

**Report on the implementation of Children's rights in
Vietnam**

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Vietnam Association for Protection of Child's Rights (VACR) is a social organization working not-for-profit, established under the Decision No. 464/QĐ-BNV of the Ministry of Home Affairs dated 08 April 2008. We aim to assemble and unite all Vietnamese organization and individuals who have heartfelt enthusiasm, and volunteer to work and struggle for the purposes of allowing children's enjoying their basic rights and joining efforts in the prevention of all acts violating children's rights.

VACR has been founded in 40 cities/provinces, and currently coordinate a network of 45 CSOs across the country working under the spirit 'Joint mind, joint heart, joint strength' to protect children's rights. Since foundation, VACR has achieved a number of positive results in advocacy, communication, resources mobilization... to contributing the protection, care and education of children.

Vietnam Child Law 2016 regulates the responsibilities of CSOs, specifically VACR's. Its chairwoman is a member of National Committee on Children, while the organization is a member of international and regional network such as ECPAT, ICSW and Child Right Coalition Asia..., and having close cooperation with INGO as UNICEF, Plan International, SCI...

1. This report is to provide some updates on the implementation of children's rights in Vietnam and review some progress made towards the recommendations of Human Rights Council (HRC) for Vietnam during the period 2014-2017. The content of the report is based on VACR's work solely.

2. The recommendations of HRC in 2014 on child-related issues for Vietnam include but are not limited to the protection of children; capacity building for officers working in the field; financial resource allocation; end violence against children; strengthen the national system on communications procedure... It can be seen that the Government of Vietnam (GoV) has made numerous progress towards assuring all children to enjoy their basic rights while still struggling to address the remaining.

Overview

3. Vietnam currently has around 26 million children¹, accounts for 28% of country population. With the development of country socio-economic situation, the wellbeing of children has been improved much still set challenges in implementing children's rights as access to quality education and medical services in mountainous areas; inclusive education for children with disabilities; violence in school setting; child abuse and child participation...

4. Vietnam ratified the Convention of the Right of the Child (CRC) on February 1990 and continued to ratify Optional Protocol on the involvement of children in armed conflict (CRC-OP1) and Optional Protocol on the sale of children, child prostitution and child pornography (CRC-OP2). This shows a strong commitment of GoV towards the implementation of CRC.

Legislative framework

5. Since 2014, GoV has promulgated and revised a number of legislative documents towards promoting child protection, in particular the Penal Code 2015, amendment 2017 and Children Law 2016.

6. In 2015, the National Assembly adopts new Penal Code and comes into effect from January 2018, which criminalizes several behaviors involving children and aggravates penalties for criminals of this type. Specifically, it clarifies child sexual abuse crimes, sexual intercourse with children and aggravated rape against children; change the behavior of sexual intercourse with children under the age of 13 to rape crime and sexual intercourse with children between the ages of 13 and 16 as a crime of sexual intercourse with children under the age of 16; criminalizing the act of abandoning a newborn (07 days of age); the use of a child for the purpose of pornography; the act of killing children while on duty, and forcing children to suicide, etc². become a factor to aggravate criminal liability.

7. The Children Law 2016 marks a milestone in the efforts of the GoV to harmonize the national legislation with UN CRC, which regulates and complements the rights and duties of children, the fundamental policies of the State to ensure child care and child protection measures at three levels. There are also provisions governing the scope and type of children involvement in child-related issues and measures to ensure the participation of children and the responsibility of organization and coordination of the involved parties in ensuring the implementation of child rights, including social organizations. Nevertheless, the Children Law 2016 defines children as people under 16 years of age³, with 2 years younger than the age recommended in the CRC. Currently, VACR together with other organizations have been working to increase the defined age of children from 16 to 18 to ensure the rights of children of these ages, including the rights associated with civil law, criminal law, administrative law, etc. Especially, the Law has a provision on the responsibility of social organizations and VACR with three specific responsibilities: (i) connect and collect information and recommendations from social organizations and children to send to state agencies for comments and advices on the development and implementation of policies and legislation related to children; (ii) participate in monitoring the implementation of the Children Law; (iii) expressing the views and recommendations to the relevant State agencies on issues relating to children and violations of the children's law⁴.

8. With the implementation of the Children Law 2016, VACR has actively organized, connected and collected information from local associations, Child Rights Network (CRnet), children, professionals, lawyers, legal experts, seminars and conferences, thus contributing ideas to legal documents such as the Law on Marriage and Family 2014 (which needs to lower 6 or 7 years of age of children to express their opinions in order to ensure their legitimate rights and interests in divorce cases as the children of these ages have sufficient knowledge and capability to express their own aspirations); the plan to establish the court for family and adolescents (it is necessary to develop the Code of Conduct and Protection of Adolescents applicable to Courts, while Judges need to have expertise and intensive trainings and have certificates of Human rights and other procedural rules on judgement. Concerning punishment, priority should be given to increase the application of community-based educational measures in a more effective and efficient manner, while social organizations should not necessarily be members of the Fatherland Front ...); Children Law 2016; Penal Code; Directive No. 18/CP-TTg dated 16 May 2005 of Prime Minister on strengthening measures to prevent and respond to violence and child abuse, etc. As a result, many opinions were received in legal documents.

Monitoring

9. Apart from the supreme monitoring of the National Assembly and the National Assembly's committees, the task of monitoring is also assigned to the Vietnam

Fatherland Front and organizations such as Women's Union and Youth Union. There is also interdisciplinary inspection delegation organized by the Ministry of Labor, Invalids and Social Affairs (MOLISA) with the purpose of examination related to children included in the agenda. Monitoring has been conducted every year, identifying remaining issues in the implementation of child rights at localities. Nevertheless, with limited resources, the inspection is only conducted at some localities thus not being able to illustrate the current situation of the whole country.

10. In pursuance of Paragraph 4 of Article 92, the VACR has participated in the monitoring of the implementation of the children's rights in the following forms: being members of the inspection delegation of the Committee for Culture, Education, Youth and Children of the National Assembly; participate in MOLISA's interdisciplinary inspection delegation; coordinate with Women's Union and Ho Chi Minh Communist Youth Union; reports of the local associations and affiliates; through the resolution of complaint letters sent to the competent authorities and trials of the Court, etc.

Cooperation with CSOs

11. It is the fact that the coordination between government agencies and CSOs has been improved. The Government has shared information and consultations with CSOs and experts on issues related to the implementation of child rights, etc. Representatives of social organizations, including VACR, were invited to child-related meetings of committees of the National Assembly and other ministries. In addition, MOLISA has worked with the VACR to develop and implement a work plan every three months with representatives from CSOs on emerging policies and issues related to the implementation of children's rights.

12. During the drafting process of legal and regulatory documents, the Government has also consulted widely from the public by posting on the official website. There were also workshops to collect comments from experts and social organizations working in the related field. Some social organizations, such as VACR, were also invited to join the legal drafting committee and editorial team, contributing comments to legal documents.

12. Chairwoman of VACR is also a member of the National Committee on Children. This Commission is headed by the Deputy Prime Minister and established in 2017, marking a new milestone in the government's efforts to implement the children's rights. The Commission will play a significant role in giving new direction to the implementation of children's rights and ensuring that "no children are left behind" whilst sustaining progress toward achieving sustainable development, as well as a coordination mechanism between government agencies and social organizations on children's rights.

13. MOLISA also cooperated with VACR and social organizations under CRnet to organize annual policy dialogue forums among social organizations and relevant ministries to gather and receive opinions and to develop Thematic Recommendations sent to state agencies. The organization of the annual dialogue forums has received the attention of the society and many agencies and organizations working on children, thus improving the advocacy quality of social organizations for State agencies.

Protecting children from violence and abuse

13. "In the first five months of 2018, 682 child abuse cases were reported with 735 children, 572 of which are sexually abused with 562 children, account for 84% of the reported cases"⁵. Violence and child abuse in Viet Nam are on the increase, with some serious incidents drawing public attention. At present, the risk of child abuse via social networks (cyberbullying, online sexual abuse) is also increasing.

14. The GoV has issued a Directive to enhance the measures in prevention of violence and abuse against children. It defines the responsibilities of social organizations and VACR as "receive and collect information on violent and child abusive behaviors and send to competent authorities to intervene and handle promptly; counsel, support and intervene for children in cases of violence or abuse in accordance with legal regulation"⁶.

15. Continuing to implement the directive, VACR has received information in many forms: receiving complaint letters directly at the office, via post, email, telephone, or from the website treemviet.net, etc. Meanwhile, VACR has actively collected information on the mass media with the response from local associations and in collaboration with the Vietnam Women's Union to detect and record cases showing signs of violence, child abuse, from which there are forms of support, legal advice suitable for specific cases such as direct consultation; instruct citizens to send necessary documents to the competent authorities; investigate cases and send a written statement of the VACR on recommendations on handling cases to responsible agencies, and more than 42% of these agencies responded⁷. VACR also developed the Model of lawyers, legal experts and people's jurors in the protection of children's rights. Through this model, training sessions, simulated hearings, legal consultations and legal dissemination events have been organized at localities and communities; participate in the trial of cases involving children; free-of-charge defense for adolescent defendants, etc.

Recommendations for the GoV

- Adjust the defined age of children to ensure the rights of children of aged 16 to 18.

- Request relevant agencies to promulgate documents guiding the implementation of Article 92, particularly paragraph 4 of the Children Law, 2016.
- Request the localities to comply strictly with the provisions of Article 90 of the Children Law. Request the localities, depending on the practical situation, to set up interdisciplinary organizations for children (defined in Paragraph 2, Article 94 of the Children Law); offer appropriate models of social organization for the protection of the children's rights and facilitate to ensure the effective operation of these organizations.
- Request the ministries, branches and localities to promote the propagation and education of the legislation on children; Encourage people to detect and denounce the act of child abuse, and also take into account the principle of confidentiality of information of victims; Encourage and support organizations to provide consultation on the prevention of violence, child abuse and services to support victims.
- Request functional agencies to review in order to amend some provisions related to child sexual abuse, thus conforming with the "typical" nature of cases of these types.
 - It is recommended that the Ministry of Public Security should research, arrange appropriate and friendly investigators for sexually abused children (mostly female victims); request the police at all levels to strengthening the inspection, verification, investigation, coordinating with the People's Procuracies and People's Courts in strictly and promptly handling criminal acts related to child abuse.
 - It is recommended that the Ministry of Culture, Sports and Tourism should strengthen communication to raise awareness, knowledge and responsibilities of families in managing and educating their children on the prevention of violence and sexual abuse.
 - It is recommended that the Supreme People's Procuracy and the Supreme People's Court should inspect the handling and adjudication of child abuse cases by the Procuracy and the People's Courts at all levels in a timely, strict and objective manner; and coordinate closely with the Ministry of Public Security in handling and judging cases related to child abuse.
 - It is recommended that the MOLISA should supervise the implementation of Article 90 of the Children law on responsibilities of people's committees at all levels.
- It is recommended that relevant agencies should facilitate and support social organizations, especially organizations at grassroots level and VACR to organize

capacity building activities for staff and members on the implementation of the Children's rights in Vietnam.

¹ UNICEF (2017), *The State of the World's Children 2017: Children in a Digital World*, p141.

² Vietnam (2015), *Penal Code*, article 142, 144, 146, 124, 147, 127.

³ Vietnam (2016), *Children Law*, chapter II, chapter II, chapter IV, chapter V.

⁴ Vietnam (2016), *Children Law*, article 92.

⁵ MOLISA (2018), Report at Session 5, National Assembly XIV, access on 02/07/2018

<http://baophapluat.vn/dan-sinh/tang-vu-viec-xam-hai-tre-em-397177.html>

⁶ Prime Minister (2017), Directive 18/CT-TTg on enhancing measures to prevent and respond to violence and child abuse.

⁷ VACR, from Annual reports of 2016, 2017, 2018 (available only in Vietnamese).