

PERMANENT MISSION  
of the  
SOCIALIST REPUBLIC OF VIETNAM  
to the United Nations Office  
and Other International Organizations in Geneva



MISSION PERMANENTE  
de la  
REPUBLIQUE SOCIALISTE DU VIETNAM  
auprès de l'Office des Nations Unies  
et des autres Organisations Internationales à Genève

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OHCHR REGISTRY

14 SEP. 2006

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Dear Sir,

The Permanent Mission of the Socialist Republic of Vietnam to the United Nations Office and other International Organization in Geneva is pleased to provide you with the Vietnam' response (the attached document) to the questionnaire as requested to facilitate UN Secretary General' study on Violence against Children.

Best regards,

Geneve, 13 September 2006



Mr. Paulo Sergio Pinheiro  
UNOG-OHCHR  
Ch- 1211 Geneva 10

**UNITED NATIONS SECRETARY GENERAL'S STUDY  
ON VIOLENCE AGAINST CHILDREN**

**QUESTIONNAIRE TO GOVERNMENTS**

**I. LEGAL FRAMEWORK<sup>1</sup>**

*The purpose of this section is to define how respective domestic laws deal with violence against children, including prevention of violence, protection of children from violence, compensation to victims of violence, forms of sanctions imposed on offenders, and processes of rehabilitation and reintegration for victims.*

International instruments on human rights

**Response to question 1:**

Since 1990, Vietnam was the first state in Asia and the 2<sup>nd</sup> in the world to accede to and ratify the UN Convention on the Rights of the Child (CRC). In 2000, Vietnam ratified the International Labour Organisation (ILO) Convention 182 on the Elimination of the worst forms of Child Labour and signed the UN Convention against Transnational Organised Crime. In 2001, Vietnam ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, a complementary to the CRC and the Optional Protocol on the involvement of children in armed conflict. Vietnam signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially woman and child victims.

To fulfil its commitments, in 1991 the State of Vietnam established the Commission for Child Protection and Care and a system of child protection and care from central to grass-roots levels. In 2002, the Commission for Population, Family and Children (CPFC) was formed as a result of a merger between the Commission for Child Protection and Care and the National Commission for Population and Family Planning. This clearly proves that

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<sup>1</sup> Children mentioned in the responses of the Vietnamese Government are below 18 years of age. Under the 2004 Vietnamese Law on Child Protection, Care and Education, those under 16 are defined as children. However, according to the Youth Code newly adopted by the National Assembly of Vietnam, the Convention on the Rights of the Child shall cover teenagers from full 16 to below 18 and in line with Vietnam's circumstances.

Vietnam recognizes the importance of integrating the child issues with population and family.

In the process of building and completing the legal system, the State of Vietnam has always focused on drafting and improving laws relating to child protection, care and education to prove for its efforts in fulfilling the commitments when signing the CRC, and in that process, Vietnam has issued the following legal documents and Ordinances:

- 1991 Law on Child Protection, Care and Education;
- 1991 Law on Primary Education Universalization;
- 1991 Revised Penal Code
- 1992 Constitution;
- 1992 Revised Penal Code;
- 1992 Revised Law on Criminal Proceedings;
- 1993 Revised Ordinance on Marriage and Family between Vietnamese Citizen and Foreign Citizen;
- 1993 Ordinance on Execution of Civil Judgments;
- 1995 Labour Code;
- 1995 Civil Code;
- 1995 Ordinance on Punishments for Administrative Violations;
- 1997 Amended Penal Code;
- 1998 Law on Education;
- 1998 Law on Complaints and Denunciations;
- 1999 Penal Code;
- 2000 Criminal Proceedings Code (amended from the 1990 Criminal Proceedings Code);
- 2000 Law on Marriage and Family;
- 2000 Law on Drug Prevention;
- 2000 Law on Education;
- 2002 Labour Code (amended from the 1995 Labour Code);
- 2002 Ordinance on Punishments for Administrative Violations (replacement of the 1995 Ordinance on Punishments for Administrative Violations);
- 2003 Ordinance on Prostitution Prevention and Combat;
- 2003 Civil Proceedings Code (replacement of the 1998 and the revised laws, amendment to the 1990 and 2000 Civil Proceedings Code);
- 2004 Law on Child Protection, Care and Education (replacement of the 1991 Law on Child Protection, Care and Education);

- 2005 Civil Code (replacement of the 1995 Civil Code);
- 2005 Law on Education (replacement of the 2000 Law on Education);

In addition, there are many decrees detailing the execution of the above-mentioned laws, codes, and ordinances as well as of many other legal documents.

Vietnam has also formulated various programmes, national strategies on child protection, care and education.

- National Plan of Action for Vietnamese Children for the period 1991-2000 and 2001-2010.

- Programme on Protection for Children with Special Circumstances for 1999-2002;
- Programme on Preventing and Solving the Problems of street children, sexually abused children and children working hard under noxious and dangerous circumstance for the period 2004 – 2010;
- Action Plan for Preventing and Combating Woman and Child Trafficking from 2004 to 2010;
- Programme on Preventing and Combating Crime for 1998-2004 and 2005 - 2010

Recently, Vietnam is in the process of implementing a legal project on Prevention of Domestic Violence, drafting the National Strategy on Child Protection for 2006-2010 and the Vision 2020; and the Project of Child Protection for 2006 – 2010. These undertakings are to further promote the protection, care and education of children, including the protection of children.

#### Legal provisions on violence against children

#### **Response to question 2**

In the Vietnamese laws, all forms of child abuse are strictly prohibited. It is clearly expressed in many legal documents from the Constitution to other by-laws. However, there is no general definition for child abuse or violence

against children as defined at Article 19 of the UN CRC and other international conventions. At present, Vietnam only has the term of “child offence” which is understood widely as “any acts that adversely affect or cause harms to the long-term physical, intellectual, mental and social development of the child”. This content is defined clearly in the process from prevention → detection → investigation, inspection → punishment (administrative, criminal punishments) → recovery and reintegration into the society for the victims (for further details on the procedures, see response to question 3).

### **Response to question 3: Provide detail information on legal provisions**

- Prevention of all types of violence including mental, sexual and physical abuse, causing injuries or abuse, negligence or neglecting treatment and sexual abuse;
- Procedure for protection of children against all types of violence;
- Compensation, including compensation to child victims of violence;
- Punishments to the culprits of violence over children;
- Reintegration and rehabilitation for child victims of violence.

#### **1. Prevention of violence against children**

Vietnamese laws strictly prohibit all forms of violence against children, including physical, mental and sexual violence, negligent treatment and exploitation for commercial purposes. The 2004 Law on Child Protection, Care and Education strictly bans all forms of violence against children. Clause 2 of Article 6 of the Law states that “Any behaviour that violates the rights of the child, causing harm to the child’s normal development is strictly punished by the law”. Article 7 of this Law stipulates clearly the forbidden behaviours such as child torture and ill-treatment (clause 6); corporal punishment for children who violated the law (clause 9); child insulting (clause 6); luring, deceiving, pimping, harbouring and forcing children into prostitution; child sexual offence (clause 4); using, luring and forcing children to buy and sell pornographic products; producing, copying, circulating, transporting and stockpiling child pornography (clause 5); child abandonment by parents or guardians (clause 1); depriving the child of his/her rights to education (clause 8); taking advantage of street children for commercial purposes (clause 2); exploiting and using working children for

heavy, dangerous or hazardous work, and work that is against the governing laws on labour (clause 7).

The 2003 Criminal Proceedings Code, Chapter II - Article 6 strictly bans all forms of coercion and corporal punishment.

The 2002 Labour Code forbids the abuse of juvenile labour (workers under 18 - Article 119); employers are not allowed to recruit children below 15 years old, except in certain categories of occupations aims to promote child's talent as determined by the Ministry of Labour, War Invalids and Social Affairs (Article 120); the employment of juvenile workers is prohibited in hard, dangerous work and work exposed to harmful substances... (Article 121).

In addition, the current 1999 Penal Code also contains provisions on the punishment of organisations and individuals exploiting juvenile labour leading to serious consequences. Especially in this Code, Article 48 details aggravating circumstances for criminal liability applicable to crimes committed against children, pregnant women, aged persons, persons unable to defend themselves or persons dependent on offenders in material and/or moral conditions, work or other ways; Inciting juveniles to commit crimes; Chapter 10 (provision applicable to juvenile offenders) of this Code provides a detailed article relating to juvenile offenders -Article 68: "Juvenile offenders are offenders who are aged between full 14 years and under 18 years. They shall bear penal liability under the provisions of this Chapter as well as the provisions of the General Part of this Code which are not contrary to the provisions of this Chapter". According to Article 70 of this Code, in the case of juvenile offenders "The courts may decide the application of one of the following judicial measures of educative and preventive character. Chapter III of this Code concerning all crimes infringing upon human's life, health, honour, dignity states clearly that "murder of children" (Article 93) and "threaten to kill other persons" to children (Article 103) are punished severely up to death penalty. Article 104 about "intentionally inflicting injury on or causing harm to the health of other persons" defines that committing crimes against children, pregnant women, old and weak or sick persons or other persons incapable of self-defence; article 112 about rapes against children; article 114 about forcible sexual intercourse with children, article 115 about having sexual intercourse with children and article 116 about obscenity against children are all punished within concrete frameworks with aggravating circumstances up to

life imprisonment or death penalty. In line with Article 120, life imprisonment is the most serious sanction imposed on trading in, fraudulently exchanging or appropriating children.

In the 2000 Law on Marriage and Family, clause 2 Article 34, strictly bans domestic violence against children, upon which “parents must not discriminatory treat, ill-treat or persecute their children, or hurt their honour”. This Law also states that “step-parents must not ill-treat, torment or hurt the honour of their step-children” (clause 3 Article 38).

Article 75 of the 2005 Law on Education prohibits teachers from offending the honour and dignity of students, as well as physically abusing them; Article 88 forbids students from offending the honour and dignity of students, as well as physically abusing each other; Article 118 provides that any person that ill-treats or torments students at school, depending on the extent and seriousness, will be punished by the law, undergo administrative punishment and criminal responsibility; and to compensate for any damages, if any, as provided by the law.

The 2003 Ordinance on Prostitution Prevention and Combat specifies the measures to prevent and combat prostitution, including child prostitution, the responsibility of individuals and families in prostitution prevention and combat.

Earlier, The Government Decree No. 87/CP dated 12/12/1995 setting out urgent measures to eliminate serious social evils also affirmed that “any behaviour of child sexual abuse such as broking, deceiving children into prostitution must be harshly punished”.

The Inter-disciplinary Circular No. 21/2004/TTLT-BLDTBXH-BYT dated December 9<sup>th</sup>, 2004 regulates a list of working places and occupations easily exploited for prostitution activities which are not allowed to employ workers under 18.

The 2001-2010 National Action Plan for Vietnamese Children (ratified under the Prime Minister Decision No. 23/2001/QD-TTg) sets out “the goals of protecting children from social evils, preventing violence against children; fighting discrimination against children; protecting children from accidents”. This programme lays out many concrete targets for child protection such as reducing by 70% the number of street children and

children suffering from heavy, harmful works by 2005 and 90% by 2010; decreasing gradually by 2005 and substantially by 2010 the number of child victims of sexual offence and trafficking; cut by 70% by 2005 and 90% by 2010 the number of drug-addicted children. The main solutions for realising these objectives are to increase the leadership of the Party and government at all levels, improve the law, promote communication and social campaigns, enhance monitoring, strengthen international cooperation, and improve the quality of information and data on children, training and research.

The Programme on preventing and solving the problems of street children, sexually abused children and children suffering from heavy and harmful works for the period of 2004-2010 (approved by the Prime Minister at Decision 19/2005/QĐ-TTg) also points out the specific goals of reducing the number of street children, sexually abused children and children suffered from heavy and harmful works by 2010 and create conditions to protect, care for, educate and raise children in order to ensure a comprehensive development and better life for them. This programme, in particular, also helps increase the role and responsibility of the family and community in the child protection; promote the socialisation of child protection; incorporate this programme into other socio-economic programmes and strategies; focuses on child's protection counselling and skills for family and community; improve the quality of aid services for children of special circumstances, street children, sexually abused children and children having to work in a heavy, harmful and dangerous environment. To materialise this programme, four projects were designed for the implementation, namely Communication, Mobilization and Management Capacity Enhancement; Street Children Prevention and Assistance; Preventing and Combating Child Sexual Abuse; Preventing children from doing heavy and dangerous work and other works exposed to harmful substances.

The 2004 – 2010 National Action Plan on Women and Children Trafficking Prevention (approved by the Prime Minister at Decision No. 130/2004/QĐ-TTg) has put forth the goal of preventing and reducing substantially the women and children trafficking by 2010. According to this programme, at present, four proposals have been formulated for implementation, in which two are very important to the prevention of women and children trafficking, namely Community Education on Prevention of women and children is trafficking; and drafting and perfecting the legal documents for the prevention of women and children trafficking.



In addition, the Prime Minister issued the Directive 37/TTg dated November 2004 on the implementation of Resolution 09/CP and the 2005-2010 National Programme on Crime Prevention, especially the 4<sup>th</sup> proposal on “Juvenile Crime and Child Abuse Prevention” for 2006-2010. Under this Programme, the Ministry of Public Security will be the main agency, in collaboration with communication agencies, CPFC, Ministry of Labour – War Invalids – Social Affairs, Women’s Unions to carry out the following tasks: Evaluate the situation of child abuse and juvenile crimes; promote education and communication; build a healthy society for child victims and juvenile delinquents by enforcing law on the prevention of HIV/AIDS, prostitution and illicit drug use, as well as carrying out public campaign to investigate and fight child abuse and juvenile crimes, formulate a legal framework for child abuse and juvenile crime prevention.

## 2. Protection Process of children from all forms of violence

When receiving a tip-off on a case of violence against children, the receiving agency, organisation or individual must immediately report to the competent agency in order to stop this wrong doing with prompt measures; apply necessary measures to protect the safety of the informant (Law on Complaints and Denunciation, Article 66). Competent agencies may take administrative measures to prevent violence against children and protect them, for example: administrative detention (2002 Ordinance on Administrative Punishment Articles 43 and 44) or criminal procedures (arrest, custody and detention) (Criminal Proceedings Code -Articles 79-82, 86 and 88). The Law on Marriage and Family -Article 41 and Decree 36/2005/ND-CP – Article 17 provide that children are protected when the parents, guardians cannot guarantee them of a safe life, in which if the parents, guardians commit any of the following wrong doings, they will not be allowed to live with the children: torture, neglect, humiliate, cause damages or mental disorder to the child; incite, force the child to steal; threaten the life of and injure other people; illegally buy, sell, transport, possess and use drug or other stimulant chemical harmful to the health; sell sex or go against the law, social morality; lead a life of debauchery; abandon the child or cause the child to ruin his/her own life; let the child possess, use or carry toxic, dangerous weapons, chemicals; force the child to do hard work, in a dangerous environment or has direct contact with toxic chemicals contrary to legal provisions on labour.

According to the Civil Proceedings Code, when the parents, guardian committed these acts, the CPFC, the Women's Union at all levels, and other organisations and individuals have the right to file a law suit and ask the Court to limit the rights of such parents and guardians by separating them and the child. The legitimate rights of the child should be protected while waiting for the Court's decision, and as stated in the Civil Proceedings Code, the CPFC, the Women's Union at all levels, and other organisations and individuals have the right to request the competent court to grant the child victim's close relative the temporary right to care for, feed and educate him/her. In the absence of any close relatives, the child will be entrusted to the substitute family or child care centre pending the Court's decision. When a decision is made, the People's Committee at all levels is responsible for handing the child over to his/her close ones, substitute family or child care centre. The CPFC at all levels shall inquire into the living conditions, financial capability of the close relatives, substitute family, child care centre to select the eligible to take care of the child. Such agencies will also contact with and carry out the decision of the People's Committee of the same level; conduct regular inspections on the living condition of the child.

### 3. Compensation for child victims of violence:

Article 604 of the 2005 Civil Code stipulates that anyone who intentionally or accidentally causes harm to the life, health, honour, dignity, prestige or property of individuals or other entities shall compensate the victims. Accordingly, those who cause harm to the life, health, honour and dignity of children shall compensate the victims for physical, mental and property damages (Articles 608-612 of the Civil Code 2005). The compensation for child victims can be settled through negotiations and reconciliation between the victims and offenders. The legal representative of these children may, on behalf of the victims, file civil lawsuit for compensation. In case the acts against children constitute crimes, claims for compensation are normally decided during criminal trial. According to the 2003 Criminal Proceedings Code, the victims are entitled to taking part in the proceedings of the case to protect their lawful rights and interests. Upon the entry into effect of the judgment, the Court issuing that judgment shall give the creditor and debtor a copy of the judgment or the Court's decision for "enforcement", and explain to the creditor about his/her right to file a request for judgment enforcement. In case the debtor does not obey the judgment, the creditor has the right to request the competent law enforcement agency to force execution. Executors may take coercive actions against the debtor if

compensation is not made within the timeframe for voluntary execution. If there are risks of asset disposal or damage, executors shall decide to freeze the assets immediately (Ordinance on Civil Judgment Enforcement on 17 April 1993).

The Penal Code also provides the punishments for intentional failure to pay compensation up to 3 year imprisonment.

#### 4. Penalties for perpetrators of violence against children

##### a. Physical offences

Articles 93, 94, 95, 96, 97, 100, 103, 104, 105, 106, 107, 110, 151, 298 and 299 of the 1999 Penal Code cover acts that cause harm to the life and health of people, including violence against children, directly or indirectly. In regard to physical abuses causing injuries or harm to the health of children, Article 104 stipulates that people committing the crime of inflicting injury on or causing harm to the health of other persons (including children) shall be sentenced to non-custodial reform for up to three years or between six months and three years of imprisonment (Clause 1). Any act causing injuries to children, regardless of the seriousness, shall be criminalised. If the injury rate is from 11% to 30%, the sentence is between two and seven years of imprisonment (Clause 2). If such a rate is from 31% to 60%, the offenders shall be sentenced to between five to fifteen years of imprisonment (Clause 3). Committing the crime, thus leading to the death of more than one person or resulted in other particularly serious cases, the offenders shall be sentenced to between ten and twenty years of imprisonment or life imprisonment (Clause 4). According to Article 110 on ill-treatment against other persons, offenders ill-treating children shall be sentenced to between one and three years of imprisonment.

##### b. Sexual offences

The 1999 Penal Code provides punishments for 7 crimes of sexual abuses against children: child rape (Article 112), forcible sexual intercourse with children (Article 114), having sexual intercourse with children (Article 115), child obscenity (Article 116), harbouring prostitutes (Article 254), procuring prostitutes (Article 255), buying sex with juveniles (Article 256) and disseminating debauched cultural products (Article 253).

Each of these articles provides three to four different punishment frames for offenders with different aggravating factors and in some cases offenders are subject to life imprisonment or death penalty. By and large, the 1999 Penal Code provides strict punishments for sexual abuses and offences against children at all levels. The child victims of sexual abuses and offences are divided into three categories with different protection policies: children under 13, children from full 13 to under 16, and from full 16 to under 18. Sexual abuses against children under 13 are seen as the most serious; all cases of having sexual intercourse with children less than 13 years old are considered child rape and the offenders are subject to severe punishments, including life imprisonment or capital punishment (Clause 4 of Article 112). The grounds for different frames of punishment are the physical and mental characteristics and the development of the child. Given the fact that under-13 children are physically and mentally immature and sexual abuses and offences against them would have grave consequences, harsher punishments shall be applicable to offenders.

The 1999 Penal Code stresses the need for child protection from sexual exploitation by a person having special relationship with or responsibility or rights over them. To commit child rape or obscenity against whom the offender has the responsibility to take care of, educate or medically treat are the aggravating factors against offenders. Sexual abuse of incestuous nature is the aggravating factor of all sexual offences (excluding obscenity against children).

With regard to sexual exploitation of children, the Penal Code provides punishments for offenders buying sex with juveniles (article 256). Those who buy sex with juveniles from full 13 to under 18 are subject to between one to fifteen years of imprisonment. To punish the act of organising, procuring and harbouring child prostitutes, the Penal Code stipulates that those who harbour prostitutes might be sentenced to life imprisonment (Article 254) and the highest sentence for procuring prostitutes is twenty years of imprisonment (Article 255).

With regard to child pornography, the use of children to produce child pornography or the circulation of pornography products to children is considered an aggravating factor for offences covered by Article 253 of the Penal Code, and the highest sentence for such offenders is ten years of imprisonment. In cases involving a large quantity of debauched cultural

products, causing serious or especially serious consequences, the punishments applied are up to fifteen years.

The 1999 Penal Code protects all children, regardless of their sexes, from sexual abuses and offences. All the aforementioned articles make clear that all children are entitled to protection, irrespective of being boys or girls.

c. Trafficking in children

Article 120 of the 1999 Penal Code stipulates that those who trade in, fraudulently exchange or appropriate children in any form shall be sentenced to between three to ten years of imprisonment. People committing such offences in an organised manner, of professional character, for prostitution purposes, for sending abroad, for despicable motivation, etc. are subject to ten to twenty years, or life imprisonment.

The policy on criminalisation of offences in general, and trafficking in children in particular are also reflected at Article 3 of the 1999 Penal Code, which severely penalize conspirators, ringleaders, commanders, die-hard opponents, those abusing their positions and powers to commit crimes and those who commit crimes in an organised and professional manner with intention to cause serious consequences. The 1999 Penal Code also stipulates that the organizers, executors, instigators and helpers are all accomplices, whose punishments depend on the nature and extent of their involvement (Articles 20 and 53 of the 1999 Penal Code).

d. Negligence, ill-treatment and torment against children

According to the Decree 87/2001/ND-CP on Administrative Punishments in Marriage and Family, those whose acts are not subject to criminalization, namely failure to take care of and nurture their children, forcing their children to overwork, instigating and forcing their children to commit illegal acts, ill-treating or persecuting their offspring shall receive administrative punishments.

According to Article 151 of the Penal Code, those who ill-treat or persecute their children, grandchildren, causing serious consequences or who have already been administratively sanctioned for such acts but repeat their violations, shall be subject to prison term of up to three years.

Article 152 provides that those who have the obligation to provide financial support and have the actual capability to provide the financial support for the children they are obliged to but deliberately refuse or evade this obligation, causing serious consequences or who have already been administratively sanctioned for such acts but repeat their violations shall be subject to prison term of up to two years.

#### 5. Reintegration and rehabilitation for child victims of violence

According to the Prime Minister's Directive 766/TTg dated 17 September 1997 on allocation of responsibilities in the prevention of illegal sending of women and children abroad, the Ministry of Labour, War Invalids and Social Affairs is assigned to design a proposal on vocational training and employment for repatriated women and children, and strengthening education and medical treatment centres for those infected by diseases. The Ministry of Planning and Investment and the Ministry of Finance are in charge of allocating budget for reintegration efforts.

The proposal on "Prevention of the abuse of children's dignity and honour and sexual abuse, especially for commercial purposes" prepared by the Ministry of Labour, War Invalids and Social Affairs attached with the Decision 1101/2000/QD-BLDTBXH set out the task to reintegrate children suffering from sexual abuses into the community, incorporate this issue in job creation programmes, economic development plans and poverty reduction programmes; formulate and implement State budget-supported mechanisms to create jobs and provide concession loans; expand appropriate vocational training for child victims; create employments and provide funding for and facilitate the community reintegration efforts of child victims; formulate and supplement policies that provide medical diagnosis, treatment and care for child victims of dignity offences and sexual abuses; strengthen and set up social institutions under the control of the Ministry of Labour, War Invalids and Social Affairs; admit child victims of prostitution and trafficking; and provide counselling and other support services for child victims."

According to Article 56 of the 2004 Law on Child Protection, Care and Education, "Child victims of sexual offences are supported by the family, State and society through counselling services and health and mental rehabilitation to stabilise their life". Article 57 of this Law stipulates that "the agencies and organisations in charge of drugs prevention and control

have the responsibility to provide treatment for child addicts at home or at the rehabilitation centres according to the Law on Drugs Prevention and Control". With regard to abandoned children, Article 51 stipulates that "the local People's Committee shall help abandoned children find guardian families, non-public or public nursery centres".

The national programmes for street children, children suffering from sexual abuse and children working in dangerous and harmful conditions (2004-2010) recommend the solutions to increase the quantity and quality of support services for children with special circumstances in general, street children and children enduring sexual abuses, and children working in dangerous and harmful conditions in particular.

The National Prostitution Prevention Programme for the period 2001-2005 approved by the Prime Minister at the Decision 151/QD/TTg tasks the People's Committee at all levels to build and manage centres providing medical treatment, education, vocational training and jobs, as well as the community reintegration activities for sex workers, including child victims.

The Action Plan to fight trafficking in women and children from 2004 to 2010 approved by the Prime Minister at the Decision 130/2004/QD-TTg includes a proposal for the repatriation of and support for trafficked women and children from abroad.

Recently, the Prime Minister signed the Decision No. 52/2006/QD-TTg to approve the Interdisciplinary Programme on Prevention of Prostitution for the period 2006-2010, which set out the goal to "create a dramatic change in awareness and actions of agencies and organisations at all sectors and levels, as well as the whole society in preventing and countering prostitution, and eliminating child prostitution". The Programme also sets forth concrete measures to improve treatment, counselling, rehabilitation and reintegration for prostitutes, including children.

**Question 4.** Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:

- The family/ home;
- Schools and pre-school care and education (both formal and non-formal, state and private);

- Military schools;
- Institutions including care, residential, health and mental health;
- The context of law and public order enforcement including in detention facilities or prisons;
- The neighbourhood, street and the community, including in rural areas;
- The workplace (informal and formal);
- Sports and sporting facilities.

**Response:**

1. Domestic violence:

Article 2 of the 2000 Marriage and Family Law stipulates that the State and society shall not accept the discrimination among children, between sons and daughters, between biological and adopted children, between in-wedlock and out-of-wedlock children (Clause 5). Clause 2, Article 4 of this Law prohibits ill-treatment and persecution against grandparents, parents, spouses, children, grandchildren, siblings or other family members. With regard to the parents-children relations, Article 34 of the 2000 Marriage and Family Law provides that:

- a. Parents have the obligations and rights to love, look after, rear, care for, and protect the legitimate rights and interests of, their children; respect their children's opinions; attend to the study and education of their children so as to ensure their healthy development in all physical, intellectual and moral aspects to become pious children of the family and useful citizens of the society.
- b. Parents must not discriminatorily treat, ill-treat or torment their children, or hurt their honour; must not abuse the labour power of their minor children; must not incite or compel their children to act against law and social morality.

Article 41 of the Marriage and Family Law and Article 17 of Decree 36/2005/ND-CP mention the restrictions on the rights of the parents over juvenile children and the separation of the children from parents or guardians who have offences against them (**more from the response to question three**).



Vietnamese laws also try to prevent domestic violence and harm inflicted on children through counselling and education about parenting skills and protection measures (**more from the response to question three**). The National Assembly of Vietnam is going to adopt the Law on Prevention of Domestic Violence.

## 2. School violence:

Article 75 of the 2005 Law on Education prohibits teachers from offending the honour and dignity of students, as well as physical abuse against them; article 88 forbids students from offending the honour and dignity of other students, as well as physical abuse against each other; article 118 provides that any teachers and students that ill-treat, torment other students at school, depending on the extent and seriousness, will be subject to disciplines, administrative punishments and prosecution; if causes any damage, that person will have to compensate as provided by the law.

## 3. Violence at nursery centres

Vietnamese laws do not cover violence at nursery centres. However, all acts of violence against children are forbidden and punished according to the 2004 Law on Child Protection, Care and Education, the 2002 Ordinance on Punishments for Administrative Violations and the 1999 Penal Code.

## 4. Violence at law enforcement agencies, correctional centres or compulsory educational boarding schools:

International and Vietnamese laws on the rights of the child see a child as a member of the family and society. Thus, they have the right to live with their parents and family. No one is entitled to separating them. However, in case the child delinquents fail to abide by the law even with education in the community and repeat their violations, they must be sent to compulsory educational boarding schools or correctional centres, for their own sake and that of the society. At these places, under strict monitoring and management,

they are provided with education and support to turn on new leaves and become good citizens. Staff members and educators are experienced and professional personnel, who were trained in psychology, education methodology, vocational training, counselling, social sciences at institutions such as the Public Security Institutes, Law University, University of Social Sciences and Humanities, etc. All teachers are trained at Teacher Training schools.

The 2004 Law on Child Protection, Care and Education, the 1999 Penal Code and the 2003 Law on Criminal Proceedings forbid all types of corporal punishments against child delinquents even during detention.

**Question 4:** Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in:

- The family/ home;
- Schools and pre-school care and education (both formal and non-formal, state and private);
- Military schools;
- Institutions including care, residential, health and mental health;
- The context of law and public order enforcement including in detention facilities or prisons;
- The neighbourhood, street and the community, including in rural areas;
- The workplace (informal and formal);
- Sports and sporting facilities.

5. In the neighbourhood, street and community settings:

Decree 36/2005/ND-CP strictly prohibits economic abuse and exploitation of children. Under the Labour Code, any acts that maltreat workers are strictly prohibited. The Law on Protection, Care and Education for Children also strictly prohibits abuse of street children under 16 years old for profits.

**Question 5:** Indicate if corporal punishment of children, in any setting, including in the family, is explicitly prohibited in your legal system. Provide details of any legal defences available to those who administer corporal

punishment to children, including in the family. Provide information on penalties applicable to those who administer corporal punishment to children, including in the family.

**Answer:**

The Vietnamese legislation strictly prohibits all forms of mistreatment, maltreatment and corporal abuse against children even in the form of disciplinary measure even though the term "corporal punishment" is not defined in Vietnamese laws (please refer to answers to questions 3 and 4 for more information). Penalties imposed for offence of corporal abuse against children are subject to their nature and seriousness and include administrative and criminal punishments, out of which criminal penalties stand as the most serious measures. In addition, in case of causing damage and/or injuries, offenders shall pay compensation for child victims. Family members carrying out corporal abuse against children shall also be punished in accordance with the law. Please refer to answer to question 3 for information pertaining to protective measures for children, including temporary isolation of children from their parents and/or guardians who caused damage and/or injury to children. For information related to penalties imposed for offenders, please refer to answer to question 3. The National Assembly of Vietnam will pass a Law on Prevention of Domestic Violence to prevent citizens in general and children in particular from violence.

**Question 6:** Provide information on whether the Penal Code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 year olds.

**Answer:**

Under the 1999 Penal Code, persons aged full 16 or older shall have to bear penal liability for all crimes they commit and persons aged full 14 or older but under 16 shall have to bear penal liability for very serious crimes intentionally committed or particularly serious crimes (Article 12). As such, persons under 14 are not subject to penal liability for the crimes committed.

The 1999 Penal Code, at Articles 68 to 77, provides for the application of penal code to offenders aged full 14 to under 18 as follows:

- The handling of juvenile offenders aims mainly to educate and help them redress their wrongs, develop healthily and become citizens useful to the society. In all cases of investigation, prosecution and adjudication of criminal acts committed by juveniles, the competent State agencies shall have to determine their capability of being aware of the danger to society of their criminal acts and the causes and conditions relating to such criminal acts. Juvenile may be exempt from penal liability if they commit less serious crimes which cause no great harm and involve many extenuating circumstances and they are received for supervision and education by their families, agencies or organisation. The penal liability examination and imposition of penalties on juvenile offenders shall only apply to cases of necessity and must be based on the nature of their criminal acts, their personal characteristics and crime prevention requirements. During the course of adjudication, the Court might, if found it not necessary to apply penalties on juvenile offenders, decide the application of one of the following judicial measures of educative and preventive character: education at communes, wards or district towns or sending them to reformatory schools.

- Life imprisonment or death penalty shall not be imposed on juvenile offenders. When handing down sentence of termed imprisonment, the Court shall impose on them lighter sentence than those imposed on adult offenders of the corresponding crimes. Juvenile offenders shall be subject to one of the following penalties for each offence: warning, fine, non-custodial reform or termed imprisonment.

- For persons aged between full 16 and under 18 when they committed crimes, if the applicable law provisions stipulate life imprisonment or death sentence, the highest applicable penalty shall not exceed eighteen years of imprisonment; if it termed imprisonment, the highest applicable penalty shall not exceed three quarters of the prison term prescribed by the law provision. For persons aged full 14 to under 16 when committing crimes, if the applicable law provisions stipulate the life imprisonment or death sentence, the highest applicable penalty shall not exceed twelve years; if it is the termed imprisonment, the highest applicable penalty shall not exceed half of the prison term prescribed by the law provision.

- If juvenile offenders, who are subject to non-custodial reform or termed imprisonment, have made good progress and already served one-quarter of their term, they shall be considered by the Court for penalty reduction;

particularly for imprisonment, their penalty can be reduced each time by four years but only if they have already served two-fifths of the declared penalty term. If juvenile offenders, who are subject to non-custodial reform or termed imprisonment, have recorded great achievements or suffered from dangerous illness, they shall be immediately considered for penalty reduction and may be exempt from serving the remainder of their penalty.

The 1999 Penal Code, at is Article 298, further provides for the prohibition of corporal punishment as follows: those who apply corporal punishment in investigating, prosecuting, adjudicating and/or judgement executing activities shall be sentenced to between six months and three years of imprisonment. When the acts cause very serious or particularly serious consequences, the offenders shall be sentenced to between five years and twelve years of imprisonment. The offenders are also banned from holding certain posts for one to five years.

**Question 7:** Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation.

**Answer:**

The terms “bullying” and “sexual harassment” are, in general, not used in the Vietnamese legislation. However, these behaviours are prohibited if these behaviours are harmful to the dignity, honour and body of children. Article 88 of the 2005 Education Law “explicitly prohibits students from offending the dignity and honour of other students, and prohibits students from committing corporal abuse”. Article 116 of the Penal Code provides punishment for paedophilia.

**Question 8:** Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country.

**Answer:**

All acts that may cause harm to the life, health and development of children, even due to low level of education or backward traditions and custom, are strictly prohibited by Vietnam and shall be punished according to their

nature and seriousness in accordance with the Law on Administrative Sanction or the Penal Code. Underage marriage practice, in particular, is strictly prohibited according to the Law on Marriage and Family. Decree No. 87/2001/ND-CP details administrative sanctions imposed for those who deliberately maintain illegal conjugal relationship with underage persons circumventing the court's verdict to terminate the relationship and on those who organize underage marriage. Recidivists shall be held criminal responsible and subject to warning punishment, probation up to two years or imprisonment from three months to two years (Penal Code – Article 148). Decree 32/2002/NC-CP dated 27/3/2002 issued by the Government also details the application of the Law on Marriage and Family to the ethnic minority people, tasking the People's Committees at the commune level, the Vietnam Fatherland Front and its member organisations, village patriarchs and religious dignitaries to carry out propaganda and advocacy activities to eliminate the underage marriage. Decree 32/2002/ND-CP is also aimed at eliminating other custom and traditions that maintain the discrimination between boys and girls in the families of paternity or matriarchy, and adoption practices in which adopter is not 20 years older than adopted child.

**Question 9:** Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children. If specific provisions do not apply to such children, provide details of protection offered to them.

**Answer:**

The Vietnamese legislation has provisions that fully address the question. According to Article 2, Decree 36/2005/ND-CP, which details the execution of some Articles of the 2004 Law on Protection, Care and Education for Children, "children who are foreign citizens, during their stay in Vietnam, shall enjoy the rights and discharge their duties as stated in the international treaties to which the two countries are the signatories". Children living in the territory of Vietnam, whether holding Vietnamese citizenship or not, shall be protected from all forms of abuse and those who carries out abuse against these children shall be punished in accordance with the 1999 Penal Code and the 2002 Ordinance on Administrative Sanctions of Vietnam.

**Question 10:** Provide information on any difference in the definition of violence and the applicable legal framework according to:

- The sex or sexual orientation of the victim and/or of the perpetrator;
- The age of the victim and /or of the perpetrator;
- The relationship between the victim and the perpetrator, including, but not limited to infanticide, sexual violence in marriage, incest and sexual abuse within the family, and physical chastisement.

**Answer:**

According to the Penal Code, the age of perpetrator and/or victim, the sex and the relationship between victim and perpetrator are one of the bases for defining the criminal responsibilities of certain offences against children for example:

1. Only those aged over 18 years old shall be held criminal liabilities for sexual intercourse and/or obscene acts against children (Articles 115 and 116 of the Penal Code).
2. All forms of sexual intercourse with children aged under 13 years old shall be considered rape against children (Article 112 of the 1999 Penal Code)
3. Only those who reach the age of marriage (from 20 years old for man, and from 18 years old for women) deliberately maintain illegal conjugal relationship with underage person shall be held criminal responsibilities for offence of underage marriage (Article 148 of the 1999 Penal Code).
4. According to Article 94 of the 1999 Penal Code pertaining to infanticide offence, mother who kills or abandons her new born, due to strong influence of backward ideologies or special circumstances, leading to the death of her baby shall be subject to non-custodial rehabilitation up to two years or imprisonment from three months to two years. Considering the complex psychological changes of the mother during maternity, trauma and her sufferings from backward ideologies (i.e. being terrified by public criticism of her pregnancy or having an out-law child, by the husband family's prejudice saying that having a daughter is a disaster, etc.) or under special circumstances affecting the mother's behaviours (i.e. the baby was born with congenital deformity and disabilities

etc.), punishments for such an offence shall be strong enough for deterrence, prevention and punishment purposes. For other infanticide cases, criminal punishments are very stringent. The minimum level of punishment shall be 12 years of imprisonment. Life imprisonment or even capital punishment may be imposed for perpetrators, who commit infanticide depending on specific circumstances and cases.

5. Offences against children are one of criminal aggravating circumstances.

**Question 11:** Provide information on any recent comprehensive review of the legal framework to address violence against children.

**Answer:**

At present, the CPFC is working closely with other ministries, agencies and UNICEF to review and assess the compatibility between Vietnamese legislation and international standards relating to the prevention of child abuse, including prevention of violence against children. An assessment of the legislation on child abuse will be finalised (to be completed in 2006 as expected). Various ministries, agencies, unions, mass and international organisations in Vietnam have also conducted assessment on the legal framework dealing with violence against children.

**Question 12:** Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children.

**Answer:**

Vietnam has conducted a number of assessments and reviews at different scales on ten-year implementation of the Ordinance on Protection, Care and Education for Children (1979 – 1989), upon which the Law on Protection, Care and Education for Children was promulgated in 1991. An assessment and review on five-year (1991-1996) and ten-year (1991-2001) implementation of the 1991 Law on Protection, Care and Education for Children was conducted and the Law on Protection, Care and Education for Children promulgated in 2004. In this process, provisions on the prevention



of child abuse and exploitation, and violence against children have been revised. Article 7 of the 2004 Law on Protection, Care and Education for Children clearly defines forbidden acts, and Chapter IV details protection and care for children with special circumstances.

In improving the penal legislation, the 1999 Penal Code has also been revised to make it more concrete, covering more offences with aggravated penalties for offences related to violence against children.

At the same time, the 2003 Criminal Proceedings Law has been improved, including provisions on investigation, prosecution and trial procedures applicable to offences of violence against children.

Building on empirical studies and surveys, the Prime Minister issued Decision 138/1998/QD-TT approving the National Programme on Crime Prevention and Control, including a separate proposal to combat and prevent child-abuse crimes and juvenile delinquency, Decision 134/1999/DQ-TT approving the Action Plan on Protection for Children with Special Circumstances for the period of 1999-2002 (street children; sexually abused children; children working in hard, hazardous and dangerous conditions; juvenile offenders; and child-abuse crimes), Decision No.19/2004/QD-TTg approving the National Programme on Prevention and Settlement of Street Children, Sexually Abused Children and Children Working in hard, hazardous and dangerous conditions, Decision No.130/204/QD-TTg approving the National Programme on Prevention of Trafficking in Women and Children for the period of 2004-2010. The above-mentioned Programmes have concretised actions to prevent and deal with offences of abuse and violence against children.

The Court system has the mandate to deal with violence against children

**Question 13:** Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.

**Answer :**

Juvenile and Family Courts are not available in Vietnam. Trials for offences against children are conducted by the People's Court system.

### Minimum age for sexual activity

**Question 14:** Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for girls and boys? Is this age different in respect of heterosexual and homosexual activities?

**Answer:**

The 1999 Penal Code of Vietnam neither provides a definition of minimum age required for valid consent to sexual activity nor a definition of minimum age required for valid consent to sexual activity for boys and girls or in respect of heterosexual and homosexual activities. However, there are some provisions related to this issue as follows:

- Article 256 of the 1999 Penal Code provides that sex buyers who have sexual intercourse with juveniles (under 18 years old) shall hold criminal liabilities, irrespective of the consent of the juvenile sex workers.
- Article 115 of the 1999 Penal Code provides that adult having sexual intercourse with children aged from full 13 to under 16 years old shall be held criminal responsibility, despite the consent of the children.
- Paragraph 4, Article 112 of the 1999 Penal Code provides that those who have sexual intercourse with children under 13 years old shall be charged with rape, regardless the consent of the children.

**Question 15:** Provide information on the minimum age of marriage for women and men.

**Answer:**

The 2000 Law on Marriage and Family gives definition of minimum age required for marriage from 20 years old for men and from 18 years old for women.

### Sexual Exploitation of Children

**Question 16:** Provide information on legislation and other measures to prevent the commercial sexual exploitation of children through prostitution and other unlawful sexual activities. Provide details on means to ensure that child victims of such exploitation are not criminalized. Provide information on legislation or other measures to prohibit all forms of sale or trafficking in children, including by their parents.

**Answer:**

Information on legislation and measures to prevent sexual exploitation of children for commercial purposes, through prostitution and other unlawful sexual activities are given in the answers to questions 3 and 12.

Means to ensure that child victims of such exploitation are not criminalised are as follows: Under the Vietnamese legislation, children sexually exploited are considered victims; therefore, no penalties shall be imposed on the child but means of education, prevention, assistance, rehabilitation and reintegration.

Information on legislation and other measures to prohibit all forms of sale and trafficking in children, including by their parents appear in the answers to questions 3 and 12.

#### Pornography and harmful information

**Question 17:** Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.

**Answer:**

- Decree No.11/1999/ND-CP issued by the Government details goods which are banned from circulation, restricted commercial services and conditional business activities. As a follow-up to the Decree, the Ministry of Trade issued Decision No.88/2000/QD-BTM detailing the list of goods banned from circulation and trading in the areas of culture and information including:

- Reactionary, debauching or superstitious cultural products detrimental to personality education banned from circulation and trading include books, newspapers, magazines, paintings, pictures, calendars, posters, catalogues, leaflets, banners, parallels, rolling letters, audio and visual recordings and films (including celluloid films and videos), photographs, applied fine-art works and other cultural documents and products with reactionary, debauching and superstitious contents or harmful to the ethical education;
  - Toys in the form of cultural products (printed materials, tapes, discs), electronic toys featured with images, sounds and actions showing fighting, savage killings and/or actions offensive to human dignity and destructive to the environment and harmful to the aesthetic and ethical education of children.
- Decree No.31/2001 ND-CP dated 26/6/2001 and Decree No. 56/2006/ND-CP issued by the Government on administrative sanctions in the fields of culture and information areas, details administrative punishment imposed for acts of obscene description detailed in bulletins, articles, publications and distribution of nude, titillate and scanty-outfits pictures and photos, which run counter to the fine traditions and custom of Vietnam as well as selling, hanging, and displaying titillate books, newspapers, pictures, photos, calendars or renting books and newspapers which propagate the debauching and obscene lifestyles, and printing and duplicating press works and publications with debauching and obscene contents as well as producing, duplicating, selling, renting, distributing and showing films, video tapes and discs with debauching, titillate and obscene contents which encourage social vices and do harm to fine traditions and custom as well as admitting children under 16 years old into cinemas or places showing films, video tapes and video disc which children under 16 years old are not allowed to watch as well as organizing electronic games and other kinds of games with debauching and obscene contents for business purposes and installing electronic games with forbidden contents onto computers for usage. Authors of published works, publishers and licensed publishing organisations whose publications contain debauching, obscene lifestyle and social vices contents affecting fine traditions and custom,

which are not serious enough to be criminalised, shall be subjected to administrative punishment as provided by this Decree.

- Article 8, Paragraphs 7 and 8 of the 2001 Ordinance on Advertisement prohibits advertisement of products and goods having reactionary and debauching contents.
- Article 11 of the Decree 55/2001/ND-CP issued by the Government on management, provision and utilisation of Internet services deals with the abuse of Internet services to do harm to moral values, fine traditions and custom and violate the law.

The Laws on Protection, Care and Education for Children promulgated in 1991 and 2004 strictly prohibit the production, reproduction, circulation, transportation and storage of child pornography. Article 9, paragraph 3 of the Decree No.36/2005/ND-CP also strictly prohibits the use of children in production and trading of pornography toys, games and other cultural products which are harmful to the healthy development of children.

According to the 1999 Penal Code, those who produce, duplicate, circulate, transport, trade in, store and disseminate books, newspapers, pictures, photos, movies, music and/or other products with debauching content, including pornography, can be sentenced up to a three-year imprisonment. If juveniles are involved such as use of juveniles in the production of pornography or selling pornography to juveniles, offenders can be imprisoned up to 10 years.

- Decree No. 56/2006/ND-CP of the Government stipulates regulations on administrative punishments in the field of information and culture, with concrete provisions on harmful information:
  - + Article 10 on violation of regulations on information content: cash fines from VND 5,000,000 to VND 10,000,000 for the following acts:

- a) Detail description of obscenity or violent massacres in the pieces of news, articles or images;

b) Publish or distribute pictures or paintings of titillating nature, nudity or scanty outfits unfamiliar with Vietnam's fine traditions and custom;

c) Disseminate backward practices and superstition.

Answer to question 18:

Vietnamese laws strictly prohibit the production, possession and dissemination of pornographic products, especially child pornography and provide measures to protect children from all forms of injurious information transmitted through the media, videos, Internet, etc.

According to Inter-disciplinary Circular 02/2005/TTLT-BCVT-VHTT-CA-KHDT dated 14 July 2005 issued by Ministries of Culture and Information, Public Security, and Planning and Investment on Internet management, Internet users must show their IDs at Internet agents, children under the age of 14 must be accompanied by adults when using services at Internet agents.

Decree 31/200/ND-CP issued by the Government on administrative punishment in the field of culture and information provides the levels of administrative punishment to which the following behaviours are subject:

- + Sell or rent debauched, pornographic, violent books, newspapers, pictures, calendars (point c, item 2, Article 18);
- + Publish publications instigating debauched items, pornography, social evils by legal authors or publishing houses. (Item 3, Article 20);
- + Print, copy debauched, pornographic, violent books, newspapers and publications (point a, item 4, Article 21);
- + Produce films, videos, CDs or DVDs provoking debauch, pornography, social evils (point a, item 4, Article 23);
- + Copy debauched, pornographic films, CDs or DVDs, or quote, add debauched, pornographic sounds, images to films, CDs, DVDs (point b and a, item 5, Article 24);

- + Sell, rent or issue debauched, pornographic films, CDs and DVDs (point a, item 7, Article 25);
- + Allow children under the age of 16 to cinemas, CD or DVD shows to watch adult movies (point b, item 1, Article 26);
- + Show debauched, pornographic films, CDs or DVDs (point b, item 5, Article 28);
- + Copy debauched, pornographic music records (point b, item 5, Article 28);
- + Quote, add debauched, pornographic sounds, images to music records (point c, item 1, Article 29);
- + Produce debauched, pornographic music recordings or quote, add debauched, pornographic sounds, images to music records (point a, item 2, Article 29);
- + Disseminate debauched, pornographic music records (point b, item 4, Article 31);
- + Perform debauched, pornographic works of art (point b, item 4, Article 32);
- + Sell or rent debauched, pornographic electronic games CDs or DVDs (point b, item 1, Article 36);
- + Hang, display debauched, pornographic pictures, photos, calendars at discothèque, public dancing places, karaoke or other public cultural places or services (point a, item 2, Article 37);
- + Circulate debauched, pornographic music records, films, CDs, DVDs at discotheques, public dance places, karaoke and other public cultural places or services (point c, item 4, point b, item 5, Article 37);
- + Hang, display debauched, pornographic pictures, photos, music records, films, CDs, DVDs; perform debauched, pornographic stage, musical, dancing performances at hotels, restaurants (point a, item 1, point b, item 2 and point b, item 3, Article 38);

- Decree No. 55/2001/NG-CP by the Government on management, provision and utilisation of Internet services and prosecution of offences related to the use of Internet which is considered an affront to morality, fine custom and traditions or violations of the Law.

- Article 29, item 4 of the 2004 Law on Protection, Care and Education of Children provides that “if a publication, game, radio, TV show, artistic or cinematographic programme has content irrelevant for children, it should be clearly informed which category of children eligible to use that product”.

- Decree 36/2005/ND-CP assigns Ministry of Culture and Information to make regulations on films, artistic, stage, musical performances that should not be shown or performed to children.

- Decision 33/2002/QD-TTg issued by the Prime Minister approves the plan for Internet development in Vietnam in the 2001-2005 period, highlighting measures to complete the legal system, enhance the capacity of Internet management including completion of legislations on punishment of those committing computer or Internet crimes.

-Circular 02/2005/TTLT-BCVT-VHTT-CA-KHDT on July 14<sup>th</sup> 2005 by the Ministry of Post and Telematics, Ministry of Culture and Information, Ministry of Public Security and Ministry of Planning and Investment regulating Internet-access places as follows: Internet users must present their ID as they log in at Internet-access places and under-14 children must be accompanied with adults when entering these places.

-Article 17 (related to violations of regulations on Internet access, management and information) of the Decree No. 56/2006/ND-CP by the Government on administrative sanctions in the field of cultural-information activities provides the following sanctions:

1. Monetary fine from 200,000 dong to 500,000 dong applicable to one of the following actions:
  - a) Access to information and image with harmful contents on computer network,
  - b) Fail to post operational regulations at Internet shops.



2. Monetary fine from 1,000,000 dong to 3,000,000 dong applicable to behaviour that allows customers to access to information with harmful contents on computer network.
3. Monetary fine from 3,000,000 dong to 10,000,000 dong applicable to the following actions:
  - a) Disseminate information and image with harmful contents from computer network,
  - b) Post and upload information and image with harmful contents onto computer network causing not serious consequences,
  - c) Post and upload onto computer network publications which do not have permission to be circulated,
  - d) Store and retain information and image with harmful contents at Internet shops.
4. Monetary fines from 10,000,000 dong to 25,000,000 dong applicable to behaviour related to posting and uploading information and image with harmful contents onto computer network causing serious consequences.

#### Reporting obligations relating to violence against children

##### **Answer to question 19:**

Vietnamese legislations identify the responsibility to report all forms of violence against children of professional groups, especially law enforcement agencies such as the investigating agencies, police, courts, procuracy agencies, CPFC.

Laws also provide that every citizen has the right to complain or denounce to competent authorities, organisations, individuals on all acts of law violation including violence against children (Article 1, item 2 of the Law on Complaint and Denunciation, Article 4, item 3 of the 2004 Law on Marriage and Family). As a result, a citizen can choose or decide whether to or not to denounce suspicious acts of violence against children. Once the citizen decides to denounce the case, he/she must be honest, identifying clearly his/her name, address and be accountable before the law for untrue

denunciation (Article 57, item 2 of the 1998 Law on Complaint and Denunciation). Although the 2002 Ordinance on administrative punishment states that “Every citizen has the right and responsibility to detect and denounce all forms of administrative violation” (Article 4, item 3), the law does not provide sanctions to those who do not denounce cases of administrative violation, which means that this regulation has the sense of encouragement rather than obligation. However, it is not the case for serious violence against children with crime-constituting factors. Article 4, item 3 of the Penal Code provides that “every citizen has the responsibility to actively participate in prevention and combat of crimes”. At the same time, Article 314 of the 1999 Penal Code also provides the offence of failing to denounce crimes according to which those who have full knowledge of such crime as murder, rape against children and adolescence from 16 to 18 years of age, forcible intercourse with children, obscenity against children (with aggravating factors); trafficking in and misappropriation of children; organising, stockpiling, forcing and luring children to drug-use, etc., which is being prepared, is being or has been committed, but fail to denounce it, shall be subject up to three years imprisonment. Therefore, it can be said that every citizen capable of bearing criminal liabilities should be accountable to denounce one of the above-mentioned crimes against children of which he has full knowledge.

### Complaint procedures

#### **Answer to question 20:**

When violence against children is detected or suspected, denunciation will proceed in accordance to the Law on Complaint and Denunciation. According to Article 1, item 2 of the 1998 Law, every citizen has the right to denounce to competent agencies, organisations, persons on all acts of law violation including violence against children. As laws and regulations on complaint and denunciation do not provide the legal capability limit of the denouncer, children can, in principle, be denouncers.

Denunciation can proceed in the form of lodging complaints to or directly complain and denounce at (1) agencies or organisations where the violators work; (2) the CPFC as the state authority dealing with children; (3) investigating agencies, the procuracy, the court in case the acts of violation show signs of crime (Article 57, item 1, point a; Article 59, 60, of the 1998 Law on Complaint and Denunciation; Article 1 and 2, item 16, Decree

94/2002/ND-CP issued by the Government on 11 Nov 2002 on the functions, duties, power and structure of the CPFC.

No later than 10 days since the date of processing the denunciation must the competent agencies, organisations and persons (here-in-after called denunciation receivers) proceed with handling the denunciation; in case the denunciation receivers do not have the competence to handle the denunciation, they should forward it to competent authorities and inform the denouncers at their request. In necessary cases, the denunciation receivers must immediately report to competent authorities about the denunciation in order to timely take measures to prevent law violation acts and necessary measures to ensure safety for the denouncers at their request (Article 66, Law on Complaint and Denunciation).

The time of handling denunciation is not more than 60 days since the date of processing the denunciation. For complex cases, the time of handling the denunciation can be longer but not more than 90 days since the date of receiving the denunciation (Article 67 of the 1998 Law on Complaint and Denunciation,).

The person who handles the denunciation must issue a decision on the verification of the case and conclusions, identify the liabilities of the violator, and take measures to handle the violation within his competence or recommend competent agencies, organisations and persons to handle the violation (Article 68 of the 1998 Law on Complaint and Denunciation).

In addition to denunciation according to general legal procedures, if parents have acts of severe violence against their adolescent children, the Commission on Population, Family and Children, the Women's Union have the right to request the Court or the Procuracy to ask the court to restrict certain rights of parents to their adolescent children in accordance with civil procedure legislation. Other individuals, agencies or organisations also have the right to ask the Procuracy to consider and request the Court to restrict the rights of parents towards their adolescent children (Article 42 of the Law on Marriage and Family).

**Answer to question 21:**

In principle, children can denounce violation acts themselves. However, given the law does not provide special forms of denunciation by children, it is, in practice, very difficult for children to access this procedure. For example, children find it difficult to directly lodge complaints and denunciation to relevant agencies and organisations or meet competent persons to denounce by themselves. Children are also reluctant to present the content of the denunciation without supporters or facilitators. Especially, children would be more hesitant to denounce if they are asked to bear liabilities before the law for untrue denunciation. Agencies such as the CPFC, the Women's Union, the Youth Union and especially local Police have been assisted with networks of volunteers who have the responsibilities to identify and assist children reporting abuse and violence cases. Recently, the Child Help Line has been established in Hanoi and is expected to operate throughout the country. This is an extremely important channel for children to denounce violation acts. In the future, regulations on such an activity should be formulated so as to ensure the effectiveness of information reception and processing through similar channels. At present, social work has been officially considered a major at higher education level and will be receiving attention and support to develop in the future.

With regard to children's representatives, as mentioned in answer to question 20, the father, mother or legitimate representative of children can denounce violence against children.

As for legal aid, Vietnam has a system of free legal aid services for people subject to state priority policies and poor people. Therefore, children from poor families or families subject to state priority policies can request legal aid centres to provide free counselling services or assistance in drafting complaints and denunciations. In addition, in order to increase combat of child abuse crimes as well as assistance to and protection of the interest of adolescents, some legal aid centres have provided free legal aid services to adolescents. These children can ask legal aid centres at provincial level to give guidance on necessary procedures, provide addresses of competent authorities, counsel on legal procedure, provide legal information, directly protect or invite lawyers to protect their legitimate interests in proceedings. In addition, Decree 65/2003/ND-CP dated 11 June 2003 of the Government on the organisation of legal counselling activities allows social-political organisations, professional associations to establish legal counselling centres. According to this Decree, violated children or their parents can request legal

counselling centres of social-political organisations or professional associations of which they are members to provide free counselling services.

**Answer to question 22:**

Through child protection programmes and projects, many communication documents have given guidance to and encouraged children, family members and the community to detect and provide information on acts of maltreatment, abuse and violence against children to relevant authorities such as the police, CPFC, Women's Union, Youth Union at the grassroots level or to the Child Help Line 18001567. Especially, children's organisations such as the Young Pioneer, Little Reporters Club also participate in communication campaigns aimed to help children raise the awareness of self-protection.

The problems and cases of abuse, violence against children covered by the mass media have helped increase the awareness and skills to detect, prevent, intervene and handle the problems of abuse and violence against children.

**Answer to question 23:**

In general, the investigation, prosecution and trial of child abuse cases are undertaken according to normal procedural rules. However, the 2003 criminal proceeding law provides some special evidentiary rules concerning child abuse cases as follows:

- To identify the causes of mortality, the characteristics and level of injuries, health damages or the age of victim, examination consultation is obligatory.
- Investigators should examine the body of the victim to detect criminal trails or other meaningful trails to the case. Body examination should be undertaken and witnessed by persons of the same sex with the victim.
- Summons of victims who are under 16 must be given to their father, mother or legitimate representative. Interrogation of under-16 victims must be attended by their parents, legitimate representative or teachers.
- In case it is necessary to keep secret the case at the request of the victims, the Court can decide close trial of the case (Article 18, 2003 Criminal Proceeding Law)

**Answer to question 24:**

Depending on the characteristics and severity of violation acts, the violators can be subject to administrative punishment (such as warning, monetary fine) or criminal prosecution, of which criminal prosecution is the most stringent punishment. With regard to specific sanctions, please refer to answer to question 3. In case the violators cause physical or spiritual damages to children, they must compensate the victims according to the 2005 Civil Code.

In case the father or mother intentionally violates children's health, dignity or honour; seriously violates the responsibility to care, nurture and educate children; leads a self-indulgence life; or ignites children to violate the law or social conduct, the Court, depending on specific case, may decide to take away his or her right to care, nurture and educate children from one to five years.

**25.** Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (e.g. imprisonment, corporal punishment, community service, perpetrator rehabilitation, family therapy).

According to Vietnamese laws, the handling of juvenile offenders aims mainly to educate and help them redress their wrongs, develop healthily and become citizens useful to society; priorities are given to community-based educating methods; penalties are last resorts. (Article 58 of the Law on the Protection, Care and Education of Children; Article 69 of 1999 the Penal Code)

In case of violent acts committed by juvenile offenders to the extent which is not subject to penalties or fines or in case that victims do not request penalties against the culpable and offenders are not subject to fines imposed by the relevant authority, community-based mediation will be referred to.

Juvenile offenders who are from full 14 to under 16 have legal liability for administrative violations committed by intention and for those above 16 years of age must have liability for all administrative violations. Juvenile offenders shall be subject to warning or fine, in which those who are from full 14 to under 16 are subject to warning; and those who are full 16 to under

18 can be subject to warning or fine but the fine should not exceed half of that prescribed for adults. Juvenile offenders of administration can be subject to judicial measures including education at communes, wards or district towns or sending to reformatory schools.

As for penal liability, juvenile offenders aged from full 14 to under 16 must be held responsible for serious crimes committed by intention or extremely serious crimes. Juvenile offenders aged full 16 upwards must be held responsible for the crimes committed by themselves. Juvenile offenders may be exempt penal liability if the crimes they commit are less serious or serious but consequences are not grave and having mitigation elements and being placed under the supervision and education by families or agencies and organisations.

As penalties, juvenile offenders shall be subject to one of the following penalties for each offence including: 1) commune/ward/district town-based education, 2) sending to reformatory schools, 3) warning, 4) fine, 5) non-custodial reform, 6) termed imprisonment in which commune/ward/district town-based education and sending to reformatory schools are judicial measures but not penalties. Juvenile offenders subject to above-mentioned judicial measures shall be considered as have no criminal records. Penalties applied for the juvenile offenders are always more lightened than for adults committed the same crimes.

## **II. INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN**

*The aim of this section is to establish if your country has an institution coordinating multi-sectoral activities concerning violence against children, which include prevention, protection, redress, reintegration and rehabilitation.*

**26.** Are there any Governmental authorities, structures and mechanisms, including at federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?

If YES, identify these authorities, structures and mechanisms and describe how coordination is ensured.

**Answer:** At present, there are many relevant authorities involved in addressing violence against children including the CPFC, Ministry of Public Security, Supreme People's Procuracy, Supreme People's Court, Ministry of Labour, War Invalids and Social Affairs, Ministry of Education and Training, the Vietnamese Women's Central Union and other mass organisations.

As for organisational structure: Almost all these authorities have organisational systems from central to local levels and they all have mandate to directly address violence against children.

As for mechanism: These authorities have power to deal directly with cases involving violence against children and one of their functions is to coordinate with other relevant agencies and at the same time to make reports to the Government on issues of violence against children.

In specific terms:

- The Public Security is in charge of investigation and evidence collection;
- The Procuracy is responsible for handling cases and prosecution of criminals;
- The Court holds trial responsibility;
- The CPFC, Ministry of Labour, War Invalids and Social Affairs, the Vietnamese Women's Central Union and other mass organisations are responsible for information and outreach, mechanism building, policy making for prevention, re-integration, rehabilitation and support for children to get rid of violence.

27. Is there a lead Government authority tasked with responsibility for addressing violence against children?

**Answer (26 continued):** The CPFC is a ministerial level agency in charge of state management for the Protection, Care and Education of Children. The Commission includes representatives from Ministries of Health, Labour-Invalids-and Social Affairs, Education and Training, Justice, Public Security, Defence, the Vietnamese Women's Central Union, Foreign Affairs, Central Committee of the Communist Youth Union, Vietnam Farmers' Association, Vietnam Veterans' Association, National Centre for Social Sciences and Humanity. In the organisational structure of the Commission, there are some departments responsible for addressing cases involving violence against children (including Inspection, Children and Legal Affairs Departments).



The CPFC is systematically organised from central to local levels to take charge of management and coordination of forces to carry out activities of child protection and address cases involved children.

**28.** Are specific financial and/or human resources allocated by your country to address violence generally?

**Answer: Yes.** To address violence against children in Vietnam is, in general, a common task and regularly done by all relevant ministries, agencies and localities. Therefore, resources allocated for addressing violence are generally from the state budget as well as those mobilized from domestic and international communities. In particular, to address violence against children, resources from the state budget are allocated to police, courts, inspection, procuracy and labour-war invalids-social affairs and culture-information agencies as well as the CPFC. Also other resources are from the community including that generated from community work of associations, mass organisations' participation in mediation work as well as contribution to security funds. The annual resource allocation to addressing violence issues based merely on the capabilities of the state budget and growth of the national economy. However, these resources have seen a growing trend in recent years.

**29.** Does your country allocate specific financial and/or human resources to activities to address violence against children?

**Answer: Yes.** Financial and human resources to handle issues related to addressing violence against children in Vietnam are allocated under specific plans, programmes and projects as follows:

- The National Action Programme for Vietnamese Children (2001-2010) adopted by the Prime Minister at the Decision No 23/2001/QĐ-TTg dated 26 February 2001 with an aim to create the best condition to meet the children's needs and ensure their basic rights, prevent and reduce risk violence against children; create a safe and healthy environment so that the Vietnamese children would be protected, nurtured and grow up at its best capacities to enjoy a better life. The budget for the implementation of the programme is included in the annual budget plan of the Ministries, industries and locals. Besides, there have been sources provided by international organisations (including UNICEF, international NGOs, bilateral and multilateral

assistance grants ...) for achieving objectives set in programmes including actions to address child abuse and violence against children.

- The Programme of Action for Protection of Children with Special Circumstances for the period 1999-2002 was approved by the Prime Minister at the Decision No 134/1999/QD-TTg dated 31 May 1999. The budget for programme implementation consists of financial sources allocated according to annual plans to national target programmes (such as Poverty Reduction and Employment, Crime Prevention; HIV/AIDS Prevention; Drug Prevention and Child Injury Prevention) and others which are mobilized from within and outside the country.

- The Programme for Prevention and Settlement Street Children, Sexually Abused Children and Children working in toxic and dangerous conditions in the period 2004 – 2010 which is ratified by the Prime Minister in Decision No 19/2004/QD-TTg dated 12 February 2004. The purpose of the programme is to raise awareness and promote action of the whole society on children protection; to prevent and steadily reduce the number of street children, sexually abused children and children suffering toxic, dangerous and heavy working condition, to create an environment where children would be protected, nurtured and able to grow up at its best capacities and enjoy a better life. The finance for the implementation of the programme is included in the annual budget plan of the CPFC. CPFC in coordination with relevant ministries, agencies and localities formulate the plans and allocate financial sources to the agencies in line with their assignments.

**30.** Do international or bilateral donors provide resources to your country for activities to address violence against children?

**Answer: Yes**

International donors and bilateral donors have provided supports for Vietnam to carry out activities to battle violence against children.

Funding these activities are UNICEF and UNODC. The financial resources for these activities are not separated from the total aid. Annually, the allocation of the budget will be passed by UNICEF and the CPFC. Budget from UNODC for the prevention of cross border human trafficking mainly comes from regional projects.

These financial sources belong to programmes and projects aimed at supporting studies and information and statistics collection as well as to build capacity together with some intervention actions by above agencies through ODA, bilateral cooperation under the set annual plans, projects and programmes.

**31.** Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?

**Answer:** Vietnam has been cooperating and sharing information with countries. At the same time, Vietnam is implementing agreements and MOUs signed with countries that share borders to jointly fight against women and children trafficking crimes. Especially, Vietnam is expanding cooperation with countries in education, information sharing and documentation on crimes related to women and children, control of cross-border movements, IDs and residence; timely investigating, tracing and seizing criminals, rescuing and returning victims as well as dealing with issues related to criminal cases that involved women and children trafficking.

**32.** If your country has a national human rights institution, such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints?

**Answer:** At present, the CPFC is the agency devoted to child issues and Vietnam also has a Research Centre for human rights. As stated above, the CPFC is the State authority in charge of children affairs, and has the responsibility of ensuring conditions to fulfil children's rights in accordance with the CRC, as well as of collaborating in practicing children's rights as identified specifically in the Law on the Protection, Care and Education of Children. The organisational structure of the Commission from the central to the communal level has the mandate to monitor, inspect, and deal with complaints and violations regarding children's rights, including the role of intervention and request to relevant authorities for actions to address violence against children.

**33.** Are there any particular parliamentary structures (for example special committees) to address violence against children?

**Answer:** The National Assembly of the Socialist Republic of Vietnam constitutes an Ethnicity Council and 7 Commissions. These agencies are entitled to intervene or giving advice on dealing with violence against children and the responsibility is mainly born by the Commission for Population, Family and Children. Other Commissions can also be in charge of dealing with issues related to violence against children, and they are: Committee on Culture, Education, Youth and Teenager; Committee on Law; Committee on Social Affairs and Committee on People's Aspiration under the Standing Committee of the National Assembly. Besides, when necessary, the National Assembly can create an ad hoc Commission to monitor a specific issue related to children, as regulated in Paragraph 23 of the Law on Organisation of the National Assembly (Paragraph 23: when necessary, the National Assembly will establish an ad hoc Committee to study, inspect a project or to investigate a specific issue).

**34.** Have there been any recent parliamentary initiatives to address violence against children?

**Answer:** Yes. Recently, the National Assembly has formulated and added new chapters into the existing laws such as: the Penal Code, the Criminal Proceedings Code, and the 2004 Law on the Protection, Care and Education of Children.

-The Penal Code: there has been an additional chapter specialized in the penalty framework applied for crimes committed by juveniles or non-imprisonment punishment applied for juvenile offenders.

-The Criminal Proceedings Code 2003: the proceedings and procedures of dealing with juvenile offenders, as well as crimes against teenagers in an appropriate and timely manner, at the same time being educational and friendly toward children.

-The 2004 Law on the Protection, Care and Education of Children: paragraph 7 clearly regulates behaviours that are forbidden to be applied on children, including:

“...Maltreatment, cruelty, humiliation, abuse, kidnapping, trading and fraudulent swapping of children; application of measures aiming at the humiliation, disgrace, abuse or physical torture of children who have committed crimes;”

Besides, the Law sets out a separate Chapter (Chapter 4) specialized in the protection of children with special circumstances; at the same time, the Law stipulates concrete responsibilities of the State, the family and the

society in the protection of life, body, dignity and honour of children. Besides, Decree No. 36/2005/ND-CP stipulates the execution of articles of the 2004 Law on the Protection, Care and Education of Children in which focus on stipulating the prevention for children from violence and strictly punish any violation of children's right.

- Currently, the Committee on Social Affairs under the National Assembly is in the process of formulating a Law Project on the Prevention and Fight against Domestic Violence (involving children) which will be submitted to the National Assembly for approval in 2007. The main contents of this Law stipulates rules and measures for prevention of domestic violence and (in which focus on that against children) and responsibility of agencies, organisation, communities, families and individuals in the prevention of violence in family. The National Assembly will continue to strengthen activities in monitoring the execution of laws to children, especially the receipt and process letters of denunciation and claims related to the performance of children's rights and the protection for children against violence.

### **III. ROLE OF CIVIL SOCIETY IN ADDRESSING VIOLENCE AGAINST CHILDREN**

*The aim of this section is to select information on civil society activities relating to violence against children.*

**35.** Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employer's organisations, national non-governmental organisations, international non-governmental organisations) and the major activities engaged in (including advocacy, awareness raising, research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).

**Answer:** Over the past years in Vietnam, reality shows that these contents have been integrated into the information, education and communication (IEC) regarding the protection, care and education of children. Some international organisations have carried out studies and organised workshops

on the prevention of child abuse, but just limited in scope and stopped at pilot scale. Some of these above-mentioned organisations are as follows:

**Domestic social organisations:**

**\* The Vietnamese Women's Union:**

The Vietnamese Women's Union has signed and issued documents, inter-disciplinary circulars together with relevant governmental agencies, both domestic and international non-governmental organisations, regarding the strengthening of collaboration in the encouragement of happy families, good upbringing of children, prevention and fight against child abuses, especially girls. Medical treatment and rehabilitation for women and children formerly transported over the border. Collaboration programmes have also been concluded with relevant authorities of neighbouring countries (China and Cambodia) with regard to the IEC to increase awareness of the prevention and fight against the transportation and trading of women and children.

- Establishing models of "Women with the protection of disadvantaged children" in the localities, promoting the IEC to fight against child abuses, equipping mothers with knowledge on the fight against social vices as well as initiatives for resolving family and community conflicts, raising responsibilities of the family, especially the mother, in the education and upbringing of the child with a view to helping reduce the number of school drops-out, street children, child labour and children committing crimes, as well as promoting IEC on gender equality, non-discrimination against girls, prevention and fight against social vices, etc.

- Organising workshops, forums for mothers to discuss measures to protect, care and educate their children, especially disobedient and law-breaking ones, as well as fighting against violence on children from the central to the local level.

**\* Ho Chi Minh's Communist Youth Union, Vietnamese Youth Association, Ho Chi Minh's Young Pioneers Corps:**

- Having organised campaigns of voluntary youth to protect children in emergency situations (natural calamities, flooding, and drought).

- Having organised an Action Month for Disadvantaged Children.

- Having carried out the training and formulation of an implementation programme focusing on the education and communication of the Law on the Protection, Care and Education of Children in all of the Communist Youth Union's cells in the cities and provinces nationwide.

- Having organised campaigns of good young pioneers, friends-help-friends, adolescent clubs, contests, training courses, children's forums to discuss the fight against child abuses and violence against children on a yearly basis at the provincial and city levels... in these activities, children are equipped with the skills of detecting, preventing and fighting against abuses and violence..., and they are informed of help-desks to come to when necessary.

-The adolescents' weekly radio broadcasts on Radio Voice of Vietnam has various features on the prevention of violence against children, including articles prepared by adolescent reporters. Currently there are 1,200 adolescent reporters aged 12 to 15 throughout the country, working in adolescent reporters' clubs, involving school children and disadvantaged children in 15 cities and provinces. The children are trained on the profession, supported with equipment and they can get involved in reflecting issues relating to children's rights, including features on violence against children within the family and the community.

-Youth Research Institute (under the Central Ho Chi Minh's Communist Youth Union) has carried out several studies on children committing crimes, child abuses,... and has published a book of "Ho Chi Minh's Communist Youth Union with the care and education of disadvantaged children" with various contents reflecting cultural viewpoints and practices of the people regarding the issues of child abuses that need to be resolved. At the same time, with the support from Save the Children of Sweden, they have carried out a survey on the opinions of primary and lower secondary school children in the three cities and provinces of Hoa Binh, Nghe An and Hai Phong in relations to child abuses within the family and the school.

\* Vietnam Fatherland Front has launched a campaign of "Cultural Manner in Living Quarters", clubs of "Exemplary Grandfathers and Grandmothers, Obedient Children" to contribute to the combat of violence against children and child crimes.

#### **International organisations:**

\* UNICEF: Over the last 30 years, UNICEF and the Government of Vietnam have formulated and implemented 7 national cooperation programmes helping improve the fulfilment of children's rights, particularly enhancing living skills and information for juveniles on HIV/AIDS prevention and combat, prevention of accidents and casualties involving children, prevention and fight against abuses, not only sexual abuse but also physical, spiritual abuses, improving the accessibility of children of the

ethnic minorities to basic services; building the capacity for partners working with children in specially difficult condition.

Recently, UNICEF has positively assisted the Government of Vietnam in implementing the recommendations of UN Secretary General's Study on Violence against Children and organising a series of conferences at national level to discuss about and share the experience on violence against children as well as work out definitions and concepts relating to violence against children including the Child Forum on Violence against Children. In 2005, Vietnam's Committee for Population, Family and Children (CPFC) and UNICEF are collaborating with Plan International to launch a campaign against physical and mental abuse of children and build a glossary on child abuse.

In addition, other international organisations and NGOs such as IOM, Save the Children Sweden, Plan International and OXFARM, etc. have actively participated in dissemination of information on prevention, intervention and reintegration, providing technical supports for capacity building for social workers to combat violence against children.

### 36.

**Answer:** To protect disadvantaged children, the Prime Minister issued the Decision 134/1999/QD-TTg in 1999 on the approval of Plan of Action on Child Protection. In 2004, the Prime Minister further made the Decision 19/2004/QD-TTg approving of the "Protection of Children especially street children from sexual abuse and hazardous works from 2004 to 2010" programme and the Decision 130/2004/QD-TTg on the National Programme on the Prevention of Woman and Child Trafficking from 2004 to 2010.

The above-mentioned programmes have been implemented with the participation of mass organisations, non-governmental organisations, families, schools and the whole community through the education and communication campaigns at grassroots level by building models such as "Security Spearheading Youth Team", "Red Star Teenager Team" and setting up Law Clubs, Law libraries, Child Rights Clubs, and the meeting of Youth and Teenager Union as well as other cultural and performing activities.



Dozens of types of materials and documents relating to the prevention of child abuse and the realisation of child care and education laws have been worked out. Hundred thousands of social workers, officers of all sectors and agencies and children themselves received training on these issues.

37.

**Answer:** In Vietnam, mass media has a very important role to play in education and propagation of laws on protection, care and education for children in general and the combat with violence against children in particular. The education and communication have been integrated into programmes, columns and shows on child protection, care and education on mass media. At present, they have been run or hosted by more than 635 newspapers and magazines, 5 central TV shows and 93 provincial shows. Moreover, there are other forms of legal education and communication through TV cable network, internet and e-news.

#### **IV. Children as solution finders to deal with violence**

**Response to questions 38 and 39:** To increase child participation in implementing child rights as the spirit of the International Convention on the Rights of the Child and the Law on Child Protection, Care and Education, children have implemented and monitored the programmes and policies addressing violence against children as follows:

- Bamboo Shoot Outreach Team
- “Voice of Children” Forum
- Little Reporters’ Club
- Child Rights Club
- Healthy Living Club
- Child Helpline
- Green Bee Club (for street children)

Bamboo Shoot Outreach Team (BSOT) is designed for children at primary schools and managed by Child Union Council under the Central Ho Chi Minh Communist Youth Union. Every lower secondary school or Child House has at least one BSOT. Currently, there are about 15,000 BSOTs in the whole country. These teams have conducted propaganda campaigns

through songs and dances showing child rights and prevention of violence against children, HIV/AIDS and drug in school.

Child Forum gives children the chance to talk about basic rights of children such as the right to be protected from abuse, especially sexual abuse, the right to schooling, entertainment and play as well as the right to grow up physically and mentally, etc. The forum has become the very place for children to raise their voice about their life, families, parents, teachers and friends. The forum has brought into full play its advantages since 1998. Since then, children from all areas nationwide have had many opportunities to attend the forum at provincial, national, regional and international levels. For the Little Reporters' Club (LRC) of Radio Voice of Vietnam only, 36 children have been selected as Vietnamese child representatives to international forums and conferences on children in the region and the world and have joined the dialogues between the Vietnamese Government and the United Nations.

On the occasion of the second National Conference on Vietnamese Children held in Hanoi, 2001, 110 child representatives from all ethnic minorities and areas attended the forum "We, the owners of the 21<sup>st</sup> Century". At this forum, the children presented and discussed a wide range of issues and worked out the messages related to child protection, care and education, culture, entertainment and play, health, nutrition, water and sanitation as well as children's rights to express and participate.

The "August Meeting" of nearly 200 children from 8 provinces and cities prior to the UN General Assembly's Special Session in 2001 attracted the participation of representatives from government, ministries, agencies and foreign ambassadors. At this meeting, children expressed concern over family affairs, sexual abuse and child labour and came up with the recommendations to tackle these issues.

At the meeting to review 10 years of implementation of the Law on Child Protection, Care and Education, 50 children from 15 provinces and cities representing children from the 3 regions discussed child issues at the "Child Forum" and delivered a joint message to the President and the National Assembly.

The forum "Listen to the Youth on Social Affairs" designed for 400 school-going and out-of-school children from 8 provinces, cities and clubs for

living with a good health and children with disabilities took place from 28<sup>th</sup> to 29<sup>th</sup>, 2004 in Hanoi. This forum was conducted in various forms to encourage broad participation of children such as knowledge, drawing and message writing contests and dialogue with leaders on 8 topics including youth and drug, woman and child trafficking and Millennium Development Goals, etc. This important event contributed to improving the say of the juvenile, affirming the active role of children in understanding issues relating to child development and threats to the child's health and development.

In reviewing Vietnam's implementation of the recommendations by UN Committee on the Rights of the Child in 2005, Vietnamese children had a dialogue with the president of this committee.

The model of "Voice of Children Forum" has been replicated in many localities, provinces and cities in the whole country and received special attention of ministries and agencies and really become the opportunities for dialogue, Q&A and view sharing between children and leaders of ministries, agencies and cabinet members. Children are no longer the passive subjects totally dependant on adult but they have their own independent opinions, say and viewpoints to make contributions to decisions related to their life. Children have been granted favourable conditions for development and received adult's trust and respect. Therefore, children have more confidence with better integration capability, higher responsibility and cooperation, broader knowledge and self-protection capability.

Yet, child forums are not regular. Child voice has been listened to but their recommendations and proposals are not always well implemented in all localities. Thus, it is essential to organise various forums and dialogues employing the mass media and encouraging feedbacks.

Little Reporters' Club is the place where secondary schools and out-of-school children having difficulties have the right to participate in. In 1998, the model of Little Reporters' Club was first established in Hanoi with 50 child reporters of the age group from 12 to 15 selected from 10 lower secondary schools in Hanoi. Then, this model has been introduced in Thua Thien Hue, Ha Tay, Bac Giang, Dac Lac, Da Nang, Quang Binh and Phu Tho provinces, etc. In March, 2003, the Little Reporters' Club for disadvantaged children named as Green Bee was founded in Hanoi with 26

child members. At present, there are 27 Little Reporters' Clubs nationwide with 1,200 members.

The little reporters operate in accordance with the club's regulations and receive support of professional reporters through training courses, take part in study tours and classes on child rights and have the rights to "speak out on the mass media on their point of views". In the past 6 years, the Little Reporters' Clubs have written articles and news for 260 broadcasted Child Radio Programmes namely "Child Radio Programme, a close friend of children" and another 260 broadcasted radio programmes named "Child Desire Forum".

Little Reporters' Clubs have published 1,000 titles on "Child Desire" (with the financial support of Save the Children of Sweden) and 80 publications namely "The voice of childhood" (each issue has 1,000 copies with the support of UNICEF).

The children have been provided with training on knowledge and writing skills and equipped with cameras and computers to build the programme. This model is really good for children and facilitates child progress. It also contributes to child protection, particularly the prevention of violence against children.

Organisations like UNICEF, Plan and Young Lives Project, etc. have made practical contributions to the operation of the above-mentioned clubs.

The Child Rights Clubs at local level have been established in order to promote child protection and improve the quality of child participation into child protection, care and education programmes and projects. So far, this model has been strongly introduced in most provinces and cities. At the time being, there are 34 Child Rights Clubs at provincial and city level and nearly 2,000 at commune, district, town and school level. These clubs have helped to strongly increase child participation.

Healthy Living Club aims to improve knowledge and skills for healthy living and HIV/AIDS prevention among school-going and out-of-school children in order to help children respond to and protect themselves from the risks detrimental to a healthy life. In addition to club model, 110 secondary schools are now conducting pilot teaching programme on healthy living and life skills and organising the Forum for Juvenile in-and-outside schools.

These efforts have equipped the children with life skills and knowledge and a correct attitude on protection and care for themselves at puberty as well as measures to stay away from drug and other stimulants and prevent HIV/AIDS and other STDs as well as the attitude of no discrimination and stigma against people living with HIV/AIDS and a better understanding of the prevention of child abuse and violence against children.

The free Child Helpline in Hanoi was established in 2004. This is a pilot project by the CPFC and Plan International in Vietnam to enhance child participation in opinion expression. Children are respected and encouraged to make decisions on child issues; provide information, counselling, intervention and protection services; and collect information and data related to child and family affairs to help policy makers review strategy to meet child demands.

The helpline operates along the following 4 components:

1. A Call Centre located in Hanoi with 5 operators working 14 hours per day to respond to queries on child issues.
2. Training activities to build the intervention network to support children.
3. Communication to improve the awareness of the community and children and collect information and data.
4. Link the interventions to help children in emergency.

After a year in operation, the centre has received 20,000 calls from 58 provinces. The project has analysed child demand and detected family and child affairs with updated information to be forwarded to policy-making agencies and the mass media for effective education. Sensitive issues such as sexual abuse, child exploitation and trafficking and child suicide, etc. have been detected to help competent agencies protect children through call information. The operation of the helpline has met the demand of children and their families and received wide support of the entire society. In the immediate future, this service will be provided by the State through the national network.

**40.**

**Answer:** The current resources to assist and respond to child participation in addressing the problem of violence against children are as follows:

- Governmental ministries and agencies support child participation through State management system from central to grassroots levels such as the CPFC, the departments of labour-war invalids-social affairs and the mass media.
- Social organisations like: Ho Chi Minh Teenagers' Union, Ho Chi Minh Communist Youth Union, Women's Union, Veterans' Union, Farmers' Union and the Red Cross, etc.
- International NGOs: Plan International, Save the Children Sweden and the US, etc.
- Social and Open Houses and Counselling Offices at commune and district level.
- Organisations and individuals interested in child affairs.
- Schools.
- Forums on or for children.
- The mass media

## **V. Policies and programmes on violence against children**

**41.**

**Answer:** Vietnam has formulated policies to protect the health, life, honour and dignity of children (refer to answers 3, 4, 5, 12 of this report).

At present, Vietnam is formulating its Child Protection Strategy for 2006-2010 and Vision toward 2020 with the support of UNICEF. This Strategy is expected to be submitted to the Prime Minister for approval within 2006. Prevention and protection of children from abuse and violence are the major goals of this Strategy to be integrated into solutions, policies and child protection network in the years to come.

**42.**

If any, provide current brief reports, address of websites or internal networks of these programmes.

**43.**

If any, describe the monitoring system and provide address to websites or internal networks or other reference addresses that have information on more detail description of the system and outcomes.

**Answer to question 42-43:** There has yet been a separate channel of information and information processing with regard to violence against children. In the monthly reports of the CPFC to the Government, there is information on child affairs, child protection and situation of abused and disadvantaged children. The information have been collected and processed from the reports of the provincial and municipal CPFCs, government ministries and agencies and programmes on Family and Children Protection and Care (FCPC).

The Child Helpline (as mentioned in Response 38 of this report) operates 14 hours a day and receives calls nationwide, processing and recording information on violence against children before making inputs to its monthly reports. The reports are then submitted to the Minister of the CPFC and Plan Vietnam. The information is also shared with Child Helpline International - CHI). A website linked to this line is under construction offering the following features: online counselling, forum, chat room, support information, information sharing and entertainment, etc. The temporary address of the site is at <http://www.helpline.netnam.vn>

**44.**

To further carry out Vietnam's strong commitments on the promotion of child protection, care and education in general and the protection of disadvantaged children in particular, following its ratification of the UN Convention on the Rights of the Child in 1990, Vietnam has actively signed and ratified international conventions and treaties relating to the protection, care and education of the children in conformity with the UN Convention on the Rights of the Child.

In the course of implementation of its policies, guidelines and programmes on the protection of disadvantaged children in general and

fighting violence against children in particular, Vietnam has always tried to bring into full play its inner strength while attaching much importance to international cooperation, bilaterally, multilaterally and regionally.

In recent years, Vietnam's governmental agencies and mass organisations have been working closely with UNICEF in amending, improving and implementing legal documents, strategies and goals for general child protection, combating child trafficking, child abuse, sexual exploitation of children for commercial purposes, etc. Vietnam has also designed a number of models for combating children and women trafficking and training of social workers for children as well as models for combating violence in the family. Vietnam is coordinating with the UNICEF, Save the Children Sweden and Plan International in a study on violence against children initiated by the UN Secretary General. In 2005, Vietnamese agencies worked with the UNICEF in the implementation of a series of activities on combating mental and physical abuse of the child. Apart from the current 84 indicators on the rights of the child, CPFC is designing and making pilot implementation of indicators on sexual exploitation of children and shall incorporate them in the database on the prevention of sexual exploitation of children for commercial purposes and trafficking of children for the East Asia-Pacific region.

Vietnam is also working closely with the UNDP and ILO/IPEC in a project on prevention of children and women trafficking in the Mekong Sub-region, thus enhancing the awareness, assisting prevention programmes and reintegration of victims in their communities. It is further working out on a National Plan of Action for the prevention of children and women trafficking. The International Organisation for Migration (IOM) is currently assisting Vietnam in conducting propaganda works for the prevention of these illegal acts as well as assisting the repatriation and reintegration of vulnerable groups and victims in a number of focus areas. The National Central Bureau of the Interpol of Vietnam has also been coordinating closely with the Interpol and ASEANPOL to detect and prevent these crimes. Vietnam has been cooperating with many countries and international organisations in building capacity for workers serving children in general and children requiring special protection in particular (including those affected by violence) such as the *Aux Enfants Etat de Lieux* (For Disadvantaged Children) of France as well as institutions in Sweden, the Netherlands, USA and the Philippines, etc. At the same time, quite a few foreign non-governmental organisations have also actively participated in



the protection of children and women against trafficking (under the auspices of OXFARM Quebec and the British Children Fund), protecting children from the worst labour exploitation forms (under the auspices of the ILO and Save the Children Alliance) and against sexual abuse (under the Programme for Prevention of Sexual Abuse of Children conducted by the Youth House). Besides, Plan International has been coordinating with and supporting the CPFC in the deployment of the free consultation line for disadvantaged children while carrying out a policy on global protection of the child at its national bureaus around the world and in cooperation with a number of its partners in Vietnam.

Vietnam is also actively participating in the first and second global conferences on combating sexual abuse of children for commercial purposes held in Stockholm (Sweden) in 1996 and Yokohama (Japan) in 2001 as well as the ministerial conferences on combating trafficking in persons and transnational crime in the Asia-Pacific held in Bali (Indonesia) in 2002 and 2003 and in Bangkok in 2004.

In 2004, Vietnam joined other countries in the region in signing the ministerial memorandum of understanding in Myanmar on cooperation against trafficking in persons in the Mekong sub-region. Vietnam is also actively implementing the Yokohama commitments and the Plan of Action against sexual exploitation of children for commercial purposes. This involves the strengthening of the policies and legal system, propaganda, education, prevention, oversight, monitoring, rehabilitation and reintegration of victims into their communities.

## **VI. DATA COLLECTION, ANALYSIS AND STUDIES**

### **45.**

In the last 5 years, though Vietnam did not have the conditions to conduct a national survey on violence against children, a number of agencies in the country have been conducting small scale and non-representing studies and surveys on violence against children such as child abuse under the assistance of some non-governmental organisations and UN offices (e.g. Preliminary Report on Concept, Nature and Degree of Child Abuse in Vietnam, a coordinated effort by CPFC and UNICEF in June 2003; Survey on Children's View on the living conditions and environment in Vinh Phuc, Ho Chi Minh City and Tien Giang done by CPFC and Save the Children

Sweden in 2004; Survey on Physical Punishment on Children in Quang Ngai, Vinh Phuc, Tien Giang and Gia Lai conducted by Save the Children Sweden and CPFC in 2005).

**46.**

A number of government agencies and socio-political organisations such as the CPFC, Ministry of Public Security, Ministry of Labour-War Invalids-Social Affairs and the Women's Union, etc. have conducted small scale and non-representing studies and interviews on parents and children about violence against children. In 2004, CPFC in coordination with the UNICEF made a survey for pilot assessment on the understanding of the issue of violence against children in 8 communes of Hung Yen and Tay Ninh provinces, gathering data from 600 individuals including adults, children and local administration personnel.

**47.**

In the last 5 years, there have been a number of studies made by individual agencies and organisations. They, however, pointed out that violence took many forms and occurred in many places with differing degrees. All acts of violence have been punished but mental harassment and neglect are yet to be comprehensively regulated by detail provisions.

**48.**

At present, Vietnam is conducting a number of activities in cooperation with the UNICEF including the review of Vietnam's legal documents and policies relating to child abuse and this is expected to be completed in 2006. The review would touch on a number of issues requiring amendments and make proposals for strengthening the legal framework to prevent, protect, respond and collect data and feedbacks on child abuse.

**49.**

Child death is often reported by the health agencies but deaths relating to violence are investigated and reported by the police.

**50.**

The statistics requested in the question are collected by law enforcement agencies including Public Security, Procuracy and Court system. They are put in their regular reports up line to the Centre (so far we have yet been able to gather all these reports).

**51.**

These reports have not been published but if they at all be published, they would contain the following headings:

Gender	X
Age	X
Ethnicity	X
Type of death (killed, suicide or not identifiable)	X
Objective cause of death (shot, strangled....)	X
Location of the case (address)	X
Scene of the crime (home, school....)	X
Date and time of the crime	X
Relationship between victim and culprit	X
Other indicators	X

**52.**

According to 1999 statistics, there were 1,684 cases of child abuse while the figures for the years 2000, 2001 and 2002 were 1,625, 1,598 and 1,741 respectively (quoted from Vietnam Children Indicators 2002 by the Information Centre of CPFC, 2003). All child abuse cases are strictly dealt with in accordance with current administrative regulations and criminal stipulations.

**53.**

According to the 1999 statistics, there were 916 child abuse cases trialled while the figures for 2000, 2001, 2002 and 2003 were 1,077, 1,049, 1,007 and 963 respectively (quoted from Vietnam Children Indicators 2002 by the Information Centre of CPFC, 2003).

## VII. AWARENESS ENHANCEMENT, PROPAGATION, DISSEMINATION AND TRAINING

54.

In propagation and dissemination of the Government's laws and regulations, there is a plan on law propagation for the youth and children and another on propagation through capacity building in prevention, settlement and reintegration for street children, abused children and children having to work in hazardous and dangerous environment conducted by the Ministry of Labour-War Invalids-Social Affairs in cooperation with the CPFC. In the mass media, there are regular programmes on child protection. During festivals and holidays as well as on the occasion of the Month for Children and Vietnamese Family Day, there are also media campaigns to disseminate information and knowledge on laws and regulations relating to the protection, care and education of children for everyone.

The Vietnamese Government is currently designing a strategy for propagation and dissemination of knowledge on prevention of child abuse nationwide, particularly the organisation of exhibitions on prevention of child abuse offering the display of children's paintings on the theme. Children are also allowed to participate in logo and slogan creation for the campaign against child abuse.

55.

Newspaper	X
Radio	X
Television	X
Theatre	X
School	X
Other media	Other locations: communities and families, conferences, seminars, posters, handouts....

56.

	Prevention	Protection	Compensation	Rehabilitation	Punishment
Health experts (paediatric doctors, nurses, psychologists and dentists)	X	X		X	
Community health workers	X	X		X	
Social workers and psychologists	X	X	X	X	X
Teachers and educational managers	X	X		X	
Court officials (including judges)	X	X	X	X	
Police force	X	X	X	X	X
Detention centre officials	X	X	X	X	X
Managers of .... Staff of educational institutions Parents/guardians	X	X	X	X	X
Others (if any)					