 The Next Generation: Addressing the Development Dimensions," presentation at the International Harm Reduction Association Annual Conference, Liverpool, April 29, 2010; "Statement of the care and protection of children in institutions in Cambodia," UNICEF East Asia & Pacific Regional Office, June 8, 2010, [http://www.unicef.org/eapro/UNICEF\\_Statement\\_on\\_HRW.pdf](http://www.unicef.org/eapro/UNICEF_Statement_on_HRW.pdf) (accessed May 12, 2011); Email from Gottfried Hirschall, Director of HIV/AIDS Department of WHO to Human Rights Watch, May 6, 2010, on file with Human Rights Watch; "High Commissioner calls for focus on human rights and harm reduction in international drug policy," United Nations Office of the High Commissioner on Human Rights press release, March 10, 2009, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/3A5B668A4EE1BBC2C12575750055262E?opendocument> (accessed May 12, 2011); UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/10/44, January 14, 2009, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.44AEV.pdf> (accessed May 12, 2011); UN General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, A/65/255, August 5, 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/477/91/PDF/N1047791.pdf?OpenElement> (accessed May 12, 2010); Comments by Carel Edwards, Director of the Drug Policy Coordination Unit of the European Commission, in Hungarian Civil Liberties Union, "Abuse in the Name of Treatment- Drug Detention Centers in Asia," video report, 2010, <http://tasz.hu/en/hclu-film/abuse-name-treatment-drug-detention-centers-asia> (accessed May 12, 2011).

At the same time, some international donor agencies and NGOs have provided drug detention centers with capacity building assistance and the provision of HIV and drug dependency treatment services—and continue to do so. Some organizations describe this approach as “a two-track strategy.” One presentation at the 18th International AIDS Conference by Abt. Associates Inc. (a PEPFAR-funded research organization that works on health policy in Vietnam) described it as follows:

- 1) Build evidence base and advocate for systemic change—away from center-based compulsory detoxification and toward voluntary, community-based treatment;
- 2) Realistically, the entire system will not change soon: in the meantime, work to improve conditions and services for people caught in the system.<sup>347</sup>

As part of the strategy to “improve conditions and services in the centers,” the presentation recommended:

- Expand[ing] evidence-based substance abuse treatment in centers:
  - [Methadone maintenance treatment]...
  - Addiction counseling (FHI curriculum)
  - Relapse prevention
  - Meaningful vocational training
  - Transitional programs.<sup>348</sup>

Efforts to improve drug dependency services in the centers along such lines ignore the fact that even if drug dependency treatment in such settings could be made more effective—indeed, even if rates of relapse to drug use could be lowered to zero—what happens in such centers is illegal under Vietnamese and international law.

Some external involvement in drug detention centers has—and continues —to build the capacity of center staff in delivering drug treatment services, in matters as diverse as counseling, relapse prevention, and “positive living” skills. In this way, these so-called two-tracks work at cross-purposes: improving the current system undermines the need for fundamental systemic change.

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<sup>347</sup> “Improving the drug rehabilitation system in Vietnam: a two-track strategy,” T. Hammett, Abstract no. MOAF0204, presentation at AIDS 2010 - XVIII International AIDS Conference, July 18-23, 2010. Presentation on file with Human Rights Watch. Abt. Associates Inc. does not work in Vietnam’s drug detention centers.

<sup>348</sup> Ibid.

## Subsidizing Detention Costs

The current decrees governing drug detention centers explicitly list international aid among the possible sources of drug detention center budgets.<sup>349</sup> Studies have attempted to estimate the economic costs of operating drug detention centers in Vietnam. One such study reported that:

Annual cost per trainee was US\$225 (Yen Bai) and \$630 (Hanoi). Projected annual costs of government plans to place 75% of [injecting drug users] in 06-centres would rise, in Hanoi, from US\$5 million in 2005 to \$10-\$15 million in 2015.<sup>350</sup>

Such studies have concluded that “drug rehabilitation in closed settings is not cost-effective and does not work.” In the course of such studies, it was noted that health-related costs vary greatly from center to center, but were around 10 percent of total costs.<sup>351</sup>

In effect, external involvement offsets many health-related costs of detaining people in drug detention centers, thus making the centers more economically profitable.

## Non-Engagement by Donors

In the course of researching this report, Human Rights Watch wrote to some donors who stated in written responses that they were not engaged in Vietnam’s drug detention centers.

In 2009, the United Kingdom’s Department for International Development (DfID) announced that its existing HIV prevention program in Vietnam would merge with the existing World Bank-funded and government run project identified above.<sup>352</sup> In correspondence to Human Rights Watch, the UK secretary of state clarified that DfID has never funded projects in Vietnam’s drug detention centers and noted:

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<sup>349</sup> Decree 135/2004/ND-CP, June 10, 2004, art. 8; Decree 94/2009/ND-CP, October 26, of 2009, art. 4. A similar provision has been in place since the mid-1990s. See, for example, Decree No. 20/CP on April 13, 1996, art. 5.

<sup>350</sup> “Cost analysis as a tool for assessing options for addressing drug use and related HIV infection in Vietnam,” T. Xuan Sac, et al., Abstract no. WEPEo883, AIDS 2006 - XVI International AIDS Conference, August 13-18, 2006. Copy on file with Human Rights Watch.

<sup>351</sup> “Does drug rehabilitation in closed settings work in Vietnam,” Duc T. Tran, presentation at Harm Reduction 2009, Bangkok, April 21, 2009, attended by Human Rights Watch researcher.

<sup>352</sup> “UK finances Vietnam’s anti-AIDS prevention,” *Nhan Dan online*, June 9, 2009, <http://www.hoiphpn.org.vn/NewsDetail.asp?Catid=122&NewsId=10920&lang=EN> (accessed July 28, 2011).

The UK government opposes the Vietnamese Government's use of such centres, partly of the reasons you have outlined in your letter and partly because this type of approach to the issue of illegal injecting drug use has been found to be expensive, ineffective and often harmful.<sup>353</sup>

An official at the Embassy of Canada in Hanoi clarified that the Embassy of Canada had not conducted specific projects in Vietnam's drug detention centers.<sup>354</sup> Similarly, United Nations Development Programme's (UNDP) regional director for Asia and the Pacific made clear that UNDP has not provided any assistance or support to Vietnam's drug detention centers.<sup>355</sup>

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<sup>353</sup> Letter from Andrew Mitchell, secretary of state for international development, Department for International Development, to Human Rights Watch, May 18, 2011.

<sup>354</sup> Letter from Joya Donnelly, charge d'affaires a.i., Embassy of Canada in Vietnam, to Human Rights Watch, July 19, 2011.

<sup>355</sup> Letter from Ajay Chhibber, UN assistant secretary general, UNDP assistant administrator and regional director for Asia and the Pacific, to Human Rights Watch, June 20, 2011.

## IV. Full Recommendations

### To the Vietnamese Government

#### *Regarding Arbitrary Detention of People who Use Drugs*

- Instruct the Ministry of Labor, Invalids and Social Affairs to release current detainees in Vietnam's drug detention centers, as their continued detention cannot be justified on legal or health grounds.
- Instruct the Ministry of Labor to permanently close Vietnam's drug detention centers.
- Repeal all laws and subsidiary legislation authorizing the "administrative detention" without trial of people who use drugs in drug detention centers.
- Guarantee full cooperation with the UN Working Group on Arbitrary Detention regarding any investigations or inquiries the working group undertakes into practices in the drug detention centers.

#### *Regarding Torture and Ill-Treatment of Detainees in Drug Detention Centers*

- Carry out prompt, independent, thorough investigations into the use of torture, cruel, inhuman or degrading treatment or punishment, and other human rights abuses and criminal acts in Vietnam's drug detention centers. Follow up with appropriate legal action (including criminal prosecution) of identified perpetrators of abuses.
- Provide adequate compensation and medical care to detainees and former detainees for harm to their physical and mental health suffered while in detention.
- Promptly ratify and effectively implement the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment and its Optional Protocol.
- Guarantee full cooperation with the special rapporteur on torture in relation to any investigations or inquiries he undertakes into practices in the drug detention centers.

#### *Regarding the Use of Forced Labor in Drug Detention Centers*

- Instruct the Ministry of Labor to abolish forced labor in drug detention centers.
- Carry out prompt, independent, and thorough investigations into the labor conditions in drug detention centers, as they amount to forced labor in violation of Vietnamese and international law. Follow up abuses and crimes with appropriate legal actions (including criminal prosecution) against those who have committed crimes or other offences against detainees in violation of Vietnamese law.
- Publish a list of all forms of work in which detainees in the centers are involved, which products are processed using detainee labor in the drug centers, and the companies whose products are processed using detainee labor in the drug centers.

- Instruct the Ministry of Labor to provide adequate compensation to detainees and former detainees for the forced labor they performed while in detention.
- Promptly ratify and effectively implement ILO Convention No. 105 (Abolition of Forced Labor).
- To meet the obligations under ILO Convention 29, revise the Penal Code to establish a specific criminal offence applicable to forced labor.

### *Regarding Health Care and Drug Dependency Treatment for Drug Users*

- Instruct the Ministry of Health, the Ministry of Labor, and other relevant ministries and departments, and provincial, district, and commune-level People's Committees, to expand access to voluntary, community-based drug dependency treatment and ensure that such treatment is medically appropriate and comports with international standards.
- Instruct the Ministry of Health, Ministry of Labor, other relevant ministries and departments, and provincial, district, and commune-level People's Committees to expand access to voluntary, community-based drug dependency treatment for children, and ensure that such services are age-specific, medically appropriate, and include educational components.
- Instruct the Ministry of Health, Ministry of Labor, other relevant ministries and departments, and provincial, district, and commune-level People's Committees to expand access to voluntary, community-based drug dependency treatment that addresses the special needs of women and girls who use drugs.
- Guarantee full cooperation with the special rapporteur on the right to health in relation to any investigations or inquiries he undertakes into practices in the drug detention centers.

### **To Vietnamese and Foreign Companies That Have Commercial Relationships with Drug Detention Centers in Vietnam**

- Cease all commercial relationships (including through sub-contractors and sub-sub-contractors) with Vietnam's drug detention centers.
- Establish an internal monitoring process within companies that is responsible for identifying situations in which the company may be failing to respect a range of relevant human rights, including the prohibition on forced labor, illegal child labor, unlawful payment of wages below the minimum wage, exploitative working conditions, etc., and taking the appropriate remedial measures. Monitors should be sufficiently independent of local suppliers.



## **To United Nations Agencies, including UNODC, WHO, OHCHR and UNAIDS**

- Publicly call for: i) detainees 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.
- Review all funding, programming, and activities directed to assisting Vietnam's drug detention centers to ensure no funding is supporting policies or programs that violate international human rights law, including prohibitions on arbitrary detention, forced labor, torture and cruel, inhuman or degrading treatment or punishment.
- Actively encourage the Vietnamese government to expand voluntary, community-based drug dependency treatment and ensure that such treatment is medically appropriate and comports with international standards.
- Support and provide capacity-building projects for drug dependency treatment to Ministry of Health and NGOs.

## **To the Special Rapporteurs on Torture and on the Right to Health**

- Publicly call for: i) detainees 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.
- Request an invitation to visit Vietnam to investigate allegations of human rights abuses by law enforcement officers and staff of drug detention centers in Vietnam against people who use drugs.

## **To the UN Working Group on Arbitrary Detention and the Committee on the Rights of the Child**

- 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.

## **To the Association of Southeastern Nations Inter-Governmental Commission on Human Rights (AICHR)**

- Pursuant to article 4.6 of the AICHR Terms of Reference, publicly call for: i) detainees in Vietnam's drug detention centers to be released, ii) the closure of the centers, iii) an investigation into the allegations of human rights violations occurring inside such centers, iv) holding those responsible for such violations to account, v) reasonable compensation for detainees and former detainees for harm to their physical and mental health suffered while in detention.
- Pursuant to article 4.10 of the AICHR Terms of Reference, request information from Vietnam 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.
- Pursuant to article 4.12 of the AICHR Terms of Reference, prepare a study on the human rights abuses against people who use drugs in drug detention centers in Association of Southeastern Nations member states.

## **To the International Labour Organization**

- Members of the Workers Group on the ILO's governing body should direct the ILO to engage the Vietnamese government to end forced labor in drug detention centers.
- Instruct ILO's Hanoi office to investigate the 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.
- Instruct ILO's Special Action Program to Combat Forced Labor to engage the Ministry of Labor to end forced labor in drug detention centers.
- Instruct ILO's International Programme on the Elimination of Child Labour to engage the Ministry of Labor to end forced labor of children in drug detention centers.
- The Committee on the Experts on the Application of Conventions and Recommendations (CEACR) should issue a direct request to the Vietnamese government concerning the Forced Labour Convention, 1930, soliciting:
  - Relevant legislation regarding drug detention centers
  - Further information regarding the operation of drug detention centers, including whether work (as labor therapy or other rationale) in the centers is voluntary, sanctions (in law and practice) for refusing to work in the centers, actual wages paid to detainees, any charges levied by centers on detainee wages, and use of detainee labor for private enterprises.

- Include the issue of forced labor in drug detention centers in any nationwide survey of forced labor and in any technical cooperation with the Ministry of Labor.

## **To Bilateral and Multilateral Donors and NGOs Assisting Vietnam on Drugs or HIV/AIDS Issues**

- Publicly call for: i) detainees in Vietnam’s drug detention centers to be released, and in particular for the law relating to seriously ill detainees to be implemented so that they can access treatment in the community, 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.
- Review all funding, programming, and activities directed to assisting Vietnam’s drug detention centers to ensure no funding is supporting policies or programs that violate international human rights law, including prohibitions on arbitrary detention, forced labor, torture and cruel, inhuman or degrading treatment or punishment.
- For donors funding capacity building projects on drug dependency treatment for drug detention center staff, or other Ministry of Labor staff who might work in drug detention centers, cease such projects immediately.
- For donors funding HIV or TB-specific projects in Vietnam’s drug detention centers, call for the immediate release of all people living with HIV who are currently in detention centers in accordance with the law, and seek to ensure that they have access to voluntary, community-based healthcare services (including HIV treatment and care and drug dependency treatment if required).
- Support the expansion of voluntary, community-based drug dependency treatment, including appropriate services for women and children.
- Direct support and capacity-building projects for drug dependency treatment to the Ministry of Health and NGOs.

## **To Vietnam’s Trading Partners**

- For countries negotiating or engaged in preferential trade programs with Vietnam, initiate an ongoing review of Vietnam’s eligibility, in light of its protection of the rights of people who use drugs.
- The US trade representative should consider Vietnam’s eligibility for Generalized System of Preferences “developing country” status in light of the practice of forced

labor in Vietnam's drug detention centers, where goods are being produced that may be being exported to the US.

- In light of reports from former detainees of cashew production in at least 11 of the 16 centers under the administration of Ho Chi Minh City authorities, the US Department of Labor should add cashews from Vietnam to its list of goods from around the world that are produced by forced or child labor.
- In the context of negotiations for a free trade agreement between Vietnam and the European Union, the EU should raise with the government of Vietnam the need to end forced labor in drug detention centers before the agreement is finalized.

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## Annex 1: Letter to Minister of Labor, Invalids and Social Affairs

May 2, 2011

Nguyen Thi Kim Ngan  
Minister of Labor, Invalids and Social Affairs  
12 Ngo Quyen,  
Hoan Kiem,  
Hanoi

Via facsimile: +(84-4)38241005

Via email: lasic@molisa.gov.vn

Dear Minister,

Human Rights Watch is an international nongovernmental organization that monitors violations of human rights by states and non-state actors in more than 80 countries around the world.

Human Rights Watch is preparing a report regarding the system of compulsory drug treatment centers in Vietnam. These centers are sometimes referred to as “o6 centers,” “Centers for Social Education and Labor” (*Trung Tam Giao Duc Lao Dong Xa Ho*), “Centers for post-rehabilitation management” (*Trung Tam Quan Ly Sau Cai Nghien*) or “treatment and rehabilitation centers.” Our report explores issues of due process, the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, and forced labor.

Our research to date has documented a number of serious concerns in Vietnamese drug detention centers, including:

People are detained in such centers without due process. Detainees have no practical opportunity to access a lawyer, a hearing, or to appeal the decision to detain them.

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Work in such centers is not optional. According to the laws that govern the operation of Vietnam's drug detention centers, detainees have a legal obligation to abide by the rules of the center, including work regimes. Center directors are authorized to punish detainees for refusing to work.

- Labor in the centers is sometimes unpaid or paid at wages below the minimum wage. Centers also levy charges against detainee's wages for items such as food, accommodation and "managerial fees." These charges often represent a significant amount and, in some cases, all of detainee's wages.
- In many centers, beatings are commonplace. Physical abuse is meted out as punishment for infringements of center rules (including the obligation to work). On occasion, such ill treatment—involving severe beatings of detainees with truncheons or shocks from electric batons—constitutes torture.

We are writing to request descriptive and programmatic information about compulsory drug treatment efforts in Vietnam. Human Rights Watch is committed to producing material that is well-informed and objective. We seek this information to ensure that our report properly reflects the views, policies and practices of the Government of Vietnam regarding the system of compulsory drug treatment.

We hope you or your staff will respond to the attached questions so that your views are accurately reflected in our reporting. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by May 23, 2011.

In addition to the information requested below, please include any other materials, statistics, and government actions regarding the system of compulsory drug treatment in Vietnam that would be important to understand the system.

Thank you in advance for your time in addressing these urgent matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Amon", with a stylized flourish at the end.

Joseph J. Amon MSPH PhD  
Health and Human Rights Division  
Human Rights Watch

We would appreciate any information you can provide regarding the following:

### **Background and Descriptive Information**

1. How many government-run drug treatment centers currently operate in Vietnam?  
Can you provide a listing of the centers, their locations and current residential population? What is their combined capacity?
2. Does the Government of Vietnam intend to increase the number of drug treatment centers in 2011? How many centers will be operational by the end of the year?
3. Please provide data for 2010 and (separately) for 2011 – to date, indicating:
  - How many people were detained in government-run drug treatment centers in Vietnam (separated by sex)?
  - How many people under the age of 18 were detained in government-run drug treatment centers in Vietnam?
  - How many people (or what percentage of the total detainee population) were detained on a compulsory basis?
4. Please provide data for 2010 and (separately) for 2011 – to date, indicating:
  - How many people were detained in government-run drug treatment centers under Ho Chi Minh City administration (separated by sex)?
  - How many people under the age of 18 were detained in government-run drug treatment centers under Ho Chi Minh City administration?
  - How many people (or what percentage of the total detainee population) were detained on a compulsory basis?

### **Legal and Policy Framework**

1. On what legal basis are people detained in drug treatment centers in Vietnam?  
Please specify the provision(s) under Vietnamese law and what legal authority authorizes this detention.
2. Please specify for 2010 and (separately) for 2011 – to date:
  - The number of individual case files submitted by Ward or Commune-level People's Committees to District-level People's Committees in which the Ward or Commune-level People's Committee recommended detention in a drug treatment center;



- The number of submitted individual case files (or a percentage of the total) in which the District-level People’s Committees in fact ordered detention in a drug treatment center;
  - The number of individuals who had legal representation during the process of taking the decision to detain them;
  - The number of people who formerly lodged an appeal of the decision to detain them, and the number of these appeals that were successful.
3. Human Rights Watch understands that children are detained in the same sleeping dormitories as adults in some of the drug treatment centers. Do any centers detain people under age 18 separately from adults? If not, why not? Please provide details about policies and practices for providing treatment, care and support specifically to people under age 18.
  4. Please provide any specific rules, regulations, guidelines, etc. detailing the internal disciplinary regime for infringements of center rules. Specifically:
    - What are the permitted types of discipline for infringements of center rules?
    - Are detainees permitted to discipline fellow detainees?
    - Are forms of corporal punishment permitted by either centre staff or fellow detainees? If so, under what circumstances is corporal punishment used?
    - Can you confirm that electric batons are issued to guards of such centers? What are the policies in place for when such electric batons may be used?
  5. Please specify for 2010 and (separately) for 2011 – to date:
    - The (national government) budget allocation per detainee;
    - For centers under Ho Chi Minh City administration, any additional (e.g. Ho Chi Minh City Department of Labor) budget allocations per detainee;
    - The percentage of the total budget allocation per detainee for food expenditures;
    - The percentage of the total budget allocation per detainee for health-related expenditures.

## **Previous Reports of Abuse**

1. How are reports of ill-treatment of detainees by center staff or fellow detainees addressed and investigated? What punishment or sanctions are given to those found responsible for ill treatment of detainees?

2. How many complaints of ill-treatment have been lodged since 2006? In how many cases have complaints been upheld and sanctions imposed? What sanctions were imposed?
3. Have there been complaints lodged of misuse of or abuse inflicted on detainees by electronic batons? If so, how many? What has been the outcome of the complaints and their investigation?

### **Labor Performed by Detainees**

1. Human Rights Watch understands that detainees perform “labor therapy” in the centers. Please explain the scientific evidence, establishing the therapeutic benefit to people dependent on drugs, upon which the practice of “labor therapy” is based.
2. With respect to “labor therapy” used in centers, please specify for 2010 and (separately) for 2011 – to date:
  - The forms of “labor therapy” used in the centers;
  - The duration of “labor therapy” each day;
  - Any consequences for detainees who refuse to participate in “labor therapy.”
3. How is the requirement that detainees comply with the labor regime in the centers consistent with the provisions of the Labor law of Vietnam outlawing forced labor?
4. Please specify for 2010 and (separately) for 2011 – to date:
  - Were detainees required to fulfill certain work quotas and process a certain amount (pieces, kilos, etc.) per day, and what sort of sanctions, if any, are taken against those who do not meet quotas?
  - What is the average wage for detainees performing “labor therapy”?
  - What monthly charges (such as food, accommodation, ‘management fees’, etc.) are levied on detainee wages?
5. Please specify for 2010 and (separately) for 2011 – to date those companies and private enterprises (Vietnamese or foreign-owned) that have commercial arrangements with the drug detention centers.
6. For centers since 2006, please list those companies and private enterprises (Vietnamese or foreign-owned) that have exported products produced or manufactured in drug detention centers.

7. With respect to vocational training (as distinct from “labor therapy”) performed in centers, please specify for 2010 and (separately) for 2011 – to date:
  - The forms of vocational training offered in the centers;
  - The duration of vocational training each day;
  - Any consequences for detainees who refuse to participate in vocational training;
  - Any compensation for detainees performing vocational training, when products are sold commercially.

## **External Involvement**

1. Which external organizations (such as UN agencies, international and/or national NGOs) are currently providing funding support, operating programs or providing services inside government-run drug treatment centers? In which centers do they operate? If funding, how much funding? If running programs or providing services, please specify the nature of these programs and/or services.

## **Drug Treatment**

1. UN Office on Drugs and Crime (UNODC) and the World Health Organization (WHO) recommend that compulsory drug treatment should only be forced on people “in exceptional crisis situations of high risk to self or others” and that treatment should only be mandated for specific conditions and periods of time. Does government policy take into account this recommendation? If so, please indicate how.
2. What is the Government of Vietnam doing to increase access to voluntary, evidence-based drug treatment provided on an outpatient basis?

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## Annex 2:

# Template of Letters to Companies

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[www.hrw.org](http://www.hrw.org)

[Date]

[Address]

Via facsimile:

Via email:

Dear [Chief Executive Officer of Company],

I am writing to you in reference to research Human Rights Watch is conducting on human rights abuses in Vietnamese drug detention centers. These centers—sometimes referred to as “o6 centers,” “Centers for Social Education and Labor” (*Trung Tam Giao Duc Lao Dong Xa Ho*), “Centers for post-rehabilitation management” (*Trung Tam Quan Ly Sau Cai Nghien*) or “treatment and rehabilitation centers”—hold individuals suspected of drug dependency on a compulsory basis without due process protections or judicial oversight for periods of up to five years. Detainees in drug detention centers may be required to comply with a work regime, and in a number of centers that work regime includes the processing/manufacturing of [product].

In the course of our research, Human Rights Watch has received information that in one such center, [center name, center name in Vietnamese] in [location], [product] was processed/manufactured by the center’s detainees for your company. We have also received information that forced labor and other abuses, including beatings of detainees, are occurring within the center.

We are contacting you to provide you information on the findings of our investigation and to ask you for information on [the company’s] history and current practice of production in Vietnam.

To provide you with an overview, our research to date has documented a number of serious concerns in Vietnamese drug detention centers, including:

- People are detained in such centers without due process. Detainees have no practical opportunity to access a lawyer, a hearing, or to appeal the decision to detain them.
- Work in such centers is not optional. According to the laws that govern the operation of Vietnam's drug detention centers, detainees have a legal obligation to abide by the rules of the center, including work regimes. Center directors are authorized to punish detainees for refusing to work.
- Labor in the centers is sometimes unpaid or paid at wages below the minimum wage. Centers also levy charges against detainee's wages for items such as food, accommodation and "managerial fees." These charges often represent a significant amount and, in some cases, all of detainee's wages.
- In many centers, beatings are commonplace. Physical abuse is meted out as punishment for infringements of center rules (including the obligation to work). On occasion, such ill treatment—involving severe beatings of detainees with truncheons or shocks from electric batons—constitutes torture.

Specifically, in relation to [the company's] operations in Vietnam we would be grateful for the following information:

- Whether [the company] currently or previously has had commercial arrangements with the drug detention centers for the processing/manufacturing of [product].

If so:

- What is or was the contractual basis by which your products are processed/manufactured (e.g., as a contract between [the company] and the center(s), a contract between [the company] and specific government departments or agencies, a sub-contract with a third party, or some other commercial arrangement).
- The scale of [the company's] production in Vietnamese drug detention centers, including, for each center: the total number and type of product produced for each of the years 2006-2011.
- The quality control mechanisms in place and specifically whether [the company's] personnel (or quality control sub-contractors employed by [the company]) visit drug detention centers in Vietnam.
- Methods by which [the company] monitors labor conditions involved in the processing or production of your products.
- The existence of any records or reports detailing labor violations and other concerns about the treatment of workers in drug detention centers in Vietnam,

whether written by [the company] staff, Vietnam government agencies, or other organizations/sub-contractors. Specifically:

- has [the company] established whether workers in such centers are free to leave such centers?
- has [the] established whether people in such centers work on a voluntary basis?
- has [the company] established the details of conditions of work, including health and safety considerations, under which people are working in such centers?
- has [the company] established whether workers in the centers are subject to physical or mental abuse by supervisors or center staff?
- Please provide information on how wages are calculated (e.g., based upon hourly/daily rates or by unit (kilos or pieces)), the average monthly wage for workers producing or manufacturing products for [the company] in drug detention centers, and the corresponding average number of hours worked or kilos produced for that wage. Other than pay, are workers rewarded with any other sort of benefits?
- Are employees required to process a certain amount/number of kilos or pieces per day, and what sort of sanctions, if any, are taken against those who do not meet quotas? Are workers punished for not meeting such production targets by provisions such as withdrawal of food or family visitation privileges, etc.?
- Please provide information on any center-levied charges deducted from detainee wages while processing or producing products for [the company].
- What measures are taken to ensure that there is adequate ventilation, provision of masks and gloves, and medical care for workers who may encounter respiratory problems or other health issues as a result of processing/manufacturing [product]?

We appreciate your attention to this issue and your willingness to provide us the information we have requested above. Any responses or comments you wish to make will be reflected in our reporting and we may publish these responses, and this request, in full. In order for us to take your answers into account in our forthcoming report, we would appreciate a written response by [three to four weeks from the send date].

Sincerely,



Joseph J. Amon, PhD, MSPH  
Health and Human Rights Division  
Human Rights Watch

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# Annex 3: Template of Letters to Donors and Implementers

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[www.hrw.org](http://www.hrw.org)

[Date]

[Organization]

Facsimile:

Email:

Dear [Head of Organization],

I am writing to you in reference to research Human Rights Watch is conducting on human rights abuses in Vietnamese drug detention centers. These centers—sometimes referred to as “o6 centers,” “Centers for Social Education and Labor” (*Trung Tam Giao Duc Lao Dong Xa Ho*), “Centers for Post-Rehabilitation Management” (*Trung Tam Quan Ly Sau Cai Nghien*) or “treatment and rehabilitation centers”—hold individuals suspected of drug dependency on a compulsory basis without due process protections or judicial oversight for periods of up to five years.

We are contacting you to provide information on the findings of our research and to ask you for information on your organization’s projects with or in such centers.

To provide you with an overview, our research to date has documented a number of serious concerns in Vietnamese drug detention centers, including:

- People are detained in such centers without due process. Detainees have no practical opportunity to access a lawyer, a hearing, or to appeal the decision to detain them.
- Work in such centers is not optional. According to the laws that govern the operation of Vietnam’s drug detention centers, detainees have a legal obligation to abide by the rules of the center, including work regimes. Center directors are authorized to punish detainees for refusing to work.

- Labor in the centers is sometimes unpaid or paid at wages below the minimum wage. Centers also levy charges against detainee's wages for items such as food, accommodation and "managerial fees." These charges often represent a significant amount and, in some cases, all of detainee's wages.
- In many centers, beatings are commonplace. Physical abuse is meted out as punishment for infringements of center rules (including the obligation to work). On occasion, such ill treatment—involving severe beatings of detainees with truncheons or shocks from electric batons—constitutes torture.

With respect to dealings that your organization may have with any of these centers, we would be grateful for the following information:

- A description of your organization's current and past projects with or in Vietnam's drug detention centers, including:
  - The total budget and donor for projects related to drug detention centers, by year;
  - The name and location of centers where project-funded activities have occurred, by year;
  - The specific type of activities conducted, by center and by year, including:
    - Any direct and indirect support to individuals held in drug detention centers, and the nature of that support;
    - Any direct and indirect support (including trainings, study tours, conference sponsorship, etc.) to staff in drug detention centers or government of Vietnam employees (including Ministry of Labor, Invalids and Social Affairs staff and healthcare providers) who work in (including on an irregular or part-time basis), or are responsible for drug detention centers, and the nature of that support;
    - Any salary support to staff of drug detention centers, or government of Vietnam employees (including Ministry of Labor, Invalids and Social Affairs staff and healthcare providers) who work in (including on an irregular or part-time basis), or are responsible for, drug detention centers, and the amount of that salary support;
    - Any support for the construction of new, or renovation of existing, physical infrastructure in drug detention centers (including healthcare clinics).
- Whether your organization has any stated policy outlining the legal and/or ethical principles for its involvement in such centers (if so, please provide a copy of this policy);



- Whether your organization is aware that under Vietnamese law, detainees with a serious illness are entitled to be released from the centers where those centers do not have the capacity to provide them with adequate care and treatment. If so:
  - To what extent are you aware of this decree being implemented in the centers where you operate programs? Has your organization considered this legal provision as part of its policy on involvement in such centers (and if so, how); Has your organization ever requested center management (or the authorities responsible for operating drug detention centers) to release any seriously ill detainees, and if so what has been the response? The monitoring and evaluation mechanisms in place for activities related to drug detention centers. Specifically: The indicators to measure progress regarding project goals and activities; Whether staff of your organization routinely or periodically visit drug detention centers in Vietnam;
  - Whether your organization has any stated policy or procedures for the handling of reports of suspected human rights violations witnessed or received by your staff or those implementing your projects (if so, please provide a copy of this policy).

[Following Paragraph only where Applicable]

- [Your organization developed a training curriculum in drug counseling. Please:
  - Identify how many staff of drug detention centers, or government of Vietnam employees (including Ministry of Labor staff and healthcare providers) who work in (including on an irregular or part-time basis) drug detention centers, have been trained in this curriculum;
  - Identify any human rights principles, including due process rights, included in this training (if not included in the training manual, please provide a copy or outline of this training content);
  - Identify any discussion of forced labor or “labor therapy” included in this training (please provide a copy or outline of this training content).]

Please also Describe:

- Any reports of suspected human rights violations (such as torture and other forms of ill treatment, arbitrary detention, forced labor) or illegal acts against detainees in drug detention centers in Vietnam documented by your organization’s staff and the steps taken by your organization in response to such reports;

Please outline any other steps your organization has taken in response to concerns about suspected human rights violations (such as torture and other forms of ill treatment,

arbitrary detention, forced labor) or illegal acts against detainees in drug detention centers in Vietnam.

We welcome your response and any other comments you may wish to bring to our attention regarding our findings, ideally within the next four weeks, by [date]. Any responses or comments you wish to make will be reflected in our reporting and we may publish these responses, and this request, in full.

Sincerely,



Joseph J. Amon, PhD, MSPH  
Health and Human Rights Division  
Human Rights Watch

**Suggested template for information on projects implemented in or with Vietnam’s drug detention centers**

DATE	FUNDER AND BUDGET	CENTER(S)/ LOCATION	PROJECT ACTIVITIES	REPORTS OF HUMAN RIGHTS ABUSES?	ORGANIZATIONAL RESPONSE	ADDITIONAL COMMENTS

## Annex 4: Wage Sheet from Duc Hanh Medical Treatment Center

Duc Hanh Medical Treatment Center  
Accounting Department

List of trainees admitted for more than 12 months serving in productive activity who received an allowance for September 2010

	NAME (removed)	DATE OF ADMITTANCE	A1 (units of cashews of a certain grade)	A2 (units of cashews of a certain grade)	AMOUNT PAYABLE (in VND) = (A1 x VND 1,850) + (A2 x VND 2,050) x 60%	GROSS AMOUNT	ADVANCE FOR SUPPLEMENTARY FOOD EXPENSES FOR OCTOBER (from Sept. 17, 2010 to Oct. 17, 2010)	ACTUAL AMOUNT RECEIVED IN VND (and approx. USD equivalent)
1		2/12/2009	58	76.2	158,106	158,000	30	98,000 (\$5.00)
2		5/2/2009	53	70	144,930	145,000	30	85,000 (\$4.50)
3		9/29/2008	58.8	70.2	151,614	152,000	30	92,000 (\$4.50)
4		6/9/2009	72.4	70.6	167,202	167,000	30	107,000 (\$5.50)
5		6/8/2009	58.6	68.4	149,178	149,000	30	89,000 (\$4.50)
6		5/19/2009	92.2	80	200,742	201,000	30	141,000 (\$7.00)
7		6/17/2009	51.4	68	140,694	141,000	30	81,000 (\$4.00)
8		6/11/2009	85.6	79.8	193,170	193,000	30	133,000 (\$7.00)
9		3/30/2009	85.6	66.2	176,442	176,000	30	116,000 (\$6.00)
10		6/9/2009	17.6	69.4	104,898	105,000	30	45,000 (\$2.50)
11		6/29/2009	18	71.4	107,802	108,000	30	48,000 (\$2.50)
12		6/19/2009	50	39.6	104,208	104,000	30	44,000 (\$2.50)
13		6/18/2009	84.2	80.6	192,600	193,000	30	133,000 (\$7.00)

	NAME (removed)	DATE OF ADMITTANCE	A1 (units of cashews of a certain grade)	A2 (units of cashews of a certain grade)	AMOUNT PAYABLE (in VND) = (A1 x VND 1,850) + (A2 x VND 2,050) x 60%	GROSS AMOUNT	ADVANCE FOR SUPPLEMENTARY FOOD EXPENSES FOR OCTOBER (from Sept. 17, 2010 to Oct. 17, 2010)	ACTUAL AMOUNT RECEIVED IN VND (and approx. USD equivalent)
14		6/16/2009	18.2	69.2	105,318	105,000	30	45,000 (\$2.50)
15		6/11/2009	94	71	191,670	192,000	30	132,000 (\$7.00)
16		5/18/2009	58	86.4	170,652	171,000	30	111,000 (\$5.50)
17		6/15/2009	58.4	77.4	160,026	160,000	30	100,000 (\$5.00)
18		5/29/2009	59.4	77.8	161,628	162,000	30	102,000 (\$5.00)
19		5/18/2009	58.6	69	149,916	150,000	30	90,000 (\$4.50)
20		8/22/2009	52.4	76.2	151,890	152,000	30	92,000 (\$4.50)
21		6/2/2009	12.2	51	76,272	76,000	30	16,000 (\$0.75)
22		6/12/2009	12.2	50.6	75,780	76,000	30	16,000 (\$0.75)
23		4/27/2009	11.8	75.2	105,594	106,000	30	46,000 (\$2.50)
24		4/17/2009	12.8	53.4	79,890	80,000	30	20,000 (\$1.00)
25		8/18/2009	18.4	69.8	106,278	106,000	30	46,000 (\$2.50)
26		5/19/2009	79	72	176,250	176,000	30	116,000 (\$6.00)
27		11/25/2008	68	71	162,810	163,000	30	103,000 (\$5.50)
28		4/10/2009	78.6	79.4	184,908	185,000	30	125,000 (\$6.50)
29		6/10/2009	20.2	70.6	109,260	109,000	30	49,000 (\$2.50)
30		6/18/2009	59.2	77.4	160,914	161,000	30	101,000 (\$5.00)
31		6/19/2009	17.8	61.8	95,772	96,000	30	36,000 (\$2.00)
32		4/21/2009	92.6	80	201,186	201,000	30	141,000 (\$7.50)

	NAME (removed)	DATE OF ADMITTANCE	A1 (units of cashews of a certain grade)	A2 (units of cashews of a certain grade)	AMOUNT PAYABLE (in VND) = (A1 x VND 1,850) + (A2 x VND 2,050) x 60%	GROSS AMOUNT	ADVANCE FOR SUPPLEMENTARY FOOD EXPENSES FOR OCTOBER (from Sept. 17, 2010 to Oct. 17, 2010)	ACTUAL AMOUNT RECEIVED IN VND (and approx. USD equivalent)
33		12/23/2008	90	77.6	195,348	195,000	30	135,000 (\$7.00)
34		6/1/2009	76	76.8	178,824	179,000	30	119,000 (\$6.00)
35		6/12/2009	12.2	68.4	97,674	98,000	30	38,000 (\$2.00)
36		5/28/2009	86.2	75.6	188,670	189,000	30	129,000 (\$6.50)
37		6/11/2009	58.4	76.6	159,042	159,000	30	99,000 (\$5.00)
38		6/9/2009	51.6	63	134,766	135,000	30	75,000 (\$4.00)
39		6/18/2009	91.8	86.8	208,662	209,000	30	149,000 (\$7.50)
40		5/18/2009	60	77.2	161,556	162,000	30	102,000 (\$5.50)
41		6/28/2009	58.2	62.6	141,600	142,000	30	82,000 (\$4.00)
42		5/12/2009	58.6	70.4	151,638	152,000	30	92,000 (\$4.50)
43		5/20/2009	17.8	71.6	107,826	108,000	30	48,000 (\$2.50)
44		6/10/2009	17.8	77.6	115,206	115,000	30	55,000 (\$3.00)
45		4/8/2009	65.4	71.8	160,908	161,000	30	101,000 (\$5.00)
46		5/26/2009	67	88.8	183,594	184,000	30	124,000 (\$6.50)
47		4/8/2009	17.4	62.8	96,558	97,000	30	37,000 (\$2.00)
48		5/13/2009	18.4	63.8	98,898	99,000	30	39,000 (\$2.00)
49		5/13/2009	12.2	72.8	103,086	103,000	30	43,000 (\$2.00)
50		6/11/2009	18	69.4	105,342	105,000	30	45,000 (\$2.50)
51		6/3/2009	18	77.2	114,936	115,000	30	55,000 (\$3.00)

NAME (removed)	DATE OF ADMITTANCE	A1 (units of cashews of a certain grade)	A2 (units of cashews of a certain grade)	AMOUNT PAYABLE (in VND) = (A1 x VND 1,850) + (A2 x VND 2,050) x 60%	GROSS AMOUNT	ADVANCE FOR SUPPLEMENTARY FOOD EXPENSES FOR OCTOBER (from Sept. 17, 2010 to Oct. 17, 2010)	ACTUAL AMOUNT RECEIVED IN VND (and approx. USD equivalent)
52	6/9/2009	17.6	69.8	105,390	105,000	30 60,000	45,000 (\$2.50)
53	5/12/2009	45.6	64.6	130,074	130,000	30 60,000	70,000 (\$3.50)
54	4/13/2009	46.2	53.6	117,210	117,000	30 60,000	57,000 (\$3.00)
<b>Total</b>		<b>2,672</b>	<b>3,828</b>	<b>7,674,408</b>	<b>7,678,000</b>	<b>1,620 3,240,000</b>	<b>4,438,000 (\$228)</b>

October 15, 2010

DIRECTOR LABOR & PRODUCTION	DEPARTMENT OF BOARD OF C SECTION	MANAGEMENT DEPARTMENT	ACCOUNTING	TABULATED BY
Dang Thanh Van Quang	Ta Dinh Chien	Tran Van Phi Chau	Ngo Thuy Que	Tam Nguyen Minh

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*(front cover) Detainees in Duc Hanh have to perform several hours of labor therapy each day, six days a week. Detainees can spend up to four years in such centers.*

*(below) A detainee sorts cashews before they are packed into sacks to be taken outside the center. Detainees are paid well below the minimum wage, and their wages are docked further by charges for food, accommodation, and “management fees.”*

H U M A N  
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W A T C H

## The Rehab Archipelago

### Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam

In Vietnam, people dependent on drugs can be held in government detention centers, where they are forced to perform menial labor for up to four years in the name of “treatment.” Their detention is not subject to any form of judicial oversight. The result is a system of forced labor on a massive scale: between 2000 and 2010, over 309,000 people across Vietnam passed through the centers, all of whom were required to work producing goods for the centers.

*The Rehab Archipelago* is based upon the experiences of 34 former detainees from 14 of the 16 centers under Ho Chi Minh City administration. They describe how they were beaten with wooden truncheons, shocked with electrical batons, and deprived of food and water. Children who use drugs are also held in these centers, where they are forced to work, beaten, and abused.



The report describes some of the industries profiting from so-called labor therapy. Former detainees reported being forced to work in agricultural production, manufacturing, and construction work. Some detainees received no payment for this work. Others were paid at a fraction of the minimum wage, their meager pay reduced further by charges for food, accommodation, and “managerial fees.”

Some international donors have funded the training of center staff in drug dependency treatment, thus undermining the need to end this abusive system. Other donors have supported health interventions inside these centers because of the high number of detainees living with HIV. However, under Vietnamese law, HIV-positive individuals in drug detention centers have a right to be released if the centers cannot provide appropriate medical care. In this way efforts to support HIV treatment in drug detention centers have had the perverse impact of enabling the centers to detain HIV-positive drug users for more time.

Human Rights Watch calls on the Vietnamese government to permanently close its drug detention centers and expand access to voluntary, community-based drug dependency treatment that comports with international standards. Foreign and Vietnamese companies working with Vietnam’s drug detention centers, including through sub-contractors, should cease such relationships immediately. Donors and their implementing agencies should review all funding, programming, and activities directed to assisting Vietnam’s drug detention centers to ensure no funding supports policies or programs that violate international human rights law.