Preventing the trafficking of children into forced labour

A MANUAL FOR LOCAL GOVERNMENT OFFICIALS
**Introduction**

*Blue Dragon Children’s Foundation* (Blue Dragon) has prepared this manual to assist local authorities to combat human trafficking. The manual focuses on issues related to combatting the trafficking of children into exploitative labour situations, where children under the age of 16 years are working extremely long hours, for little or no pay, and in very poor conditions.

The manual includes information on how to:

- identify trafficking
- rescue children from exploitative labour situations
- reintegrate those children back into their families and communities

It also includes information for police on how to build a case to ensure that factories exploiting children are shut down and their owners fined, as well as how to build a case for the criminal prosecution of traffickers.

Although the focus is on domestic trafficking of children into exploitative labour situations, particularly the garment industry, the information may be useful for identifying and preventing the trafficking of adults and trafficking into other industries such as the sex industry.

**AUDIENCE**

This manual has been written for use by Vietnamese government agencies, including police, the Department of Labour, Invalids and Social Affairs (DoLISA), teachers, Women’s Union officials, and village leaders.

**HOW TO USE THE MANUAL**

The manual includes detailed information and case studies. It can be read from start to finish, or you can go directly to a specific section that has the information you need.

For example, commune police might first want to check the section on ‘how to identify if children have been trafficked’ to see if there is a problem in their village.

The case studies provide stories to help local officials understand the reality of the trafficking of children in Vietnam. They are based on real cases of children rescued by Blue Dragon.

**Where to get more information**

If you want more information, or you need help with a case of child trafficking, contact:

**Legal Advocacy Team**

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CHAPTER 1

WHAT IS TRAFFICKING?

Human trafficking is the recruitment, movement, transfer, harbouring, or receipt of any person for the purpose of criminal activities involved in forced labour and sex trafficking or the removal of human organs. Human trafficking involves elements of force, fraud or coercion.

Trafficking may involve movement from one place to another, but trafficking victims have been found in their own villages as well as in cities and countries far from home.

When we first hear the term, many people think only of the trafficking of women to other countries to work in the sex industry, but this is only one type of human trafficking. There are many different types of trafficking, including domestic servitude, debt bondage, forced labour, and child soldiers.

The trafficking discussed in this manual is the trafficking of children into forced labour situations within Vietnam.

Traffickers commonly target children who are under 16 years of age from very poor families in rural communities and take them to work in informal garment factories in Ho Chi Minh City. These factories are quite small (10-30 m²); perhaps one room of a house in a residential district. The children are often forced to work 10–12 hours a day, even up to 15–16 hours a day, and are paid very little or nothing. Often they are held against their will and are not allowed to communicate with their families or anyone else outside the factory.

This form of trafficking seems to be on the increase in Vietnam and this manual aims to help local authorities to identify missing children and get them out of these exploitative labour situations.

HOW TO IDENTIFY IF CHILDREN HAVE BEEN TRAFFICKED

If there are children missing from a village, it is possible that they have been taken against their will or, if they left voluntarily, that they are now being held against their will. If children under 16 years old have left their village, and parents do not know exactly where they are, or have not been in contact with them recently, then you should be suspicious; it is likely that they are being exploited.

Traffickers can be ANYONE. Traffickers usually trick parents into letting their children go with them, with promises of vocational training or work (or both). These strangers appear to be honest and generous when they come to villages. They act kind and helpful and they seem to really care about the children and want to provide ‘opportunities’ to improve the children’s lives. They may give an ‘advance salary payment’ to families, to make the families feel obliged to let their children go.

Families that are very poor and struggling to feed and educate their children are particularly vulnerable, and may think that they are doing the best for their children by giving them the opportunity to escape poverty.

So, how do you know if children have been trafficked from a village?

> Are there children (under 16 years) missing from their families?

> Can the parents contact the children?

> Do the parents know exactly where they are and what they are doing?

> If parents do not know exactly where their children are, or are finding it difficult to contact the children, then it is very possible they are being held against their will.

> If communication is very limited (for example, the phone is rarely turned on or ethnic minority children are not free to speak in their native language) then it is likely the children are being held by traffickers.

> Children may be trafficked individually or as a group from the same village. The traffickers sometimes recruit large numbers of children at once and then sell them to different factories to work.

What kind of work can children legally do?

The legal and moral requirement for children not to work is in place because education, learning and having the opportunity to be a child are the most important things for children under 16 years. This does not mean that children can not do any work at all. It is OK for children to help their families on the farm, help with the housework, or help in a shop or restaurant as long as that work is not dangerous to their health, does not prevent them from attending school, gives them enough time for study and enables them to have enough sleep.

Articles 163–165 of the Labour Code of Vietnam include specific requirements for hiring children from 13–15 years old. They must not work more than 4 hours per day and 20 hours per week total, and normally must not work overtime or nights. The work children do must not interfere with their schooling.

Official factories that follow the law and pay legal wages NEVER recruit children under 16 years old. They also do not send people to villages to recruit directly from families.

If someone comes to the village claiming to represent a factory, ask to see their business card, ID card and company registration, as well as an official recruitment introduction letter.

Ask them details about the factories they represent, and telephone the company management to ask if they are recruiting and confirm if the individual represents the company.

If a legally registered company wants to recruit workers, they will make an official visit to the village with the permission of the People’s Committee and other local authorities or announce their recruitment through local media, and they will not recruit children under 16 years old.
What to do...

if you think children have been trafficked

1. Get as much information as possible about the children and who took them

Collect information from the child's family: names, ages of children; where they are; date the children were taken/left home; any telephone numbers for the children; information about the children's families (names, ages of parents, telephone, address); information about what the traffickers told the family; names, ages, description of the traffickers and ID card details; home town, telephone number, where the traffickers told the parents their children would be taken and what they would be doing; and any other information that might help to locate the children. The more information the better.

2. Speak to local facilitators

Often local people are involved in the trafficking, helping to facilitate access to the village. Sometimes they do not realise they are helping traffickers; they are also lied to and they think they are helping families to overcome poverty. Try to find out who these people are and get as much information from them as possible about what the traffickers told them. They might even have the phone number of the traffickers.

3. Question everything!

Most of what the traffickers tell families are lies, so question all the information to try to get to the truth.

How to report trafficking

- Call the police anti-trafficking hotline on 069 44 037 or the police on 113
- Contact your local People’s Committee
- Contact Blue Dragon on 04 3717 0544
- Call the DoLISA free hotline for children 18001567

Once you have as much information as possible, contact the local police and pass on the information to them.

WHICH FAMILIES ARE MOST AT RISK OF CHILD TRAFFICKING?

Trafficking can happen to any family, but some families are more susceptible to the false promises of the traffickers. When trying to identify and prevent trafficking, you should be particularly aware of the risks for families with any of the following characteristics:

- Very poor families
- Children who have dropped out of school or run away
- Families who have a problem that affects their finances negatively; for example, a health problem, an adult in prison, a debt, single parent families, domestic violence
- Children who do not have ID cards and birth certificates can be at particular risk of trafficking; it is more difficult to rescue and return children without personal papers
- Children and families who do not speak Vietnamese fluently

But remember, it can happen to any family. Every child is at risk of being trafficked!

1. An employer is only entitled to employ a person who has turned 13 years old and is under 15 years old to perform light duties under the list prescribed by the Ministry of Labour, Invalids and Social Affairs. The employer must sign the labour contracts with the legal representative and have proof that the child is between 13 and 15 years old. The employer must arrange the child's working hours so that there is no effect on the child's education, and they must ensure that working conditions, labor safety, and hygiene are appropriate to the age of the employee (Clause 1, 2, Article 165, the Labour Code).

2. The employer can not employ children under 13 years old except for some specific work regulated by the Ministry of Labour, Invalids and Social Affairs (Clause 3, Article 165, the Labour Code).

3. Children 13–15 years old can only work 4 hours per day and a maximum of 20 hours total per week, and the work must not interfere with their schooling.
Here are some tips:

- Get the ID card details of anyone who comes to the village trying to recruit children. Legally registered companies will go through official channels to recruit people for work, and they will never recruit children under 16 years.
- Know what is going on in your village: who is coming and going? Encourage parents to contact local authorities if they are thinking of sending their children to work or to study in another province.
- Use local resources to educate people about the dangers of child trafficking. For example, organise announcements via the loudspeaker system, hang banners on important days, and hold discussions in public meetings.
- Ensure organisations such as the Women’s Union, Youth Union and Red Cross are aware of the dangers of trafficking and how to identify it. Ensure that they report to police if they become aware of a case of trafficking.
- Educate teachers. Children who drop out of school are at a high risk of trafficking, so teachers should be aware of those children who drop out of school. Encourage teachers to talk to the parents to make sure they understand the risks and know who to contact if traffickers come with offers of employment or training for their children.
- Cultivate a ‘child-friendly’ community and take pride in keeping your children in the village. Organise festivals of local culture, celebrate high school retention rates, and give certificates or gifts to children who perform well in school.

Did you know?

Vocational training centres NEVER recruit directly from families. Anyone who comes to a village pretending to be from a vocational training centre is lying.

Ask to see their business card and ID card, a letter of introduction, and recruitment announcement. Ask for details about the centre they represent. Telephone the centre to ask if they are recruiting students and if the individual represents the centre.

CASE STUDY:

**Trafficking in Thua Thien–Hue**

In August 2008, Blue Dragon staff in Thua Thien - Hue province found a village where many children were missing. Some of the parents were a little worried, but they knew their children were working in Ho Chi Minh City and weren’t too concerned about their welfare as some of them had come home for New Year with money and gifts. The children had not complained and had returned to Ho Chi Minh City after the holiday. The parents understood that the full amount of the children's salaries would only be paid after they returned to Ho Chi Minh City and completed their work agreements.
Blue Dragon staff, however, knew better. They had seen this before and knew that the factories often allow the children to go home for Vietnamese New Year, and even send money and small gifts with them. The children come home and see how excited their families and communities are with the gifts and are too ashamed to talk about their terrible working conditions and how unhappy they are in Ho Chi Minh City. They also think that they have to return to Ho Chi Minh City to get more money for their families so that the next time they return they can stay for good.

Blue Dragon staff and the Thua Thien–Hue Red Cross went to the village and met with the parents many times, explaining that their children were most likely working in very bad conditions, up to 16 hours a day, with barely enough food and unable to leave the factory building. They invited some children and parents from a nearby village to talk with the parents about their experiences of having been trafficked. The parents from the nearby village explained that they too had not been worried about their children. Now, they feel very sad and ashamed because when the children were rescued and came home they finally heard about how terrible their lives were in Ho Chi Minh City.

The parents agreed to allow Blue Dragon, Thua Thien–Hue police and the Thua Thien–Hue Red Cross to go to Ho Chi Minh City and try to rescue the children. They provided as much information as they could about where their children were, the phone numbers and the story of the traffickers. The staff left for Ho Chi Minh City as soon as they could.

Once in Ho Chi Minh City, Blue Dragon and Red Cross staff collaborated with the Tan Binh District police to find the factories where the children were being held. These were very small, informal factories where 5–10 children worked 12–16 hours a day making cheap clothing. They were never allowed out of the factory, and most slept and ate on the floor of the same room they worked in.

The factory owners were very unhappy to see Blue Dragon staff and lied that the children were all over 16 years old. Some of the children also said they were 16 and that everything was fine. Blue Dragon staff knew that the children were afraid of the factory owners and had been coached to lie to visitors.

Blue Dragon staff were accompanied by the Thua Thien–Hue local police and had permission from the children's parents, so after much discussion, the company owners reluctantly agreed to let the children go free.

Blue Dragon staff were then faced with a new difficulty: how to look after the children they had rescued while continuing to look for more children? They contacted the Ho Chi Minh City Women’s Union, who have shelters in Ho Chi Minh City, and the Women’s Union looked after the children that night while the staff and police searched for the remaining children from the village.

On this rescue trip, Blue Dragon, the Thua Thien–Hue police and the Red Cross rescued 12 children. The youngest was a girl of 11 and the oldest a boy of 15. They were taken home to their waiting families by train.

The families, of course, were overjoyed to have their children back home. Having heard the stories of other children who had been trafficked, the parents were extremely worried about their children during Blue Dragon’s investigation. The Red Cross kept the families informed as the case progressed, but that did not make them worry less.

To welcome the children back, and make sure they understood that their community valued them and wanted them to stay, the People’s Committee and the Red Cross organised a ceremony. At the ceremony, Blue Dragon promised that if the families kept their children at home and sent them back to school, all school fees and other school costs would be paid. Blue Dragon also offered the families the opportunity to develop income generating activities to increase their standard of living. Blue Dragon gave water filters as a gift to all the trafficked children’s families. The ceremony was a great acknowledgement of the returning children, and also an opportunity to educate other members of the community about the dangers of child trafficking and the exploitative situation the children had been in.

Today, the 12 children are back in school and doing very well. They have overcome the trauma of exploitation and can now build new lives, careers and families of their own. Some of the parents joined a fish-farming initiative supported by Blue Dragon, which helped them earn additional income and improve their lives. Two of the families received support from donors in Australia and the US to renovate their homes, giving their children a better environment in which to live.
How to…

‘fireproof’ a community against trafficking

In Thua Thien–Hue, Blue Dragon’s experience shows that, after one or two rescue trips, the community understands the real situation for their children in Ho Chi Minh City. These communities then become less vulnerable to the false promises of the traffickers. This does not necessarily mean there will be no children leaving to work in Ho Chi Minh City, but it does mean that those who go will understand the reality. It also means that the families are more aware and more careful.

Local authorities can help to ‘fireproof’ communities against trafficking. Just follow these steps:

1. When you know that a child has definitely been trafficked

   The families may need to be convinced that their kids are in a harmful situation and need to be rescued. They often do not want to believe that their children have become slaves. Help the families to understand more by showing them photos and news articles; share stories of earlier cases; and invite rescued children and their parents to talk to the families to convince them to give permission for a rescue. Blue Dragon can assist you with this information.

2. Rescue the children from factories in Ho Chi Minh City

   See Chapter 3: Rescue for more information.

3. Hold a ‘Welcome Home’ ceremony when the children return

   Invite the local People’s Committee, families and mass organisations. Give a practical gift (for example, blankets, water filters) to the families of the children who have returned, and make a commitment to provide ongoing assistance.

   Note: There can be some privacy considerations with such a ceremony, as some children and families might not want everyone to know about the trafficking. This should be considered on a case-by-case basis and handled sensitively.

   Note: A ‘Welcome Home’ ceremony is not usually appropriate in cases of sex trade trafficking.

4. Provide follow-up support

   Follow-up is essential to ensure that children are not trafficked again, and to help the families overcome the situations that led to the trafficking in the first place. Blue Dragon signs a contract with each family detailing the support that will be provided (costs of schooling, help with livelihood activities, house renovations, etc.), and the family agrees that they will not allow ANY children in the family to be trafficked, and that they will keep their children in school.
1. Identify the children
Identify the children who have been trafficked (see Chapter 1: Identification for more information).

2. Collect information
Find out as much information as possible about where the children are. Often the parents do not know much. If parents are in touch with their children, ask the parents to contact them and find out more about the location. For example, ask the children to look outside and check for street signs or landmarks such as significant buildings, the house number of where they are, and what other shops are around their building. All this information should be collected discreetly so the factory owners do not suspect that someone is looking for them.

3. Travel with police, other local authorities
Travel to Ho Chi Minh City with police and other local authorities from the province where the children live.

4. Find the factories
Find the factories, based on the information provided by the parents and children. Coordinate this with Ho Chi Minh City police and DoLISA staff who have responsibility for companies in Ho Chi Minh City.

5. Search quietly
Make sure the search is done as discreetly as possible so the factory owners do not find out that you are there to rescue children.

6. Find and reassure the children
When you find the factory talk with the owners first, and convince the children that their parents want them home. Usually, if the police are present, the factory owners will not cause too much trouble. But be careful: they can be difficult.

7. Do not give up!
It is often difficult to find the factories or, if the factory owners hear that someone is looking for them, they can move or hide the children. Persevere in looking for the children.

How to conduct a rescue

Who should be involved in rescuing trafficked children?

- Families or local officials who identify a case of trafficking should report it to the local police. Local police can arrange the rescue, or ask for assistance from the Ho Chi Minh City police or the C45 Criminal Police Department at central level.
- Local police from the province where the children live should join the rescue trip because they know the families and can help take the children back home after they are rescued.
- Ho Chi Minh City police will need to coordinate the search and rescue in Ho Chi Minh City.
- Other local organisations from where the children live, such as the Women’s Union, Red Cross or non-government organisations (NGOs), can often help with accommodation or covering some of the costs of the rescue.
- It can be useful for a parent or family member to join a rescue to help convince the children that it is OK to leave the factory and come home.
- Rescuing children from forced labour situations can be very difficult and dangerous. Parents or family members should not try to do it by themselves, without assistance from police and other local authorities.

Rescue and return home!

Rescue the children from the factory (physically take them away from the factory), and return them home to their families.
How to... identify illegal factories

Factories in Ho Chi Minh City that hire children illegally know that they are doing the wrong thing. They make an effort to hide the children, and even to hide the fact that work is going on in the building. These factories are often just one or two rooms in an ordinary house, in a normal residential area. They are not usually properly registered as workplaces and it can be difficult to find them.

Why don’t the children just run away from the factories?

You might think that if the children are in such a bad situation they would just run away and return to their families. But it is usually not so simple:

- The children are scared. The factory owners and the traffickers often beat the children if they do anything wrong, and tell them that if they run away their families will be hurt.
- Sometimes the children are told that their family owes the factory a debt and the children must work to pay it off.
- The children often believe that their families need them to work and that their work is the only way their family can overcome poverty, pay medical fees or repay a debt.
- The children do not have any money, so they could not go very far even if they were able to escape.
- The children often do not know exactly where they are and they do not know anyone in Ho Chi Minh City. It is very difficult for them to know where to go. They might believe the police will not help them and would support the factory owners instead.
- Sometimes the children do not realise that the situation is unacceptable. They may think that their families know where they are and need them to be there.
- Ethnic minority children are even further from home, they often do not speak Vietnamese very well and are very frightened to leave.

What if the children say they do not want to leave the factory?

Sometimes when children are found in a factory, they say they do not want to leave, that they want to stay and work. Often these children are very frightened, thinking they will get into trouble for leaving as their families need them to stay and work.

In this situation, Blue Dragon staff always try to contact the families and ask the children to talk on the phone with their parents. The parents then explain that they want the child to come home, and that they did not realise the child was in an exploitative work situation.

However, it is also important to be aware that sometimes a child does not want to go home because there are problems at home. Maybe the parents are violent to the child, or there are other domestic problems. In this case, it is best to get the local People’s Committee to investigate the family and check if there are significant problems.

In the rare situations where Blue Dragon, the People’s Committee and Red Cross/Women’s Union decide that it is better for the child not to go back to their family, then other options should be explored. Blue Dragon has a shelter in Hanoi for children in this situation, and other NGOs can also help out. If you think that a child is better off not going home to their family, contact Blue Dragon or another NGO in your area.

The following tips are useful for police to find these illegal factories

1. Check gates, doors and windows
   If the gates, doors and windows are closed, but people are going in and out there may be illegal work going on inside.

2. Check upstairs
   Check upstairs. Often factory owners will move children upstairs into the house, so they are more difficult to see and hear. From the street, the house might look normal; but the second floor might be a factory.

3. Check at night
   Check suspicious locations at night, when it is easier to hear noise and see lights on after dark. The children are usually made to work until very late at night so you should be able to hear the noise of sewing machines and see lights on.

4. Check with the neighbours
   Ask the neighbours. Usually someone will know if there is a factory in the street, even if they do not know it is illegally hiring children.
Prosecuting Factories Owners and Traffickers

The Vietnamese police in cooperation with Blue Dragon have successfully prosecuted several sex trade traffickers; and levied administrative fines on factory owners who have exploited children.

Prosecuting Traffickers in Vietnam

Thanh Nien News

Prosecution of Two Traffickers

On March 5, Dak Nong Provincial People’s Court brought a trafficking ring to the circuit court for trial. The defendant H.N. (aged 38, living in Quang Son Commune, Dak Giong District) was sentenced to 22 years of imprisonment and N.T.N. (aged 48, living in Cao Lanh City, Dong Thap Province) was sentenced to 20 years.

According to the indictment, from January to December 2013, N.T.H. (currently on the run) colluded with H.N. and N.T.N. in tricking three girls D.T.V, H.T. and H.Th. aged 13, 15, and 19 respectively. They sold the three girls to China. After that, N.T.H. gave N.T.N and H.N. 39.5 million VND [$1,850 US].

Laws Protecting Children from Labour Exploitation

The labour code

The law sets out a legal framework to prevent child labour and the exploitation of minor employees. The law also stipulates the minimum age of an employee, as well as requiring factories to only employ a minor employee for suitable work. It is prohibited to employ a minor for heavy or hazardous work, and in workplaces that are detrimental to their wellbeing. The employer is responsible for compliance with all labour conditions and the provision of wages. These are specifically stipulated in Articles 161–165.

Penalties for Violations

Decree 95 on Penalties for Administrative Violations against Regulations on Labour, Social Insurance, and Overseas Manpower Supply and Decree 91 regarding Sanction on Administrative Violations on the Protection, Care, and Education of Children define fines for employers violating the Labour Code (see box What does the law say?)

While a relatively small administrative fine may seem quite insignificant, factory owners are scared to be fined, as a second offence can mean prosecution under Article 228 of the Penal Code.
What does the law say?

Decree No. 95/2011/ND-CP dated October 17, 2011 regulating Sanction on Administrative Violations on the Protection, Care, and Education of Children.

Article 19: Violations against regulations on underage workers.

1. The employer that fails to make a logbook when employing underage workers, or fails to present the logbook at the request of competent authorities shall be given a warning.

2. The employer shall be liable to a fine of from 10,000,000 to 15,000,000 VND when committing one of the following acts:
   a) Employing people under 15 years of age without signing written contracts with legal representatives;
   b) Requiring underage workers to work longer than the working hours prescribed in Clause 2 Articles 104–107 of the Labour Code;*
   c) Requiring people from 15 years of age to under 18 years of age to work overtime or on night shift, except for the jobs and work permitted by law.

3. The employer shall be liable to a fine of from 20,000,000 to 25,000,000 VND when committing one of the following acts:
   a) Employing underage people to do prohibited work or to work at prohibited places according to Article 165 of the Labour Code; **
   b) Employing people under 15 years of age to do work other than that permitted by law according to Clause 1 and Clause 3 Article 164 of the Labour Code.


Article 15: Acts of abusing child labour, using children for hard, dangerous work, exposing children to hazardous substances and doing other work contrary to the provisions of law.

1. A caution or a fine of between 1,000,000 and 5,000,000 VND shall be imposed for one of the following acts:
   a) Parents forcing their children, or guardians forcing children in their custody, or adopters forcing their adoptees to work too much; affecting the learning, entertainment, recreation, or negatively affecting the development of children, or forcing children to do things forbidden by the law;
   b) Vocational trainers for children forcing them to work too hard, do heavy work, or work overtime, in a toxic, dangerous environment that adversely affects their development.

2. A fine of between 10,000,000 and 20,000,000 VND shall be imposed for one of the following acts:
   a) Using children for jobs in massage facilities, physiotherapy, casinos, bars, pubs or places at risk of adversely affecting the personal development of children;
   b) Letting children participate in or using children in producing, trading, disseminating cultural products, information, media products, toys, games, gadgets that contain violence, pornography, or horror content that are harmful to the positive development of children.

3. A fine of between 20,000,000 and 40,000,000 VND shall be imposed for acts of using children to buy, sell, and transport counterfeit goods and tax evasion products, illegal commodities, or currencies across a border.

4. Forms of additional sanction: Confiscating tax evasion products, commodities, or currencies due to the acts specified in Clause 3 of this Article.

5. Remedial measures:
   a) To force individuals and organisations to remit the money that was received from committing the acts specified in Clause 2 and Clause 3 of this Article;
   b) To force individuals and organisations to bear all expenses for medical examination and treatment for children due to the acts specified in Clause 2 of this Article;
   c) To force individuals and organisations to destroy cultural products, information, media products, toys, games, gadgets with violence, pornography, horror and dangerous content that are inappropriate or harmful to children’s development due to the acts specified in Point b, Clause 2 of this Article.

* Clause 2 Article 104 of the Labour Code allows people to work only 8 hours per day or 48 hours per week. For people 15–18 years old, working hours must not exceed 8 hours a day or 40 hours a week.

** Prohibited workplaces under Article 165 of the Labour Code includes working in mining, working with dangerous chemicals, construction, working on offshore fishing boats, operating maintaining heavy equipment, working in karaoke bars, massage, etc.

THE PENAL CODE

The second relevant law is Article 119 (other crimes relating to trafficking in humans) Article 120 (trading in, fraudulently exchanging or appropriating children) and Article 228 of the Penal Code (Criminal Code) which forbids trafficking in persons. Blue Dragon has successfully used this article to cooperate with the Vietnamese police to prosecute several traffickers who were taking children away from their parents and villages for sale into Chinese brothels. The traffickers must attend court for the trial and are sentenced. In the past they have received sentences of between six to 11 years in prison and have had to pay compensation to the victims. As of December 2014 this law has not been applied to cases of labour trafficking, it has only been used for cases of sex trafficking. Blue Dragon has had some success using this law for traffickers who are taking girls over the Chinese border into the sex industry. Article 123 of the Penal Code could also be used as it prevents the illegal detention of persons. This can also be seen as an important preventative measure, because it prevents the illegal detention of a person with the aim of
using them for labour and sex exploitation. So far, the police have not tried to use this law against factory owners, as it is quite time-consuming and difficult to gather the evidence required. However, this law could potentially be used in the future to prosecute those involved in the trafficking of children to factories. This would be a criminal prosecution with potential prison sentences for factory owners.

Prosecution and sentences for traffickers

Yen Bai Newspaper
http://www.baoyenbai.com.vn/14/113662/Ban_an_thich_dang_cho_nhung_ke_buon_ban_phu_nu.htm

Appropriate sentence for female traffickers

Summary

Yen Bai news — Provincial People’s Court has recently opened a circuit court for the trial of a trafficking ring that illegally transported women across the border.

According to the indictment of the provincial People’s Procuracy, about 10/2009, H.T.L. came from China to Vietnam to invite L.T.T. of Mường Kim commune, Than Uyên district to the house of L.T.T. in Cầu Thìa ward, Nghĩa Lộ town. At L.T.T.’s home, H.T.L. asked her to help find women to sell to China and they would split the money.

The two women then invited H.T.N. and D.T.P. to come to Lao Cai to work drying corn and grain. Initially H.T.L. couldn’t find buyers for the women so found them lodging near the border gate. After a month, through a broker named Minh, H.T.L. sold the women for 7,000 yuan [$1,140 US]. In 2010, H.T.L. was arrested for the crime of ‘trafficking in children’ and was sentenced to 11 years in prison at Lai Chau Province People’s Court. In 2011, H.T.N. found her way back to Vietnam. By September 2013, D.T.P. also returned and was able to testify against H.T.L. and L.T.T.

The court found that the defendants were mature enough to recognise that the selling of others for illicit profits was illegal. The behaviour of the defendants is particularly dangerous to society, as they regarded women as a commodity for sale, purchase and profit. This behavior has directly harmed many people in the two victims’ families. At the same time it has harmed the honour, dignity and prestige of H.T.N. and D.T.P.

The final total punishment for the offences of H.T.L. was 20 years in prison, including 9 years in prison sentenced by Yen Bai Province People’s Court plus 11 years in prison sentenced by Lai Chau Province People’s Court. In addition, H.T.L. was ordered to compensate the victims for the amount of 71 million VND [$3,320 US] for their mental trauma and loss of income while in China. Defendant L.T.T. was sentenced to eight years in prison and compensation to the victims of 41 million VND [$1,920 US].

This is an appropriate sentence for deliberate human trafficking, as well as a wake-up call for women and children who should be aware of the lies and tricks of traffickers. Above all, these are valuable lessons for building solidarity and happiness in every home.
What does the law say?
The Penal Code 2009 (mandating and supplementing a number of articles of the penal code 1999)

Article 119: Trafficking in humans.
1. Those who traffic in humans shall be sentenced to between two and seven years of imprisonment.
2. Committing a crime in any of the following circumstances, offenders shall be sentenced to between five and twenty years of imprisonment:
   a) For prostitution purposes;
   b) In an organised manner;
   c) In a professional manner;
   d) For taking abroad;
   e) Trafficking in more than one person;
   f) Committing the crime more than once.
3. Offenders may be fined between 5 million and 50 million VND, subject to probation or residence ban for one to five years.

Article 120: Trading in, fraudulently exchanging or appropriating children.
1. Those who trade in, fraudulently exchange or appropriate children in any form shall be sentenced to between three and ten years of imprisonment.
2. Committing the crime in any of the following circumstances, offenders shall be sentenced to between ten and twenty years of imprisonment or life imprisonment:
   a) In an organised manner;
   b) In a professional manner;
   c) For a despicable motive;
   d) Against more than one child;
   e) For taking victims’ bodily organs;
   f) For taking abroad;
   g) For inhuman purposes;
   h) For prostitution purposes;
   i) Dangerous recidivism;
   j) Causing serious consequences.
3. The offenders may also be subject to a fine of between 5 million and 50 million VND; a ban from holding certain posts, practising certain occupations, or doing certain jobs for one to five years, or may be subject to probation for one to five years.

Article 228: Breaching regulations on employment of child labour.
1. Those who employ children to perform jobs which are heavy, dangerous, or in contact with hazardous substances on the lists prescribed by the State, causing serious consequences, or who have already been administratively sanctioned for this act but continue to commit it, shall be subject to a fine of between 5 million and 50 million VND, non-custodial reform for up to two years, or a prison term of between three months and two years.
2. Committing the crime in any of the following circumstances, offenders shall be sentenced to between two and seven years of imprisonment:
   a) Committing the crime more than once;
   b) Against more than one child;
   c) Causing very serious or particularly serious consequences.
3. The offenders may also be subject to a fine of between 2 million and 20 million VND.

Article 123: Illegal arrest, custody or detention of people.
1. Those who illegally arrest, hold in custody or detain other persons shall be subject to warning, non-custodial reform for up to two years or a prison term of between three months and two years.
2. Committing the crimes in one of the following circumstances, the offenders shall be sentenced to between one and five years of imprisonment:
   a) In an organised manner;
   b) Abusing their positions and/or powers;
   c) Against persons who are performing their official duties;
   d) Committing the crime more than once;
   e) Against more than one person.
3. Committing the crimes and causing serious consequences, the offenders shall be sentenced to between three and 10 years of imprisonment.
4. The offenders may also be banned from holding certain posts for one to five years.
How to fine a factory owner for using child labor

1. The local People’s Committee in the area the factory is located is responsible for preparing all the information for the administrative fine. Depending on the seriousness of the violation, the commune, district or province/city level will be responsible. They should collect all the data about the company, take witness statements from the children who have been exploited, and from their families, and provide evidence that the children were under 16 years old.

2. The fine for factory owners can be up to 80 million VND. The factory will also be permanently closed, their licence will be cancelled and the individual will not be able to register another business.

3. If a factory owner is caught in violation of the Labour Code a second time, they can be charged under Criminal Law and face a prison sentence. Thus, the owners tend to take the fines very seriously.

CASE STUDY
New targets: Ethnic minority children

The work that Blue Dragon has been doing with communities in central Vietnam has been very successful in ‘fireproofing’ communities from allowing their kids to leave home with traffickers. However, traffickers have continued seeking out vulnerable children, and many recent cases of child trafficking have originated in Dien Bien Province.
It started in mid-October 2011. Parents from a remote village in Dien Bien Province of Vietnam, near the border of Laos and China, told Blue Dragon that their children were in trouble.  
More than a year earlier, people came to their village offering jobs and training for the youngsters who were out of school and unemployed. The visitors offered all-expenses paid training, with no strings attached. Being extremely poor, the families were delighted to receive help.  
As time passed, the families realised something was wrong. Their children never called. They never came back. The children could almost never be reached by phone; on the rare occasions that they could be contacted, via the mobile phones of the adults who took them, the children said nothing other than that they missed home.  
Eventually, all of the phone numbers ceased to work. The children could not be contacted at all.  
When Blue Dragon heard about this, they knew instantly that the children had been trafficked into the garment factories of Ho Chi Minh City. With great support from Dien Bien police and C45 police from Hanoi, staff from Blue Dragon travelled to Ho Chi Minh City and started searching for the children. After a day or so they found the factory but the children were gone. The factory was closed and it seemed to be a dead end. Ho Chi Minh City police were contacted, but they did not have any other information.  
Blue Dragon staff did not give up and eventually managed to find the children. They were working in terrible conditions. In one workplace, twelve children worked and slept in one 40 m² factory. They had a single toilet/shower to share, and each child was allowed a maximum eight minutes per day to use it. Some of the children had been working there for two years with no pay and no contact with their families.  

Blue Dragon found children working in a few factories and in cooperation with the police rescued 23 children. Now the difficult task was to get the children back to Dien Bien Province, over 2,200 km from Ho Chi Minh City. Blue Dragon was able to raise funds from generous donors to pay for airline tickets for the children to Hanoi, and then a bus from Hanoi to Dien Bien. This was super exciting for these children. Most of them had never even seen a plane before, let alone been on one.  
The return was a joyful experience. The parents and all village members were so happy to see their children, and the children were overjoyed to be reunited with their families and culture; to again be able to speak their own language, and eat their own traditional foods. Blue Dragon provided jackets, blankets and rice for the returning children to help their extremely poor families with the approaching winter.  
Once the children returned home, Blue Dragon helped all of them to enrol at school, and supported the older teens to find good jobs. Blue Dragon also provided emergency relief to families in need. The story of slavery and misery was over for these 23 kids, and a new story of freedom and hope for the future could now begin.  

How is trafficking different for ethnic minority communities?  
Blue Dragon’s experience is that ethnic minority children are particularly vulnerable to being trafficked, and they are increasingly becoming a target for the traffickers. Why is this?  
> Many ethnic minority communities are extremely poor and have few local employment opportunities. The traffickers target the poorest families who are the most desperate for options to increase their income.  
> Ethnic minority children are more at risk of dropping out of school early because often the only option for continuing past Grade 6 is boarding school, which is far from home and expensive.  
> Ethnic minority communities tend to be very open and trusting. They are less aware of the dangers of child trafficking and tend to believe the lies that traffickers tell. The traffickers understand this well and take advantage of this trusting culture.  
> Sometimes even local village chiefs and police in these isolated, poor villages are not aware of the dangers of child trafficking and they trust these external people who come promising a better life, and opportunities for children and their families.
Conclusion

This manual has some useful, practical information to help local police, DoLISA officials and community leaders to prevent trafficking from your community. Some final tips to help you:

You can do it! Combatting trafficking in your community might seem like a huge and difficult task. However, there are small things you can do that will make a big difference. The tips and information in this manual can help you. Working together with other officials and leaders in your community, you can make a difference.

GET STARTED - START TALKING TO PEOPLE IN YOUR COMMUNITY TODAY
> Talk to teachers about whether they know of children who have left school and seem to have left the community.
> Talk to local village leaders about whether they have seen strangers in town asking about children.
> Talk to families about whether they have sent any children away for vocational training or employment. Do they know where these children are? Do they know they are OK?

START ‘FIREPROOFING’ YOUR COMMUNITY
> Hold a public meeting to discuss the issue of trafficking.
> Think of other ways to get the message out: notices, loudspeaker announcements, presentations at schools, local media.
> Ensure that families, teachers and local officials are aware of the dangers and know the warning signs for trafficking (see Chapter 1 of this manual).
> Explain to the community that legitimate training organisations and businesses do not recruit children, because it is against the law.

Remember, the law is on your side. Hiring children under 16 years old is illegal and those employers who want to cheat by hiring children can be fined and prosecuted.

Where to get more information
For more information about preventing the trafficking of women and children, contact:

Legal Advocacy Team
Blue Dragon Children’s Foundation
PO Box 297, International Post Office
Hanoi, Vietnam
info@bdcf.org | 04 3717 0544
www.bluedragon.org

We are all responsible for caring for the children in our community and making sure they are safe, happy and educated!