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## Introduction

1) This report focuses on the implementation of accepted recommendations from Viet Nam's 2<sup>nd</sup> UPR in 2014 and Viet Nam's voluntary commitments<sup>i</sup>.

### Human Rights Framework

2) Viet Nam has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance (CPED) or the International Convention on the Protection of the Rights of All Migrant Workers (ICRMW)<sup>ii</sup>, but has shown interest in ratifying the ICRMW as well as ILO Conventions No. 181 and 189<sup>iii</sup>.

3) Regarding Special Procedures<sup>iv</sup>, Viet Nam has not extended a standing invitation yet<sup>v</sup>. Several requests by Special Rapporteurs remain outstanding<sup>vi</sup>. The Special Rapporteurs on the Right to Food and Religion visited in 2017 and 2014 respectively, but the latter faced challenges protecting the confidentiality of some meetings<sup>vii</sup>.

4) Viet Nam does not have an independent NHRI<sup>viii</sup>. While the Law on Children introduced external oversight over child rights implementation by two state bodies, neither body would comply with the Paris Principles<sup>ix</sup>.

## Civil and Political Rights

### Right to life, liberty and security of the person

5) The revised Penal Code (PC)<sup>x</sup>, eliminated the death penalty<sup>xi</sup> for eight offenses<sup>xii</sup> and retained it for eighteen, some of which are drug-related and do not meet the threshold of "*the most serious crimes*" provided by the ICCPR<sup>xiii</sup>. Data on the death penalty is by law a State secret. Nonetheless, a report by the Ministry of Public Security in 2017 showed that Viet Nam executed 429 persons between August 2013 and June 2016, far exceeding previous estimates<sup>xiv</sup>.

6) The Constitution and the Criminal Procedure Code (CPC) recognize the right to equality before the law, to be presumed innocent until proven guilty, and to a fair and public trial, as well as the right to freedom from arbitrary arrest or detention<sup>xv</sup>. However, the CPC allows for severe limitations on due process, leading in some cases to trials falling short of international standards<sup>xvi</sup>. Persons accused of national security crimes can be detained for a prolonged period without trial. There is no provision allowing the suspect to appeal the pre-trial detention or have its legality reviewed by a court of law.

7) Regarding Human Rights Defenders (HRDs)<sup>xvii</sup>, it is estimated that as of May 2018, between 100 and 150 HRDs<sup>xviii</sup> are in prison. HRDs are allegedly harassed, attacked, arrested, detained and ill-treated in custody for criticizing the government or its policies, including its management of the Formosa environmental disaster of April 2016 and its consequences. From 2014 to 2017, more than 70 HRDs were arrested and detained, for charges under vague and broad provisions of the PC<sup>xix</sup>. The majority have been sentenced, while a few remain in pre-trial detention. These individuals were peacefully advocating for and raising awareness on issues, including democracy, corruption, protection of the environment or freedom of religion.

8) In April 2018, seven HRDs affiliated with the Brotherhood for Democracy were sentenced to between seven and fifteen years imprisonment followed by several years of house arrest<sup>xx</sup>. In June 2018, two of the seven HRDs were released and exiled to Germany. During the period 2015-2017, the Working Group on Arbitrary Detention adopted opinions on seven HRDs<sup>xxi</sup> who experienced several human rights violations in detention<sup>xxii</sup>.

9) **The UNCT recommends that a moratorium on executions be immediately imposed and that the Penal Code be amended to further reduce the number of offences for which the death penalty can be imposed, with a view to abolishing the death penalty for all offences by 2023.**

10) **The UNCT recommends that human rights defenders who were sentenced to prison terms for peacefully expressing their views be released without delay.**

#### Trafficking

11) Viet Nam has adopted several laws and measures on trafficking in persons (TIP)<sup>xxiii</sup>. TIP, especially women and children, continues to be of serious concern, and gaps remain, including lack of monitoring mechanisms<sup>xxiv</sup>, lack of a clear definition of TIP as compared to international standards, making it difficult to effectively end impunity for those involved in trafficking<sup>xxv</sup>, challenges in victim referral and inter-sectoral cooperation<sup>xxvi</sup>, lack of capacity and quality data on TIP<sup>xxvii</sup>, under-resourced social protection centres for vulnerable groups, including victims of trafficking, and lack of shelters exclusively for male or child victims<sup>xxviii</sup>.

#### Administrative detention centres for people who use drugs

12) There is no official information on the current number of compulsory detention centres and detainees, or on the working and health care conditions and services available in the centres, known locally as O6 Centres<sup>xxix</sup>. Recent policies related to sending people who use drugs dismissed from the methadone treatment to O6 centres, based on urine tests and without proper justification, raise concerns over their human rights and health<sup>xxx</sup>.

13) **The UNCT recommends that Viet Nam sets a firm timetable for closing all compulsory drug detention and rehabilitation centres (O6 centres). In the interim, the UNCT recommends that the health of the detainees be ensured, their due process and labour rights respected, and that voluntary, evidence-informed, and rights-based health and social services be provided in the community as alternatives to detention<sup>xxxi</sup>.**

#### Administration of Justice, including impunity and the rule of law

14) In recent years, Viet Nam has reviewed and/or adopted several laws related to the justice system, including a new PC and CPC. The 2014 Law on Organization of the People's Courts established the first specialized children's court<sup>xxxii</sup>. The revised 2017 Law on Legal Aid expanded the list of beneficiaries<sup>xxxiii</sup>. The 2015 Law on Enforcement of Custody and Temporary Detention provided better guarantees for the right to family visits and legal assistance<sup>xxxiv</sup>.

15) The principle of presumption of innocence is now clearly spelt out in the 2013 Constitution<sup>xxxv</sup> and the revised CPC<sup>xxxvi</sup>. The CPC, which came into force in early 2018, also allows for access to counsel at all stages of criminal proceedings, as well as more rights for defendants to present and challenge evidence

and witnesses presented against him or her<sup>xxxvii</sup>. The CPC introduces audio and video recordings during interrogations of the accused by investigation authorities in official premises<sup>xxxviii</sup>. Special Procedures have in several instances expressed concern at apparent denials of the presumption of innocence in practice<sup>xxxix</sup>.

16) While the independence of judges is guaranteed in law, some judicial positions, such as the Chief Justice and Vice Chief Justice of the Supreme People's Court are given to members of the Communist Party's Central Committee<sup>xl</sup>.

17) The number of environmental disputes between companies and local communities related to the management of natural resources, as well as air and water pollution has increased in recent years. A recent study demonstrated that state-based dispute resolution mechanisms have not always been effective and that a clear framework for non-state mediation of environmental disputes should be established<sup>xli</sup>.

### Freedom of expression

18) While the 2013 Constitution protects freedom of expression<sup>xlii</sup>, restrictions remain. The 2016 Press Law maintains the press under state management<sup>xliii</sup>, has expanded the list of prohibited acts, which includes several vague and broad provisions such as "distorting history; negating revolutionary achievements; offending the nation and national heroes"<sup>xliv</sup>, and gives responsibility to journalists to protect the state against unlicensed expressions<sup>xlv</sup>. The Press Law does not prescribe prison terms for defamation, but various other speech-related offenses are subject to long jail terms under the revised PC<sup>xlvi</sup>. As mentioned above, several provisions of the PC are still used to punish activists for peaceful political dissent<sup>xlvii</sup>.

19) Regarding internet freedom<sup>xlviii</sup>, Decree 159/2013/ND-CP providing for Administrative Penalties for Violations Arising in the Realm of Journalism and Publishing<sup>xlix</sup>, Decrees 72/2013/ND-CP and 27/2018/ND-CP<sup>l</sup> on the Management, Provision, and Use of Internet Services and Online Information<sup>l</sup>, and Decree 174/2013/ND-CP on Penalties for Administrative Violations against Regulations on Post and Telecommunications, Information Technology and Radio Frequency are in place restricting internet use.

20) The Law on Cybersecurity was adopted in June 2018<sup>lii</sup>. The Government has since issued a Non-Paper explaining, inter alia, that the Law conforms with Viet Nam's constitution and international treaties to which Viet Nam is a party, that it is essential in today's context, and that regulations on archiving users' data in Viet Nam and requiring private telecommunication and internet service providers to open representative offices in Viet Nam are consistent with global and international practices, respectively<sup>liii</sup>. While regulating cybersecurity is justified, providers should only be compelled to release user data on a case by case basis subject to thorough judicial review, and regulations in the Law seem to further restrict freedom of expression online, the right to peaceful assembly, and the right to privacy. For instance, the Law prohibits the use of cyberspace to post or disseminate information content opposing the State, prejudicing national security or social order, sabotaging national unity etc. Moreover, it provides sweeping new powers to the authorities, allowing them to force technology companies and service providers to share computer data, including personal information, to deny services and to censor users' posts without any judicial review<sup>liv</sup>.

21) The 2016 Law on Access to Information contains important limitations on the information accessible by citizens. Moreover, only citizens can exercise their right to access information, not legal entities<sup>lv</sup>.

22) **The UNCT recommends that the Law on Cybersecurity be amended to ensure independent judicial review and fully align with Viet Nam's human rights obligations, in particular on freedom of expression, peaceful assembly and the right to privacy<sup>lvi</sup>.**

### Freedom of association and peaceful assembly, and rights to participate in public and political life

23) Restrictions on the time, place, and manner allowed for persons to assemble peacefully remain in place, allowing the Government to prevent demonstrations on arbitrary grounds<sup>lvii</sup>. Neither the draft Law on Associations nor the draft Law on Demonstrations have been finalized after long drafting periods.

24) There have been reports of clashes between protesters and the police across Viet Nam in June 2018 in nation-wide demonstrations against two bills on Special Economic Zones and Cybersecurity, which led to the arrests of a large number of protesters. The consideration of the bill on Special Economic Zones was later postponed whereas the Cybersecurity Law was passed in June 2018. The Government has indicated that the protests were caused by some extremists and hostile organizations, and that authorities implemented necessary measures in accordance with national laws to, inter alia, ensure social safety and order<sup>lviii</sup>.

25) No new regulations have been issued on registration of NGOs since the last UPR<sup>lix</sup>. In the last two years, civil society organizations (CSOs) have faced tighter monitoring and increased restrictions on their activities. The conditions and procedures for establishing associations and CSOs not affiliated with State mass organizations are complicated<sup>lx</sup>.

26) The 2015 Law on the Promulgation of Legal Normative Documents was adopted, requiring public consultation during both the policy making and law drafting stages<sup>lxi</sup>. Draft laws are posted online for comments. However, their lack of accessibility for certain groups (persons with disabilities, ethnic minority communities, children, those without internet access or low levels of literacy) has meant that electronic participation has not been taken up as widely as expected with the result that there are few comments on the draft documents published on Government websites.

## Economic, Social and Cultural rights

### Right to work and to just and favourable conditions of work

27) In 2017, the population of Viet Nam aged 15 and above was approximately 72.2 million, with a labour force of 54.1 million employed labourers<sup>lxii</sup>. A report on the informal economy reported around 18 million informal economy workers in 2016<sup>lxiii</sup>. In compliance with ILO conventions, Viet Nam regulates the minimum age for admission to employment as well as working conditions prohibited for minors<sup>lxiv</sup>. However, the Labour Code only regulates labour standards, rights, obligations, and responsibilities of employees and employers in labour relations. No provision is stipulated on child labour in the informal sector, nor the worst forms of child labour. Importantly, child labour is often observed in situations where there are no labour relations (e.g. in domestic work).

28) **The UNCT recommends that key stakeholders, such as the Vietnam Chamber of Commerce and Industry, the Vietnam General Confederation of Labour and the Vietnam Cooperative Alliance, be included in the upcoming review process of the Labour Code to make it fully compliant with international human rights and labour standards including those related to child labour.**

29) **The UNCT recommends that the Labour Code be reformed to ensure gender equality, non-discrimination, freedom of association, the right to organize and collective bargaining rights as well as expanded legal protections for informal workers.**

### Right to social security and to an adequate standard of living

30) Viet Nam has made significant progress in poverty reduction and eradication of hunger<sup>lxv</sup>. The entire social protection system has been reformed, and state budget spending on social security is expected to increase<sup>lxvi</sup>. Generally, the lives of people in poor districts and access to public services and resources have improved<sup>lxvii</sup>. Nonetheless, around 70 percent of people between 60 and 79 years still do not receive income support from government schemes<sup>lxviii</sup>.

31) Poverty reduction has been uneven across population groups and regions in Viet Nam. High levels of chronic poverty persist in ethnic minority (EM) communities and groups such as older persons and non-registered migrants. Despite accounting for just 15 percent of the population, EM people comprise more than 50 percent of the country's poor, and while the national income poverty rate was 7 percent in 2015, the average poverty rate of EM communities was 23 percent<sup>lxix</sup>.

32) A high proportion of Vietnamese remain just above the poverty line, as almost 75 percent of Vietnamese people are in the near poor<sup>lxx</sup> and low middle income<sup>lxxi</sup> groups<sup>lxxii</sup>. New forms of urban poverty have emerged among migrants and informal sector workers due to rapid urbanization and social change<sup>lxxiii</sup>.

### Right to health (incl. HIV-AIDS)

33) Viet Nam met most health-related MDG targets<sup>lxxiv</sup>. In recent years, the Government has made substantial efforts to strengthen the health system and improve access to services. The health service delivery system is hospital-centric and has left primary care, traditionally much stronger, now underfunded and weak<sup>lxxv</sup>.

34) Access to immunization and maternal and child health services has led to a significant reduction in child and maternal mortality rates (MMR)<sup>lxxvi</sup>. Viet Nam has taken steps to improve access and affordability of services and expand health insurance coverage<sup>lxxvii</sup>.

35) Important disparities in health persist<sup>lxxviii</sup>. There is a 27 percent difference between the poorest and the richest 20 percent in respect of the presence of a skilled birth attendant<sup>lxxix</sup>. Maternal and child mortality are substantially higher in mountainous areas than lowland areas<sup>lxxx</sup>. Disparities between the urban and rural population, and between regions regarding obstetrical check-ups are substantial<sup>lxxxi</sup>.

36) **The UNCT recommends that services should be redesigned in the context of urbanization, population ageing and the growing burden of noncommunicable diseases and care needs, and with**

**more attention to closing the disparity gap in access to essential services, and to health equity and the protection of patient rights when developing more market-oriented service delivery systems.**

37) Viet Nam has made substantial achievements in its response to HIV<sup>lxxxii</sup>. In 2016, there were an estimated 250,000 people living with HIV in Viet Nam<sup>lxxxiii</sup>, 70 percent knew their status, and 47 percent were on Antiretroviral treatment<sup>lxxxiv</sup>. Though there have been less new HIV infections, new AIDS cases and AIDS-related deaths since 2014, the epidemic has continued to evolve with complex new dynamics, particularly increased new infections among men who have sex with men (MSM), and sexual transmission from males who engage in risk behaviour to their female intimate partners<sup>lxxxv</sup>. Moreover, access to HIV services is still limited, especially for prevention services.

38) **The UNCT recommends that Viet Nam should allocate further funding to expand evidence-based, comprehensive and sustainable treatment for all people living with HIV, as well as prevention and harm reduction programmes (incl. methadone treatment, needle exchange and condoms), especially for populations at higher risk of HIV (e.g. sex workers, MSM, transgender people, people who inject drugs, and their partners)<sup>lxxxvi</sup>.**

#### Right to education

39) Viet Nam has made considerable efforts to improve education, school enrolment rates are high and the literacy rate was 95 percent in 2016<sup>lxxxvii</sup>. Human rights are now integrated into the study curriculum of the national education system from pre-school to higher education, as well as in the programmes for law enforcement officials and the judiciary<sup>lxxxviii</sup>.

40) Children with disabilities still show clear disadvantages in education with very low enrolment rates<sup>lxxxix</sup>. Reasons include discriminatory behaviour and attitudes towards children with disabilities, narrow conceptualization of inclusive education, incompatible existing legislation, and a lack of monitoring and evaluation of legislative implementation<sup>xc</sup>.

41) Household socio-economic status contributes to educational disparities, especially in terms of the resources households devote to tutoring, study support, and extra payments, placing poor children at a disadvantage<sup>xc</sup>.

42) **The UNCT recommends that Viet Nam accelerates improvements in access to quality education, especially for people from disadvantaged and vulnerable backgrounds, including by investing in facilities and teaching and learning aids for children with disabilities.**

#### Cultural rights

43) The Government provides support to the arts<sup>xcii</sup>. Space for artistic freedom has also increased<sup>xciii</sup>. Despite more openness, artists are still sometimes limited from dealing with “sensitive” social and political issues straightforwardly leading to practices of self-censorship<sup>xciv</sup>. Artistic freedom was raised as a key concern by the Special Rapporteur on Cultural Rights in 2013<sup>xcv</sup>.

44) Artists must apply for permits for public art exhibitions. In many cases, particularly of contemporary arts exhibitions, the deciding local government officials reject applications without providing sufficient reasons for artists<sup>xcvi</sup>.

45) The customary rights of local people, especially ethnic groups at World Heritage sites and Protected Areas are still insufficiently protected, as evidenced in the case of the Ruc and Arem people at Phong Nha-Ke Bang National Park. The strictly protected zones are limited to eco-tourism activities, ignoring the cultural use of the area and the rights of traditional stewards in taking part in decision making processes about their current use and development. Despite park authorities' informal attempts to recognize the importance of customary livelihoods, the adoption of effective and official mechanisms is necessary<sup>xcvii</sup>.

**46) The UNCT recommends that customary rights be officially recognized in Protected Areas, including World Heritage sites, with regulations revised and applied in a systematic manner towards ensuring more equitable participatory and governance mechanisms.**

## Rights of specific persons or groups

### Women

47) Overall, Viet Nam has made significant progress in closing gender gaps in areas such as health and education<sup>xcviii</sup>. However, there is a lack of effective coordination and resources for implementation, as well as weak data collection<sup>xcix</sup> and monitoring<sup>c</sup>.

48) The representation of women in the National Assembly for the 2016–2021 term is 26.7 percent<sup>ci</sup>. Despite a high share of female civil servants, only a small proportion hold decision-making positions<sup>cii</sup>, and ethnic minority women remain politically under-represented<sup>ciii</sup>.

49) Women are subject to an earlier retirement age<sup>civ</sup> and earn lower pensions<sup>cv</sup>. A study revealed that one in five postings included gender requirements and among those, up to 83 percent of management positions and all director positions required male applicants<sup>cvi</sup>. As per the law, women are denied access to 77 occupations: 38 types of jobs are prohibited on the basis of sex and an additional 39 types of jobs are prohibited for pregnant women and women with children under 12 months<sup>cvii</sup>.

50) The forthcoming 2019 labour code revision will likely include a gradual narrowing of the retirement age gap between men and women as well as a reduced number of occupations for which the ban on women applies.

**51) The UNCT recommends that Viet Nam, in the forthcoming 2019 Labour Code revision, moves towards equalizing the retirement ages for women and men, and addresses the gender-based occupational segregation.**

**52) The UNCT recommends that Viet Nam takes measures to ensure ethnic minority women are well represented at all levels of decision-making.**

53) Viet Nam has made efforts to reduce Gender-Based Violence (GBV) and Domestic Violence (DV)<sup>cviii</sup>; nonetheless, too much emphasis on mediation remains. Preserving “family harmony” remains a key factor, making women hesitant to report DV<sup>cxix</sup>. Sexual harassment and violence in public spaces is still prevalent with 87 percent of women and girls surveyed in Ha Noi and Ho Chi Minh City reporting having



experienced some form of sexual harassment in public places<sup>CX</sup>. Sexual harassment in public is not explicitly prohibited.

54) Misconceptions about sexual violence often prevent women from reporting it, and even when women report incidences of sexual violence, attrition rates are high at all stages of the criminal justice process<sup>CXI</sup>. While efforts have been made to broaden the PC definition of rape<sup>CXII</sup>, a minimum degree of physical injury is still required as evidence, even though 76 percent of victims do not have visible injuries<sup>CXIII</sup>. Not all forms of violence against women are prohibited (e.g. stalking)<sup>CXIV</sup>.

55) Child, early, and forced marriage continues to be a persistent issue with one-in-ten women aged 20-24 years in 2014 found to be married or in union before their 18th birthday<sup>CXV</sup>. Girls from socio-economically disadvantaged backgrounds are more likely to be married early, with the percentage of early marriage for ethnic minority girls rising to a significant 27 percent<sup>CXVI</sup>.

**56) The UNCT recommends that Viet Nam prohibits all forms of violence against women, and strengthens women's access to justice.**

**57) The UNCT recommends that Viet Nam effectively implements the law prohibiting child, early and forced marriage and strengthens efforts towards a multi-sectoral holistic response.**

58) The sex-ratio imbalance increased from 2009 to 2016<sup>CXVII</sup>. Son-preference constitutes the primary factor behind sex selection and stems from a kinship system where girls and women have marginal social, economic and symbolic positions. Other factors include the increased accessibility of sex selective technologies and low fertility rates, compelling parents who want both a son and a small family size to resort to sex selection.

**59) The UNCT recommends that government addresses the root causes of son-preference and the misuse of medical technologies for sex selection without curtailing women's access to safe abortion services.**

## Children

60) Viet Nam adopted a new Law on Children in 2016 to strengthen prevention and protection of all children from all forms of violence, and established a national committee on children. It has also adopted alternative measures to the deprivation of children's liberty with the approval of the 2013 Law on Handling of Administrative Violations and revision of the PC<sup>CXVIII</sup>. However, implementation remains a concern as there is often insufficient allocation of resources, and gaps remain in terms of creating effective reporting mechanisms as well as in raising public awareness and changing attitudes<sup>CXIX</sup>.

61) Importantly, the definition of the age of the child as a person under 16 years in the Law on Children whilst the age of majority is defined as a person above 18 years<sup>CXX</sup> creates significant gaps for children aged 16-17 years, especially victims of child labour, trafficking, children facing deprivation of liberty, and other vulnerable groups who face limited access to welfare, justice, and protection services.

**62) The UNCT recommends that Viet Nam changes the definition of the age of the child to under-18 years in line with the Convention on the Rights of the Child.**

63) Although perceptions and practices of care and protection have improved, large numbers of children continue to experience various forms of neglect, abuse, violence, and exploitation. Violent discipline is wide-spread and almost 68.4 percent of children aged 1-14 reported experiencing some form of violence at home by their parents or caregivers<sup>cxxi</sup>. More than half of all surveyed students in schools reported experiencing at least one kind of school related violent behaviour in the last 6 months<sup>cxxii</sup>.

64) While significant progress has been made in child justice<sup>cxxiii</sup>, detention of children in conflict with the law is still common, and children continue to face obstacles in accessing a fair, timely and effective remedy and individualized support to address the multi-faceted risk factors contributing to offending and victimization<sup>cxxiv</sup>.

### Persons with Disabilities

65) 15 percent of the population has disabilities<sup>cxxv</sup>, and Viet Nam has continued steps to meet the needs and preferences of persons with disabilities (PWD)<sup>cxxvi</sup>, recognizing their difficult social and economic conditions<sup>cxxvii</sup>. Challenges remain in implementing policies and laws in accordance with the Convention on the Rights of Persons with Disabilities (CRPD), including infrastructure, human resources and access to services such as rehabilitation at district and commune levels<sup>cxxviii</sup>. There is a general lack of data on efforts to ensure accessibility.

66) The current social protection services focus on institutional care as the main solution to vulnerability due to disability, with children with disabilities accounting for most children living in institutions<sup>cxxix</sup>.

67) PwD face discrimination in education and employment as well as limited access to health care<sup>cxxx</sup>. General lack of knowledge on the rights of PwD among Government officials, and lack of mechanisms to hold Government agencies accountable are key challenges. In this regard, capacity-building among health workers on non-discrimination and supporting financial incentives for developing and maintaining health services that are inclusive of PwD are encouraged.

68) Importantly, the definition of PwD in the Law on Persons with Disabilities is not in line with the CRPD as it refers to "a person who is impaired in one or more body parts or suffers functional decline manifested in the form of disability which causes difficulties to his/her work, daily life and study"<sup>cxxxi</sup>.

69) **The UNCT recommends that Viet Nam amends the Law on Persons with Disabilities to align with the CRPD, in particular on the definition.**

### Ethnic Minorities

70) Viet Nam's 53 ethnic minority (EM) groups, comprising over 13 million people<sup>cxxxii</sup>, are concentrated in mountainous and remote areas.

71) Viet Nam has implemented measures to improve access to education for children from EM communities<sup>cxxxiii</sup>. Overall, though the out-of-school rate of EM children has dropped<sup>cxxxiv</sup>, it remains substantially higher than for other children<sup>cxxxv</sup>. EM communities remain poorer<sup>cxxxvi</sup> and more illiterate<sup>cxxxvii</sup>, and face numerous barriers in accessing resources.

72) Regarding bilingual education, the 2005 Law on Education ensures teaching and learning of spoken and written languages of ethnic minorities. Also, the 2018 revised general education curriculum emphasizes the importance of ethnic minority language teaching. The Law on Education does not explicitly mention bilingual education which is not formally provided as part of the curriculum. Instead, ethnic minority languages are taught as a subject<sup>cxxxviii</sup>.

**73) The UNCT recommends that Viet Nam enhances targeted interventions to address the particular needs of ethnic minority women and men, girls and boys, through improved investment in literacy, education, and vocational training, so that they are not left behind.**

#### LGBT

74) A gradual awareness and openness of policy makers to address LGBT issues can be noted since 2014, resulting in a slight decrease of social stigma attached to LGBT<sup>cxxxix</sup>. While the Constitution stipulates that discrimination based on gender is strictly prohibited<sup>cxli</sup>, no law explicitly prohibits discrimination based on sexual orientation and gender identity and expression (SOGIE)<sup>cxlii</sup>. LGBT persons continue to face problems in the educational system with higher risk of victimization, GBV and bullying than their peers, and school safety remains a major concern<sup>cxlii</sup>.

**75) The UNCT recommends that comprehensive sexuality education and awareness of sexual orientation and gender identity issues be made compulsory in the school curriculum by 2021.**

76) The Civil Code revision in 2015 included the right to change one's legal gender marker<sup>cxliii</sup>. To implement this provision, a new Law on Gender Affirmation has been drafted by the Ministry of Health in consultation with the transgender community. However, the current draft law constrains the right to legal recognition of one's self-defined gender by seemingly requiring applicants to have undergone medical interventions, psychological assessment, being single and over 18 years old. It is not clear when the draft Law will be tabled at the National Assembly.

**77) The UNCT recommends that the Law on Gender Affirmation be adopted as soon as possible and be consistent with international human rights standards to enable transgender persons to change their legal gender marker.**

#### Discrimination against sex workers and people living with HIV (PLHIV)

78) HIV-related stigma and discrimination have been widely reported to be a major barrier to HIV service uptake by PLHIV and other key populations<sup>cxliv</sup>.

79) Punitive approaches, such as administrative penalties for sex workers and their clients, are still followed, leading to further discrimination of already marginalized groups. There are also reports of, on some occasions, arbitrary arrests, detention of, and violence against, sex workers, which in addition to the violation of their human rights, also increases their vulnerabilities to HIV<sup>cxliv</sup>.

**80) The UNCT recommends that the current draft Law on Sex Work adopts a human rights-based approach instead of focusing on prevention and control; removes administrative and criminal sanctions for activities related to sex work, and; furthers sex workers' access to legal, health and social services.**

## Migrants

81) In 2014 there were more than 700,000 internal migrants aged 15 and older, nearly 82 percent of whom participated in the labour force<sup>cxlvi</sup>. It is likely that the number of migrant workers going abroad will continue to rise<sup>cxlvii</sup>. Viet Nam<sup>cxlviii</sup> is implementing policies to encourage labour migration as a poverty reduction strategy<sup>cxlix</sup> and creating incentives for people from poor districts to work overseas<sup>cl</sup>. While it should be noted that Viet Nam experienced rapid economic growth in general, migration was found to have a significant impact on poverty reduction, reducing those living below the poverty line by 17 percent<sup>cli</sup>.

82) While monetary incentives effectively increase migration in poor areas, it is of concern that they encourage the most vulnerable populations to migrate, including EMs with very limited educational backgrounds.

83) Many workers still use irregular and unsafe channels due to complex recruitment procedures or costly processes, which risk pushing workers into a circle of endless debt and exploitation, placing female migrant workers at a much higher risk of being trafficked for sexual and/or labour exploitation.

84) While the Government enforces the regulation on minimum wage among employers of migrant workers, the lack of registration status increases their cost of living, cost of schooling for their children as they face difficulty in accessing public schools, public child care options in industrial zones where migrant workers live, and health care services for children. For example, pre-school facilities in industrial parks and export processing zones in cities such as Ho Chi Minh City only meet 2 percent of workers demand and many children, especially migrant children are either not attending schools or studying at low quality institutions<sup>clii</sup>.

**85) The UNCT recommends that the Law on Vietnamese Guest Workers be revised to make the migration process more transparent and beneficial for migrant workers. The revised law should also better address reintegration support for returned migrant workers in terms of harnessing their skills acquired abroad and job introduction/creation.**

**86) Moreover, the UNCT recommends that Viet Nam ratifies the ICRMW, and ILO Conventions 97, 143, and 181 to protect the rights of migrant workers.**

## Older Persons

87) Viet Nam is among the most rapidly ageing countries in the world<sup>cliii</sup>. The rights of older persons have been reflected in law and policies, such as the 2009 Law on Older Persons and the National Program of Action on Older Persons 2012-2020<sup>cliv</sup>. However, those rights are not fully realized in practice due to weak enforcement and less effective policy implementation<sup>clv</sup>.

88) Older persons face discrimination, abuse, neglect and violence. However, there is lack of data and information on this to inform relevant policy development. In 2011, about 10 percent of older persons reported that they have been poorly treated by their family members<sup>clvi</sup>. Further, the fact that older persons have limited income may cause them to be financially dependent<sup>clvii</sup>, thus leading to various types of discrimination and abuse of older persons.

89) Access of older persons to quality health and care is still limited<sup>clviii</sup>. Health insurance only covers a certain level of health care services for older persons resulting in very high out-of-pocket spending on health care<sup>clix</sup>. The health system cannot meet the care needs, including social care needs of older persons, especially in a context of more older persons living alone.

90) **The UNCT recommends that Viet Nam reviews and revises its labour market policies (including access to life-long learning) to improve access to employment for older persons.**

### Business and Human Rights

91) The increasing impact of the private sector on the enjoyment of human rights has resulted in the exacerbation of existing human rights violations and in some cases new violations, including in protecting labour rights and the rights of migrant workers in the supply chain, environmental degradation and adverse impacts on the right to health, land grabs and forced relocation, women's rights, children's rights (in the workplace, marketplace and community)<sup>clx</sup>, and protecting the freedom of expression online<sup>clxi</sup>.

92) **The UNCT recommends that Viet Nam takes steps to develop a National Action Plan on business and human rights in 2019, which includes capacity building of government officials on how governments can ensure that all business activity respects human rights through laws, policies, research, monitoring, awareness raising, and remedies<sup>clxii</sup>.**

<sup>i</sup> During the 2<sup>nd</sup> UPR, Viet Nam received 227 recommendations, accepting 182 and noting 45.

<sup>ii</sup> Despite accepting recommendations on the CPED and ICRMW during the 2<sup>nd</sup> UPR (such as Nos. 143.18., 143.19., 143.21., 143.22, and 143.23). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>iii</sup> Prime Minister Decision 2528/QĐ-TTG dated 31 December 2015. (In Vietnamese <http://www.molisa.gov.vn/vi/Pages/ChiTietVanBan.aspx?vID=34836>).

Viet Nam accepted recommendation no. 143.28. in the 2<sup>nd</sup> UPR to consider ratifying other pending fundamental ILO conventions such as No. 189. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>iv</sup> Viet Nam made several voluntary commitments and accepted recommendations to work with Special procedures.

See Viet Nam's voluntary commitments as a member of the Human Rights Council No. 9, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312); voluntary commitment, Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Viet Nam, A/HRC/WG.6/18/VNM/1, para. 85; accepted Recommendations Nos. 143.66-143.68., 143.70, and 143.74.-143.76 during the 2<sup>nd</sup> UPR, Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>v</sup> <http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/StandingInvitations.aspx>.

<sup>vi</sup> E.g. The Special Rapporteurs on torture; extrajudicial, summary or arbitrary executions; slavery; education; disability; freedom of expression; freedom of assembly; Human Rights Defenders (HRDs) and; migrants. See <http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en>.

<sup>vii</sup> Mentioning "various interruptions that undermined the terms of reference of a country visit, while the privacy and confidentiality of some meetings and sources of information had been seriously compromised" (Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt - Addendum Mission to Viet Nam (21 to 31 July 2014), A/HRC/28/66/Add.2, para.3, <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Pages/ListReports.aspx>). The Special Rapporteur on the Right to Food visited Viet Nam from 13 to 23 November 2017. See end of mission statement at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22439&LangID=E>.

<sup>viii</sup> During the 2<sup>nd</sup> UPR Viet Nam generally accepted recommendations to establish an NHRI (nos. 143.36.-39., and 143.51.) but noted recommendations to establish the NHRI according to the Paris Principles (nos. 143.40.-42.) (Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6). Viet Nam also voluntarily committed to possibly establish an NHRI (Viet Nam's voluntary commitments as a member of the Human Rights Council No. 3, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

Viet Nam has established a national Human Rights Steering Committee under Decision of the Prime Minister 63/2004/QĐ-TTg dated 16 April 2004 (<http://khpl.moi.gov.vn/qt/tintuc/Lists/CacAnPham/Attachments/22/Thong%20tin%20so%20082016.pdf>), which includes representatives from the key ministries and agencies and is mainly responsible for coordinating human rights activities and submitting strategies, plans, projects, and programs on human rights to the Government.

<sup>ix</sup> The Law on Children (Article 77) incorporated provisions about the new roles of the Youth Union to represent children and monitor government's implementation of children's rights. This progressive development created a new institutional mechanism in understanding and addressing children's concerns. The Law on Children (Article 91) also articulates the role of the Fatherland Front and its members to supervise, critique, and provide advice and proposals to state authorities to establish and implement policies and laws relating to children. Children Law, Law No. 102/2016/QH13, Hanoi 2016.

<sup>x</sup> The revised PC was effective from January 2018, however, the provisions on death penalty took effect immediately as of 27 November 2015.

<sup>xi</sup> During the last UPR, Viet Nam generally accepted to restrict the use of the death penalty but noted to abolish, establish a moratorium on or publish figures on the use of the death penalty. See recommendations nos. 143.5-6, and 143.89-113. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>xii</sup> Including surrendering to the enemy, opposing order, destruction of projects of national security importance, robbery, drug possession, drug appropriation, and the production and trade of fake food. The Penal Code 2015 revised 2017 also completely removed the offence on conducting banditry activities, which had the death penalty. Moreover, those aged 75 years or older will be exempt, and officials convicted of corruption charges can be spared if they pay back at least 75 percent of the profits they illicitly obtained. Penal Code, Law No. 100/2015/QH13, 27 November 2015 ([http://www.wipo.int/wipolex/en/text.jsp?file\\_id=446020](http://www.wipo.int/wipolex/en/text.jsp?file_id=446020), accessed 20 May 2018). This report, for ease of reference, refers to English translations of the Vietnamese documents, however, it should be noted that Vietnamese versions takes precedence in the application of the law.

<sup>xiii</sup> ICCPR, art. 6.2, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>xiv</sup> Until that report, there was no reliable figure on the number of executions carried out each year or the number of detainees on death row. The report on the "Five-year Implementation of the Law on Execution of Criminal Judgements within Police

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Force” (2011 - 2016) was posted on the internet in January 2017 and then withdrawn. According to the report, during the period under review, 1,134 persons were sentenced to death adding to the 336 persons already on death row.

<sup>xv</sup> During the 2<sup>nd</sup> UPR, Viet Nam accepted recommendations during the 2<sup>nd</sup> UPR to ensure equality before the law, the presumption of innocence, and fair and public trials (inter alia, Nos. 143.133-135), more generally to improve the legal and judicial systems and the rule of law (Nos. 143.127-132), and to guarantee the right to freedom from arbitrary arrest or detention (No. 143.133). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

Moreover, Viet Nam voluntarily committed to improve the legal and judicial systems and build a rule-of-law state (Viet Nam’s voluntary commitments as a member of the Human Rights Council No. 3, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

<sup>xvi</sup> See Articles 74, 119, 172 and 173, Criminal Procedure Code, Law No. 101/2015/QH13 dated 27 November 2015

(<https://vanbanphapluat.co/law-no-101-2015-qh13-criminal-procedure-code>, accessed 20 May 2018). See also

for example: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21815&LangID=E>,

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22937&LangID=E>,

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21921&LangID=E>

<sup>xvii</sup> Viet Nam accepted two recommendations specifically to ensure, i.a., the freedom of expression and a favourable environment for HRDs (Nos. 143.149 and 143.167). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>xviii</sup> Including bloggers, lawyers, and land/environmental and religious activists.

<sup>xix</sup> The revised PC, effective from January 2018, primarily changed the order of art. 79, 88, and 258 from the 1999 PC to art. 109, 117, and 331, but the content remained substantially the same. The UN has published comments on the revised PC and CPC available at [http://www.un.org.vn/en/publications/doc\\_details/538-un-recommendations-on-the-2015-penal-code-and-criminal-procedural-code-of-viet-nam.html](http://www.un.org.vn/en/publications/doc_details/538-un-recommendations-on-the-2015-penal-code-and-criminal-procedural-code-of-viet-nam.html), accessed 24 May 2018.

<sup>xx</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22937&LangID=E>.

<sup>xxi</sup> Who had been advocating on environmental rights and land rights, involved in anti-China protests or criticized government policies and shared the idea of multiparty democracy in the country.

Opinions adopted by the Working Group on Arbitrary Detention on Viet Nam 2015-2017:

Opinion No. 45/2015 (Viet Nam) (A/HRC/WGAD/2015/45), Opinion No. 46/2015 (Viet Nam) (A/HRC/WGAD/2015/46), Opinion

No. 40/2016 (Viet Nam) (A/HRC/WGAD/2016/40), Opinion 26/2017 (Viet Nam) (A/HRC/WGAD/2017/26),

Opinion 27/2017 (Viet Nam) (A/HRC/WGAD/2017/27), Opinion 75/2017 (Viet Nam) (A/HRC/WGAD/2017/75) and Opinion

79/2017 (Viet Nam) (A/HRC/WGAD/2017/79).

<sup>xxii</sup> Including denial or restricted communication with family members, lack of access to legal counsel, denial of medical treatment and medication, restrictions on freedom of religion and belief (bibles sent by the family were confiscated on numerous occasions and Christian priests seeking to give religious sacraments were denied access) and that supplies (food and personal items) given by the detainees’ families were not delivered to the detainees once they were handed over to the guards.

<sup>xxiii</sup> During the 2<sup>nd</sup> UPR Viet Nam received and accepted several recommendations on trafficking in persons (Nos. 143.87, 143.122, 143.123, 143.124, 143.125, and 143.126). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

Viet Nam is primarily a source for TIP (US Trafficking in Person Report June 2017. US Department of State -

<https://www.state.gov/documents/organization/271339.pdf>, accessed 18 May 2018).

Measures include: 1) ratifying the ASEAN Convention Against Trafficking in Persons Especially Women and Children in December 2016, which is the first regionally binding instrument on trafficking in persons; 2) revising the Penal Code in 2015 on trafficking, inter alia, to increase punishment levels for traffickers; 3) concluding the 2<sup>nd</sup> National Plan of Action (NPA) on combating human trafficking and issuing the 3<sup>rd</sup> NPA for the period 2016-2020, identifying children as a special group, with five sub-projects and 21 measurable indicators; 4) the National Programme on Prevention and Elimination of Child Labour (2016 - 2020); 5) the National Programme on Child Protection (2016 - 2020); 6) A new Law on Children in 2016 to strengthen prevention and protection of all children from all forms of violence; 7) A Law on Anti Human Trafficking providing regulations on protection and support measures available to Trafficking in Persons victims outside the proceedings; 8) The Government also provides regulations on procedures for providing assistance services for returnees; 9) The Joint Circular 01/2014 dated 10 Feb. 2014 guides on procedures and cooperation in identification, receipt and repatriation of victims of human trafficking; 10) The Prime Minister approved Decision 2546/QĐ-TTg dated 31 December 2015 on approving the anti-trafficking program for the period 2016 – 2020, and; 11) The Steering Committee 138/CP on Anti-Human trafficking issued Plan 15/KH-BCĐ dated 19/01/2016 on implementation of the anti-trafficking program for the period 2016 - 2020.

<sup>xxiv</sup> Referring to mechanisms to monitor and evaluate the government’s implementation of the international conventions to which Viet Nam is a signatory.

<sup>xxv</sup> Legal Gap Analysis of Anti-Trafficking Legislation in Vietnam, Liberty Asia and Blue Dragon, 2018

([http://freedom.collaborative.prod.s3.amazonaws.com/uploads/GapAnalysis\\_Vietnam\\_20180531.pdf](http://freedom.collaborative.prod.s3.amazonaws.com/uploads/GapAnalysis_Vietnam_20180531.pdf)).

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<sup>xxvi</sup> Review Report on the Implementation of National Plan of Action on Counter-Trafficking – Report of the National Steering Committee 138/CP. March 2015.

<sup>xxvii</sup> Assessment Report on Reintegration Support Models for Victims of Trafficking, IOM, 2012 ([https://publications.iom.int/system/files/pdf/assessment\\_report\\_vietnam\\_26dec2012.pdf](https://publications.iom.int/system/files/pdf/assessment_report_vietnam_26dec2012.pdf)). The lack of data also includes data on trafficking of ethnic minority girls and women across borders as brides.

<sup>xxviii</sup> US Trafficking in Person Report 2017. US Department of State - <https://www.state.gov/documents/organization/271339.pdf>, accessed 22 May 2018.

<sup>xxix</sup> After nearly 5 years of implementation of the Drug Rehabilitation Renovation Plan introduced in 2013 with an aim to reduce the number of compulsory detention centres, known locally as 06 Centres. Decision 2596/DQ-TTg by the Prime Minister dated 27 December 2013 on Drug Rehabilitation Renovation Plan.

During the 2<sup>nd</sup> UPR, Viet Nam noted a recommendation to provide information on the detention centres (no. 143.136.). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>xxx</sup> Resolution No. 77/2014/QH13 dated 10 November 2014 by the National Assembly on the formation of Center for receiving drug addicts for detoxification and psycho counselling during case preparation period and Decree No. 56/2016/NĐ-CP dated 29 June 2016 of the Government on the application of the measure of education in communes, wards or townships and Decree number 90/2016/NĐ-CP dated 1st July 2016 on methadone treatment.

<sup>xxxi</sup> See also Joint Statement by 12 UN Agencies on Compulsory drug detention and rehabilitation centres (ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO and UNAIDS) [https://www.unodc.org/documents/southeastasiaandpacific/2012/03/drug-detention-centre/JC2310\\_Joint\\_Statement6March12FINAL\\_En.pdf](https://www.unodc.org/documents/southeastasiaandpacific/2012/03/drug-detention-centre/JC2310_Joint_Statement6March12FINAL_En.pdf).

<sup>xxxii</sup> The Family and Juvenile Court is established under Law on People’s Court Organization, Articles 30, 38, and 45.

<sup>xxxiii</sup> Article 7 of the 2017 Legal Aid Law expands legal aid beneficiaries, from 06 groups to 14 groups. Law No. 11/2017/QH14 dated June 20, 2017 on legal aid (<http://vbpl.vn/tw/Pages/vbpgen-toanvan.aspx?ItemID=11098>, accessed 28 May 2018).

<sup>xxxiv</sup> In particular during police investigations. During the 2<sup>nd</sup> UPR, Viet Nam accepted recommendation no. 143.137 to guarantee the right to family visits and legal assistance, in particular during police inquiries. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

Art. 9 prescribes the basic rights of detainees to meet their relatives and defense counsels and have consular access or meet their lawful representative to conduct civil transactions. Moreover, detainees are entitled to guidance on, explanation about, and exercise of, the right to defend themselves or ask for defense or legal aid from others. Notably, Article 22 provides in detail for the implementation of the right to family visits and legal assistance. Law No. 94/2015/QH13 dated 25 November 2015, Law on Enforcement of Custody and Temporary Detention (<http://vbpl.vn/TW/Pages/vbpgen-toanvan.aspx?ItemID=11047> accessed on 28 May 2018).

<sup>xxxv</sup> Article 31(1).

<sup>xxxvi</sup> Article 13.

<sup>xxxvii</sup> Moreover, bureaucratic obstacles in place for decades that prevented timely access by lawyers to arrested persons in custody have been reduced. The CPC also states that arrested persons do not have to confess, although it does not explicitly and clearly provide for the right to remain silent. Police officers and other state agents who place people in custody now have an obligation to inform the accused of their rights under the law and the constitution (Articles 58.1e; 59.2c; and 61.2h, 2015 CPC). More people facing deprivation of liberty are also eligible for free legal counsel (Article 76, 2015 CPC).

<sup>xxxviii</sup> Such as detention facilities or the offices of investigation authorities or units assigned to investigate (art. 183 CPC).

<sup>xxxix</sup> Working Group on Arbitrary Detention, Opinion No. 40/2016, A/HRC/WGAD/2016/40  
Working Group on Arbitrary Detention, Opinion No. 75/2017, A/HRC/WGAD/2017/75  
Working Group on Arbitrary Detention, Opinion No. 79/2017, A/HRC/WGAD/2017/79.

<sup>xl</sup> See for example regulation No. 105-QD/TW of the Central Committee of the Vietnam Communist Party dated December 19, 2017 on devolving of personnel management, personnel appointment and personnel recommendation for election, which regulates that some positions in the judiciary are decided to nominate for election by the Communist party. See <http://dangcongsan.vn/Portals/0/Documents/105/Quyết-dinh-105-QD-BCT-pdf.pdf>, accessed at 28 May 2018.

Viet Nam accepted recommendations during the 2<sup>nd</sup> UPR to strengthen the judiciary based on the principle of independent judges and prosecutors (No. 143.130) as well as on pursuing judicial reforms and strengthening the judicial system (Nos. 143.131 and 143.132). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>xli</sup> See UNDP, Environmental disputes, social changes, and distributive justice in Viet Nam: Case studies, comparative analysis, and policy implications, 18 April 2018, [http://www.vn.undp.org/content/vietnam/en/home/library/democratic\\_governance/environmental-disputes--social-changes--and-distributive-justice.html](http://www.vn.undp.org/content/vietnam/en/home/library/democratic_governance/environmental-disputes--social-changes--and-distributive-justice.html).

<sup>xlii</sup> National Assembly, Constitution of the Socialist Republic of Vietnam, 28 November 2013, unofficial translation (<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94490/114946/F114201808/VNM94490%20Eng.pdf>, accessed 19 May 2018).



<sup>xliii</sup> According to article 7 of the Law on the Press, No. 103/2016/QH13 of April 5, 2016 ([http://www.wipo.int/wipolex/en/text.jsp?file\\_id=447193](http://www.wipo.int/wipolex/en/text.jsp?file_id=447193), accessed 20 May 2018).

<sup>xliiv</sup> Article 9(4). Other examples include “propagandizing depraved lifestyles [...] providing information unsuitable to the fine traditions and customs of Vietnam” (art. 9(7)), or “distorting, defaming or negating the people’s administration” (art. 9(1)a). Law No. 103/2016/QH13 of April 5, 2016, on the Press ([http://www.wipo.int/wipolex/en/text.jsp?file\\_id=447193](http://www.wipo.int/wipolex/en/text.jsp?file_id=447193), accessed 20 May 2018).

<sup>xli v</sup> That is, to protect the viewpoints, line and policies of the Party and policies and laws of the State; to discover, propagandize and protect positive factors; to prevent and fight against wrongful ideas and acts. Article 25(3)b, Law No. 103/2016/QH13 of April 5, 2016, on the Press ([http://www.wipo.int/wipolex/en/text.jsp?file\\_id=447193](http://www.wipo.int/wipolex/en/text.jsp?file_id=447193), accessed 20 May 2018).

<sup>xli vi</sup> Article 117 provides up to 20 years in jail for producing and disseminating distorted information, aimed to oppose the State. Article 116 provides up to 15 years in jail for sabotaging implementation of solidarity policies, sowing division, causing hostility, etc. Penal Code, Law No. 100/2015/QH13, 27 November 2015 ([http://www.wipo.int/wipolex/en/text.jsp?file\\_id=446020](http://www.wipo.int/wipolex/en/text.jsp?file_id=446020), accessed 20 May 2018).

<sup>xli vii</sup> See for example, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22937&LangID=E>.

<sup>xli viii</sup> During the 2<sup>nd</sup> UPR Viet Nam accepted recommendations to protect freedom of the internet in general (Nos. 143.4, 143.146, 143.157, 143.158, 143.159, 143.164, 143.165, 143.170, and 143.171) and specifically to revise Decrees 02 (No. 143.153), 72 (Nos. 143.153, 143.154, 143.155, and 143.161) and 174 (No. 143.154). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>xli x</sup> While 02/2011/NĐ-CP on handling of administrative violations in press and publishing activities (<http://vbpl.vn/tw/Pages/vbpgen-toanvan.aspx?ItemID=10563>, accessed 22 May 2018) was amended by the Decree No. 159/2013/ND-CP providing for Administrative Penalties for Violations Arising in the Realm of Journalism and Publishing (<http://www.wipo.int/wipolex/en/details.jsp?id=17253>, accessed 22 May 2018), the administrative violations provided for in the new Decree were kept the same as provided for in the Decree 02/2011, thus the issues addressed in the recommendations were not resolved.

<sup>1</sup> Decree No. 27/2018/ND-CP amends some articles of Decree No. 72/2013/ND-CP.

<sup>li</sup> Regulating, i.a., content on personal pages, including Facebook, Twitter and blogs. Article 5 of Decree No. 72/2013 prohibits acts such as “Opposing the State of the Socialist Republic of Vietnam; undermining the national security and social order and safety [...]” (<https://vnnic.vn/sites/default/files/vanban/Decree%20No72-2013-ND-CP.PDF>, accessed 22 May 2018).

<sup>lii</sup> The Law on Cybersecurity was approved by the National Assembly on 12 June 2018. However, the law has not been promulgated by the President yet. Below is the link to the latest draft law available at the time of writing. <http://quochoi.vn/hoatdongcuaquochoi/cackyhopquochoi/quochoikhoaXIV/kyhopthunam/Pages/van-kien-tai-lieu.aspx?ItemID=4117>.

<sup>liii</sup> Non-Paper on file with the UNCT, June 2018.

<sup>li v</sup> See Art. 5, 8, 16, 18, 26 in the Law on Cybersecurity.

<sup>li v</sup> See articles 1 and 6, Law no. 104/2016/QH13 on Access to Information (<http://vbpl.vn/TW/Pages/vbpgen-toanvan.aspx?ItemID=11040>, accessed 28 May 2015).

<sup>li vi</sup> See for example, UNICEF, Discussion Paper Series: Children’s Rights and Business in the Digital World, Freedom of Expression, Association, Access to Information and Participation, June 2017 ([https://www.unicef.org/csr/css/UNICEF\\_CRB\\_Digital\\_World\\_Series\\_EXPRESSION.pdf](https://www.unicef.org/csr/css/UNICEF_CRB_Digital_World_Series_EXPRESSION.pdf)).

<sup>li vii</sup> See Decree 38/2005/ND-CP on some measures to ensure public order, in place since 2005 (<https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Nghi-dinh-38-2005-ND-CP-bien-phap-bao-dam-trat-tu-cong-cong-52936.aspx>).

<sup>li viii</sup> Non-Paper on file with the UNCT, June 2018.

<sup>li x</sup> During the 2<sup>nd</sup> UPR, Viet Nam, inter alia, accepted two recommendations on promoting a legal, administrative, and fiscal framework to encourage strengthening NGOs (No. 143.169) and taking concrete steps to create a friendly environment for NGOs, including by easing their registration requirements (No. 143. 174). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>li x</sup> The procedures are regulated by Decree 33/2012/ND-CP (<https://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=Ngh%E1%BB%8B%20%C4%91%E1%BB%8Bnh%2033%2F2012&area=0&type=0&status=0&lan=1&org=0&sig ner=0&match=True&sort=1&bdate=24/05/1938&edate=24/05/2018>) and Decree 45/2010/ND-CP (<https://thuvienphapluat.vn/van-ban/Quy-en-dan-su/Nghi-dinh-45-2010-ND-CP-to-chuc-hoat-dong-quan-ly-hoi-104561.aspx>) that provide for the organization, operation and management of associations. Decree 33/2012/ND-CP revised some articles of Decree 45/2010/ND-CP. The administrative procedures relating to NGOs are provided for in the Decision 579/QĐ-BNV dated 15 July 2015 of the Ministry of Home Affairs (<https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Quy-et-dinh-579-QĐ-BNV-thu-tuc-hanh-chinh-quan-ly-Bo-Noi-vu-linh-vuc-to-chuc-phi-chinh-phu-288746.aspx>). The Decision provided for procedures of establishing associations, approving the association's charter, division, and merger of associations. See also Decree 12/2012/ND-CP on registration and management of activities of foreign NGOs in Viet Nam (<https://thuvienphapluat.vn/phap-luat/tim-van-ban.aspx?keyword=Ngh%E1%BB%8B%20%C4%91%E1%BB%8Bnh%2012%2F2012&match=True&area=0>).

<sup>lxi</sup> To implement the Law on Promulgation of Legal Normative Documents (<https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Luat-ban-hanh-van-ban-quy-pham-phap-luat-2015-282382.aspx>), the Government issued Decree 34/2016/ND-CP (<https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Nghi-dinh-34-2016-ND-CP-quy-dinh-chi-tiet-bien-phap-thi-hanh-luat-ban-hanh-van-ban-quy-pham-phap-luat-312070.aspx>) detailing several articles and providing measures for implementation.

<sup>lxii</sup> General Statistics Office, Vietnam Labour Force Survey 2017

([https://www.gso.gov.vn/default\\_en.aspx?tabid=515&idmid=5&itemID=18833](https://www.gso.gov.vn/default_en.aspx?tabid=515&idmid=5&itemID=18833)).

<sup>lxiii</sup> General Statistics Office and ILO, 2016 Report on informal employment in Viet Nam, 2016.

<sup>lxiv</sup> During the 2<sup>nd</sup> UPR review, Viet Nam accepted recommendation no. 143.28. to consider ratifying the Convention concerning Decent Work for Domestic Workers as well as recommendation no. 143.29. to harmonize legislation, regulations and policies with ILO convention No. 29 and 138. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

Viet Nam has ratified Convention No. 138 (1973) concerning Minimum Age for Admission to Employment in June 2003 setting the age of 15 years as the general minimum age for admission to employment in conformity with international standards and limiting admission to work of children under 15 years to certain categories of jobs and work. The Labour Code defines an employee whose age is below eighteen years as a minor employee and Viet Nam has set out a list of heavy, hazardous, dangerous work and unsafe working conditions that are prohibited for employment of minor workers under eighteen years (see Circular No. 10/2013/TT-BLDTBXH dated 10 June 2013 issued by the MOLISA after presiding over coordination with the Ministry of Health in compliance with the 1999 ILO Convention 182

(<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94648/111116/F1763762476/VNM94648%20Vnm.pdf>, accessed 27 May 2018)).

<sup>lxv</sup> See for example <http://www.un.org.vn/en/un-jobs/51-mdgs/viet-nam-and-the-mdgs/54-viet-nam-and-the-mdgs.html>.

Moreover, the poverty rate dropped on average about 2 percent/year, from 14.2 percent at the end of 2010 to below 4.5 percent in 2015 while maintaining other progress. Socialist Republic of Vietnam, The Five-Year Socio-Economic Development Plan 2016-2020, Hanoi, 2016 (<http://pubdocs.worldbank.org/en/839361477533488479/Vietnam-SEDP-2016-2020.pdf>).

<sup>lxvi</sup> The increase is expected after approval and implementation of the Master Plan for Social Assistance Reform (MPSAR) (2017-2025), see Prime Minister's Decision No. 488 on 14 April 2017 on approval of the proposal for social assistance reform for the period 2017-2025, with vision to 2030 (<https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Quy-dinh-488-QD-TTg-duyet-De-an-Doi-moi-phat-trien-tro-giup-xa-hoi-2017-2025-den-2030-2017-346365.aspx>). Moreover, the Government is preparing the Master Plan on Social Insurance Reform (MPSIR) (ILO Annual Report 2017 - Building social protection floors for all global flagship program (<http://www.social-protection.org/gimi/RessourcePDF.action?ressource.ressourceId=54826>)).

<sup>lxvii</sup> Socialist Republic of Vietnam, The Five-Year Socio-Economic Development Plan 2016-2020, Hanoi, 2016,

<http://pubdocs.worldbank.org/en/839361477533488479/Vietnam-SEDP-2016-2020.pdf>, accessed 27 May 2018. Also, the

Prime Minister issued Decision No. 1722/QĐ-TTg, dated on 02/9/2016 on approval of the National Targeted Program on Sustainable Poverty Reduction (NTP-SPR) 2016-2020 (<https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Quy-dinh-1722-QD-TTg-Chuong-trinh-muc-tieu-quoc-gia-Giam-ngheo-ben-vung-giai-doan-2016-2020-321229.aspx>). The overall objectives of the Program is to achieve sustainable poverty reduction objectives and prevent poverty relapse; contribute to the economic growth, guarantee social security benefits, improve the life and increase the income of people, especially people in poor regions, facilitate the poor and poor households in accessing basic social services (health, education, housing, tap water, hygiene and access to information), and contribute to the achievement of poverty reduction goal during 2016 – 2020 under the National Assembly's Resolution. The Prime Minister issued Decision No. 1559/QĐ-TTg, dated on 05/8/2016 on issuing the criteria for identifying communes with extreme difficulties in coastal and island areas under support of the NTP-SPR 2016-2020 (<https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Quy-dinh-1559-QD-TTg-tieu-chi-xa-dac-biet-kho-khan-vung-bai-ngang-ven-bien-hai-dao-2016-2020-318941.aspx>), Decision No. 2115/QĐ-TTg, dated on 07/11/2016 on issuing the criteria for identifying poor districts in the period of 2017-2020 (<https://thuvienphapluat.vn/van-ban/Linh-vuc-khac/Quy-dinh-2115-QD-TTg-tieu-chi-huyen-ngheo-ap-dung-giai-doan-2017-2020-2016-328989.aspx>).

<sup>lxviii</sup> Policy Brief: Income security for Older Persons in Vietnam – Social Pensions, ILO-UNFPA, 2014

([http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_307601.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_307601.pdf)).

<sup>lxix</sup> Using the Government's income poverty line 2011-2015 in 2015. UNDP Fact Sheet "Poverty Reduction in Viet Nam", 2017 (<http://www.vn.undp.org/content/vietnam/en/home/library/factsheets/Poverty-reduction-in-Vietnam.html>, accessed 22 May 2018).

<sup>lxx</sup> 26 percent with income from USD 2-4 (2005 PPP) per person per day. Ibid.

<sup>lxxi</sup> 48 percent with income from USD 4-10 (2005 PPP) per person per day. Ibid.

<sup>lxxii</sup> UNDP Fact Sheet "Poverty Reduction in Viet Nam", 2017,

(<http://www.vn.undp.org/content/vietnam/en/home/library/factsheets/Poverty-reduction-in-Vietnam.html>, accessed 22 May 2018).

<sup>lxxiii</sup> As these groups do not have sufficient access to social protection and social services as these are often provided based on residential registration. Ibid.

<sup>lxxiv</sup> Achievement of the Health-related Millennium Development Goals in the Western Pacific Region 2016:

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Transitioning to the Sustainable Development Goals. Manila: WHO Regional Office for the Western Pacific; 2016 (<http://iris.wpro.who.int/bitstream/handle/10665.1/13441/WPR-2016-DHS-011-en.pdf>).

<sup>lxxxv</sup> In response, the Government of Viet Nam approved Resolution 20 in October 2017 on the protection, care and improvement of people's health (Central Committee Communist Party of Viet Nam. Resolution of the sixth plenary session; the 12th party central committee on the protection, care and improvement of people's health in the new situation. Hanoi: Government of Viet Nam; 2017). This Resolution calls for more investment in primary health care, aiming to reorient Viet Nam's health system towards the prevention of ill health and the provision of care that is at the 'grass roots' (i.e. closer to the community) (see statement of Dr Kidong Park on the occasion of Launching Conference on Implementation of Model to Strengthening Health Care at Grassroots Level in 20 Commune Health Stations. Manila: WHO Regional Office for the Western Pacific; 2017 -

[http://www.wpro.who.int/vietnam/mediacentre/speeches/2017/who\\_vtn\\_speech\\_health\\_care\\_capacity\\_at\\_grassroots\\_level/en/](http://www.wpro.who.int/vietnam/mediacentre/speeches/2017/who_vtn_speech_health_care_capacity_at_grassroots_level/en/)).

<sup>lxxxvi</sup> UHC and SDG country profiles: Viet Nam. Manila: WHO Regional Office for the Western Pacific; 2018 (<http://iris.wpro.who.int/handle/10665.1/14066>, accessed 18 April 2018). For example, 94 percent of births in 2014 were attended by skilled health personnel and the MMR was 54 out of every 100,000 live births as of 2015 (WHO/UNICEF joint Global Database 2017. [http://www.who.int/gho/maternal\\_health/en/](http://www.who.int/gho/maternal_health/en/) and <https://data.unicef.org/topic/maternal-health/delivery-care>). The MMR was reduced by 61 percent between 1990 and 2015 and is already lower than the SDG global target of less than 70 per 100,000 live births (WHO/UNICEF joint Global Database 2017.

[http://www.who.int/gho/maternal\\_health/en/](http://www.who.int/gho/maternal_health/en/) and <https://data.unicef.org/topic/maternal-health/delivery-care>). Also, as of 2015, 97 percent of children were immunized with 3 doses of diphtheria-tetanus-pertussis (DTP3) vaccine (UHC and SDG country profiles: Viet Nam. Manila: WHO Regional Office for the Western Pacific; 2018

(<http://iris.wpro.who.int/handle/10665.1/14066>, accessed 18 April 2018)). The infant mortality rate fell from 36.7 deaths per 1,000 live births in 1990 to 17.3 in 2016, while the under-5 child mortality rate declined from 51 per 1,000 live births in 1990 to 21.6 in 2016 (UNICEF, WHO, World Bank, UN DESA/Population Division. Levels and Trends in Child Mortality 2017. New York City: UNICEF, 2017; and World Health Statistics. Global Health Observatory (GHO) data. Geneva: World Health Organization (<http://apps.who.int/gho/data/node.main.525?lang=e>, accessed 03 November 2017).

<sup>lxxxvii</sup> Access to health care was stressed in accepted recommendations in the first (Nos. 99.58 and 99.68. Human Rights Council, Report of the Working Group on the Universal Periodic Review: Viet Nam, A/HRC/12/11. Geneva: UN; 2009) and second UPR (Nos. 143.191, 143.192, 143.195, 143.198, and 143.206. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.), as well as by the Committee on Economic, Social and Cultural Rights (Concluding observations on the second to fourth periodic reports of Viet Nam. E/C.12/VNM/CO/2-4. Geneva: UN; 2014).

<sup>lxxxviii</sup> Joint Annual Health Review 2016. Hanoi: Government of Viet Nam, Ministry of Health and Health Partnership Group; 2017 ([http://jahr.org.vn/downloads/JAHR2016/JAHR2016\\_Edraft.pdf](http://jahr.org.vn/downloads/JAHR2016/JAHR2016_Edraft.pdf), accessed 19 April 2018).

<sup>lxxxix</sup> UHC and SDG country profiles: Viet Nam. Manila: WHO Regional Office for the Western Pacific; 2018 (<http://iris.wpro.who.int/handle/10665.1/14066>, accessed 18 April 2018).

<sup>lxxx</sup> More than three times higher according to: Socialist Republic of Viet Nam, Country report: 15 Years Achieving the Viet Nam Millennium Development Goals, 2015 ([http://www.vn.undp.org/content/dam/vietnam/docs/Publications/Bao%20cao%20TIENG%20ANH%20-%20MDG%202015\\_trinh%20TTCP.pdf](http://www.vn.undp.org/content/dam/vietnam/docs/Publications/Bao%20cao%20TIENG%20ANH%20-%20MDG%202015_trinh%20TTCP.pdf), accessed 29 May 2018).

The CEDAW committee highlighted, among other things, the need to reduce the MMR in rural areas and among ethnic groups. Committee on the Elimination of Discrimination against Women. Concluding observations on the combined seventh and eighth periodic reports of Viet Nam. CEDAW/C/VNM/CO/7-8. Geneva: United Nations; 2015.

([http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/VNM/CO/7-8&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/VNM/CO/7-8&Lang=En), accessed 22 May 2018).

<sup>lxxxxi</sup> According to the 2016 population change and family planning survey, while the rate of obstetrical check-up for 3 times or more were 94.1 percent for the urban population, it was only 85.5 percent for the rural population and there were large differences between regions with the highest rate in the Red River Delta (95.9 percent) and the lowest in the Northern Midlands and Mountains (74.8 percent). General Statistics Office, 2017. The Major Findings - The 1/4/2016 time-point population change and family planning survey. Viet Nam

([https://www.gso.gov.vn/default\\_en.aspx?tabid=515&idmid=5&ItemID=18742](https://www.gso.gov.vn/default_en.aspx?tabid=515&idmid=5&ItemID=18742), accessed 1 July 2018).

<sup>lxxxii</sup> Including by ensuring sustainability for antiretroviral drugs (ARV) treatment through a health insurance fund and taking initiatives to increase access to and uptake of HIV services by vulnerable groups at higher risk for HIV infection through applying new modes of service delivery. For example, community-based and HIV self-testing and counselling, or decentralizing ARV and methadone treatment services to grassroot level and introduction of Pre-exposure prophylaxis as a new HIV option – Ministry of Health Decision 5418/QD-BYT dated 1<sup>st</sup> December 2017 on the issuance of new HIV Treatment and Care Guidelines (<http://emoh.moh.gov.vn/publish/home?documentid=6835>). In July 2015, national guidelines introduced the recommendation that all pregnant women living with HIV receive Antiretroviral Therapy (ART), which is an important step to reduce transmission of HIV from mother to child and to contribute to a reduction in the country's child mortality rate

([http://vaac.gov.vn/Cms\\_Data/Contents/Vaac/Media/Documents/iQD872.pdf](http://vaac.gov.vn/Cms_Data/Contents/Vaac/Media/Documents/iQD872.pdf)). Since 2016, Viet Nam has also emphasized the promotion of community-based testing, self-testing and pre-exposure prophylaxis in order to facilitate early detection of HIV cases and prevention of HIV transmission. The Government's decision to cover the cost of ART for HIV under the health insurance fund was an important milestone (Prime Minister Decision No 2188/QĐ-TTg (2016) ([http://vaac.gov.vn/Cms\\_Data/Contents/Vaac/Folders/DocumentLaw/Vanban/~contents/5MA2RM7KSQXNH6AC/QD2188-TTg.pdf](http://vaac.gov.vn/Cms_Data/Contents/Vaac/Folders/DocumentLaw/Vanban/~contents/5MA2RM7KSQXNH6AC/QD2188-TTg.pdf))). Since then, health insurance coverage for HIV-positive patients has increased steadily (Assessment of the implementation of Decision No. 2188/QĐ-TTg dated 15 November 2016 in selected provinces/municipalities in Viet Nam (unpublished). Hanoi: Viet Nam Authority for HIV/AIDS Prevention and Control). Steps have also been taken to strengthen HIV service delivery, including stronger integration of HIV services into hospitals and planning to help transition financing to government funding of HIV services (WHO, Encompassing universal health coverage: the role of national health insurance in Viet Nam's HIV response, Hanoi: WHO; 2017 ([http://www.wpro.who.int/hiv/documents/topics/hiv\\_financing/UHC\\_role\\_national\\_health\\_insurance\\_VietNam\\_HIV\\_reponse/en/](http://www.wpro.who.int/hiv/documents/topics/hiv_financing/UHC_role_national_health_insurance_VietNam_HIV_reponse/en/)), accessed 27 April 2018).

<sup>lxxxiii</sup> UNAIDS Data 2017. Geneva: UNAIDS; 2017 ([http://www.unaids.org/sites/default/files/media\\_asset/2017\\_data-book\\_en.pdf](http://www.unaids.org/sites/default/files/media_asset/2017_data-book_en.pdf)), accessed 27 April 2018).

<sup>lxxxiv</sup> Ibid.

<sup>lxxxv</sup> National HIV/AIDS Program Report: 2017 results and 2018 directions of work, Ministry of Health, 2017, retrieved from [http://vaac.gov.vn/Cms\\_Data/Contents/Vaac/Folders/Solieubaocao/Solieu/~contents/C3Q29C2RSBF9FL7R/BC-c-ng-t-c-PC-HIV-n-m-2017-v-nhi-m-v-trong-t-m-n-m-2018.pdf](http://vaac.gov.vn/Cms_Data/Contents/Vaac/Folders/Solieubaocao/Solieu/~contents/C3Q29C2RSBF9FL7R/BC-c-ng-t-c-PC-HIV-n-m-2017-v-nhi-m-v-trong-t-m-n-m-2018.pdf).

Moreover, according to the Intimate partner transmission study from 2012, nearly 54 percent of infections among all women in Viet Nam can be solely attributed to the risk behaviour(s) of their male sexual partners, and that condom use by men who inject drugs is particularly inconsistent when a woman does not know her partner's HIV status. Measuring Intimate Partner Transmission of HIV in Viet Nam, A data triangulation exercise. UNAIDS, UN Women, Ha Noi, 2012. ([https://www.researchgate.net/publication/278668153\\_Measuring\\_intimate\\_partner\\_transmission\\_of\\_HIV\\_in\\_Viet\\_Nam\\_a\\_data\\_triangulation\\_exercise\\_Travis\\_Lim\\_Tran\\_Tien\\_Dat\\_and\\_Tran\\_Hung\\_Minh](https://www.researchgate.net/publication/278668153_Measuring_intimate_partner_transmission_of_HIV_in_Viet_Nam_a_data_triangulation_exercise_Travis_Lim_Tran_Tien_Dat_and_Tran_Hung_Minh)).

<sup>lxxxvi</sup> Optimizing Viet Nam's HIV Response: An Investment Case, Ministry of Health, 2014.

<sup>lxxxvii</sup> During the second UPR, Viet Nam accepted many recommendations on education (inter alia, Nos. 143.86, 143.182, 143.188, 143.189, 143.190, 143.193, 143.194, and 143.195). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6. Net attendance ratios (adjusted) in 2014 for primary and lower-secondary education were 97.7 percent and 90.4 percent respectively, General Statistics Office and UNICEF, 2015. Viet Nam Multiple Indicator Cluster Survey 2014, Final Report. Ha Noi, Viet Nam ([https://mics-surveys-prod.s3.amazonaws.com/MICS5/East%20Asia%20and%20the%20Pacific/Viet%20Nam/2013-2014/Final/Viet%20Nam%202013-14%20MICS\\_English.pdf](https://mics-surveys-prod.s3.amazonaws.com/MICS5/East%20Asia%20and%20the%20Pacific/Viet%20Nam/2013-2014/Final/Viet%20Nam%202013-14%20MICS_English.pdf)), accessed 30 May 2018).

For literacy, please see General Statistics Office, 2017. The Major Findings - The 1/4/2016 time-point population change and family planning survey. Viet Nam ([https://www.gso.gov.vn/default\\_en.aspx?tabid=515&idmid=5&ItemID=18742](https://www.gso.gov.vn/default_en.aspx?tabid=515&idmid=5&ItemID=18742)), accessed 1 July 2018).

<sup>lxxxviii</sup> With a pilot period from 2017-2020 and roll-out from 2020-2025, under Decision 1309/QĐ-TTg dated 5 September 2017. ([http://www.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?mode=detail&document\\_id=191021](http://www.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?mode=detail&document_id=191021), Vietnamese only).

During the second UPR, Viet Nam accepted several recommendations on human rights education in the curriculum (inter alia, Nos. 143.58, 143.59, and 143.62) (Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6) and expressed a voluntary commitment (Viet Nam's voluntary commitments as a member of the Human Rights Council No. 5, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

<sup>lxxxix</sup> Viet Nam reduced out-of-school children (OOSC) of primary school age (6-10-year-old) from 4 percent in 2009 to 2.5 percent in 2014, and OOSC of lower secondary school age (11-14-year-old) from 11.2 percent in 2009 to 8.1 percent in 2014 (according to the 2013 "Report on Out-of-school Children: Viet Nam country study" and the 2016 "Report on Out-of-school Children: Viet Nam country study", published by the Ministry of Education and Training). OOSC rate at primary level and lower secondary level were about 25 percent for children with partial disabilities and over 90 percent for children with disabilities in 2009 (The 2009 Population and Housing Census contained questions about disability, but the 2014 Intercensal Population and Housing Survey did not, so the 2016 report on OOSC does not provide an updated analysis of OOSC for children with disabilities in 2014. The 2013 "Report on Out-of-school Children: Viet Nam country study" and the 2016 "Report on Out-of-school Children: Viet Nam country study", published by the Ministry of Education and Training).

<sup>xc</sup> See generally, MOLISA & UNICEF, Creating a Protective Environment for Children in Viet Nam: An assessment of Child Protection Laws and Policies, Especially Children in Special Circumstances in Viet Nam, 2009; UNICEF EAPRO, Situation Assessment of Children with Disabilities in Viet Nam, 2017.

<sup>xci</sup> Households in the top income quintile spend more than 6.5 times as much per student on tutoring and study support than households in the bottom quintile. There is evidence that tutoring is a significant predictor of pupil's academic grades, even

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after controlling for household background or school characteristics. The importance of tutoring to pupils' academic achievement at lower secondary education places poor children at a disadvantage. World Bank. 2018. Climbing the Ladder: Poverty Reduction and Shared Prosperity in Vietnam, Vietnam Poverty and Shared Prosperity Update Report.

<sup>xcii</sup> Inter alia, through subsidy schemes to artists.

<sup>xciii</sup> Ministry of Culture, Sports and Tourism and UNESCO Office in Viet Nam (2016/2017). Research on the development of creative hubs in Viet Nam today.

<sup>xciv</sup> Bass, Thomas A. (2017). *Censorship in Vietnam: Brave New World*. University of Massachusetts Press.

<sup>xcv</sup> Report of the Special Rapporteur in the field of cultural rights, Farida Shaheed – Addendum: Visit to Viet Nam (18–29 November 2013), A/HRC/28/57/Add.1., 2015.

<sup>xcvi</sup> Ministry of Culture, Sports and Tourism and UNESCO Office in Viet Nam (2016/2017). Research on the development of creative hubs in Viet Nam today.

<sup>xcvii</sup> Peter Bille Larsen (2018), *World Heritage and Human Rights. Lessons from the Asia-Pacific and global Arena*. Routledge.

<sup>xcviii</sup> During the second UPR, Viet Nam accepted several recommendations on women's rights and gender, inter alia, Nos. 143.48, 143.55, 143.56, 143.80, 143.81, 143.82, 143.83, 143.84, 143.85, 143.87, 143.119, and 143.179. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6) and expressed a voluntary commitment (Viet Nam's voluntary commitments as a member of the Human Rights Council No. 4, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

Viet Nam is currently ranked 69 out of 144 countries globally, and among the 10 best performers in Asia and the Pacific, on the Global Gender Gap Index. World Economic Forum, *The Global Gender Gap Report 2017*

([http://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf](http://www3.weforum.org/docs/WEF_GGGR_2017.pdf), accessed 30 May 2018).

<sup>xcix</sup> In 2015, the CEDAW Committee noted the general lack of disaggregated data that are necessary for an accurate assessment of the situation of women and identification of discrimination, for informed and targeted policymaking, and for the systematic monitoring and evaluation of progress achieved towards the realization by women of substantive equality. It recommended that the State party enhance the collection, analysis and dissemination of comprehensive data, disaggregated by sex, age, disability, ethnicity, location and socioeconomic status, and the use of measurable indicators to assess trends in the situation of women and progress towards the realization by women of substantive equality in all areas covered by the Convention. See, Concluding observations on the combined seventh and eighth periodic reports of Viet Nam, CEDAW/C/VNM/CO/7-8, UN, 2015 ([http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fVNM%2fCO%2f7-8&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fVNM%2fCO%2f7-8&Lang=en), accessed 22 May 2018).

<sup>c</sup> UN Gender Joint Programming Group, Viet Nam Gender Briefing Kit 2016, (<http://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2017/04/gender%20briefing%20kit-en-s.pdf?la=en&vs=4211>, accessed 22 May 2018).

<sup>ci</sup> Inter-Parliamentary Union database, [http://archive.ipu.org/Parline/reports/2349\\_E.htm](http://archive.ipu.org/Parline/reports/2349_E.htm), accessed 25 May 2018).

<sup>cii</sup> One Strategic Plan 2017-2021 Between The Government of the Socialist Republic of Viet Nam and The United Nations in Viet Nam, ([http://www.un.org.vn/en/publications/doc\\_details/542-one-strategic-plan-2017-2021.html](http://www.un.org.vn/en/publications/doc_details/542-one-strategic-plan-2017-2021.html), accessed 7 July, 2018).

<sup>ciii</sup> At commune, provincial, and national levels according to *Figures on Ethnic Minority Women and Men in Viet Nam 2015* UN Women 2017 ([http://www.un.org.vn/en/publications/doc\\_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html](http://www.un.org.vn/en/publications/doc_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html), accessed 22 May 2018).

<sup>civ</sup> Labour Code (10/2012/QH13).

<sup>cv</sup> UN Gender Joint Programming Group, Viet Nam Gender Briefing Kit 2016 (<http://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2017/04/gender%20briefing%20kit-en-s.pdf?la=en&vs=4211>, accessed 22 May 2018).

<sup>cvi</sup> The study reviewed 12,300 job postings in Viet Nam. ILO, *Gender Equality in Recruitment and Promotion Practices in Viet Nam, 2015* ([http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_349666.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_349666.pdf), accessed 26 May 2018).

<sup>cvii</sup> Article 160 of the Labour Code on Work for which the employment of female employees is prohibited and MOLISA Circular No. 26/2013 / TT-BLDTBXH promulgating the list of jobs in which the employment of female workers is prohibited (<http://tcshanoi.com.vn/wp-content/uploads/2015/05/English.TT-26.2013.TT-BLDTBXH.pdf>, accessed 26 May 2018).

<sup>cviii</sup> In 2016, Viet Nam launched the first National Thematic Project on preventing and responding to gender-based violence for the period from 2016 to 2020 and vision to 2030. It aims at improving mechanisms and policies to prevent and respond to GBV to strengthen law enforcement and ensuring a service system for preventing and responding to GBV. Prime Minister Decision No. 1464 / QD-TTg, dated July 22, 2016.

<sup>cix</sup> United Nations Viet Nam, Viet Nam Gender Briefing Kit 2016 (<http://www2.unwomen.org/-/media/field%20office%20eseasia/docs/publications/2017/04/gender%20briefing%20kit-en-s.pdf?la=en&vs=4211>, accessed 22 May 2018).

<sup>cx</sup> ActionAid International Vietnam (AAV). 2014. *Safe Cities for Women and Girls: Can Dreams*

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Come True? Policy Brief ([http://www.actionaid.org/sites/files/actionaid/aav-bc\\_tp\\_an\\_toan-en-trang-28-6-2016.pdf](http://www.actionaid.org/sites/files/actionaid/aav-bc_tp_an_toan-en-trang-28-6-2016.pdf), accessed 26 May 2018).

<sup>cx</sup> *The Trial of Rape: Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam* (2017) UN Women, UNDP, UNODC <http://asiapacific.unwomen.org/en/digital-library/publications/2017/09/the-trial-of-rape>

<sup>cxii</sup> By adding "other sexual activities" as a constituent element of rape and forced sex crimes in addition to "sexual intercourse", see the revised Penal Code art. 141. Penal Code, Law No. 100/2015/QH13, 27 November 2015 ([http://www.wipo.int/wipolex/en/text.jsp?file\\_id=446020](http://www.wipo.int/wipolex/en/text.jsp?file_id=446020), accessed 20 May 2018).

<sup>cxiii</sup> *The Trial of Rape: Understanding the criminal justice system response to sexual violence in Thailand and Viet Nam* (2017) UN Women, UNDP, UNODC <http://asiapacific.unwomen.org/en/digital-library/publications/2017/09/the-trial-of-rape>

<sup>cxiv</sup> The CEDAW Committee has also recommended Viet Nam to revise the Penal Code and the Criminal Procedure Code to criminalize all forms of violence against women, including marital rape, dating violence, violence in public spaces and sexual harassment. UN Committee on the Elimination of Discrimination against Women (CEDAW Committee). 2015. Concluding observations on the combined seventh and eighth periodic reports of Viet Nam, CEDAW/C/VNM/CO/7-8, 24 July 2015 ([http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/VNM/CO/7-8&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/VNM/CO/7-8&Lang=En), accessed 22 May 2018).

<sup>cxv</sup> General Statistics Office and UNICEF, 2015. Viet Nam Multiple Indicator Cluster Survey 2014, Final Report. Ha Noi, Viet Nam ([http://www.un.org.vn/images/stories/press\\_center/2015/MICS\\_VIET\\_NAM\\_2014\\_ENG\\_310815.pdf](http://www.un.org.vn/images/stories/press_center/2015/MICS_VIET_NAM_2014_ENG_310815.pdf), accessed 29 May 2018). Indeed between 2006 and 2014, the prevalence among girls aged 15-19 years married at the time of Multiple Indicator Cluster Survey (MICS) in Viet Nam almost doubled, from 5.4 percent in 2006 to 10.3 percent in 2014. (Ibid. and GSO. 2006. Viet Nam Multiple Indicator Cluster Survey Report, Ha Noi, Viet Nam: General Statistics Office.

(<http://mics.unicef.org/files?job=W1siZiZlsijlwMTUvMDEvMjcvMTIvMzAvMDEvNTgvTUIlDU19ib29rbGV0X2luX0VuZy5wZGViXV0&sha=5862fa82ba6dedba>, accessed 18 June 2018)). There is recognition that child marriage is an illegal and harmful practice that violates the rights of children, yet actual investments in programmes to end the practice remain limited. See generally, UNFPA and UNICEF, "Understanding child marriage in Viet Nam: A discussion brief", (2018).

<sup>cxvi</sup> In terms of numbers, there are numerically more Kinh women in child and early marriages. However, the practice is more concentrated in certain ethnic minority groups due to complicated cultural and socio-economic factors. Statistics on ethnic minority girls are taken from: *Figures on Ethnic Minority Women and Men 2015* UN Women 2017

([http://www.un.org.vn/en/publications/doc\\_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html](http://www.un.org.vn/en/publications/doc_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html), accessed 22 May 2018).

<sup>cxvii</sup> The sex ratio at birth increased from 110.5 by 2009 to 112.2 by 2016 according to the annual Population Change and Family Planning Survey 2016 ([http://www.gso.gov.vn/default\\_en.aspx?tabid=515&idmid=5&ItemID=18742](http://www.gso.gov.vn/default_en.aspx?tabid=515&idmid=5&ItemID=18742), accessed 29 May 2018).

<sup>cxviii</sup> During the 2<sup>nd</sup> UPR, Viet Nam accepted a number of recommendations on the rights of the child, inter alia, Nos. 143.47, 143.48, 143.54, 143.55, 143.56, 143.85, 143.120, 143.121, 143.124, 143.125, 143.126, 143.194, 143.197, and 143.206. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6) and made a voluntary commitment (Viet Nam's voluntary commitments as a member of the Human Rights Council No. 4, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

<sup>cxix</sup> With implications for implementing, for example, accepted recommendation no. 143.47. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>cx</sup> National Assembly, Constitution of the Socialist Republic of Vietnam, 28 November 2013, unofficial translation (<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94490/114946/F114201808/VNM94490%20Eng.pdf>, accessed 19 May 2018), and 2015 Civil Code (Law No. 91/2015/QH13, <http://www.wipo.int/edocs/lexdocs/laws/en/vn/vn079en.pdf>, accessed 19 June 2018).

<sup>cxxi</sup> See General Statistics Office and UNICEF, 2015. Viet Nam Multiple Indicator Cluster Survey 2014: Around 20 percent of girls and boys aged eight reported being physically punished in school (UNICEF Innocenti Research Brief 2016-06, Undermining learning: Multi-Country Longitudinal Evidence on Corporal Punishment in School); Around 16 percent of children (equivalent to 1.7 million) aged 5-17 are considered child labourers of which 7.8 percent work in hazardous conditions. 2,870 cases of child sexual abuse, primarily against girls, were reported between 2013 and 2014 (MOLISA, Children Indicators in Vietnam 2013-2014, Ha Noi 2015).

<sup>cxixii</sup> 51.9 percent. UNESCO, Reaching Out – Preventing and Addressing School-related Gender-Based Violence in Viet Nam, Volume 1, 2016 (<http://unesdoc.unesco.org/images/0024/002469/246927e.pdf>, accessed 26 May 2018).

<sup>cxixiii</sup> Inter alia, the introduction of community-based options for children in conflict with the law in the Law on Handling of Administrative Violations (broadening the scope of diversion and alternatives to detention for juvenile offenders <http://vbpl.vn/TW/Pages/vbpgen-toanvan.aspx?ItemID=11014>), the provision of child and gender-sensitive criminal proceedings in the Criminal Procedure Code, expanding the scope of legal aid to cover more children, and the creation of Viet Nam's first ever specialized children's court (Family and Juvenile Court). Other changes to criminal policy applicable to juvenile offenders include changes to criminal records for juvenile offenders to facilitate better reintegration, and the introduction of parole as a new mechanism for early release of juvenile offenders in detention (See the Law on Handling of Administrative

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Violations, Chapter II Part V; Legal Aid Law, Article 7; Criminal Procedure Code, Chapter XXVIII; Law on People's Court Organization, Articles 30, 38, and 45; and the Penal Code Chapter XII).

<sup>cxxiv</sup> Key bottlenecks include weak coordination and lack of strategic planning, limited capacity and lack of specialization, lack of community-based services, limited awareness and support from the public and communities, and the lack of reliable and systematic data collection and analysis (See for example, Raoul Wallenberg Institute, A measure of last resort? The current status of juvenile justice in ASEAN member states, 2015).

<sup>cxv</sup> As measured with the International Classification of Functioning, Disability and Health according to Factsheet on Inclusion of People with Disabilities in Viet Nam, ILO, 2013 (See the link: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_112407.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_112407.pdf)).

<sup>cxvii</sup> During the 2<sup>nd</sup> UPR, Viet Nam accepted several recommendations on the rights of persons with disabilities (inter alia, Nos. 143.20, 143.48, 143.54, 143.55, 143.56, 143.205, 143.206, and 143.207. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6) and expressed voluntary commitments (Viet Nam's voluntary commitments as a member of the Human Rights Council No. 4 and 14, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

<sup>cxviii</sup> A National Committee on Disability was established in 2015 to act as a coordinating agency for implementation of the CRPD (Prime Minister Decision 1717/QD-TTg (2015)

([http://vaac.gov.vn/Cms\\_Data/Contents/Vaac/Folders/DocumentLaw/Vanban/~contents/5MA2RM7KSQXNH6AC/QD2188-TTg.pdf](http://vaac.gov.vn/Cms_Data/Contents/Vaac/Folders/DocumentLaw/Vanban/~contents/5MA2RM7KSQXNH6AC/QD2188-TTg.pdf)). The National Plan on Implementation of the CRPD was approved in 2016 (Prime Minister Decision 1100/QD-TTg (2016) (<https://thuvienphapluat.vn/van-ban/The-thao-Y-te/Quy-yeu-dinh-1100-QD-TTg-ke-hoach-thuc-hien-cong-uoc-Lien-hop-quoc-quyen-nguoi-khuyet-tat-2016-315298.aspx>), and it is complemented by a broader policy framework. In addition, the Ministry of Health has issued a number of circulars, e.g. to regulate the functions, responsibilities and organizational structure of rehabilitation services (Circular 46/2013/TT-BYT (2016) <https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Thong-tu-46-2013-TT-BYT-chuc-nang-nhiem-vu-co-cau-to-chuc-co-so-phuc-hoi-chuc-nang-220731.aspx>) and to extend health insurance coverage for rehabilitation services (Circular 18/TT-BYT (2016)

<https://thuvienphapluat.vn/van-ban/Bao-hiem/Thong-tu-18-2016-TT-BYT-danh-muc-ky-thuat-vat-tu-y-te-phuc-hoi-chuc-nang-ban-ngay-pham-vi-thanh-toan-318971.aspx>). The Constitution 2013 (Article 59 and 61) included PwD to the group of individuals assisted by the State and the legal system is being improved to ensure compliance with the CRPD, this includes the 2010 Law on Persons with Disabilities ([http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_174606.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174606.pdf)), the 2017 Legal Aid Law, (<http://vbpl.vn/tw/Pages/vbpgen-toanvan.aspx?ItemID=11098>), and the 2012 Labour Code (<http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/91650/114939/F224084256/VNM91650.pdf>).

The National Action Plan to Support People with Disabilities for 2012-2020 was approved by the Government ([http://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---ifp\\_skills/documents/publication/wcms\\_112407.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---ifp_skills/documents/publication/wcms_112407.pdf)).

<sup>cxviii</sup> MOLISA, Mid-term report on the Implementation of Program for assistance of PwDs 2012-2020, 2015.

<sup>cxix</sup> Children with disabilities normally live in institutions long-term. Many staff caring for children in institutions do not have appropriate training and skills to support children to reach their full potential development. Such an "institutionalized" child protection system can create space for further violations of children's rights and can also create an incentive for poor families with a family member with disability to place them into the institutions to access specialized services. There is a lack of community-based support services for children with disabilities and their families. Communications for development interventions to empower and engage with children with disabilities remain under-utilized to promote their rights. See generally, MOLISA & UNICEF, Creating a Protective Environment for Children in Viet Nam: An assessment of Child Protection Laws and Policies, Especially Children in Special Circumstances in Viet Nam, 2009; UNICEF EAPRO, Situation Assessment of Children with Disabilities in Viet Nam, 2017.

<sup>cxix</sup> According to the study "Ending Stigma" conducted by iSEE under the support from UNDP in 2017, the public stigma against PwD was rather common in education and employment. PwD also had limited access to healthcare services (Ending stigma: Assessment from the perspectives of People with Disabilities, iSEE and UNDP, 2017 (<http://isee.org.vn/Content/Home/Library/509/ending-stigma-assessment-from-the-perspectives-of-people-with-disabilities..pdf>). Access to employment for PwDs is limited due to their limited skills and strength, social stigma and loss of self-confidence; infrastructure prevents people with disabilities from accessing the workplace (ILO, iSEE, UNDP report on discrimination at workplace July 2017).

<sup>cxix</sup> Law on Persons with Disabilities, No. 51/2010/QH12, 17 June 2010, Hanoi ([http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_174606.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174606.pdf), accessed 28 May 2018).

<sup>cxix</sup> According to *Figures on Ethnic Minority Women and Men in Viet Nam 2015* UN Women 2017

([http://www.un.org.vn/en/publications/doc\\_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html](http://www.un.org.vn/en/publications/doc_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html), accessed 22 May 2018).

During the 2<sup>nd</sup> UPR, Viet Nam accepted several recommendations on ethnic minorities (inter alia, No. 143.202, 143.207, 143.208, 143.209, 143.210, 143.211, 143.212, 143.213, 143.214, and 143.224. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6) and expressed a voluntary commitment (Viet Nam's voluntary

commitments as a member of the Human Rights Council No. 4, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

<sup>cxviii</sup> Over the past 10 years, the National Assembly of Viet Nam has adopted many laws with provisions relating to the rights of ethnic minorities, such as 2015 Law on National Assembly Election Article 8.2: (<https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Luat-Bau-cu-dai-bieu-Quoc-hoi-va-dai-bieu-Hoi-dong-nhan-dan-2015-282376.aspx>), the 2015 Civil Code (Article 26,29) (<http://www.wipo.int/edocs/lexdocs/laws/en/vn/vn079en.pdf>), the 2012 Labour Code (Art.12) (<http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/91650/114939/F224084256/VNM91650.pdf>) and the 2005 Law on Education (Article 7,8) (<https://thuvienphapluat.vn/van-ban/Giao-duc/Luat-Giao-duc-2005-38-2005-QH11-2636.aspx>). Following the MDGs, the Government of Viet Nam issued ethnic minority-related Millennium Development Goals (MDGs) in line with post-2015 Sustainable Development Goals (SDGs) (Prime Minister's Decision No.1557/QĐ-TTg dated 10/9/2015). At the same time, Viet Nam has introduced several education policies providing incentives for poor children in rural, remote and EM areas to help narrow equity gaps. Decree 86/2015/NĐ-CP on policies for exemption and reduction of tuition fees from school year 2015-2016 to 2020-2021; Decree 116/2016 /NĐ-CP on financial support for students and secondary schools at communes and villages in extremely disadvantaged areas, and the Decree 57/2017/NĐ-CP on financial support for kindergarten children and students of rare ethnic minority groups. Decision No. 2356/QĐ-TTg, dated on 04/12/2013 on issuing the Action plan for implementation of the Strategy on EM work by 2020 made a long-term vision and priority to develop EM areas (<https://thuvienphapluat.vn/van-ban/Bo-may-hanh-chinh/Quyết-dinh-2356-QĐ-TTg-nam-2013-Chuong-trinh-thuc-hien-Chien-luoc-cong-tac-dan-toc-2020-215197.aspx>).

<sup>cxviiii</sup> From 2009 to 2014, the OOSC rate among ethnic minority children declined for primary school age children (by almost one third for the Khmer and by more than 50 percent for the Hmong), and lower secondary school age children (by about one third for both the Khmer and the Hmong). MOET, UNICEF, UNESCO Institute of Statistics (2017), “The 2016 Report on Out-of-school Children: Viet Nam country study”, Hanoi.

<sup>cxviiii</sup> In 2014, for primary school age children, the Hmong had the highest OOSC rate (10.5 percent), five times higher than that of the Kinh (1.9 percent). The OOSC rate for the Khmer (8.3 percent) was the second highest. In 2014, for lower secondary school age children, among the ethnic minorities, the Hmong had the highest OOSC rate (28.7 percent), four times higher than that of the Kinh (6.2 percent). The Khmer had the second highest OOSC (24.5 percent). MOET, UNICEF, UNESCO Institute of Statistics (2017), “The 2016 Report on Out-of-school Children: Viet Nam country study”, Hanoi.

<sup>cxviiii</sup> Ethnic minorities on average earn 41 percent of the total monthly income of Kinh people. *Figures on Ethnic Minority Women and Men in Viet Nam 2015* UN Women 2017 ([http://www.un.org.vn/en/publications/doc\\_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html](http://www.un.org.vn/en/publications/doc_details/559-figures-on-ethnic-minority-women-and-men-in-viet-nam-2015.html), accessed 22 May 2018).

<sup>cxviiii</sup> According to a survey conducted by the Ethnic Committee of the National Assembly and General Office of Statistics, the results of which was published in Sep. 2016, the rate of poor households of ethnic minorities is 23.1 percent, which is 3.3 times higher than the national average. The average income of ethnic minority households is 1.16 million VND. On education, nearly 21 percent of ethnic minorities over the age of 15 cannot read or write (<http://vtv.vn/trong-nuoc/thuc-trang-kinh-te-xa-hoi-53-dan-toc-thieu-so-231-la-ho-ngheo-20160929093509493.htm>).

<sup>cxviiii</sup> This is regulated in 82/2010/NĐ-CP, regulating the teaching and learning the verbal language and written script of ethnic minorities in general education and continuing education.

<sup>cxviiii</sup> With the amendment of the Law on Marriage and Family in 2014 and the Civil Code in 2015.

Law on Marriage and Family 2014: [http://moj.gov.vn/vbpg/lists/vn%20bn%20php%20lut/view\\_detail.aspx?itemid=29058](http://moj.gov.vn/vbpg/lists/vn%20bn%20php%20lut/view_detail.aspx?itemid=29058); Civil code 2015(Law No. 91/2015/QH13, <http://www.wipo.int/edocs/lexdocs/laws/en/vn/vn079en.pdf>, accessed 19 June 2018).

<sup>cxli</sup> Revised constitution Art. 26. National Assembly, Constitution of the Socialist Republic of Vietnam, 28 November 2013, unofficial translation (<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94490/114946/F114201808/VNM94490%20Eng.pdf>, accessed 19 May 2018).

<sup>cxli</sup> Despite accepting a recommendation in the 2<sup>nd</sup> UPR to “Enact a law to fight against discrimination which guarantees the equality of all citizens, regardless of their sexual orientation and gender identity” (No. 143.88.). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>cxlii</sup> 71 percent of LGBT students experienced physical violence, 72.2 percent verbal violence, 65.2 percent social violence, 26 percent sexual violence and 20 percent technology-related violence. 26.7 percent of male students, 31.9 percent of female students and 33.1 percent of LGBT students were concerned about violence caused by peers. Notably, many reported to be worried about abuse from teachers (11.4 percent of male and female students and 16.5 percent of LGBT students). Although the rates were not relatively high, they reflect that students, especially LGBT students, do not completely trust their teachers. UNESCO (2016), Reaching Out. Preventing and Addressing School-related Gender-based Violence in Viet Nam (<http://unesdoc.unesco.org/images/0024/002469/246927E.pdf>).

<sup>cxliii</sup> 2015 Civil Code Art. 37 stipulates “The sex reassignment shall comply with regulations of law. Each surged transgender has the right and obligation to apply for change of civil status affairs as prescribed in law on civil status affairs and has the personal rights in conformity with the transformed gender as prescribed in this Code and relevant laws.” (Law No. 91/2015/QH13, <http://www.wipo.int/edocs/lexdocs/laws/en/vn/vn079en.pdf>, accessed 19 June 2018).



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<sup>cxliiv</sup> For example, sex workers, men who have sex with men, transgender people, and people who inject drugs. The 2014 Stigma Index for Viet Nam revealed concerns about the quality and confidentiality of health care: around 60 percent of PLHIV report not being able to discuss their treatment with a health-care worker and 37.5 percent report that they fear their HIV status and/or medical record may be disclosed to others without their consent - Vietnam Network of People Living with HIV (VNP+, 2015). Vietnam Stigma Index Report. Pp. 14, 40, retrieved from <http://unaids.org.vn/wp-content/uploads/2015/09/Stigma-Index-full-report-En-May2015.pdf>.

<sup>cxlv</sup> Sex work and the Law in Asia and the Pacific, UNAIDS, UNFPA and UNDP, 2012

<http://www.undp.org/content/dam/undp/library/hivaids/English/HIV-2012-SexWorkAndLaw.pdf>.

<sup>cxlvi</sup> Ministry of Planning and Investment and the General Statistics Office, Report on Labour Force Survey 2014, Ha Noi, 2015.

<sup>cxlvii</sup> As the Government pursues its migration targets, supported by the push factor of high rates of unemployment in many areas.

<sup>cxlviii</sup> During the 2<sup>nd</sup> UPR, Viet Nam accepted a recommendation to combat poverty among migrant workers (no. 143.215). Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6.

<sup>cxlix</sup> By providing relevant information and resources about labour markets for potential and returned migrant workers. Through Migrant Resource Centres and related policy dialogues and awareness raising activities, the Government has helped disseminate information on safe migration and to in turn prevent irregular migration and associated human trafficking (see [www.hotrolaodongngoainuoc.org](http://www.hotrolaodongngoainuoc.org); and [www.vietproud.com.vn/tintuc/van-phong-ho-tro-lao-dong-ngoai-nuoc\\_t12-c002-a195-m12.html](http://www.vietproud.com.vn/tintuc/van-phong-ho-tro-lao-dong-ngoai-nuoc_t12-c002-a195-m12.html); accessed on 29 May 2018).

<sup>cl</sup> Through Decision 71/2009/Ttg on approving the project on supporting poor districts in promoting the sending of workers abroad for sustainable poverty reduction in the period of 2009-2020, Decision 1722 QĐ/TTg dated 2 September 2016 Approving the National Target Programme for sustainable poverty reduction during 2016 – 2020, Decision 275 QĐ/TTg dated 7 March 2018 approving list of poor districts and eliminated poor districts 2018-2020, the Circular 15/2017/TT-BTC dated 15 February 2017 of the Ministry of Finance, the residents of designated ‘poor districts’ are eligible to apply for subsidies to facilitate working overseas. The incentives include loans and financial assistance for language training, vocational skills training, health checks and other services.

<sup>cli</sup> ILO and IOM, 2018: Risks and rewards: Outcomes of labour migration in South-East Asia

[http://www.ilo.org/asia/publications/WCMS\\_613815/lang--en/index.htm](http://www.ilo.org/asia/publications/WCMS_613815/lang--en/index.htm).

<sup>clii</sup> Migrant children make up the majority of out-of-school-children - aged 5 years and in primary schools (92 percent and 86.4 percent, respectively). The “no fee” policy for vocational centres, do not cover migrant children whether they migrate independently or follow parent(s) migration for work (See UNICEF and Ho Chi Minh City People’s Committee, Situation Analysis of Children in Ho Chi Minh City, Vietnam (2017), available at: [https://www.unicef.org/vietnam/resources\\_27163.html](https://www.unicef.org/vietnam/resources_27163.html)). Moreover, the apparel and footwear sector is one of Viet Nam’s most important export industries employing 3.5 million workers. A high percentage of those workers are internal migrants moving to large industrial zones in search of better economic opportunities. About 60 percent of migrant workers live with children and for women, there is an established trend to migrate for work when young and single (UNICEF Viet Nam, The Apparel and Footwear Sector and Children in Viet Nam (2016)). The industry provides women with stable job opportunities and an important source of income to support families and alleviate poverty. However, opportunities in the industry can be undermined by negative impacts on the welfare of workers’ children. There is a need to further gather data and evidence on the impact of business on human rights, both the negative and positive impacts, with a focus on specific sectors such as Agriculture, Manufacturing, Travel and Tourism, and Information, Communication and Technology.

<sup>cliii</sup> In 2016, there were 11 million older persons (aged 60 or above) in Vietnam, accounting for 11.9 percent of total population. It is projected that the number of older persons will double by 2030. World Population Ageing Report 2017 (UN), the Vietnam Population Change Survey 2016 Report (GSO), and the Viet Nam Population Projection Report 2014-2049, Intercensal Population Survey 2014 (GSO).

<sup>cliv</sup> Viet Nam accepted two recommendations on the rights of vulnerable groups, including older persons (Nos. 143.48 and 143.56. Human Rights Council, Report of the Working Group on the Universal Periodic Review - Viet Nam, A/HRC/26/6) and expressed a voluntary commitment (Viet Nam’s voluntary commitments as a member of the Human Rights Council No. 4, Note verbale dated 27 August 2013 from the Permanent Mission of Viet Nam to the United Nations addressed to the President of the General Assembly, A/68/312).

<sup>clv</sup> Evaluation of the 5-year implementation of Law on Older Persons (MOLISA 2016). The level of meeting the socio-economic needs of older persons was only 50-60 percent. Social allowance for older people is very low, around 38 percent of rural poverty line and 30 percent of urban poverty line in the period 2016-2020, thus it does not ensure the minimum level of living standard with a social protection floor for all that Vietnam has committed to. Less than 50 percent of older persons have health records managed by community health facilities and have regular health check-ups, and almost 20 percent of older persons have not been through any health check-ups since they were 60 years old. The Law on Older Persons and the National program of Action on Older Persons 2012-2020 indicated that older persons had been granted certain priority and benefits/subsidies when using public services, such as public transportation or cultural activities. However, less than 50 percent of older persons know about this, and less than 30 percent of older persons has enjoyed such benefit.

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<sup>clvi</sup> Such as being harshly spoken to, threatened, or refused to talk to. Vietnam National Ageing Survey 2011.

<sup>clvii</sup> Policy brief: Income security for older persons in Vietnam, ILO-UNFPA 2014. From 2010 to 2012, income has increased for every age group in Viet Nam except for people between 65 and 80 years.

<sup>clviii</sup> Health workers at all levels of the health system provide services to older persons, but their professional knowledge and understanding of the needs of older persons is very limited. The proportion of older persons enrolled in health insurance in 2014 was 75 percent. There are financial barriers that adversely affect the ability to use health services among older persons without health insurance (Vietnam Ministry of Health and Health Partnership Group, Joint Annual Health Review 2016: Towards healthy aging in Vietnam, Hanoi, 2016 ([http://jahr.org.vn/downloads/JAHR2016/JAHR2016\\_Edraft.pdf](http://jahr.org.vn/downloads/JAHR2016/JAHR2016_Edraft.pdf), accessed 19 April 2018)).

<sup>clix</sup> *ibid.*

<sup>clx</sup> The Children’s Rights and Business Principles, released by UNICEF, UN Global Compact and Save the Children highlight the child rights issues in the workplace, marketplace, and community (<https://www.unicef.org/csr/theprinciples.html>).

<sup>clxi</sup> For example, a 2014 survey on “Market Assessment on Corporate Social Responsibility (CSR) in Viet Nam” indicated that international standardized certifications were not widely used and respondents estimated that their companies allocated 1.5-3 percent from their annual turnover to CSR issues (Taylor Nelson Sofres Vietnam and UNICEF. Market Assessment on Corporate Social Responsibility in Vietnam. 2014). Moreover, child rights issues do not seem to be sufficiently addressed at the appropriate levels in companies in South-East Asia, and other risks such as sexual exploitation, product safety, responsible marketing, sanitation issues or digital risks are of great concern and should be addressed by the corporate sector but have received low attention thus far (See Global Child Forum and the Boston Consulting Group (May 2016). Children’s Rights and the Corporate Sector in Southeast Asia, [http://www.globalchildforum.org/wp-content/uploads/2016/06/GlobalChildForum\\_SouthEastAsia\\_Benchmark\\_Study\\_2016.pdf](http://www.globalchildforum.org/wp-content/uploads/2016/06/GlobalChildForum_SouthEastAsia_Benchmark_Study_2016.pdf)).

<sup>clxii</sup> Guidance from UN Guiding Principles on Business and Human Rights and General Comment No. 16 published by the Committee on the Rights of the Child on State obligations regarding the impact of the business sector on children’s rights should be promoted in the trainings for government officials (UNICEF and International Commission of Jurists (2015), OBLIGATIONS AND ACTIONS ON CHILDREN’S RIGHTS AND BUSINESS A practical guide for States on how to implement the United Nations Committee on the Rights of the Child’s General Comment no. 16 ([https://www.unicef.org/csr/files/CSR\\_GC\\_OBLIGATIONS\\_AND\\_ACTIONS\\_FINAL\\_AUGUST05.pdf](https://www.unicef.org/csr/files/CSR_GC_OBLIGATIONS_AND_ACTIONS_FINAL_AUGUST05.pdf))).