

**Complementary Report to the Third and Fourth
Periodical Country Report
on Vietnam's Implementation of the
UN Convention on the Rights of the Child
2002 – 2007**

2011

Preamble

This non-governmental organisation (NGO) report complements the Third and Fourth Periodic State Report of the Government of Vietnam on the Implementation of the UN Convention on the Rights of the Child (CRC) during 2002 - 2007. The aim is to give an NGO perspective on the situation of children's rights in Vietnam, to make recommendations on the State report in order to improve and support the Government's work on children's rights and to present NGO experiences on the implementation of CRC in Vietnam. More importantly, it presents the views of Vietnamese children. Direct quotes from children have been included in the main report, while children's views and recommendations are reflected more extensively in the Child Consultation Report, which is attached to this report.

The report is based on a combination of the practical work experiences and sectoral/thematic knowledge of participating NGOs and as such, it does not cover all articles in the CRC. The report has identified six main areas for key conclusions and recommendations. These are:

- National and local child protection systems
- Strengthening of the Ministry of Labour, Invalids and Social Affairs (MOLISA)
- Legal implementation
- Ombudsperson for children
- Child participation
- Data collection

A number of international NGOs (INGOs) and Vietnamese NGOs (LNGOs) working for children's rights and on children's issues in Vietnam have participated in writing sections of the report while also contributing financially and providing human resources. In order to collate and discuss the information obtained, an NGO working group was set up to draft the report under the coordination of Save the Children Sweden. The VUFO-NGO Resource Centre has facilitated contacts with LNGOs, provided the venue and the human resources for meetings and workshops.

The following organisations have contributed to the report:

CeSVI (humanitarian organization for cooperation and development)
ChildFund
Enfants&Developpement in Vietnam
Italian Association for Aid to Children (CIAI)
Plan in Vietnam
Saigon Children's Charity
Save the Children in Vietnam
Terre des hommes Foundation (Lausanne, Switzerland)
Vietnam Association for the Protection of Children's Rights
VUFO-NGO Resource Centre
World Vision

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Process

This report is the first Complementary NGO Report made on a CRC State report of the Government of Vietnam. It presents an important opportunity for international and local child-focused civil society actors in Vietnam to comment on the government's achievements between 2002 and 2007.

The reporting process started in 2007, when meetings were held under the auspices of the Child Rights Working Group (CRWG) at the VUFO - NGO Resource Centre. In June 2007, four INGOs and two LNGOs were mandated by the CRWG to form an independent NGO sub-working group to produce a Complementary CRC Report 2002 - 2007. The group was tasked with mobilising Vietnamese civil society organisations to take part in the writing of the report, acting as a forum for discussion and setting up a process to develop the report. The working group was to report to the CRWG.

The guiding principles for the Complementary Report were to:

1. Prioritise child participation and children's views;
2. Prioritise civil society's participation;
3. Ensure transparency to the Vietnamese Government.

Members of the working group identified key areas of focus and made short reports for the Complementary Report in selected thematic/sectoral areas. The following working group members contributed on key areas of their work: ChildFund on Leisure and Recreation, CIAI (Italian Association for Aid to Children) on Adoption, PLAN on Respect for the views of the Child and the Right to Education, Save the Children UK on HIV/AIDS, Migration and Trafficking, Save the Children Sweden and CSAGA on Ill-treatment and Violence and Save the Children Sweden on Inclusive Education and Children with Disabilities. RCGAD (Research Centre for Gender and Development) also contributed to the initial work. LNGOs took part in a consultation workshop introducing the process of drafting the complementary report to stakeholders. On the 18th of October 2007 a major workshop was held by INGOs and LNGOs to provide an opportunity to comment on both the drafted State Report and the drafted thematic reports. A representative from MOLISA (Ministry of Labour, Invalids and Social Affairs) introduced the State Report on both occasions.

During the consultations, additional issues such as alternative care for children, provision of reproductive and health services for children and the vulnerability of children to disasters were mentioned. However, it was decided that due to the size restriction of the report and the capacity of staff to collect information, only the agreed key areas would be featured in detail in the Complementary CRC Report.

In January and February 2008, six child consultations on issues in the draft Complementary CRC Report were held in North, Central and South Vietnam with the participation of 339 children (girls and boys) aged between 10 and 16. Their views and recommendations are reflected in the Child Consultation Report in Annex 1 of this Report.

The final draft of the report was presented to the Government of Vietnam in May 2010.

The Child Rights Working Group endorsed the report in March 2011.

General Situation of Children in Vietnam 2002-2007

Vietnam has an impressive record of development including an average GDP growth rate of 7.7% during 2002 - 2007, with high growth rates, from 7.08% in 2002 to 8.48% in 2007¹, and with poverty reduced from 58.1%² in 1993 to 14.84%³ in 2007. During 2002 - 2007 Vietnam made great national progress in the field of basic social services, health care and universal access to primary education⁴. In spite of such impressive progress, socio-economic problems still persist. New problems have emerged which reflect the major economic and social changes which have occurred over the last two decades. These include the growing economic gap between rich and poor and between rural and remote areas and urban areas. In 2006⁵, the poverty rate was 3.9% in urban areas, while it was 20.4% in rural areas and 10.3% for the Chinese and Kinh majority while 52.3% for ethnic minorities. These figures indicate a challenge on the front of inequality and disparity, leading to growing concerns regarding negative effects on the rights of children belonging to the most vulnerable groups. These are children who are living in remote areas, belong to ethnic minorities, HIV/AIDS affected and infected, orphans, children with disabilities, child labourers, children subjected to violence and sexual abuse, street children, children who have migrated and trafficked children. These groups comprise an estimated 2.62 million children in Vietnam⁶. As a State party to the Convention on the Rights of the Child, the Vietnamese Government has an obligation to protect the rights of all children, in particular the most vulnerable ones.

Key Conclusions & Recommendations

National and local child protection systems

Despite great national progress, the poverty rate in Vietnam still reaches 14.84 %⁷ (July 2007) of the population and the fact that income gaps are increasing is a cause for concern for Vietnam's poorest children. This means that even today a significant number of children, especially vulnerable children (such as HIV-AIDS affected children, children subjected to violence and abuse, children with disabilities, child labourers, urban migrants, trafficked children and children from ethnic minority communities) have not benefited properly from the generally upbeat economic picture of Vietnam, while the CRC is supposed to benefit all children. It is essential that vulnerable children especially are identified, treated appropriately and provided with adequate care within their communities.

It is therefore strongly recommended that the takes measures to build local and national protection systems for the benefit of the most vulnerable children. A national protection system for children should include active community networks, involving relevant local staff, civil society, families and children, as well as a trained cadre of staff to support abused and exploited children.

Strengthening of MOLISA and the General Department of Child Protection and Care

There is an urgent need for clear action by and support for the new General Department for Child Protection and Care under the Ministry of Labour, Invalids and Social Affairs (MOLISA). *The Government is strongly recommended to support the General Department for Child Protection and Care in order for the Department to take a strong lead in implementing the Convention on the*

¹ The Ministry of Labour, Invalids and Social Affairs, Third and Fourth Country Report on Vietnam's Implementation of the UN Convention on the Rights of the Child 2002-2007 (Hanoi, 2008) 10.

² Joint Donor Report to the Vietnam Consultative Group Meeting, Vietnam Development Report 2008: Social Protection, (Hanoi, December 6-7, 2007) 4.

³ MOLISA: 2008, 11.

⁴ MOLISA: 2008, 11.

⁵ Joint Donor Report to the Vietnam Consultative Group Meeting 4.

⁶ MOLISA, Report on the Situation of Children in Special Circumstances to the Committee for Culture, Education, Youth and Children of the National Assembly, (Vietnam, 2008).

⁷ MOLISA: 2008, 11.

Rights of the Child and National Plans for children. The Government is to provide capacity building to relevant government staff at all levels, in particular at grassroots level, as well as facilitate inspections and data collection.

Legal implementation

As the report demonstrates, adequate laws are often in place, providing a good legal framework. However, legal implementation faces many obstacles: the Government is strongly encouraged to prioritize the implementation of laws benefiting children and to find ways to cut the long delays in implementation of the laws, improve coordination between different levels of government, improve the effectiveness of legal dissemination and information for officials, lawyers and judges and to strengthen legal awareness of public servants, adult citizens and children.

Ombudsperson for children

The Government is asked to initiate a pilot project as an independent mechanism, possibly a Children's Ombudsperson, to monitor the promotion and protection of children's rights, while taking into account the appropriate social-cultural models present in Vietnam.

Child participation

The Government is recommended to set up sustained systems and mechanisms for enlisting children's views when preparing and monitoring the implementation of government policies and strategies. Such systems should be put into practice at all levels of government and in a routinely integrated manner. Government and NGOs are to provide children, including vulnerable children, with child-friendly information and skills to facilitate their participation, ensuring that the latter is meaningful, budgeted and not tokenistic.

Data collection

The Government is recommended to support strengthened data collection regarding all children and in particular for vulnerable children: children exposed to abuse, migrating children, children affected and infected by HIV/AIDS, children with disabilities, children in conflict with the law and child labourers. The Government's capacity and efforts in responding to this data should be strengthened (e.g. case management).

I. General Measures of Implementation

i. Harmonisation between the convention and national legislation

Concluding Observation 9

Vietnam has brought the majority of its domestic legislation into conformity with the CRC in a short period of time. For the most important laws, see Appendix II.

In spite of this very impressive record there are still gaps in the harmonisation of domestic legislation - many in the area of juvenile justice and dealing with cases of child abuse. Even when legislation is in place, the implementation of the law faces many obstacles as detailed in this report. Such obstacles include:

- Long delays in the implementation of laws. Laws passed by the National Assembly cannot be implemented until the decrees/implementing guidelines have been issued by the relevant ministries;
- Lack of coordination between different levels of government. There is a need to find a solution to the present overlapping of legal documents, sometimes contradictory provisions and at times inconsistent implementation of the laws;
- Limited effectiveness of legal dissemination and information. Officials, lawyers and judges have limited access to all laws and not always sufficient knowledge for their application;
- Limited legal awareness of public servants, adult citizens and children. There is a need for more child-sensitive training for implementing legal staff.

Recommendations:

The Government should undertake a systematic review of the obstacles to the implementation of Laws affecting children and to:

- Find ways to cut the long delays in the implementation of the laws;
- Improve the coordination between different levels of government and among relevant departments and agencies;
- Improve effectiveness of legal dissemination and information for officials, lawyers and judges;
- Strengthen legal awareness of public servants, adult citizens and children and provide more child-sensitive training for implementing legal staff.

ii. Coordination and national plans of action

Concluding Observation 11

The dissolution of the National Committee on Population, Family and Children (CPFC) in September 2007, which had been delegated by the Government to coordinate national plans of action for children, has created both challenges and opportunities for children's issues. The new General Department for Child Protection and Care under MOLISA must now make greater efforts to prioritise children's issues. However, it could potentially help children's issues if they are mainstreamed in the ministries that the CPFC has been merged into: MOLISA, the Ministry of Health and the Ministry of Culture, Sports and Tourism. It is of great importance to provide capacity building of relevant government staff at all levels, in particular at grass root level⁸ and to improve inspections and data collection.

⁸ MOLISA: 2008, 23.

Recommendations:

- The General Department for Protection and Care of Children under MOLISA should take a leadership role in ensuring that all relevant ministries prioritise children's issues and take a strong, coordinated lead in implementing the Convention on the Rights of the Child and National Action Plans for Children;
- Capacity building is provided for relevant government staff at all levels, in particular at the grassroots level.

iii. Independent monitoring and evaluation*Concluding Observation 13*

The above concluding observation recommends the establishment of an independent and effective mechanism to monitor the promotion and protection of children's rights. The CRC Committee noted that the former CPFC's monitoring system was not the independent monitoring body as outlined by the Committee's General Comment No. 2 and recommended that the government considers initiating a pilot project to establish an Ombudsman for Children. Although a Government inspectorate system is in place, NGOs maintain that an independent mechanism should be the key in providing children with an accessible procedure for claiming their rights. No such independent mechanism exists in Vietnam today, but successful models can be found in other countries that could help the country design its own social and culturally appropriate model.

Recommendation:

The Government is to initiate a pilot project to explore the possibility of establishing an independent Ombudsperson for Children, taking into account appropriate social and cultural models.

iv. Allocation of resources*Concluding Observation 15*

The proportion of funding to the social sector within development funding has increased from 26.4% in 2001 to 27.4% in 2005⁹. However, the State budget still cannot meet the country's present needs in education, training and health. Instead, the Government wants to encourage the involvement of the private sector, enterprises and communities and partnership with donors to meet these needs.

NGOs¹⁰ recognise the fact that Official Development Aid (ODA) is gradually shifting from sector support to national, targeted, budget support. This shift could present a challenge to children's rights as there is a risk that new aid mechanisms and support from other sources will not necessarily focus on vulnerable groups. When provided with more budget support and deciding on the allocation of resources to national programmes, the Government is encouraged to continue to cater for the rights and needs of vulnerable children and launch and fund National Target Programs for Child Protection with considerable budgets. Civil society could play an important role in monitoring that resources reach these children appropriately.

⁹ MOLISA: 2008, 25.

¹⁰ The Consultative Group, International Non Government Organisation Statement for the Vietnam Consultative Group Meeting (Hanoi, December 2007) 21.

Recommendation:

When Official Development Aid increasingly shifts to budget support or funding from other sources is secured, Government is strongly encouraged to continue to ensure that the rights of vulnerable children are prioritized and monitored and to launch and fund National Target Programs for Child Protection.

v. Cooperation with civil society*Concluding Observation 19*

The legal framework for LNGOs and CBOs (Community Based Organizations) remains weak. The Law on Association, which defines their legal status, is still, after more than a decade, in draft form, making it difficult for LNGOs and CBOs, especially the grassroots CBOs who face difficulties in obtaining formal registration due to a lot of restrictions in terms of resources, to optimize their operations in benefiting children. Furthermore, a legal framework, accessible and facilitative, needs to be created for LNGOs and CBOs to monitor the implementation of the CRC.

See Appendix II for additional information.

Recommendation:

The Government is encouraged to create a supportive legal framework for civil society organizations in general and LNGO's and CBO's in particular, such as the Law on Association.

vi. Data collection*Concluding Observation 17*

The State acknowledges gaps in data provision and the fact that ministries use different systems to collect data. Although there is an ambitious programme for data collection in Vietnam, the need for adequate data and for a coordinated data collection system is recognised by the government, INGOs, LNGOs and by UNICEF. As detailed in this report, there is a need for adequate government data on child abuse, migrating children, children affected by HIV and AIDS, children with disabilities, children's right to education, children in conflict with the law and on child labour. There is a need for a more clear definition of certain child related concepts in order to provide adequate data, like in the case of the term child abuse. INGOs and LNGOs could support the collection of more adequate data by including child-focused questions/ideas when household surveys are prepared by the General Statistics Office. The government would need to find new financial resources for such child-focused data collection.

Recommendation:

The Government should support, review, update and strengthen accurate data collection procedures that pertain to all children, in particular on child abuse, migrating children, children affected by HIV and AIDS, children with disabilities, education, children in conflict with the law and child labourers.

vii. Making the convention known and dissemination of responsibilities*Concluding Observation 21*

The Government states that it is training its officials at all levels, though mostly former CPFC officials, on CRC. INGOs and LNGOs have contributed, to a very large extent, to the CRC training of different key target groups nationwide. However, at the grassroots level there is both a lack of officials with a sole responsibility to work for children and a need for more CRC training available

to these groups. Very few social workers have had CRC training and are in need of more training. A review of the quality of CRC trainings held would be useful and NGOs would support such a review.

Recommendation:

The Government is encouraged, with the support of INGOs and LNGOs, to improve the quality of CRC training for all professionals working for children, increase the CRC training for officials working for children at the grassroots level and review the long term effects of CRC training.

II. Definition of the Child (Article 1)

The 2005 Youth Law stipulates that the CRC should be applied to all persons below the age of 18. However, some laws or decrees do not yet fully recognise this stipulation. For example, the Law on Child Protection, Care and Education of 2004 does not fully harmonize with the 18 years age limit in the CRC and the Youth Law, as it stipulates that only persons up to 16 years of age are children and entitled to protection by this law.

Recommendation:

The Government should improve the dissemination and implementation of the Youth Law and its harmonisation with other laws and decrees and to revise the Law on Protection, Care and Education of Children so that the law protects persons up to 18 years of age.

III. General Principles

Non-discrimination (Article 2)

Concluding Observation 23

“Previously my teacher loved me very much. She sometimes asked me to help my classmates. When she learned I was HIV positive, she did not allow me to play with my classmates. When I asked my friends why they did not let me play with them, they answered that the teacher told them not to because I was ill. When I wanted my friends to share a book with me they did not agree”

(A child living with HIV in An Giang)

“In my class, some friends know that my father has HIV so they bully me sometimes: you are the child of an addict, a child of HIV... I went home very angry and cried. I want to go out with my friends from the neighbourhood but their parents do not allow it.”

(12 year old boy who lost his father to HIV, Hanoi).

Article 4 in the Law on Protection Care and Education of Children endorses the principle of non-discrimination. Considerable efforts have been made by the Government to create better opportunities for vulnerable children facing the risk of discrimination, as for example children with disabilities. Concerning tools, school curriculum, tuition fee reduction and a number of special programmes have been implemented to improve the situation of ethnic minorities and of poor children.

In spite of such efforts, according to the Ministry of Education, in 2006 only 24.22% of children

with disabilities enjoyed integrated education¹¹. The Survey Assessment of Vietnamese Youth (SAVY)¹² highlighted gender aspects when indicating that 19% of young women from ethnic minorities have never attended school and two-thirds of all school drop-outs are girls. In contrast, at national level there is gender equality in primary school attendance for girls and boys¹³.

There is a need for more in-depth research with regards to child discrimination.

As demonstrated in this report and by children in the Children's Consultation Report, gaps in the implementation of the laws prohibiting discrimination still remain, in particular for children with HIV and AIDS (Law on Prevention, fighting against HIV/AIDS of 2006), for children with disabilities and for children who have migrated.

Recommendations:

The Government is encouraged to ensure:

- Improved implementation of the Law on Prevention, fighting against HIV/AIDS and finding practical solutions to stigma and discrimination of children with or affected by HIV/AIDS;
- Stricter enforcement of laws which allow the admittance of pupils with special needs into mainstream schools;
- Enforcement of the laws that stipulate access for people with disabilities in new buildings and expand these laws to include government buildings;
- Create opportunities for migrant children and girls from ethnic minority groups to enjoy full access to their right to education.

Best interests of the child (Article 3)

Concluding Observation 26

This principle has been fully incorporated into the 2004 Law on Protection, Care and Education of Children. One priority area for Government implementation is children in conflict with the law, in particular the establishment of juvenile courts, child friendly courts and procedures, the strengthening of educative and restorative justice measures and ensuring training on CRC and on child sensitive skills for judges, People's Consultancy Groups and Trial Panels .

Recommendations:

The Government should

- Consider the establishment of child friendly courts, strengthening of child friendly procedures as well as educative and restorative justice measures;
- Ensure training on CRC and child sensitive skills for judges, People's Consultancy groups and Trial Panels.

The right to life, survival and development (Article 6)

See Health and Health Services and Leisure and Recreation.

Respect for the views of the child (Articles 12, 13, 14, 15)

Concluding Observation 30

¹¹ MOLISA: 2008, 92..

¹² The survey was carried out in 2005 by the Ministry of Health, the General Statistics Office, the World Health organisation and UNICEF with nearly 7,600 participants from 42 provinces across the country, including males and females, married and unmarried, Kinh and ethnic minorities.

'Survey Assessment of Vietnamese Youth', UNICEF, 26 August 2005
<<http://www.unicef.org/vietnam/PART-II-Chapter-2.pdf>>

¹³ MOLISA: 2008, 94.

“Our relationship with the adults is like the sea and the ship... Only participation can allow elders to understand us and for us to understand adults. Participation helps us children to understand each other better as well because we are from different backgrounds, gender, age etc.”

“The CRC Article 12 describes our right to participate...by participating today we are fulfilling that right. This is important not only because our voices will be heard but also because it will help to overcome all that the adults have missed”.

(Child Club members and street children from central provinces aged 14-15)

Even though there are many laws that make reference to or promote child participation such as the amended Law on Protection Care and Education of Children (2004), Civil Procedure Code, Law on Marriage (2000), Criminal Procedure Code and Decree on Administrative Violations, these laws are not widely disseminated nor are they fully taken into account while developing policies or programmes addressed to and concerning children.

One major challenge for child participation in Vietnam is to define the boundaries between the child’s right to participation and his/her duty of obedience to adults in the country’s social-cultural context as it is also stipulated by the Law on Protection, Care and Education of Children¹⁴.

Many initiatives have been undertaken by both the National Assembly, Government and INGOs/LNGOs to promote child participation such as child representatives present at the sessions of the National Assembly; children consulted in the preparation of the CRC State report 2002-2007; development and dissemination of information relating to children’s rights and issues; promotion of programmes for and by children in different media at national and local levels; consultations and conferences to gain children’s inputs on child related issues and act on them; promoting and strengthening different children’s groups and peer-to-peer activities; raising awareness among adults (including government officials) on CRC from the national to local level so as to create a suitable environment for child participation; involving children in research, monitoring and evaluations of programmes; inviting children to talk to representatives of People’s Councils at different levels including at grassroots level; organising many different children’s events.

Despite all these efforts, children’s right to participation is still a concept that is not fully understood, developed or put into practice at all levels and not in a consistent integrated manner. Even though children’s participation is encouraged and promoted, it is still within the periphery of adult support and adult initiated activities. Child participation is still seen as an activity or ad-hoc event and not as a sustained programme or an integral part of all that is done to promote child rights or children’s issues. Moreover, children are still considered a homogeneous group and not much attention is paid to their evolving capacities or abilities. Up to date, limited efforts have been made by local authorities to include the most vulnerable children, poor children and children with disabilities in taking decisions about their future and their own care. This is also valid for children from ethnic minority groups and in particular girls¹⁵, who, as the Children’s Consultations Report confirms, are often discriminated against.

To improve children’s participation in the school environment is one of the key concerns mentioned under the Rights to Education in this report.

The challenges facing both government and INGOs/NGOs while promoting children’s participation are that there is neither uniform understanding of participation nor any mechanisms to measure its potential impact. Therefore, children are involved only in ad-hoc event based initiatives.

¹⁴ UNICEF, an Analysis of the Situation of Children in Vietnam 2010, (Vietnam, 2010) chapter 6.

¹⁵ UNICEF: 2010, chapter 6.

Furthermore, there is a lack of personnel trained to promote child participation: no regular child friendly information flows or any budget allocated for long term sustainable participation programmes. This is compounded by the fact that traditionally, children are still seen as being dependent on adults and as having no capacity to provide useful inputs into the decision-making process.

Recommendations:

- Many government policies, strategies and initiatives have been implemented to promote children's participation, but there is no sustained effort over time to enlist children's views before forming such policies etc. The Government needs to set up sustained systems and mechanisms enlisting children's views at policy level. This can be achieved, among others, by enhancing, improving and facilitating the role of Children's Young Pioneers and Youth Unions in order to better mobilize and empower children.
- Different levels of Government should become better coordinated and to take initiatives for activities and events where children can interact with adults with authority to make decisions, such as The Annual Social and Economic Development Plan at village and community level;
- Establish and document systems for regular monitoring and evaluation of participation at different levels, ensuring that participatory processes promote non discrimination by including vulnerable children;
- The Government and the National Assembly should be encouraged to promote continued dialogue with children;
- Building capacity of government officials, parents and other adults, enabling them to take into consideration children's evolving capacity and diversity;
- The Government and organizations should ensure full protection of and no backlash on children who participate;
- The Government and NGOs should provide children with regular and child friendly information and necessary skills for participation and ensure their participation is meaningful, budgeted for and not tokenistic.

IV. Civil Rights & Freedoms

Name and nationality (Article 7)

Concluding Observation 32

Birth registration is fundamental for a child's right to a name, a nationality and an identity and it is a right stipulated in the Civil Code. In Vietnam as many as 87.6% of children under the age of five have been registered¹⁶. The government acknowledges the fact that not all children in remote areas and belonging to ethnic minorities are registered.

Although the State and the provinces have created favourable policies to facilitate the birth registration of migrant children, homeless children and children from ethnic minorities, these policies are not fully disseminated and implemented at local level.¹⁷ A majority of migrant children are denied their right to education due to the fact that their births were registered in the community where they were born and not in the place of their new residence. For this reason they cannot submit a certificate of birth registration in the new community, required for children to go to school. Children of women who were trafficked cannot get birth registrations due to the fact that their mothers have difficulties in gaining residence re-registration. These children, therefore, have access to neither education nor health care.

¹⁶ General Statistics Office, *Vietnam Multiple Indicator Cluster Survey Report* (Hanoi, 2006) 19.

¹⁷ MOLISA: 2008, 44.

Of note is that some migrant and trafficked children in the child consultations process reported that in some NGO project areas the local authorities have facilitated their birth registration.

Recommendation:

The Government should intensify the dissemination of information on laws on birth registration in rural areas, remote areas and among ethnic minorities and to develop simple and accessible administrative and legal procedures so that all children can access their rights, irrespective of where they are birth registered.

Ill-treatment and violence (Articles 19, 34, 35, 37a and 39)

Concluding Observations 34, 50

See also Sale, Trafficking and Abduction in this report.

“We want a life without violence. Why do a lot of people believe that the “rod” will mature us? Please bring us a life with adult’s love and care.”

(Children from Tan Trao group consultation, aged 11-16)

“In my village in the past, violence in families and between children used to occur a lot and there were just a few recreational and entertainment areas. Recently, some good recreational areas for children to play in a healthy environment have been constructed and this has helped to reduce violence. Children in difficult circumstances are employed; street children can join vocational training and are given jobs so that they don’t have to stay on the street. This way, they are kept away from violence against them.”

(A children’s club member from the central provinces, aged 15)

Although there are legislations prohibiting and forbidding violence and ill-treatment of children (e.g. 2004 Law on Protection, Care and Education of Children; Decree 114/2006 which prescribes an administrative fine to anyone who beats, hurts children or who humiliates and causes mental or physical damage to children and the Law on Domestic Violence ratified in 2007) up to date, there is no law explicitly banning **Corporal Punishment (CoP)** of children at home, in school or in institutions. There is no corresponding word in the Vietnamese language for corporal punishment. See Appendix II. for additional information on laws.

Perpetrators of violence have not been dealt with in criminal procedures in accordance with existing Vietnamese Criminal Law. Most cases of violence against children are handled by administrative fines, intervened and settled within the communities/wards as they are seen as family affairs or by the so called “happy ending” internal solutions within families, confirming people’s belief that CoP in the family is a proper way to ‘educate’ a child and not a criminal offence. A 2005 CPFC research report revealed that the majority of respondents did not know that violence against children was a violation of Vietnamese law, despite the fact that severe hitting or beating of a child and humiliation of a person (including children) is in fact a violation of Vietnamese Penal Code and hence a criminal offence. Law communication to officials and the public needs to be significantly improved, as was also identified by children consulted for the Child Consultation Report.

According to research on violence against children, during 2005 and 2006, over 60% of children reported that they were still subjected to violence, including CoP, in their schools, at home and in other settings. The Government participated in the UN study on Violence against Children and the related regional consultations, however, up to date there has been no launch of the Study and no appointment of government personnel to follow up on its recommendations. Consequently, awareness of the study and its recommendations among government staff and the public is very

limited.

The former CPFC, with support from UN agencies and INGOs, ran several campaigns to end violence against children but, most people still do not know how to report abuse or make complaints nor do government agency staff know how to act when they discover child abuse cases, other than to provide counselling to victims or report the matter to police in the most obvious and severe cases. Besides, few parents or teachers have the knowledge or skills to apply positive discipline. Quality training and guidance manuals about child protection, violence against children, legislation and support mechanisms are needed for government personnel, teachers and parents nationwide. This was one of the main messages arising from the child consultations undertaken for this report. Children feel strongly that CoP and violence against children is wrong and recognise the fact that there are positive ways of influencing and sensitizing parents, adults and teachers through counselling and workshops and they proposed that activities on violence should be widely popularized.

Sexual abuse and exploitation are also problematic. The 2004 Law on the Protection, Care and Education of Children and the 2000 Law on Marriage and Family, as well as the Criminal Code theoretically protect children against Sexual Abuse. Law communication is effective in the sense that people know that they risk severe punishments if they sexually abuse children. However, the legal definition of sexual abuse in Penal Law and Administrative Law needs to be clearer, as currently it fails to cover all aspects of abuse and the criteria which distinguish criminal acts are not specific enough.

Furthermore, Government policies and strategies focus on commercial sexual exploitation while domestic sexual abuse gets little attention. For example, Vietnam has a programme to fight Sexual Exploitation by focusing on trafficking and prostitution, but it does not have adequate systems to coordinate the handling of sexual abuse cases, nor appropriate mechanisms to collect data on perpetrators of violence and abuse of children. There is very little research on child sexual abuse in Vietnam, since this is viewed as a difficult and sensitive issue. As a result, there is a lack of data on child sexual abuse which could serve as a basis for designing reporting mechanisms and prevention projects. The majority of data available regarding both sexual abuse and violence is collected by the police and only focuses on the most serious reported cases, whereas the majority of cases of sexual abuse are allegedly not reported, especially if the perpetrator is a member of the family.

Overall, there is a general lack of knowledge about the serious effects of sexual abuse on children and how it should be prevented, reported and handled.

Child Pornography is not yet considered a high priority by the State, although preventive laws of a more general nature are in place. Child Pornography is not defined as a separate or distinct legal offence. The Government has so far focused on children as possible consumers and not on children being exploited in the production of such material. The trend towards greater use of the internet in Vietnam generally provides more opportunities for those who want to make use of children in terms of pornography.

There seems to be a rise in **Child Prostitution** in Vietnam although there is a lack of confirmed data. According to research by an LNGO, 80% of sex workers are under 18.¹⁸ The Vietnamese Government has made strong efforts to create a legal framework to fight child prostitution. As the legal framework is in place, it would be timely for the government to enhance law enforcement and data collection and provide more information to families at risk, in particular in remote areas of the country.

¹⁸ Save the Children Sweden, *Sale of Children, Child Prostitution and Child Pornography: a Complementary Report by NGOs in Vietnam to the Government's Report on OPSC* (Hanoi, November 2005) 11.

There are a number of counselling centres for child abuse in Vietnam such as the counselling centres of the former CPFC, a helpline supported by an INGO and various other private centres. Most of these are based in Hanoi and Ho Chi Minh City or in central provincial towns and for this reason they are not known to, nor accessible to poor people and people in remote areas.

Recommendations:

- A National Plan of Action to end all forms of violence against children should be developed and urgently put into place;
- Child friendly protection system in the community which can receive complaints and provide treatment for victims of child abuse should be established, including a support policy for children who are victims of domestic violence;
- Effective and accessible systems of data collection to be set up on child abuse including national research on child sexual abuse and corporal punishment;
- An explicit law to ban all forms of violence against children including corporal punishment at home, in school and in other settings;
- Enhanced law enforcement from the central down to community level, along with the better communication of laws;
- Increased capacity building and positive disciplinary techniques for social workers, for authorities in government offices that work with violence against children and for teachers (compulsory); public training on good parenting for parents.

V. Family Environment and Alternative Care

Adoption (Article 21)

Concluding Observation 38

Bearing in mind the concluding observations of the Committee on the Rights of the Child to the second periodic report of Vietnam, it should be noted that current child welfare, protection and care systems in Vietnam still allow a large number of children to be available for Inter-Country Adoption (ICA): in 2006 around 1,500 and in 2007 around 2,000, suggesting that ICA in reality is still privileged over foster care and domestic adoption. Furthermore, Vietnam has not yet ratified the Hague Convention of 1993 on the Protection of Children and Cooperation in Respect of Inter-country Adoption (No.33) and not yet promulgated any laws on domestic adoption.

Issues of concern in this respect include:

- The high number of adoption agencies (currently around 68) who have received a license for operating in Vietnam: the number of adoption applicants is much higher than the number of children eligible for adoption, which creates a demand for children and competition among adoption agencies and which does not generally benefit the welfare of the children.
- The young age of some infants being adopted: although it can be agreed upon that the sooner a child is raised in a family environment the better, the fact that some infants are only a few months old when being adopted raises doubts whether efforts have been undertaken to reunify them with their natural parents or to find foster or domestic adoptive parents for them. It rather suggests that adoption organisations as well as the nurturing establishments may be responding to a perceived demand by foreign adoptive parents wishing to adopt newly born children.
- The high amount of money donated by adoption organizations to nurturing establishments for the referral of children for ICA and the facilitation of adoption procedures.
- The link between adoption activities and humanitarian projects: the fact that adoption

organisations are required to financially support those nurturing establishments with whom they are cooperating in ICA can create incentives for the nurturing establishments to actively look for more children for ICA. Furthermore, the monitoring of the implementation of these humanitarian projects is far from adequate.

- Very often natural parents and guardians are not clearly and fully aware of the legal consequences of their agreement to let their child be adopted because those in charge of examining the adoptability of children are not yet adequately qualified and trained.
- There are still known cases of intermediaries who induce, by payment or compensation, consents to adoption from natural parents and staff of hospitals where children have been abandoned.
- The legality and accuracy of some birth certificates and reports on abandonment of children.
- Personal responsibility of those in charge of preparing Child Study Reports which state the adoptability of children, in order to prevent falsification of documents required for those reports.

In 2003, the Ministry of Justice (MOJ) established the Inter-Country Adoption Department (DIA) under Decision No. 337/2003/QB-BTP, whose purpose it is to deal with inter-country adoptions and assist the Ministry of Justice to consistently administer inter-country adoptions. In 2006, the Decree No. 69/2006/ND-CP was promulgated in order to better control inter-country adoption procedures. The establishment of the DIA and the Decree 69 can be considered a very big step forward by the government to adhere to international standards. Further steps include measures such as the requirement by nurturing establishments to submit a list of adoptable children to the DIA, which is to be in charge of the matching process; that individual adoptions are forbidden; and that plans to fix the amount paid for the facilitation of adoption procedures to the nurturing establishments are underway.

Nevertheless, it can be remarked that the power of the DIA as a central authority over the nurturing establishments and provincial authorities is still limited. For example, the task of matching children and adoptive applicants lies in the hands of the provincial Department of Justice and the directors of the nurturing establishments. Furthermore the DIA mainly addresses the concerns regarding the justice of cases and less the social aspects of adoption. The qualifications of staff in charge of all adoption related work in nurturing establishments, as well as in the DIA, stem more from their work experience than from prior specialized studies. Staff should by law consist of personnel with multidisciplinary professional qualifications, including professional social workers, psychologists, lawyers and medical doctors with working experience in the field of child welfare.

There is a need for higher requirements from adoption organisations receiving a license for operation in Vietnam, as there is for their staff to meet certain standards. These agencies should be non-profit and professional child welfare organisations which are not just doing the job of facilitators but, also detecting the needs of each child and preparing them for a life with an adoptive family. Licensed adoption organisations should be required to strictly follow ethical standards to protect children's interests - not the interests of officials handling cases.

Recommendations:

- The Vietnamese Government should complete the process to become a party to the 1993 Hague Convention on the Protection of Children and Cooperation with respect to Inter-country Adoption as soon as possible;
- A law for domestic adoption that includes guidelines for the establishment of a central authority for domestic adoptions should be issued, in order to set up more effective monitoring mechanisms for domestic adoptions, including trained social workers who can conduct home studies and regular follow ups;
- Alternative care options within the country like foster care and domestic adoptions for abandoned children and orphans should be prioritized;
- To prevent and reduce the abandonment of children, families at risk of abandoning or relinquishing their children should be provided with more financial assistance and with social services in order for families to remain together;
- The DIA should assume the entire responsibility for the adoption process so children will benefit from faster, easier and less corrupt adoption processes;
- The matching of children and adoptive parents should be assigned to a team composed of child protection professionals trained in adoption policies and practices;
- There should be more stringent requirements for adoption organisations receiving a license for operation in Vietnam.

Illicit transfer and non-return (Article 11)

See under Special Protection Measures, Sale Trafficking and Abduction.

See III - Treatment and Violence against Children in this report.

VI. Basic Health and Welfare

Children with disabilities (Article 23)

See Inclusive Education and Children with Disabilities in this report.

Health and health services (Article 24)*Concluding Observation 40*

Vietnam has made impressive achievements in the field of health care for children since 2002. The 2004 Law on Protection, Care and Education stipulates free healthcare for children under the age of six at public health facilities. Healthcare is broadly available, although access is still a problem for ethnic minorities in remote areas, for families in rural areas and for groups such as migrant children. Informal costs for health care, costs for long transports but, also a lack of awareness, prevailing customs and habits within families in remote areas create obstacles for vulnerable children's access to the right to health.

Malnutrition rates for under five year olds have dropped from 30.1% in 2002 to 21.2% in 2007¹⁹. However, the average rate of malnourished under five year olds in the Central Highlands and the northern mountainous areas remains high at 30%²⁰ with a significant disparity between urban areas

¹⁹ MOLISA: 2008, 73.

²⁰ GSO and UNICEF Vietnam (2007) MICS 2006.

and poor and remote areas. Between 2000 and 2005, infant mortality rates declined rapidly, from 36.77 per 1,000 to 17.8 and during the same period mortality rates for children under five years old declined from 42 to 27.5 per 1,000²¹. Nevertheless, an important disparity remains between infant mortality rates in urban areas (14 %) and rural and minority areas (24 %) ²².

Recommendations:

- The Government should identify ways to phase out obstacles for children belonging to ethnic minorities, living in rural areas and migrant children to access their right to health and healthcare;
- The Government is encouraged to conduct wide scale systematic intervention to improve the nutritional status of young children in order to ensure their right to survival and development.

HIV/AIDS (Articles 2, 24, 25)

Concluding Observation 46

“As my family is poor, I have to do work outside and at home such as cooking and washing dishes. Other friends do not have to do anything...I have never gone to school so I do not know how to write. My future life is sure to be much harder than theirs.”

(16 year old boy whose father died of AIDS, Quang Ninh province)

“Since becoming infected, I am always scared, because there is no effective medicine for this disease, which means that I will die soon. I wish there were some medicine to treat and save me.”

(17 year old boy living with HIV in Hanoi)

Figures relating to HIV infection vary significantly depending on the source. The Ministry of Health (MOH) states that the number of people infected by HIV up to April 30, 2007 was 124,223 of which 23,611 people have developed AIDS and 13,469 people have died of AIDS²³. They estimate that there are between 20,000 to 30,000 new cases each year. According to a report by MOH released at the end of 2005, during the period 2001-2005, approximately 6,900 children under the age of 19 were infected with HIV/AIDS. HIV-positive children under the age of 13 represented 1% of the total HIV infection cases reaching an estimated figure of 1,200 children; while children between 13 to 19 of age represented 7.15% of HIV infection cases, reaching an estimated figure of 9,500 children²⁴, of which 695 were children under the age of five. The number of children belonging to families affected by HIV/AIDS in 2003 was estimated to be around 283,667²⁵.

Although basic HIV testing supplies and ARV can be found in most provinces, few women and children receive these services. MOH data and studies show that only 14%²⁶ of pregnant women were tested for HIV in the past two years and only 14% of the total number of pregnant woman infected by HIV received ARV therapy. Therefore only 12-31%²⁷ of pregnant women infected with

²¹ Joint Donor Report to the Vietnam Consultative Group Meeting 79.

²² GSO 5.

²³ N/a, ‘HIV/AIDS Ranks Third in Reasons for Death’, VietnamNet, 8 July 2007
<http://www.unaids.org.vn/event/pressclipping/2007/jul09_jul15_07_e.pdf>

²⁴ MOLISA: 2008, 83.

²⁵ MOLISA, National Plan of Action for Children Affected by HIV and AIDS until 2010, with a Vision to 2020 (Hanoi, 2009) 3.

²⁶ MOLISA: 2009, 6.

²⁷ World Health Organisation, ‘Towards Universal Access: Scaling Up Priority HIV/AIDS Interventions in the Health Sector’, 2 June 2008.

HIV are estimated to receive ARV due to low awareness of PMTCT (Prevention of Mother to Child Transmission) services, fear of HIV testing and low partner and family involvement. There is a lack of data on the nutritional status of children living with HIV in homes and in institutions.

According to the National Strategy on HIV/AIDS Prevention and Control 2004 and the Law on HIV/AIDS Prevention and Control, from January 2007, all children infected by HIV are to receive priority anti-retroviral (ARV) treatment. The Vietnam Administration for Aids Control (VAAC) says this will only start happening from April 2007. However, only 5%²⁸ of the infected children have received treatment. Decision No.65/2005-QĐ/TTg states that AIDS orphans will receive a monthly allowance. However, only a few receive this allowance due to a lack of birth-registration documents, being a migrant orphan, or because local authorities and family members don't have adequate information about the allowances. This is due to gaps in coordination between Government agencies at national, provincial and district levels.

HIV/AIDS is seriously impacting on children's rights and is threatening family structures. Children become either single or double orphaned due to HIV/AIDS. Even when parent(s) are still alive, children often face problems relating to a lack of adequate parental care because parents are often too sick to care for their children or focused on other problems such as drug addiction rendering them less capable of fulfilling their duty as care givers. Many children suffer from a lack of care and psycho-social support and their right to non-discrimination, care, healthcare, nutrition and education is not fulfilled.

People living with HIV/AIDS tend to be commonly stigmatized and discriminated against by communities, schools and even by themselves. Although there is no data, program experiences show that many affected children, especially at the pre-school level, and children in institutions are not admitted to pre-schools or schools despite the Law on HIV/AIDS Prevention and control passed in 2006. Some school principals say this is due to pressure from other parents. Of those who are in school, many drop out early because, as reported, they have no friends to play with or their care-givers cannot pay the school fees²⁹. The child consultations in this report reveal that children feel bullied and shunned in their neighbourhoods and discriminated against by teachers and other children's parents, which makes them drop out of school.

The Government has adopted several new laws and policies related to HIV/AIDS, however implementation and monitoring needs to be improved. The Law on HIV/AIDS Prevention and Control passed in 2006, protecting children against discrimination, needs to be implemented and government solutions and orientations against stigma and discrimination should give more guidance in terms of how these problems could be solved.

See Appendix II for additional information on laws, policies, decisions and statistics.

Regarding quality information, education and communication (IEC) materials and activities regarding HIV/AIDS, children involved in the child consultations said that thanks to IEC activities,

<<http://www.who.int/hiv/pub/2008progressreport/en/index.html>> Annex 3.

²⁸ WHO, 2 June 2008 Annex 2.

²⁹ Boston University Centre for Global Health and Development, Children and HIV/AIDS in Vietnam: Perspectives from Children Living with and/or Affected by HIV/AIDS and their Caregivers (Boston: Boston University, 2009).

children with HIV/AIDS do have a good knowledge of HIV transmission and prevention. Nonetheless, quality information needs to be delivered in a participatory and interactive way, in all schools and communes so non affected children have a correct and practical understanding of HIV prevention (including the use of condoms). The Ministry of Education must improve IEC to reach all children in schools and make it practical, realistic and child friendly.

Recommendations:

- Urgently implement the National Plan of Action on Children and HIV/AIDS;
- Ensure clear dissemination to the lower levels and supervision of the implementation of the National Strategy on HIV/ AIDS Prevention and Control and the Law on HIV/ AIDS Control;
- Improve the collection of data on children infected by HIV;
- Increase the number of children receiving ARV and ensure follow up and financial support for their treatment;
- Roll out more practical, realistic and child friendly information, education and communication on HIV/AIDS to schools and communities;
- Establish a community-based Care and Support system for children affected by HIV to ensure basic care and cost effectiveness;
- Develop and implement an advocacy strategy for stigma and discrimination reduction in schools and communities.

VII. Education, Leisure & Cultural Activities

Education (Articles 2, 28, 29)

Concluding Observation 48

See also, in this report, Non-discrimination, Name and Nationality, Ill-treatment and Violence; HIV-AIDS; Inclusive Education; Sale, Trafficking and Abduction; Migration.

Right to access (Article 28)

Despite good progress towards realising the right to access, with a net enrolment rate in primary education as high as 93.5% and a primary net attendance of 95.4%³⁰ and with an indication of no difference in primary school attendance for girls and boys,³¹ there are still significant disparities along geo-physical, ethno-linguistic and socio-economic lines. Furthermore, the achievements with regard to ‘universalisation’ of education have not brought equality of educational opportunity to all, with disadvantaged and vulnerable children continuing to experience significant, complex and persistent barriers to enrolment, regular attendance and timely completion of basic education.

Many children living in remote, mountainous areas and children in the 0-5 year old group do not have access to pre-school programmes and activities. Only 57.1% of children of 36-59 months old attend pre-school and the difference between rural (51.4%) and urban areas (74.7%) is significant³². According to LNGOs, the reasons for this disparity include a lack of school buildings, parents not realising the importance of pre-school and a lack of funds in rural areas. Free pre-schooling would solve some of the problems as suggested by LNGOs. The limited awareness and commitment of communities and the government to the early years of learning and stimulation has led to low levels

³⁰ GSO 16.

³¹ MOLISA: 2008, 39.

³² GSO 15.

of both government investment in infrastructure, teacher education and community mobilisation. Limited investment by the government places the burden of financing pre-school education on parents, who are often unable or unwilling to prioritise early years learning. See Appendix II for Government's 2008 decision on pre-schools.

These children also face geo-physical and socio-economic barriers to basic education when aged 6-14 years, with issues related to enrolment and completion and significant levels of irregular attendance and drop-out at both primary (national average 3.1% and in the north-west 6.1% in the period 2002-2003) and lower-secondary levels (national average 5.9% and in the Central Highlands 6.5%)³³. Children, parents, communities and local authorities have a poor understanding of the rights of children and the importance of education for all, especially for girls, who are denied access to school due to domestic responsibilities, early marriage and other gender role expectations. It has been recommended by LNGOs that such gender issues should be addressed formally through the school curriculum. The Survey Assessment of Vietnamese Youth (SAVY³⁴) shows that 19% of young women from ethnic minorities have never attended school and two thirds of all school drop-outs are girls. Furthermore, despite significant government and ODA/donor investment in school infrastructure development, there are still many communities and children, particularly in remote and mountainous areas, without access to adequate school infrastructure, including satellite classrooms, boarding facilities, functional rooms, water and sanitation, medical rooms and kitchens.

Furthermore, there are substantial numbers of children in society whose data can not be collected. These include children living together in self-organized groups who avoid the authorities, domestic servants and children in various forms of forced labour. These, along with migrant children, rarely have access to education at all, nor do they have the opportunity to have access to the same rights to education as long-term urban residents, as they are amongst Vietnam's poorest and most vulnerable people and because they tend not to be officially recognised or registered.

There are also significant concerns regarding the affordability of education for the poorest children and their families with the introduction of school fees in pre-school and lower-secondary education and the "hidden costs" of primary schooling, which serve to exclude the poorest and most vulnerable. Although basic school fees are waived for poor and vulnerable children, informal contributions (not regulated by exemption policies) often render education unaffordable.

Overall, there is a problem with the contradictory pressure of access for all with the national educational standards competition that discourages the registration and enrolling of children who may be at a higher risk of dropping out.

Right to quality education (Article 29)

There are ongoing issues related to the quality of education throughout all levels of the Vietnamese education system, particularly significant for ethnic minority children living in remote, mountainous areas, children with disabilities and lower secondary students in general. Repetition and drop-out rates with clear links to low quality in all levels of education are particularly high for these groups.

³³ GSO, Vietnam Living Standard Surveys.

³⁴ The survey was carried out in 2005 by the Ministry of Health, the General Statistics Office, the World Health Organisation and UNICEF with nearly 7,600 participants from 42 provinces across the country, including males and females, married and unmarried, Kinh and ethnic minorities. SAVY 27.

Learning achievements for these children are low, particularly as children progress up through the system. The Government recognises limitations in the current environment, noting that the practical skills of primary and junior students remain weak and that creative thinking skills and self study have not been adequately promoted.³⁵

Teaching methods are still regarded as too passive, emphasising a theoretical curriculum based on memorisation and repetition over communication and creativity. Whilst recognising “the great strides that have been made to improve the content of the curriculum, teaching styles tend to be at odds with accepted best practices, with an emphasis on passive learning. Dictation, repetition, copying and testing do not encourage analytical, interpersonal and problem solving skills. Combined with a heavy theoretical curriculum, current models emphasize memorisation and repetition over communication and creativity.”³⁶

The top-down approach and standardised curriculum is seen to have marked weaknesses, especially when teaching ethnic minority children, which is exacerbated by the fact that the least experienced teachers are sent to these areas. The structure and organisation of the content/chronological curriculum also presents significant barriers to the inclusion of vulnerable groups, preventing children with different learning and style needs from making individual progress through the curriculum. The absence of culturally adapted curricular content reflecting local context and indigenous knowledge and learning materials is a barrier to improving the relevance, learning experience and perceived importance of primary education within ethnic minority communities. Vietnamese is the national language of primary education instruction. In remote areas, most of the teachers are not from the ethnic group that they teach and do not know the local language. Many minority ethnic children start grade one without a proper grasp of the Vietnamese language, which in turn hinders the learning process and increases the risk of pupils dropping out. It must be noted that there are a few locations where the Government is promoting the learning of ethnic minority languages in schools to help children learn more successfully.

The current level of educational achievement being attained by children with disabilities in Vietnam is still low. The lack of teacher training and information related to children with disabilities are the most significant factors affecting non-attendance and drop-out rates, while discrimination and prejudice against children with disabilities, by both teachers and peers, also affect their attendance and progress in schools.

Violence by both teachers and by other children through bullying and victimisation is a problem in schools. According to research detailed in the section on Violence against children, 60% of the children respondents said that they are still suffering from violence, including corporal punishment in schools. A number of high profile cases have demonstrated the need for standardised mechanisms for reporting and responding appropriately to violence in schools. There is a real requirement for teachers to gain skills in positive discipline and communicating effectively with children.

There remain outstanding concerns related to a child’s right to development, protection and participation within the physical and psycho-social environment of Vietnamese schools. In many rural and remote mountainous areas, children lack access to a quality learning environment with

³⁵ MOLISA: 2008, 97.

³⁶ Child Rights Situation Analysis related to Education, Save the Children UK , Vietnam Programme 2006

many school facilities in degraded and dangerous conditions. The facilities have inadequate lighting and ventilation, inappropriate furniture and equipment and low quality child-friendly teaching and learning aids. Water and sanitation facilities and health and hygiene in schools continue to present a significant issue with nearly 90% of schools without sanitary and functioning latrines and safe drinking water, which has a particular impact on female children³⁷.

Beyond classroom based teaching and learning, there is a need for more meaningful opportunities for children to participate in decision making on issues that affect their everyday learning and school lives. The Government has introduced participatory school self-assessment and planning processes to promote community involvement in school development and it has encouraged the establishment of parent associations and student councils, although children, parents and communities lack the necessary skills and awareness to meaningfully participate in decision making and their contributions are often not valued or validated.

According to one LNGO, signs of psychological problems in school children have been increasingly significant in recent years and are currently found in up to 20%³⁸ school children. For details of these problems see Appendix II. A few centers for mental health care, treatment and prevention have been established in major cities, however they have limited out-reach capacity and are unable to care for all children in need of support. It is therefore suggested that the Government urgently considers the development of a system for mental health care in all schools including training for school psychologists.

Children in the child consultations confirmed the validity of these issues and asserted their rights to a better quality of teaching and learning, better school facilities and the reduction of drop-outs from school.

Recommendations:

- Provide access to Early Childhood Care and Development services for children under six prioritising ethnic minority and disadvantaged children;
- Emphasise the development of long term education, financing plans towards realising the right to education for all which take into account socio-economic trends, invest and implement in the access to education strategies that reflect the socio-economic realities of household poverty and disadvantaged children's barriers to learning and further address the exclusionary issue of the 'hidden costs' involved in schooling.
- Develop clear rights based standards as well as school codes to ensure health and hygiene in schools and safe, protective and enabling psycho-social environments;
- Review and evaluate recent curricular reforms to underpin the ongoing development of an inclusive and competency based curriculum that is respectful toward diversity, with a specific emphasis on ethnic minority groups and children with disabilities, design effective teacher education activities and varied resource materials;
- Promote the development of tools and mechanisms to enhance the participation of children and parents in governmental participatory schools; develop processes and assessments of learning outcomes;
- Consolidate and evaluate pilot interventions, consolidate initiatives into national policy and strategies regarding mother tongue instruction, implementing necessary curricular and material

³⁷ Ministry of Health and UNICEF, a Summary of National Baseline Survey on Environmental Sanitation and Hygiene Situation in Vietnam (Hanoi, 2007).

³⁸ Nguyen Thi My Loc, Demand for Clinical Psychology Education in Vietnam, (Hanoi, 2007) 6.

Inclusive education and children with disabilities (Articles 2, 23, 28)

Concluding Observations 23, 44

In 2007, Vietnam signed the UN Convention on the Rights of People with Disabilities. Vietnamese law establishes the general rights of people with disabilities (PWDs) and in particular for children with disabilities to have equal access to education, health services and job opportunities. Although a legislation to create favourable conditions for the inclusion of children with disabilities is in place, at present the implementation of the legislation remains very weak. See Appendix II for details of Vietnam's legal framework, policies and implementation of activities related to children with disabilities.

The Government aims to achieve the enrolment of 70% of children with disabilities in some educational environment by 2010³⁹, which still leaves 30% excluded from educational access. It is therefore evident that many children with disabilities have yet to benefit from the implementation of inclusive education policies. The reasons for this are many and complex: access to funding, geographic location and cultural attitudes are important factors. For many students with a mobility problem, access to buildings is often impossible. Although there are government regulations on the design and construction of new schools, the Ministry of Education has limited control over the management of school construction.

The current level of educational achievement being attained by children with disabilities in Vietnam is still low. The lack of teacher training and information related to children with disabilities are the most significant factors affecting non-attendance and drop-out rates, while discrimination and prejudice against children with disabilities, by both teachers and peers, also affect their attendance and progress in schools. Additional focus is needed on teachers and students at school level to combat behaviour which impede the academic progression of children with disabilities.

Early intervention and vocational training activities need to be developed in the majority of provinces, as identified in many studies and research, as early intervention is very important for many children with disabilities and has been commonly found to reduce problems later in academic careers.

There is a need for more evaluation surveys providing reliable data on children with disabilities or data separating different kinds of disabilities.

Structural implementation is lacking and in practice only provinces and districts that receive technical and financial support from INGOs and/or donor organisations are actually implementing Inclusive Education. To improve this situation, Provincial Departments of Education and Training need expertise and vision on how to implement Inclusive Education. Legislation needs to be supported by budget allocations from the Government or clear directions on how to allocate local resources. Monitoring mechanisms are needed as well as a strategic framework that sets action programmes to reach objectives and targets and identifies resource requirements.

³⁹ Vietnam, National Programme of Action for Children 2001 – 2010 (Hanoi, 2003) 71.

Recommendations:

- Urgently approve the National Action Plan on Education for Children with Disabilities in Vietnam 2005-2015 and prioritise children when harmonising national legislation with the UN Convention on the Rights of People with Disabilities.
- Earmark Inclusive Education budget lines and increase resources to be allocated to each administrative level (provincial, district and communal) for local management.
- Increase quality in-service and pre-service training on Inclusive Education for teachers and develop teacher support networks.
- Ensure the stricter enforcement of laws on admitting pupils with special needs to mainstream schools.
- Develop Guidelines and plans on how to support children with disabilities to continue their studies in secondary and vocational schools.
- Take further steps to create conditions so that all children are subject to individualised teaching and child focused learning, taking into consideration their capabilities and talents rather than classifying them according to whatever difficulty they may have.
- Enforce the laws on new building access and widen them to include government buildings and departments.

Leisure and recreation (Article 31)

Right to life survival and development (Article 6 Para. 2)

Concluding Observation 28

Child protection is targeted in Vietnam's Millennium Development Goal (MDGs) and Social Development & Poverty Reduction Goals (VDGs) at 2010, while the 2004 Law on the Protection, Care and Education of Children (Article 12, 17) endorses the right of children to care and nurturing, as well as to recreation and mandates the Ministry of Culture, Sports and Tourism to guide the construction of libraries, clubs, leisure and recreational facilities, or to allocate at least 20% of the public works budget to serve children's needs. However, the implementation of this legal framework seems to fall short of the requirements in especially remote areas.

The assessments of children's needs living in remote areas⁴⁰ indicate that the situation of children living in these parts of the country is particularly precarious. For example, it has been reported that children living in four mountainous and poor communes suffer from difficult living conditions⁴¹, which have adversely affected their physical, intellectual and psychological development. Many are struggling to access basic needs for their daily survival. In the assessed areas a huge gap in the accessibility and quality of public services between the rich and poor and between boys and girls was evident and this condition also reflects the situation in other remote areas. In these areas there are limited awareness, knowledge and understanding of child rights and protection, as well as the importance of creating a safe, enabling and supportive environment for the full development of children. The implementation of laws and regulation at community level is weak. There is a great concern about poor child safety and frequent injuries in communities. Widened roads for car access, increased numbers of motorbikes among better off households and the limited knowledge of traffic laws between children from ethnic minorities raises great concerns among parents over the safety of

⁴⁰ ChildFund, Need Assessment Survey Report on Child Situation in Poor Ethnic Communes in Hoa Binh and Bac Can Provinces (Vietnam: 2006).

⁴¹ Nguyen Thi My Loc 6.

their children when travelling. Cases of drowning in remote areas also remain frequent. Children are also the most vulnerable to natural disasters and diseases, which are prevalent in these remote areas.

Nationally, higher priority is commonly given to profit making projects rather than to public investment in facilities for children. Allocation of land for constructing playgrounds or entertainment areas for children is not given sufficient attention in urban and rural planning and budgetary allocations for leisure facilities for children is inadequate. Where the private sector has built leisure facilities, the high entrance fees are prohibitive to poor families. The former CPFC, responsible for developing the strategy to create safe facilities for children to organise leisure activities at district and communal level, as well as for child protection, had a weak capacity and inadequate funds for the provision of high quality public services related to child care and protection.

Children in urban areas lack time for recreation, due to spending most of their time studying. Schools and families hardly consider children's right to play and develop more fully in areas other than school activities. Playgrounds in schools for children should be of better quality and schools should offer more recreational extra curricular activities for children. In the child consultations, children said that parents cannot meet children's needs since both rich and poor parents think that children do not have any other needs than education.

The side effects of the recent market economy have resulted in an increasing number of potential risks for children, not only in cities and industrialised areas but also in mountainous communities. It appears there are increases in social crimes, drug addiction, child labour, child trafficking and sexual exploitation. It is evident that children lack the necessary practical experience and life skills to deal with these risks. Children in the child consultations say that teachers should teach children necessary life skills such as communicating, self protection and reproductive health.

Recommendations:

- Stronger commitment, including annual budgetary allocations, from the central and local government to enable the fulfilment of children's rights to leisure and recreation.
- Implementation of the present policy to educate the general public on accident prevention for children more widely and effectively and provide training on child safety and life skills to children and parents.
- To monitor that, in urban and rural planning, when allocating land, provisions are made for the construction of leisure and recreation facilities for children and that such planning is consistent.

VIII. Special Protection Measures

Children in conflict with the law (Articles 37 b-d, 39, 40)

Concluding Observation 54

The State's Periodic Report on CRC 2002- 2007 covers a large number of activities conducted during the reporting period by various agencies with different roles in ensuring, protecting and fulfilling children's rights to special protection and justice. It is recommended that the State better highlights and responds to each of the CRC Committee's recommendations, particularly in regard to adopting a separate legal code for juvenile justice and establishing a system of juvenile courts,

ensuring that deprivation of liberty is used only as a last resort; a situation which is yet to be achieved. Greater evidence of the achieved impact on children in conflict with the law is desirable.

The Legal Aid Law (January 2007) entitles children, who are rights holders as specified in all international legal instruments that Vietnam has ratified, particularly children in especially difficult circumstances, to the right to legal aid. Data on the implementation of this law is difficult to access and it appears that many children are not yet receiving appropriate and timely legal aid support. A report on progress in the area of legal aid and its contributions to ensuring children's right to access basic services and their access to justice is encouraged as a part of future State reports.

There are other key challenges in the field of juvenile justice that need to be adequately presented and discussed in the State report and addressed in practice, such as:

- The considerable gap between knowing the laws and comprehending the practical implications of these laws/ international instruments/ standards; and the administrative implementing system personnel and judicial professionals set to practice such laws.
- The barriers to law implementation caused by the overlap and inconsistencies between laws and sub-laws and the frequently delayed and inadequate decrees and guidelines (e.g. guidelines on the application of diversions and administrative measures);
- The lack of implementation of restorative justice measures is an obstacle to the best interests of children.

During the reporting period, statistics have shown an increase in the number of child offenders who partake in thefts, robberies, smuggling, social order disturbances, rape and murder.. The percentage of children committing murders increased from 0.95% in 2002 to 1.03% in 2006; sexual abuse increased from 2.19% in 2002 to 2.8% in 2006⁴². These children still face many obstacles to enjoying their right to special protection and to restorative and educative justice. An increasing number of children are sent to reform schools, which affects psychological and physical well-being while isolating juveniles from their surrounding community. In 4 national reform schools in the provinces of Ninh Binh, Da Nang, Dong Nai and Long An, the number of children being sent to reform schools increased from 1591 in 2001 to 2294 in 2008⁴³. The decision making processes do not, in many instances, adhere to the right of the child to be heard. Children are not normally given the necessary legal support during the decision process.

For their work with children judicial professionals need training and information on the practical implications of international standards on Juvenile Justice, a better understanding of child psychology and better child sensitive skills and approaches to work with both children in conflict with the law and children who are victims or witnesses. Advisory Boards and Trial Panels need similar trainings. There is also a need for clearer guidelines in order to have better consistency and implementation of different laws.

Recommendations:

- Practically improve administrative and criminal procedures to ensure a higher compatibility with international standards on juvenile justice, in order to genuinely fulfil the right to special protection for children in conflict with the law, child victims of abuse and child witnesses.

⁴² MOLISA: 2008, 151.

⁴³ Children indicators in VN 2005, CPFC, page 131

- Ensure better consistency among the laws relating to juvenile justice. Develop and implement clear guidelines on the application of diversion and administrative measures.
- Respect the right to privacy and confidentiality, particularly stressing the responsibility of the media not to publish information that might lead to the identification of a child victim/witness/accused or defendant; eliminate public and mobile court hearings when children are involved.
- Strengthen the management and regular, comprehensive supervision of the administrative and criminal system, in particular the decision making process/decisions on sending children to reform schools and supporting children who have attended reform schools. Gradually increase the use of community education measures instead of sending children to reform schools. Include Juvenile Justice in the codes of ethics and professional guides for all judicial professionals and upgrade their training to ensure an in depth understanding of children's rights and international standards in Juvenile Justice and adequate child sensitive skills and approaches towards working with children in conflict with the law, child victims and witnesses. Provide trainings and child sensitive skills to People's Consultancy Groups and Trial Panels.
- Fund and implement outreach criminal prevention programmes and restorative, reintegration programmes for children, involving children and civil society.
- Improve and unify the statistical and statistic collection practices in administrative and criminal systems and make the data accessible for all related parties.

Children in Situations of Exploitation

Sexual exploitation and sexual abuse (Article 34)

See Ill-treatment and Violence in this report.

Migration (Articles 2, 24, 28, 32, 40)

Sale, trafficking and abduction (Articles 10, 11, 34, 35, 39)

See Ill-treatment and Violence in this report.

Concluding Observation 50

“My mom’s main work is collecting, buying and selling plastic bags and bottles from the garbage dumps. She earns between VND20,000 to VND30,000 (less than \$2) a day. Until now, we still do not have electricity and water as my mom said that we did not have enough money to pay for those “luxury things”. We have to buy two pails of water (VND2,000 per pail) per day for cooking, washing and everything that needs water. We do not have television or radio but I think that I do not like watching TV”

(15-year-old migrant girl in Ca Mau)

“My family is extremely poor and my mother is seriously ill. Following sister N, I came to Ca Mau to earn a living. My employer gave my mother a sum of money and brought me some new clothes. After working here for two months, I could not pay for the debt so my boss urged me to have sex with a client for the first time to earn VND5-7 million. I was very confused. If I did not do it, how could I pay the debt? Moreover, here, we are all in the same boat”

(16-year-old waitress working at a NK restaurant, Ca Mau)

Internal migration

The general trend of migration is from rural areas to urban or industrialised areas and from the north of the country to the south. Children and young people usually move with their parents, although some migrate independently. The common underlying reason for migration seems to be to seek

employment. In 2005, half of the migrant force in Vietnam consisted of people under the age of 25⁴⁴. The number of migrant children under 15 years old is not known since migrant children under that age do not have to register with the local police.

The new law on residence for migrants became effective on July 1, 2007. Migrants can now register in their new areas of residence after only one year. On paper, this is a positive step for ensuring that migrant children can have their rights to education and health enforced. However, it only benefits parents who can pay for a house and who meet rigid conditions for household registration. There is still barriers/discrimination regarding access to basic services such as education and health for migrant children. With regard to the Right to Education, conditions of entry to schools are based on birth certificates and household registration. The majority of migrant children do not have birth registration certificates as they were registered in the community where they were born and not in the place of their new residency. To get a household registration certificate, parents must submit a permanent working contract and confirmation of a stable income. Most migrant parents cannot meet these conditions. Local authorities in places that receive migrants need to support families by issuing new birth certificates and other required documents. The number of places for pupils in government schools is insufficient and priority is given to permanent residents. Children's school attendance is often interrupted by migration patterns, lack of awareness among parents about the importance of education, and lack of money to pay school fees and other educational costs.

Regarding the Right to Health, migrant families are significantly disadvantaged. Children under 6 years of age, whose parents are permanent residents, are provided with free health care whereas migrant children under 6 years often do not have access because parents generally lack permanent residence and children do not have the necessary documents. This fact emphasizes the important role of civil society organizations in increasing these beneficiaries' access to services.

Child Labour is prevalent among migrant children. Many migrant children do not have access to school and have to work. Working conditions vary according to the type of employment and sector. In addition, migrant children often live without the protection of parents, relatives, concerned adults or the local authorities, so they face a number of risks such as being robbed, beaten by others on the street, being enticed or forced into criminal behaviour and participating in drug abuse or drug dealing increasing the risk of HIV infection. In the child consultations, children said that many migrant children have to work so they do not have time to study. They work without a contract, often without direct payment and commonly for many hours a day.

Trafficking

Between 2005 and 2007, Vietnam experienced a near doubling in women and child trafficking cases⁴⁵. Along the border with China in the north, it is reported that women and children are trafficked for prostitution. Children and women are also reported to be brought to the borders with Cambodia and Laos for prostitution or to be trafficked to third countries. Although the Government has signed international agreements on Trafficking and adopted a National Programme to tackle the

⁴⁴ Dang Nguyen Anh, "Viet Nam Internal Migration: Opportunities and Challenges for Development", paper presented at the Regional Conference on Migration and Development in Asia (Lanzhou, China, 2006).

⁴⁵ The Asia Foundation, Combating Human Trafficking in Vietnam: Lessons learned and Practical Experiences for Future Program Design and Implementation 2002-2008 (Hanoi: the Asia Foundation, 2008) 6.

problem, there are still many measures that could be adopted in order to improve the situation for trafficked children:

- Local administration staff working on children's issues, parents in remote risk areas and children themselves needs sufficient awareness of what human trafficking is about, of their own vulnerabilities and of preventative mechanisms.
- There is no regulation on trafficking of male children over 16 years old.
- The return and reintegration procedures and processes and follow up support for child victims are still inadequate. Staff skills relating to consultations and knowledge about the need for victim confidentiality are still limited and there is no specific child friendly procedure.

See Appendix II for more information on national policies and international agreements.

Recommendations:

Migration

- Encourage local authorities to implement accessible administrative and legal procedures and documents, in order to provide full access to the right to education and health care for all migrant children;
- Raise awareness among children and their families on the importance of education. Encourage parents' commitment to their children's education by ensuring that primary education is 'free' without hidden and exclusionary costs and 'open' via flexible registration procedures and eligibility criteria.
- Create opportunities for migrant children to have access to recreation and legal support.
- Raise awareness among employers, especially in the private sector, on labour laws protecting children. Stricter punishments for employers violating these laws should be established and enforced.
- Provide training in child protection and social work for staff working with child victims.

Trafficking

- Supplement with a law on trafficking of male children (over the age of 16) and include this definition of human trafficking in Vietnamese law.
- Community networks for child protection should be built and supported with the purpose of preventing trafficking and responding to and supporting child victims of trafficking.
- Development of guidelines and clear procedures to support child victims in the process of repatriation, return and reintegration and allocation of resources for this.
- Provide training on child protection and social work for staff working with child victims and educate parents in remote/risk areas.

Children belonging to an ethnic minority (Article 30)

Concluding observation 23, 32, 36, 48

The Government has made many efforts to improve the situation of children belonging to ethnic minorities. In spite of such efforts gaps remain as demonstrated in this report.

See General situation of Children in Vietnam 2002-2007, Key conclusions and Recommendations, Non-Discrimination, Respect for the Views of the Child, Health and Health services, Right to

Education in particular access to education, gender equality, curriculum and learning materials, development of mother tongue instruction and teacher training, Leisure and Recreation and Migration and Trafficking.

APPENDIX 1: CHILD CONSULTATION REPORT

Introduction

The child consultations were an initiative of the NGO Working Group for the Complementary CRC Report 2002-2007. The aim of consultations was to inform children about the CRC reporting process, share the CRC Complementary Report and gather children's views on the implementation of CRC in Vietnam. This is the first Complementary NGO Report made on CRC in Vietnam and so the first children's consultation held on such a report. It gives an important opportunity to present the opinions of children about the fulfilment of their rights in Vietnam and share children's recommendations with duty bearers.

The report is based on a combination of six different consultations with children, which were conducted in selected locations across the country, covering the North, the Centre and the South. The children involved were identified via existing networks and contacts from the work of participating NGOs. As such, the views presented here are a sample of the voices of the children in Vietnam.

The following themes were selected for discussion during the children's consultations based on the likelihood of their experience in these topics: Violence, Child Participation, Education, Inclusive Education, HIV/AIDS, Migration and Trafficking and as such do not cover all areas in the main report. Children also gave their views on Non-Discrimination.

The consultations were prepared by the Working Group for the Complementary Report with wide ranging discussions on methodology, group selection and discussion themes. Consultations were conducted from January 2008 to February 2008 and 339 girls and boys aged from 10 to 16 participated. Their circumstances differed widely, including children affected and infected by HIV/AIDS, street and working children, children with disabilities, children in both rural and urban areas and children in lower secondary schools. Participants came from a wide range of different geographical locations, including: Quang Ninh, Hai Phong, Bac Giang, Vinh Phuc, Tuyen Quang in the north; Hue, Quang Tri, Quang Ngai in the centre; and HCM City, Dong Thap, Ben Tre, and Long An in southern Vietnam.

Process

In preparing for the consultations, information on the Complementary Report was translated into Vietnamese and within relevant contexts, was sent to the children to read. The children were informed about the purpose and process of the consultations. The first part of the consultations briefly explained the CRC reporting system and introduced the Complementary Report and the importance of children in the consultation process. Experienced facilitators, using approaches which promoted children's confidence and participation, enabled the ensuing effective consultations, utilising drawings and group discussions as tools to gather children's views.

Results

Children were very excited about the consultations and showed great commitment. They were asked why they participated and their responses can be summed up as follows.

“The CRC report is about children and it is good that we can provide input from our perspective. It is important for us to participate because even though we are not as experienced and wise as adults, our ideas are critical because we have our own way of thinking and our own perspective, and by speaking out, our elders will understand better what they should do for us. Our participation in the report will make things clearer because our ideas and perspectives are different. It will be good if adults not only hear us, but also act on what we say. In the CRC, Article 12 states our right to participation...by participating today we are fulfilling that right. It is important not only because our voices will be heard, but also because it will help to overcome all that adults have missed.”

All children provided information on CRC implementation in their local area, the progress being made in this respect, their challenges and their recommendations. Children’s opinions and recommendations from the consultations are presented below.

CHILDREN’S OPINIONS AND RECOMMENDATIONS

NON-DISCRIMINATION

“When my friends learned my parents were HIV positive they did not play with me any longer. I was sad and dropped out of school “

(16 year old girl living with HIV in Ho Chi Minh City)

“I do not want to go there to play because I am afraid I will be beaten by them. They beat me, they don’t want to play with me, they make fun of me”

(6 year old girl living with HIV in An Giang province)

“We think that these are the main problems”

- Migrant children are discriminated against by the community, schools, teachers and friends.
- HIV/AIDS: children with HIV/AIDS are not treated equally and suffer various forms of discrimination.
- Trafficking: children of returned victims are still isolated and do not receive adequate care and attention from their communities.
- Violence: vulnerable groups of children are discriminated against and are exposed to violence.
- Gender: girls do not have access to the same rights as boys. There is a need for gender education in schools.

“These are the good things happening about rights being recognised”

- Children find that children with disabilities (CWD) are less discriminated against in schools where inclusive education has been applied for a long period of time.
- Many CWD can go to school and are not discriminated against. They learn in the same classes as other children and are taught by the same teachers.

“These are the bad things happening relating to rights which are not being fulfilled”

- Children with HIV/AIDS are much more exposed to discrimination in schools from their peers and from society at large.
- There is stigma and discrimination against children infected and affected by HIV/AIDS due to a lack of understanding and education in communities.
- Children with HIV/AIDS face difficulties taking part in the same leisure and recreational activities like many other children do because of discrimination.

Migrating and trafficked children mention discrimination as a major problem.

- Poor migrant families do not have enough money for their children’s health check-ups.
- Migrant children have to work without contracts and payment for many hours a day.
- Children of returned victims of trafficking are still facing problems with household registration (which affects their access to education and health).
- Trafficked children are regarded as “fault makers” by relatives and the community.

Some children with disabilities suffer from discrimination.

- Some are still being teased and discriminated against.
- A few CWD do not go to school because of their disability or due to not being allowed to go by their families.

“We, the children, recommend:”

HIV/AIDS:

- The Party and the Government should provide concrete guidance to correctly reinforce the policy on the prohibition of discrimination against people infected by HIV.
- Communication to communities should be strengthened in order to improve understanding of HIV and reduce discrimination against children with HIV/AIDS.
- Schools should keep the health status of children infected by HIV confidential to avoid shunning by other children

Migration & Trafficking:

- More work should be done to ensure that returned trafficked children have access to schools. Local authorities should support migrant children in getting household registration so that they can continue their education.

Children with Disabilities:

- Parents should let CWD go to school, as this is their right.
- Teachers should know how to teach children with CWD.
- Authorities should support the CWD's education and recreation in order to help them integrate into the community.

VIOLENCE

“Children do not need violence.”

(Children from Tan Trao group consultations, aged 11-16)

“We think that these are the main problems”

- Adults do not listen to children enough.
- Children are not treated equally.
- Law communication is not child friendly enough, so children cannot properly learn about their rights, including the right to protection against violence.
- Law communication to adults, parents, teacher etc. on CRC and national laws protecting children against violence are not effective enough.
- Parents and teachers do not know enough about positive discipline.
- Legal action is not usually taken against teachers who use violence.

“These are the good things happening about rights being recognised”

- In some places, children see ways of successfully influencing and educating parents and adults through counselling sessions and workshops.
- In recent years, small steps have been taken to reduce violence in families and schools.
- Workshops and forums for children have helped, although on a limited scale, to improve children’s skills on violence prevention and protecting themselves.

“These are the bad things happening relating to rights which are not being fulfilled”

- In practice, there is very little protection against violence, both physical and emotional, and corporal punishment in schools.
- Violence in the family is quite common and is the most disruptive violation for a child.
- Vulnerable groups of children are discriminated against and exposed to violence, especially orphans, children with disabilities, children infected and affected by HIV/AIDS, street children, step children, illegitimate children, children whose fathers are gamblers or drink alcohol, children with poor school performances and poor children.

“We, the children, recommend:”

- Improve communication about the Law:
 - Government should make existing laws known widely to national and local authorities and parents and children and inform them that all forms of violence against children are law violations and are very harmful for children.
 - Parents should be made fully aware about children’s rights and laws relating to violence against children.
 - There should be more child-friendly law communication to children, using more forums for children so they can learn about their rights and legal protection.

- UN study: The Government should publicly announce the results of the UN study on violence against children to a broad audience so people can see what is really happening.
- Government reporting: government authorities should openly report on situations of violence.
- Rules for punishing sexual abuse offenders should be improved by Government.
- Better child protection systems are needed: children must be encouraged to make complaints and report on abuse and violence. Children need a child friendly institution or location where children can safely address complaints. More child protection organisations should help.
- Activities to end violence should be popularised on a larger scale.

PARTICIPATION

“Child participation is important because we know our parents and teachers as we live with them and we meet them every day and they might think they know us...but we know ourselves and our experiences better and we know what we want for the future.”
(Child Club members and street children, Central Provinces, aged 14-15)

“We think that these are the main problems”

- Some parents do not support children’s participation in social activities and school and community work and they do not respect our point of view.
- Some teachers do not know about the CRC and therefore do not know about children’s participation.

“These are the good things happening relating to which rights are being recognised”

In school, children can:

- participate in learning giving their point of view on the lesson or dropping questions/concerns in the school letter box; and
- Write articles for radio programmes managed by the Young Bamboo Club; provide information on the rights of the child to others; give children’s views in Young Pioneer meetings.

In communities, children can:

- participate in recreational activities such as sport and singing;
- participate in children’s forums, children’s consultations on the CRC report, and HIV/AIDS prevention activities;

In the family

- Some children can express their concerns and views to their parents but, their numbers are limited.

“These are the bad things happening relating to rights which are not being fulfilled”

Schools:

- Some teachers do not listen to children and do not respect their point of view. They put pressure on children and ask children to agree with their point of view, which makes children feel bad.
- There are no mechanisms in place to protect children if they tell the truth or mention sensitive

issues. This results in children feeling threatened and scared.

- Many children are timid and do not dare to speak out in front of a group of adults. Therefore, they cannot share their point of view.

Communities:

- Children do not receive the support or confidence of adults.
- Local authorities and other organisations have not provided opportunities for recreational activities and do not really pay attention to the participation of all children.

Family:

- Parents still apply traditional practices to educate their children. They lack parenting skills and often do not listen to their children's point of view.
- Parents still do not meet all of their children's needs; not only in poor families, which are often unable to meet children's needs, but also in rich families, since parents usually think that children do not have any needs other than education.

“We, the children, recommend:”

The Government:

- Issue a separate law which enables children to exercise the right to participation and deals with people who violate the rights of children.
- Organise training for parents on CRC and child psychology.
- Take some action which will make teachers listen to student points of view.
- Make school authorities carry out strict punishment for teachers that prevent children from participation.

Communities:

- Adults should respect children's points of view.
- Children need to be protected when speaking out.
- Children should be consulted before any decisions related to them are taken.

Children:

- Children should have more sympathy and understanding for other children.
- Children should be more proactive in raising their voices.

EDUCATION

“Teachers should upgrade their methods and skills, think carefully about the schedule at schools and use simple words in their speech”

(School children in Yen Bai, aged 12-14)

“We think that these are the main problems”

- Many children drop out of school due to pressing issues such as: early marriages; discrimination at school (including discrimination against children with disabilities); children from poor families

having to take care of siblings or grandparents, not enough money to pay for the cost of schooling, not enough maintained toilets at school.

- The quality of learning and teaching is still limited. For example, some students cannot catch up with the new teaching and learning methods because they are not relevant to their specific needs. Some teachers are not motivated or devoted to their teaching, paying attention to students with high performance only, discriminating between students with good and lesser attitudes or between those from rich and poor families and between those who take or those who don't take extra paid classes. There are too many students per class so teachers cannot pay attention to the needs of all students.

“These are the good things happening about rights being recognised”

- The right to education in general. For example, primary education is compulsory and meant to be available for all.

“These are the bad things happening relating to rights, which are not being fulfilled”

- Discrimination.
- Violence.

“We, the children, recommend:”

Reduction of Drop-outs:

- Provide support and necessary conditions for out-of-school students to come back to school.
- Have better educational methods which do not discriminate or place pressure on students.
- Encourage students with disabilities to attend school; organise extra classes with relevant levels of knowledge requirements for students who drop out due to low learning achievements.
- Arrange suitable schooling times to create conditions for working students to continue their schooling.
- Ensure educational quality and make it relevant.
- Teachers should be more devoted to their classes and understand the background and psychology of students.

School Facilities:

- Schools should have more clean and hygienic toilets.
- Schools should provide audio systems for students to speak out on their opinions to others.
- Schools should provide appropriate lighting systems and safe electricity systems.
- Schools should have health rooms with necessary equipment.
- Schools should find ways for children with disabilities to manage at school.

Quality of Education:

- Teachers should apply appropriate teaching methods for individual students, using more understandable explanations and providing more specific and practical examples.
- Conditions should be created for students to participate in extra-curricula and practical activities.

- Teachers should teach children necessary life skills such as communication skills, self-protection skills and knowledge of reproductive health.
- The number of students per class should be reduced.

Inclusive Education:

- Parents of CWD should let the children go to school.
- Teachers should know how to teach children with different disabilities.
- Authorities should support the education and recreation of Children with Disabilities in order to help them to integrate into the community.

HIV/AIDS

“When I was sick my mother took me to the provincial hospital. But I was not weighed as the hospital staff said that their priorities were with other cases.”

(10-year-old boy with HIV/AIDS in Hai Phong)

“We think that these are the main problems”

- Economic situation: HIV/AIDS infected/affected children are living in very poor economic circumstances because their parents have died, left home or lack employment.
- Stigma and discrimination: Many children living with and affected by HIV/AIDS are bullied and shunned in their neighbourhoods and communities.
- Access to Education: Many children cannot go to school or drop out of school because of a lack of money, poor health, or stigma and discrimination from schools, teachers and their friends’ parents.
- Access to health services: Many children identified inadequate medical care and the discrimination they experienced, particularly at government health facilities, as a problem.

“These are the good things happening about rights being recognised”

- Access to HIV/AIDS information: The proportion of children living with and/or affected by HIV/AIDS who know about HIV/AIDS is very high. Their knowledge and understanding of HIV/AIDS transmission and prevention has been improved a lot through quality information, education and communication (IEC) activities. However, the proportion of non-affected children with correct knowledge about HIV transmission is still low.
- Right to participation: Some HIV/AIDS affected/infected children have created chances to have direct dialogues with policy makers and leaders at district, provincial and national levels. However, the number of children who attended these dialogues is still very low and covers only project areas where the consulted children live.

“These are the bad things happening relating to rights, which are not being fulfilled”

- Adequate parental care is often lacking.

- Access to education and health services is often restricted.
- Stigma and discrimination is very common.

“We, the children, recommend:”

Reduction of Stigma & Discrimination:

- Communication activities should be strengthened to help communities improve their understanding of HIV/AIDS and consequently reduce stigma and discrimination against children infected and affected by HIV/AIDS.
- Schools should keep the health status of children infected by HIV/AIDS confidential to avoid scaring other children, as well as to avoid other children shunning the ones infected of affected by HIV/AIDS.

Access to information/support and counselling

- Communication activities for parents on HIV/AIDS should be strengthened, emphasising information about how the virus is transmitted and the Law on Prevention and Control of HIV and AIDS, in order to assure parents that no HIV infection can occur if their children play with children infected by HIV.
- Establish more counselling centres for children infected by HIV.

Care and support:

- More support from the Government is needed not only for health services, but also for improving nutrition for people infected by HIV/AIDS, especially infected children.
- ARV should be provided in community health centres/district hospitals. Financial support is necessary for children travelling to these facilities for monthly health check ups/ treatment.
- Financial support for monthly laboratory testing should be provided for poor children to ensure their access to full treatment.

Support for education:

- Children infected and affected by HIV/AIDS need support to continue their schooling e.g.: fee exemptions or scholarship programmes.
- Child friendly schools/classes should be developed for children in difficult circumstances, including children infected and affected by HIV/AIDS, in order to make them feel welcome at schools.
- Vocational training should be provided for the youth affected by HIV/AIDS so that they can help their families to pay for costs caused by HIV/AIDS.

MIGRATION

“It was said very nicely that we will get good food, the work was not heavy, but in reality, I am very fed up. Now we know, we get tired, we miss school very much, but we don’t know what to do. We don’t know who to ask, because we know nobody here, and we are not allowed to go out.”

(14 year old boy now working in a tailor’s workshop in Ho Chi Minh City)

“We think that these are the main problems”

Access to Education:

- Migrant children are still discriminated against by the community, schools, teachers and other children.
- Ethnic minority migrant children face a lot of difficulties due to language problems.
- Migrant children have to work to earn an income for the family, so they do not have enough time for their studies.

Access to Healthcare

- Many children do not have health insurance cards due to losing their birth certificates when they migrated to another area.

Child Labour:

- Many migrant children have to work without contracts or payment and for many hours a day.
- Migrant children employed as domestic workers (house maids, sellers, waiters/waitresses etc.) are exploited by their employers for long periods of time without anyone reporting on their difficult situation.

“These are the good things happening about rights being recognised”

- Right to participation: Migrant children in NGO project areas have experienced many changes through their participation in the projects, such as participatory action research, peer education activities and contributions to quality information, education and communication program (IEC) development. In addition, these children have also raised their voices to policy makers from district to national levels.
- Right to a birth certificate: In the past, most migrant children in NGO project areas could not go to school because they had lost their birth certificates. Recently, local authorities in these areas have been convinced to give migrant families new birth certificates for their children.
- Right to health care: Migrant children under six years old can now obtain free health insurance cards. In NGO project areas, poor migrant children have had chances to access free health check-ups monthly. However, poor migrant children over six years old still have many difficulties accessing quality health services.

“These are the bad things happening relating to rights, which are not being fulfilled”

- The right to protection from discrimination is not usually being fulfilled, particularly in terms of education and health care.
- The right to protection from neglect and abuse is hardly ever met, in any context.
- Labour exploitation is very common for migrant children.

“We, the children, recommend:”

Access to Education:

- Reduce school fees or other contributions for migrant children, and provide them with free textbooks and notebooks.
- Raise awareness about the importance of education among migrant families, and mobilise migrant children to go to school.
- Local authorities should facilitate household registration for migrant children as soon as possible so they can attend school.

Access to Healthcare:

- Health insurance cards for children under six years old are not necessary. Instead, they could simply provide a paper to prove that they are under six years old.
- Open more health care centres or mobile health check-up teams to facilitate access by migrant children to health care services.

Child Labour:

- Stronger cooperation should be encouraged between relevant organisations to identify cases of domestic violence.
- There should be a reliable system or organisation to provide support to, and consult with, migrant working children.

TRAFFICKING

“The restaurant owner asked me to do housework during the first week. He did not allow us to get out of the house by locking us inside a room. During that week I saw some strange men coming to the restaurant for a while and leaving the restaurant with some girls. Then I realized that those girls went out with the men for sex. In the second week the owner forced me to go out with a man. I refused but the owner frightened me by asking me to return to her the amount of money that the strange woman gave to me when I left home. I did not have any money so I had to agree. I got into a state of panic after that day so the owner did not ask me to go with other men during that week.

(A 17-year-old trafficked girl in Dong Thap province)

“We think that these are the main problems”

- Children of returned victims of trafficking are still isolated and do not receive adequate care and attention from their community. Returned victims are discriminated against by their relatives and communities and they are considered as “fault makers”.
- Children of returned victims of trafficking face problems obtaining household registration.
- People outside NGO-project areas do not have enough information about human trafficking, especially child trafficking.

“These are the good things happening about rights being recognised”

- Right to participation: Same as for migrant children.
- Right to a birth certificate: Local authorities in NGO project areas have made an effort to help children born overseas to mothers who have been trafficked to obtain birth certificates, in order to access education and health care.

“These are the bad things happening relating to rights which are not being fulfilled”

- Right to protection from discrimination is not often fulfilled.
- Right to protection from neglect and abuse is usually not fulfilled.
- Labour exploitation is very common for trafficked children.

“We, the children, recommend:”

Victim Protection:

- Local authorities at all levels, agencies and mass organisations, families and people in the community should support child victims of trafficking, labour exploitation and sexual abuse.

Prevention:

- Children should have more access to information so they can protect themselves from trafficking and abuse - especially children from ethnic minority and from remote/ mountainous areas.
- Awareness-raising aimed at parents should be strengthened so families can better protect their children.
- Local authorities should build shelters for children in especially difficult situations so they are not forced to live on the street.
- Local authorities should provide trafficked children with access to school to keep them off the street and avoid exploitation and abuse.
- Stricter punishments should be given to those who have trafficked, abused or exploited children.

APPENDIX II: BACKGROUND INFORMATION

Harmonisation between the convention and national legislation

The most important laws in this regard are:

- 2002 Code on Labour Working Age and Prohibition of Child Labour;
- 2003 Code of Criminal Procedure;
- 2003 Ordinance on Prevention and Control of Prostitution;
- 2004 Law on Protection, Care and Education of Children;
- 2005 Code of Civil Procedure;
- 2005 Law on Education
- 2006 Law on HIV/AIDS Prevention;
- 2006 Law on Legal Aid;
- 2007 Law on Domestic Violence.

Cooperation with civil society

In the Socio-Economic Development Report 2006-2010 (page 91 and 140) Government acknowledges the important role played by civil society by encouraging NGO organizations, social associations and unions to develop social security networks and provide effective assistance to the vulnerable

Ill-treatment and violence

In Vietnam, there are a number of laws and policies prohibiting and forbidding violence and ill-treatment of children, such as the 2004 Law on the Protection, Care and Education of Children, as well as laws prohibiting violence in schools and in the family. A system of complaints regarding violence against children was assigned to the former CPFC. Decree 114/2006 prescribes an administrative fine to anyone who beats or hurts children or who humiliates and causes mental or physical damage to children.

HIV/AIDS

Vietnam has adopted a number of laws and policies regarding HIV/AIDS-infected/affected children. The 2004 Law on Protection, Care and Education of Children (Article 54) stipulates the non-discrimination of HIV/AIDS affected/infected children. The National Strategy on HIV/AIDS Prevention and Control in Vietnam till 2010 with a Vision to 2020 states that all HIV/AIDS-infected/affected children shall be managed and provided with appropriate treatment, care and counselling and commits to fight stigma and discrimination against infected people.

The Law on AIDS Prevention, which was effective from January 2007, plus a new policy for HIV/AIDS-infected/affected children, provides financial support to HIV-infected orphans. This support has increased in 2008 to between VND120,000 (USD\$7.5) and VND180,000 (USD\$11.2) per month per child. (<http://vietnamnation.vn/Home/Socialaffairs/Disadvantaged-people-to-enjoy-bigger-allowances/20099/58441.nation>)

The MOH estimates the number of people infected by HIV/AIDS based on prevalence of HIV/AIDS in 2007 as follows:

- 2005 - 262,000

- 2006 - 280,000
- 2007 - 300,000

The MOH estimates that this number will rise to 350,000 by 2010, which means an average of 20,000-30,000 new cases each year.

Education

A decision on 7 April 2008 by the Ministry of Education and Training concerning “Promulgation of Regulations of Pre-school” stipulates that children from 3 months to 6 years be registered in pre-schools, kindergartens, children’s groups or independent nursery class.

- The psychological problems related to the mental health of primary pupils are described as the following: unable to adapt to school environments (doing private work at study- time, not getting on with friends, fighting with friends); loss of concentration; worry or fear of going to school; uncontrolled behaviour (moving around in class, cursing, not following teachers’ advice); difficulties in reading and writing; loss of general knowledge. (Source: Department of school psychology, Viet-Anh International primary school, No 57, zone 3, Pham Ngu Lao, Thu Dau town reported to Centre for Public Psychology and Education consultation(CPEC) in Sept, 2008)

- Mental/psychological problems of secondary pupils: worry- 13.3%; depression-8.4%; fear of dirt-10%; enuresis- 6.3%. (Source: extract from scientific report “Studying some factors which impact on pupils’ mental health at some secondary schools”, conducted by PhD. La Thi Buoï and the co-staff *at the summary record of the workshop “Intervention and prevention of Vietnamese children’s mental issues”-page 36, Hanoi, 2007*)

- Mental/psychological problems of high school pupils: depression, playing truant, fighting with friends, using stimulants, losing directions in life, studying without quality, conflicting with teachers, having early sexual intercourse. (Source: extracted from “*Diagnosis of depression at Hanoi’s high schools*” conducted by PhD Nguyen Ba Dat and his co-staff in 2002)

Inclusive education and children with disabilities

The Strategy for Education Development for the Period 2001-2020 has been ratified by the Government of Vietnam. It aims to achieve for children with disabilities an enrolment rate in inclusive, semi-inclusive or special classes of 50% by 2005 and 70% by 2010.

An Education management system for children with disabilities has been established in 64 provinces. In 2002, the Ministry of Education and Training (MOET) promulgated Decision 4431/QĐ-BGD&ĐT-TCCB to establish the Steering Committee on Education for Children with Disabilities (SCEDC), an advisory body to the Minister of Education on all matters related to education for disabled children in Vietnam. It is responsible for awareness-building, surveying and planning for human resource development and policy proposals.

In May 2006, MOET validated the Regulation on Education for People with Disabilities. The National Action Plan on Education for Children with Disabilities in Vietnam 2005-2015 has been developed with the vision that by 2015, all children living with disabilities in Vietnam have equal opportunities to enjoy quality education and comprehensive support to fully develop their potential, participate and contribute to society development.

An inclusive education model which is appropriate to Vietnamese conditions is now being implemented steadily. The number of children with disabilities going to mainstream schools

increased from 42,000 in 1996 to 270,000 in 2006⁴⁶. Programmes in tertiary institutions are being set up with a network of training institutes for educational managers and teachers working with children with disabilities. At present, there are four pedagogy universities and three colleges with departments on special needs education. Increasing numbers of teachers and educational staff are receiving short course training and degree training on special needs education. The development of inclusive education in resource centres is being attempted across the country. This decentralisation has the potential benefit a wide range of children with disabilities and their families.

Sale, trafficking and abduction

The Government has passed a number of policies and laws and signed international agreements on trafficking, including the COMMIT Memorandum of Understanding for Cooperation against Trafficking through Vietnam's joining the Coordinated Mekong Ministerial Initiative Mekong Sub-region (COMMIT).

In 2004, the Vietnamese Government signed an agreement with Cambodia on the prevention and anti-trafficking of children and women. In 2004, a National Program against Human Trafficking was established and a task force unit against human trafficking was set up in 62 provinces.

An official statement from the government identifying the responsibilities of different government agencies was released along with the issuance of the National Action Plan against Trafficking of Women and Children for 2004-2010. In 2003, the Ministry of Public Security of Vietnam signed an agreement with the Ministry of Police of China. A training manual on human trafficking is currently being finalised and printed.

⁴⁶ Ministry of Education and Training, 2007

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