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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

Initial reports of States parties due in 2004

VIET NAM*

[8 November 2005]

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I. BACKGROUND

1. In the beginning of 2003, the population of Viet Nam was over 81 million, of which children under 16 years of age and women comprised nearly 34 percent and 51 percent respectively. Administratively, Viet Nam comprises of 64 provinces and cities under the central administration.

2. Over the past years, in the light of the Strategy on Socio-economic Stabilization and Development for 10 years (1991-2000), and despite enormous challenges, particularly during the period 1996-2000, Viet Nam's economy has continued to enjoy a remarkable development with an average GDP growth rate of 7.06 percent per year between 2001-2003 (the GDP growth rate in 2001, 2002, 2003 was 6.89 percent, 7.04 percent and 7.24 percent respectively) while the savings rate and the per capita income rate were steadily on the rise, thanks to the efficient implementation of appropriate policies and measures along with the proper promotion of domestic strengths combined with effective international support.

3. Along with the country's overall progress, people's living standards have been much improved. With regard to the targeted social development and enhancement of living conditions for both urban and rural populations, including hunger eradication and poverty alleviation, remarkable results have been recorded. During the past 10 years, average life expectancy increased to 71 years in 2003 from 65 in 1989. The rate of households having access to clean water doubled; the rate of communes lacking essential infrastructures decreased considerably (in 2000, 88 percent of communes benefited from a power supply, 95 percent had driving roads straight to the communal centre); the living conditions of people in many areas have been visibly improved, especially in rural and disadvantaged areas. The protection, care and education of children showed encouraging results. In general, Viet Nam has achieved and even surpassed many of the objectives set forth in different national programs of action for children.

4. The achievements in respect of living standards and health care are well illustrated in the Human Development Index (HDI) of Viet Nam. According to the statistics of the United Nations Development Program (UNDP), this indicator increased from 0.583 in 1985 to 0.605 in 1990 and from 0.649 in 1995 to 0.688 in 2001. In the ranking order, Viet Nam rose from its place of 122nd out of 174 in 1995 to 113th out of 174 in 1998, from 110th out of 174 in 1999 to 109th out of 175 in 2001.

5. In spite of remarkable outcomes in the field of socio-economic development, Viet Nam remains a low level developing country. The quality of growth still leaves much to be desired; goods competitiveness remains low in the world market; the rates of unemployment and semi-unemployment are notably high; the quality of social, educational and health care services have yet to meet the actual demand; the rate of poor households remains high despite its downward trend and the rate of households in poverty was 11% in 2003, particularly in remote and mountainous areas. In addition, Viet Nam is facing with the spread of HIV/AIDS and other social evils such as prostitution, drug-related offences and environmental pollution.

II. EXERCISE OF THE RIGHTS OF THE CHILD IN VIET NAM

6. During recent years, Viet Nam has always placed the exercise of children's rights at the top of its agenda and has duly carried out its international commitments.

7. Following its ratification of the UN Convention on the Rights of the Child in February 1990, the State of Viet Nam supplemented, amended and newly promulgated many legal documents regarding the protection, care and education of children. These variously took the form of laws, ordinances, resolutions, decrees, decisions, directives and circulars, e.g. the Law on Protection, Care and Education of Children (revised in 2004) and the Law on Education (revised in 2004), the 1994 Labor Code (revised and amended in 2002), the 1995 Civil Code, the 1999 Penal Code, the 2002 Ordinance on Administrative Measures, the 2003 Ordinance on Prostitution Prevention and Combat, etc.

8. Also, Viet Nam formulated many specific policies and programs on the protection and development of children such as the National Programs of Action for Children for the periods 1991-2000 and 2001-2010, Resolution No. 05 on Prostitution Prevention and Combat issued by the Government in 1993, the 1998 National Program on Criminal Control and Prevention, the Program on Prevention and Resolution of the problems of Street Children, Sex-abused Children and Children being overworked and working in poisonous and dangerous conditions for the period 2004-2010, the Action Program on Prevention and Struggle Against Crimes of Trafficking in Women and Children for the period 2004-2010, etc. Thanks to all this Viet Nam achieved the following desired goals by the end of the Decade for Children as follows

9. *Regarding child health care*: the under-five mortality rate was reduced to 42/1000 in 2001; the rate of under-one children immunized against 6 basic diseases reached 97 percent in 2001; 100 percent of vitamin A deficiency related diseases were eliminated; the under-five malnutrition rate was reduced to 30.1 percent in 2002; poliomyelitis was thoroughly eradicated in 2000.

10. *Regarding education*: 100 percent of provinces/cities succeeded in primary education universalization and illiteracy eradication; 96.8 percent of children enrolled in school in conformity with their age in the school year of 2002-2003.

11. *Regarding cultural, leisure and recreation activities of children*: by the year 2000, 50.8 percent of Viet Nam's districts had built cultural and leisure centers for children. The number of cultural houses and radio and television programs for children has also been increased year after year.

12. *Regarding care for children with special circumstances*: 70% of orphans without care-givers were taken into care in their community; over 80 percent of harelip and cleft palate children have been operatively cured; 100 percent of legitimately repatriated children were taken into care and socially reintegrated.

13. In the formulation of policies as well as in the perfection of legal documents concerning the protection, care and education of children in Viet Nam, the protection of life, human dignity and the honor of the child in general, as well as the prevention of the sale of children, child prostitution and child pornography in particular, were mentioned from very early on.

14. The Law on Protection, Care and Education of Children issued in 1991 prohibits all acts of cruel treatment, humiliation, abduction, sale and coercion of children into any activities harmful to their healthy development. The Law on Protection, Care and Education of Children

(revised in 2004) has one chapter on protection and care of disadvantaged children. The Penal Code issued in 1999 criminalizes all acts of sale, fraudulent exchange or control of children as well as all acts related to child prostitution.

15. The Program of Action for Protection of Children with Special Circumstances for the period 1999-2002, issued in 1999, set up projects for Preventing Children from Being Dishonored and Sexually Abused and for Combating Crimes against Children. The objective of this Program is to create a change in the awareness of each family, as well as that of the entire society, of the obligations and acts required for the prevention and fundamental reduction of cases of children subjected to violations of dignity and sexual abuse in 2002.

16. Directive No 766/CT-TTg, issued by the Prime Minister in 1997, defines the mandates of relevant ministries, agencies and localities with regard to the implementation of measures preventing illicit transfer of women and children abroad. Decision No. 130/QD-TTg issued by the Prime Minister on approval of the Action Program on Prevention and Struggle Against Crimes of Trafficking in Women and Children for the period 2004-2010. More affirmatively, the protection of children's lives, dignity and honor as well as the prevention of the sale of women and children have become daily tasks for the relevant agencies and social mass organizations throughout the whole community.

17. Viet Nam has also played an active role in responding to international and regional initiatives on prevention of the sale of children, child prostitution and child pornography as well as being active in their formulation. It was one of the first Asian countries engaged in the drafting of the text entitled "A World Fit for Children" and participated in the UN General Assembly Special Session for Children in May 2002. Viet Nam also participated in the first and second World Congresses against Commercial Sexual Exploitation of Children held in Stockholm (Sweden) in 1996 and Yokohama (Japan) in 2001 as well as the Ministerial Conferences on Combating Trafficking in Persons and Transnational Criminals in the Asian Pacific Region held in Bali (Indonesia) in 2002, 2003 and in Bangkok in 2004. Presently, Viet Nam is developing district/ward models designed for children in order to build a healthy and safe environment for all children in Viet Nam. Relevant ministries, agencies and mass organizations in Viet Nam have been cooperating with the ILO/IPEC, UNDP and UNICEF in developing various projects for combating the trafficking of women and children by integrating the protection of children and prevention of child abuse into different national programs and plans of action.

18. As a means of showing its strong commitment to promoting the protection, care and education of children, on 20 December 2001, Viet Nam ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Previously, in 19 December 2000, Viet Nam ratified Convention No. 182 of the International Labor Organization (ILO) on the Elimination of the Worst Forms of Child Labor. Viet Nam also became a party to the UN Convention on Combating Transnational Organizational Crimes in 13 December 2000 and to the Protocol on Prevention, Repression and Punishment of Trafficking in Persons, especially Women and Children, in 18 December 2001. Presently, Viet Nam is considering ratification of the Hague Convention on Protection of Children and Cooperation with respect to Inter-country Adoption.

19. This report describes the current state of Viet Nam's efforts to fulfill the obligations imposed by the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

III. IMPLEMENTATION OF THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

20. The international treaties in general or optional protocols in particular, to which Viet Nam is a signatory or a party, have acquired an important status in the legal system of Viet Nam. As stipulated by the Viet Nam's Ordinance on Signing and Implementing International Treaties (issued in 1987, amended later in 1998), Viet Nam shall abide by and earnestly carry out international commitments. The law of Viet Nam on the issuance of legal documents stipulates that international treaties must be taken into account in the assessment of drafted domestic legal documents, so that the integration of those international treaties to which Viet Nam is a signatory or a party into the legal system of Viet Nam is guaranteed.

21. After Viet Nam ratified the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the content of the Protocol, in both full text and summary, was disseminated to concerned agencies as well as to the mass media so that it could be fully propagated to the people, including children.

22. Presently, this propagation is still being carried out as part of the coordinated propagation of information about the Convention on the Rights of the Child and about domestic legal documents and policies. In addition, the content of the Protocol has been integrated into various training courses for social agents and law enforcement officers.

23. Throughout the process of implementing the Protocol Viet Nam has made a substantial contribution to the implementation of the Convention on the Rights of the Child, namely in regard to articles 1, 11, 21, 32, 33, 34, 35 and 36 of the Convention.

24. In 1996 Viet Nam started building an indicator system in respect of the rights of the child, which comprises 84 indicators for different groups of rights including rights to life, protection and development. Among other things, the indicators include issues of child abuse, offences related to child abuse and trials of offenders. Viet Nam also publishes on an annual basis a book named "Indicators of Viet Nam's children". Based on these combined factors the exercise of the rights of the child, including the implementation of the Protocol, is assessed for the purpose of policy making. Presently, with the support of UNICEF and ESCAP, Viet Nam is building an indicator system to monitor and appraise the actual progress being made in the combat against commercial sexual exploitation of children in the Asian Pacific Region.

25. In accordance with the guidelines of the UN Committee on the Rights of the Child concerning preparation of the 2-year periodic report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, relevant bodies in Viet Nam have worked hard to get this report done in order to submit it to the Government for final adoption.

A. Criminalization and civil and administrative sanctions with respect to offences related to the sale of children, child prostitution and child pornography (Arts. 3 and 7 of the Protocol)

1. General provisions

1.1 Related offences as defined in the Protocol

26. Criminal and administrative laws of Viet Nam specifically define offences and acts related to the sale of children, child prostitution and child pornography as defined in the Protocol.

- The 2000 Penal Code specifically stipulates different kinds of offences as follows:
  - Art. 120: Sale, fraudulent exchange or control of a child and acts of buying, selling a child for the purpose of prostitution;
  - Art. 228: Engaging a child in forced labor in violation of the regulations on use of child labor;
  - Art. 253: Producing, distributing, disseminating and selling child pornography;
  - Arts. 254, 255 and 256: Acts related to child prostitution;
- The Ordinance on Prostitution Prevention and Combat issued in 2003 stipulates the prevention and control of prostitution; defines clearly acts which are strictly prohibited; and hence, states the forms of punishment to which those individuals or organizations engaged in children trafficking and child pornography shall be subject;
- Decree No. 11/1999/N§-CP issued in 3 March 1999 by the Government on goods banned from circulation, commercial services banned from provision, goods and commercial services subject to business restriction or conditional business;
- Decree No. 31/2001/N§-CP issued in 26 June 2003 by the Prime Minister sanctioning administrative violations in the field of Culture and Information;
- Decision No. 23/2001/QD-TTg by the Prime Minister on approval of the National Program of Action for Children for the period 2001-2010;
- Decision No. 19/2004/QD-TTg by the Prime Minister on Prevention and Resolution of the problems of Street Children, Sex-abused Children and Children being overworked and working in poisonous and dangerous conditions;
- Decision No. 130/2004/QD-TTg by the Prime Minister on Prevention and Struggle Against the Crime of Trafficking in Women and Children;

- Directive No. 25/2003/CT-TTg issued in November 2003 by the Prime Minister on organizing the implementation of the Ordinance on Prostitution Prevention and Combat;

- The Detailed List of Goods Prohibited from Circulation and Provision in the field of Culture and Information (promulgated in conjunction with Decision No. 0088/2000/Q§-BTM issued on January 18, 2000 by the Ministry of Trade).

1.2 Other offences in the Penal Code of Viet Nam

27. The Penal Code of Viet Nam stipulates a number of acts of child sexual abuse (these acts are not defined in Art. 3 (1) of the Optional Protocol), namely raping a child, sexually assaulting a child, having sexual intercourse with a child and engaging in lewd acts with a child.

1.3 Regulations on age limits applied to identify a child in accordance with the definition of the related offence

28. The Law on Protection, Care and Education of Children of Viet Nam stipulates that the term "children" is interpreted as persons whose age ranges from birth until 16 years old. With regard to a number of offences specified in Arts. 116, 120, 228, 253 of the Penal Code of Viet Nam, "children" are interpreted as such. However, Arts. 254, 255, 256 of the Penal Code provides that the age where it is allowed to identify a child as a victim of violation are limited to persons whose age ranges from 13 to 16. Having sexual intercourse with a child under 13 years of age (irrespective of consent) also constitutes the commission of child rape (para. 4, Art. 112).

1.4 Definition and responsibilities of legal entities

29. The key principle with respect to legal responsibility in the criminal law of Viet Nam is that of individual responsibility. Hence, under Viet Nam's laws, the subjects of offences are individuals. If the legal entity carries out the actions/acts defined in Art. 3 (1) of the Protocol, the individual belonging to such legal entity who commits the offence shall bear penal liabilities pursuant to relevant articles stipulated in the Penal Code.

- Article 94 of the Civil Code stipulates that an organization is considered a legal entity when it meets the following conditions: it is established, permitted to be established, registered or recognized by an authorized state body; it has a strict organizational structure; it owns assets independent of other individuals or organizations and thus, by ownership of those very assets, is capable of taking responsibilities; and, it can independently take part in legal relationships in its own name.

1.5 Activities in preparation for the commission of offences and complicity

30. Regarding activities in preparation for the commission of offences: Article 17 of the 1999 Penal Code promulgates that activities in preparation for the commission of offences are the process of seeking, preparing tools, means or creating other conditions to commit the offences. Any person who prepares to commit a very serious offence or an especially serious

offence shall bear penal liabilities for the intended offences. A very serious offence is an offence which is quite harmful to the society, the highest degree of penalties of which is up to 15 years imprisonment. An especially serious offence is an offence which is extremely harmful to the society, the highest degree of penalties of which is above 15 years of imprisonment, life imprisonment or capital punishment (para. 3, Art. 8, of the Penal Code).

31. Under the above-mentioned stipulation, activities in preparation for the commission of the following offences shall bear penal liabilities for the intended offences: para.2, Art. 120: Buying, selling, fraudulently exchanging or appropriating a child; para. 3, Art. 254: Harboring prostitution; para. 3, Art. 255: Brokering prostitution; para. 3, Art. 256: Buying sex with minors.

32. Regarding complicity and involvement in the commission of offences: those persons who intentionally take part in the commission of offences shall bear penal liabilities for those offences. However, the degree of penal liability which an offender bears depends on the degree of his/her offences, on his/her record, and on circumstances aggravating or circumstances extenuating his/her penal liability.

2. Criminalization, civil and administrative sanctions against specific acts of violation

33. The following elements are relevant:

2.1 Offering, accepting or providing a child for the purpose of trafficking, sexual exploitation, prostitution of the child

a. Legal contexts

a.1. General provisions

- The 1999 Penal Code provides acts of buying, selling, fraudulently exchanging or appropriating a child and other child prostitution related acts (Arts. 120, 254, 255, 256).

- The Ordinance on Prostitution Prevention and Combat prohibits acts related to child prostitution (Art. 4).

- Resolution No. 05 issued in 1993 by the Government on Prostitution Prevention and Combat.

- Decree No. 49/CP issued in 1996 by the Government sanctioning administrative violations in the field of security and public order.

- Decree No. 87/CP issued in 1995 by the Government strengthening management of cultural activities, promoting elimination of a number of serious social evils.

- Decree No. 88/CP issued in 1995 by the Government on administrative measures in the field of cultural activities, cultural services and on the combat against a number of social evils.

- Decision No. 138/1998/QD-TTg issued in 1998 by the Government approving the National Program on Criminal Prevention and Combat.

- Decision No. 134/1998/QD-TTg issued in 1999 by the Prime Minister approving the Program of Action on Protection of Children with Special Circumstances for the period 1999 – 2002.

- Directive 766/TTg issued in 1997 by the Prime Minister on Assigning tasks of implementation of measures preventing the illicit transfer of women and children abroad.

a.2. Penalties

34. The 1999 Penal Code provides sentences from 3 to 10 years of imprisonment (para.1, Art. 120) that are applied for any acts related to children trafficking and child prostitution irrespective of forms of commission. Any person who commits the acts of buying, selling, fraudulently exchanging or appropriating a child for the purpose of prostitution shall be liable on conviction to imprisonment for a term ranging from 10 to 20 years or to life imprisonment (point g, para.2 Art. 120). In addition, the offender shall possibly be subject to a fine from 5 to 50 million dongs, banned from any post with title or from doing business or certain jobs in 1 up to 5 years, or liable on sanction to probation for a term ranging from 1 to 5 years.

35. Acts related to child prostitution (Art. 254 – Harboring prostitution; Art. 255 – Brokering prostitution; Art. 256 – Buying sex with minors) shall be subject to the following penalties:

- Harboring prostitution (Art. 254): any person who commits this offence against children from 13 to 16 years of age shall be liable on conviction to imprisonment for a term ranging from 12 to 20 years.

- Brokering prostitution (Art. 255): any person who commits this offence against children from 13 to 16 years of age shall be liable on conviction to imprisonment for a term ranging from 7 to 15 years.

- Buying sex with minors (Art. 256): any person who commits this offence against children from 13 to 16 years of age shall be liable on conviction to imprisonment for a term ranging from 3 to 8 years. Repetition of this offence shall be liable on conviction to imprisonment for a term ranging from 7 to 15 years (point a, para. 3, Art. 256).

36. The 2003 Ordinance on Prostitution Prevention and Combat:

- Art. 22 (para. 2) states that those who buy sex with minors or who, though being aware of their HIV infection, deliberately transmit the disease to other persons shall bear penal liabilities.

- Art. 24 (para. 2) states that those who act as go-between for prostitution, harbor prostitution, coerce prostitution, organize prostitution, traffic in women and/or children in service of prostitution shall bear penal liabilities.

a.3. Aggravating/extenuating circumstances

37. Aggravating/extenuating circumstances submitted to the court during the consideration of penalties are provided in Arts. 46 and 48 of the Penal Code. Following are the fixed aggravating circumstances provided in specific provisions:

38. Art. 120 – Buying, selling, fraudulently exchanging or appropriating children – provides 9 fixed aggravating circumstances, namely: commission of these offences in an organizational manner; in a professional manner; for vile purposes; buying, selling, fraudulently exchanging or appropriating many children to transfer abroad; to use for inhuman purposes; to use for prostitution; dangerous repetition of the offence; causing severe consequences.

39. Art. 254, para. 3 – Harboring prostitution – provides the fixed aggravating circumstances, namely commission of this offence against children from 13 to 16 years of age or causing severe consequences.

40. Art. 255, para. 3 – Brokering prostitution – provides the fixed aggravating circumstances, namely commission of this offence against children from 13 to 16 years of age or causing severe consequences.

41. Art. 256, para. 3 – Buying sex with minors – provides the aggravating circumstances, namely repeated commission of this offence against children from 13 to 16 years of age, commission of this offence with the offender being fully aware of his/her HIV infection, damaging the victim's health with an injury rate ranging from 61 percent upward.

a.4. Statute of limitations for penal liability examination

42. Para. 2, Art. 23, of the Penal Code stipulates that the statute of limitations for penal liability examination is 5 years for less serious offences, 10 years for serious offences, 15 years for very serious offences and 20 years for especially serious offences. Under this article, the statutes of limitations for penal liability examination are specified as follows:

43. Buying, selling, fraudulently exchanging or appropriating a child (Art. 120 of the Penal Code) shall be subject to a statute of limitations for penal liability examination of 15 years; buying, selling, fraudulently exchanging or appropriating many children or for the purpose of prostitution shall be subject to a statute of limitations for penal liability examination of 20 years.

44. Harboring prostitution (point a, para. 3, Art. 254, of the Penal Code) shall be subject to a statute of limitations for penal liability examination of 20 years.

45. Brokering prostitution (point a, para. 3, Art. 255, of the Penal Code) shall be subject to a statute of limitations for penal liability examination of 15 years if this offence is committed against children from 13 to 16 years of age.

46. Buying sex with minors (point b, para. 2; point a, para. 3, Art. 256, of the Penal Code) shall be subject to a statute of limitations for penal liability examination of 15 years if this offence is committed or repeatedly committed against children from 13 to 16 years of age.

b. Implementation

47. During past years, due to many negative effects of the market economy such as moral corruption and the pragmatic lifestyle of a number of people, the bad influence of cultural products with debauching contents, broken family relations and the inadequate awareness of a number of parents as well as the poverty in some localities, especially in a context where many transnational criminal rings are established and actively operated, the trafficking in and commercial sexual exploitation of children and child prostitution have emerged as burning social issues. The prevention of and combat against this social disease has been strongly promoted by the agencies concerned.

48. According to incomplete statistics from 1991 to 2002, the police forces at different levels have detected and arrested thousands of offenders engaged in trafficking women and children (trafficking within the country and trafficking abroad included). Among these cases, 1,818 cases with 3,118 accused were instituted on the charge of trafficking in women; 451 cases with 672 accused were instituted on the charge of buying, selling, fraudulently exchanging or appropriating children. Particularly, during the five years from 1998 to 2002, the police and border guards detected and handled 921 cases with 1,807 offenders engaged in trafficking in women and children.

49. In general, many large-scale, organized criminal rings were detected in cases of trafficking women and children and were jointly investigated, uncovered and justly handled by the police and border guards. From 1998 to 2002, different levels of the People's Court tried thousands of offenders engaged in trafficking in women and children. Most of the accused were subject to strict punishment in accordance with the law.

c. Restriction and orientation

50. Viet Nam shares a long border with neighboring countries, but not all these countries share Viet Nam's approach and measures in dealing with the above-mentioned offences. These differences, plus the limited awareness and modest economic conditions of the local people in a number of areas, constitute big obstacles in fighting crimes. On the other hand, the movement to heighten people's vigilance in guarding against these offences and to encourage detection and denunciation of these kinds of criminals is yet to be duly launched; the coordination among relevant agencies still leaves much to be desired. Law enforcement remains loose in certain places. As a result, many loopholes exist in the prevention of and fight against criminal cases and social evils. This provides convenient ground for criminal activities.

51. Presently, Viet Nam is actively and comprehensively developing fact-finding measures; boosting publicity dedicated to enhancing people's knowledge of the law, carrying out policies encouraging victims to make statements and denounce criminals, protecting and supporting victims to give testimony at court, promoting the functioning of law enforcement agencies in the detection, investigation and institution of cases and in handling key cases; facilitating close coordination between authorized bodies and the border guards along with the police force to reinforce supervision and control of border areas; pursuing and suppressing criminal rings devoted to trafficking children, commercial sexual exploitation of children and child prostitution;

promptly prosecuting in court cases uncovered in strict accordance with the law. Among other things, Viet Nam has been promoting cooperation with ASEAN countries and neighboring states in the Mekong region to prevent and combat these crimes.

2.2 Transferring organs of a child for profit

a. Legal contexts

52. Art. 120 of the 1999 Penal Code defines acts of offering, delivering or accepting, by whatever means, a child for the purpose of transfer of organs of the child for profit (point e, para. 2: buying, selling, fraudulently exchanging or appropriating a child for inhuman purposes). Para. 1, Art. 93 stipulates the prosecution of those who commit this offence on a charge of murder and application to the offenders of the highest degree of punishment up to death penalty (point c: child murder, point h: taking organs of the victim).

b. Implementation

53. In fact, Viet Nam has not detected and handled any case of offering, delivering or accepting a child for the purpose of transfer of organs of the child for profit.

2.3 Engagement of a child in forced labor

a. Legal contexts

a.1. General provisions

54. The 1994 Labor Code strictly prohibits abuse of child labor (Art. 119) and employment of children under 15 years of age, with exceptions in a number of occupations and jobs stipulated by the Ministry of Labor, War Invalids and Social Affairs (MOLISA) (Art. 120).

55. The 1999 Penal Code defines acts in violation of the regulations on use of child labor (Art. 228).

56. Decree No. 38/CP issued in 1996 by the Government on administrative measures handling violations of the labor legislation.

57. Directive No. 06/1998/CT-TTg issued in 1998 by the Prime Minister on strengthening the Protection of children, Prevention and Dealing with the problems of street children and children of labor exploitation.

58. Inter-ministerial Circular No. 09/TT-LB LDTBXH of MOLISA and the Ministry of Health stipulates harmful working conditions and categories of work in which the use of the labor of minors is not allowed.

a.2. Penalties

59. Art. 228 of the Penal Code provides liability to a fine ranging from 5 million to 50 million dongs and to probation in combination with reeducation for a term up to 2 years. The shortest term of imprisonment is 2 years and the longest term of imprisonment is 7 years. The offender can still bear an additional liability to a fine ranging from 2 million to 20 million dongs.

a.3. Aggravating/extenuating circumstances

60. Art. 228 of the Penal Code fixes aggravating circumstances where an offence is repeatedly committed, committed against many children or causes very serious consequences or especially serious consequences.

a.4. Statute of limitations for penal liability examination

61. Art. 228 of the Penal Code provides a statute of limitations for penal liability examination of 5 years; in case of the offence being repeatedly committed, committed against many children or causing very serious consequences or especially serious consequences, the statute of limitations for penal liability examination is 15 years (para. 2).

b. Implementation

62. In Viet Nam, there are no reported cases of children being treated as slaves, pledged or offered as payment of a debt or engaged in forced labor, nor is there compulsory recruitment of children for use in armed conflicts. In response to the Declaration of the 1997 World Conference on Child Labor held in Oslo, Viet Nam built a plan of action which promoted an interdisciplinary inspection function with regard to child labor. A tentative survey yielded the result that child labor is neither used in state enterprises nor in joint-ventures. A number of gold digging and sifting areas where abuse of child labor was detected were closed and banned from operation by local authorities.

c. Orientation

63. The State is carrying out programs on socio-economic development, hunger eradication and poverty alleviation along with job creation aimed at rural development in order to bridge the gap between urban and rural areas to ameliorate the situation where workers in rural areas, including children, flock to cities to earn their living. The functions of disciplinary inspection and handling violations have also been enhanced. In the future, the relevant function bodies will strengthen the implementation of the National Program of Action for Children for the period 2001-2010 and the Action Program on Prevention and Resolution of the problems of Street Children, Sex-abused Children and Children being overworked and working in poisonous and dangerous conditions.

2.4 Acting as an intermediary in the adoption of a child in violation of the law

a. Legal context

64. The 1995 Civil Code defines the rights to offering a child for adoption and to adopting a child (Arts. 40 and 59).

65. The 1999 Penal Code provides the punishment applicable to those acting as accomplices in illegal child adoption.

66. Decree No. 68/2002/ND-CP dated 10 July 2002 stipulates the adoption of Vietnamese children by foreigners (Art. 35, para. 2).

67. The 2000 Law on Marriage and Family, Chapter VIII.

68. Decree No. 32/2002/ND-CP dated 27 March 2002 stipulates the application of the Law on Marriage and Family to ethnic minorities.

b. Implementation

69. Domestic and inter-country adoptions are permitted by law in Viet Nam when the offerer and the accepter have legitimate objectives and motives without any sign of profit seeking, so that the child's best interests are safeguarded. However, a number of people have taken advantage of this in order to gain profit illicitly. Hence, the State issued relevant administrative and criminal legislation for the prevention of this offence.

70. To safeguard the observance of related international treaties by all individuals involved in child adoption, Viet Nam has signed a number of legal agreements with other countries regarding judicial and legal assistance, including the issue of child adoption, to create a legal framework for this activity. Viet Nam has so far been a signatory to the following treaties.

b.1. Treaties related to the settlement of legal conflicts with respect to child adoption

71. The Agreement on Judicial and Legal Assistance on Civil and Criminal Issues between the Socialist Republic of Viet Nam and the Socialist Republic of Czechoslovakia.

72. The Agreement on Judicial Assistance on Civil, Family, Labor and Criminal Issues between the Socialist Republic of Viet Nam and the Republic of Cuba (30 November 1984) (Art. 28).

73. The Agreement on Judicial Assistance on Civil, Family and Criminal Issues between the Socialist Republic of Viet Nam and the People's Republic of Hungary (18 January 1985) (Art. 41).

74. The Agreement on Judicial Assistance on Civil, Family and Criminal Issues between the Socialist Republic of Viet Nam and the People's Republic of Bulgaria (3 October 1986) (Art. 25).

75. The Agreement on Judicial Assistance on Civil, Family and Criminal Issues between the Socialist Republic of Viet Nam and the Republic of Poland (23 March 1993) (Arts. 30, 31, 32).

76. The Agreement on Judicial Assistance on Civil and Criminal Issues between the Socialist Republic of Viet Nam and the Lao People's Democratic Republic (06 July 1998) (Art. 31).

77. The Agreement on Judicial Assistance on Civil, Family and Criminal Issues between the Socialist Republic of Viet Nam and the Russian Federation (25 August 1998) (Art. 30).

78. The Agreement on Judicial Assistance on Civil, Family and Criminal Issues between the Socialist Republic of Viet Nam and Ukraine (06 April 2000) (Art. 29).

79. The Agreement on Judicial Assistance on Civil, Family and Criminal Issues between the Socialist Republic of Viet Nam and Mongolia (17 April 2000) (Art. 29).

80. The Agreement on Judicial Assistance on Civil, Family, Labor and Criminal Issues between the Socialist Republic of Viet Nam and the Republic of Belarus (14 September 2000) (Art. 32).

b.2. Agreements on the orders and procedures for child adoption

81. Under para. 2, Art. 35, of Decree No. 68/2002/ND-CP dated 10 July 2002, the adoption of children of Vietnamese nationality by foreigners residing abroad is considered and granted if Viet Nam and the country where the adopter is residing are signatories or parties to an international treaty on cooperation in respect of inter country adoption. So far, Viet Nam has signed agreements on cooperation regarding inter- country adoption with Italy (already entered into force), Ireland, Denmark, Sweden (not entered into force yet but has validity until both parties have completed all necessary procedures subject to the provisions of each particular agreement).

b.3. Regulations on the observance by all individuals involved in child adoption of related international treaties

82. Under Art. 18 of the Agreement on Child Adoption Cooperation between the Socialist Republic of Viet Nam and the Republic of France (signed in 1 January 2000), each signatory must guarantee that children who are citizens of the other signatory country and who are now residing in its territory as adopted children shall enjoy full protection and exercise of the rights enjoyed by children residing in its territory. If it is considered that continuously leaving a child in the custody of his/her adoptive parents is no longer in the child's best interests, the central agency of the receiving country must guarantee to take all necessary measures for the protection of the child.

83. Also, under Art. 19 of this Agreement, "the central agencies of the signing country must take appropriate measures to collect maintain and exchange information on status of the child and its adoptive parent(s) to a certain extent to carry out raising of the child. The central agency of the receiving country must take appropriate measures, subject to the law of that country, to provide information on the specific status of an adopted child as required with clarified reasons by the central agency of the country of origins of the child."

84. The domestic legislation also provides binding obligations for all individuals involved in child adoption to ensure that the child adoption is fully in accordance with the agreement to which Viet Nam is a signatory. The Government of Viet Nam issued Decree No. 184/CP dated 30 November 1994 which provides procedures for marriage, adoption of illegitimate children, child adoption, child sponsoring between Vietnamese citizens and foreigners. Under Art. 16, Chapter IV, of this Decree, those foreigners who apply to adopt Vietnamese children residing in Viet Nam shall file applications according to the set form that he/she shall, on an annual basis, inform the Ministry of Justice, Ministry of Foreign Affairs or the Consular Department where the decision on child adoption is issued of the development status of the adopted child until that child reaches age 18; this information must be accompanied by the certification of the authorized body of the country where the adopted child is residing.

85. Following the adoption of the new Law on Marriage and Family (2000), particularly following the signing of agreements on child adoption with France and Denmark, the Government of Viet Nam issued a new decree replacing the above mentioned Decree 184/CP in order to safeguard the observance of these agreements. Under Art. 47 (Completing procedures for child adoption) of Decree No. 68/2002/ND-CP dated 10 July 2002 of the Government detailing the implementation of a number of articles of the Law on Marriage and Family on marriage and family relations involving foreign factors, the adopter shall pay a fee and make a certification that he/she shall submit a written notice (according to a set form) to the provincial People's Committees and the International Child Adoption Agency on the development status of the adopted child every six months within the first three years of adoption and every year afterwards until the child reaches age 18.

86. It is clear that the laws of Viet Nam provide binding regulations for child adopters, ensuring that the child adoption is subject to provisions of the agreements/treaties on child adoption to which Viet Nam is a signatory or a party so that the best interests of the child are safeguarded. In order to reinforce and promote international relations in the judicial field, thus creating a legal framework for the healthy development of civil relations in accordance with the law while combating criminals and social evils, a number of important legal documents were issued, These were the 2000 Law on Marriage and Family and Decree No. 68/2002/ND-CP detailing the implementation of a number of articles of the Law on Marriage and Family on marriage and family relations involving foreign elements, including provisions on child adoption by foreigners. Decree No. 68/2002/ND-CP provides the regulations that serve as a framework for the handling of child adoption with foreign elements in a closer and more comprehensive manner, lessening administrative proceedings, ensuring feasibility in the handling and supervision of inter-country adoption-related activities, solving problems, limiting and preventing violations in the handling process and promoting the governance of State bodies. Presently, Viet Nam has already established the Department of Inter-Country Adoption under the Ministry of Justice, which is the State body governing child adoption.

87. Progress has been made in the field of inter-country adoption and under the above mentioned policies, specifically regarding cases in which inter-country adoption has been undertaken for profit. The number of these cases has been considerably reduced and the offenders were strictly punished.

c. Restriction and orientation

88. However, problems in the governance and implementation of child adoption still remain. Although Viet Nam has established the Department of Inter-Country Adoption under the Ministry of Justice with the mandate of a state body governing child adoption, there is no authorized domestic child adoption organization. Hence, all tasks of recommending potential children for adoption, contacting adopters, clarifying family situations and determining the origins of the children are undertaken by centers of child caring and sponsoring, the Division of Justice and Police Agencies. As a matter of fact, the functioning of these bodies is still limited. Another difficulty is raised by illegal intermediaries for child adoption.

89. In the future, these operating mechanisms must be actively strengthened; on the other hand, Viet Nam must actively make preparations for the signing of the Hague Convention on Protection of Children and Cooperation with respect to Inter-Country Adoption.

90. Institutionally, the amendment and supplementing of many legal documents have been considered to ensure that they are in conformity with the Convention and will be effectively enforced. Various workshops were organized to appraise the real situation and make recommendations on the amendment of legal regulations related to child adoption, among which was the Workshop co-hosted by the Ministry of Justice and UNICEF on perfecting Viet Nam's laws so as to be able to ratify the Hague Convention on Inter-Country Adoption held in Ho Chi Minh City in December 2003 serves as a typical example.

2.5 Producing, disseminating, propagating, importing, exporting, buying, selling and possessing child pornography

a. Legal context

a.1. General provisions

91. The 1999 Penal Code defines acts of producing, disseminating, propagating, buying or selling child pornography (Art. 253).

92. The 2001 Ordinance on Advertisement prohibits advertisement of products and goods with reactionary and debauching contents (paras. 7 and 8, Art. 8).

93. Decree No. 11/1999/ND-CP dated 3 March 1999 of the Government on goods banned from circulation, commercial services banned from provision, goods and commercial services subject to business restriction or conditional business.

94. Decree No. 55/2001/ND-CP dated 23 August 2001 of the Government on managing, producing and using Internet services; dealing with the abuse of Internet services in violation of moral values, customs and traditions and other violations of the law (Art. 11).

95. Decree No. 31/2001/ND-CP dated 26 June 2001 by the Government on sanctioning administrative violations in the culture and information field stipulated clearly the administrative penalties for the following acts (which are not serious enough for penal liability examination):

- Selling books, newspapers, paintings, pictures and calendars or leasing books and newspapers with contents propagating debauchery or obscene lifestyles or inciting violence (point c, para. 3, Art. 18).

- Authors with published works, publishing houses or licensed organizations, which publish publications with contents showing debauchery, obscene lifestyle or social vices (para. 3, Art. 20).

- Printing or duplicating works or publications that contain debauchery, obscenity or violence (point a, para. 4, Art. 21).

- Producing films, video tapes and/or video discs with debauchery or obscene contents that encourage social vices (point a, para. 4, Art. 23).

- Duplicating films, video tapes and/or video discs with contents of debauchery and/or obscenity or inserting sounds and/or images of debauchery or obscenity into films, video tapes and/or video discs (point b and c, para. 5, Art. 24).

- Selling, renting or distributing films, video tapes and/or video discs with contents of debauchery, obscenity or incitement to violence (point b, para. 7, Art. 25).

- Admitting children under 16 into cinema houses and/or places, where there are screened films, video tapes and/or video discs that are banned from being watched by children less than 16 years old (point b, para. 1, Art. 26).

- Screening films, video tapes and/or video discs with debauchery, obscenity or violence-inciting contents.

- Duplicating music tapes and/or music discs with debauchery, obscenity and/or violence-inciting contents.

- Inserting sounds and/or images with debauchery, obscenity and/or violence-inciting contents into music tapes or discs (point c, para. 1, Art. 29).

- Producing music tapes and/or music discs with debauchery, obscenity and/or violence-inciting contents or inserting sounds and/or images with debauchery, obscenity and/or violence-inciting contents into music tapes and/or music discs (point a, para. 2, Art. 29).

- Disseminating music tapes and/or music discs with debauchery, obscenity and/or violence-inciting contents.

- Performing art works with debauchery, obscenity and/or violence-inciting contents (point b, para. 4, Art. 32).

- Selling or renting electronic game tapes and/or discs with debauchery, obscenity and/or violence-inciting contents (point b, para. 1, Art. 36).

- Putting up for display paintings, pictures, calendars or other objects of debauchery, obscenity or a violence-inciting nature at dancing halls, public dancing places, karaoke bars or other places of cultural activity and cultural services (point a, para. 2, Art. 37).

- Circulating music tapes and/or discs, films, video tapes and/or discs with debauchery, obscenity and/or violence-inciting contents at dancing halls, public dancing places, karaoke bars or other public places of cultural activity and cultural services (point c, para. 4 and point b, para. 5, Art. 37).

- Putting up for display or hanging paintings and/or pictures with debauchery, obscenity and/or violence-inciting contents or circulating music tapes and/or discs, films, video tapes and/or discs of debauchery, obscenity and/or violence-inciting

contents or performing theatrical works, music pieces and/or dances with debauchery, obscenity or violence-inciting contents at accommodation establishments and/or restaurants (point a, para. 1, and point b, para. 2, and point b, para. 3, Art. 38).

96. Decision No. 33/2002/QD-TTg dated 8 February 2002 by the Prime Minister approving the plan on Viet Nam's Internet Development in the 2001-2005 period introduced measures to perfect the legal system and enhance the capability of state management of the Internet, including penalties for computer and internet crimes.

97. Decision No. 27/2002/QD-BVHTT dated 10 October 2002 by the Minister of Culture and Information on the promulgation of the Statute on Management and Issuance of Permits for Supplying Information and Establishing Websites on the Internet. Art. 4 states that all information provided by an information provider on the Internet or on an electronic newspaper website is prohibited from inciting pornography, violence or crimes.

98. The list of goods banned from circulation and commercial services banned from provision in the culture and information field (promulgated together with Decision No. 88/2000/QD-BTM dated 18/1/2000 by the Ministry of Trade) stipulates the following banned cultural products and toys:

- Reactionary, debauching or superstitious cultural products or those harmful to ethical education that are banned from circulation are books, newspapers, magazines, paintings, pictures, calendars, posters, catalogues, leaflets, folding sheets, slogans, parallels, tapes and discs for audio and visual recording, films (including motion-picture and videos), photographs, applied fine-art works and other cultural documents and products with reactionary, debauching and superstitious contents or that are harmful to ethical education.

- Toys in form of cultural products (printed materials, tapes, discs), electronic toys featured with images, sounds or actions describing human fighting and killing in a barbarous manner or acts offending human dignity or destructive of the environment that are harmful to the aesthetic and ethical education of children.

a.2. Penalties

99. The 1999 Penal Code provided penalties on:

- Production, duplication, circulation, transport, sale, purchase or stockpiling of child pornography in the form of cultural products (Art. 253 on disseminating depraved cultural products): A fine of between five million dong and fifty million dong, non-custodial re-education for a period of up to three years, or between six months and fifteen years of imprisonment. An additional penalty is a fine of between three million dong and thirty million dong. Offenders against juveniles shall be punished under para. 2 of the Art. and sentenced to between three and ten years of imprisonment.

100. Decree 55/2001/ND - CP of the Government dated 28 August 2001, Art. 41, para. 5, point h, stipulated: Fine between ten million dong and twenty million dong for any one violation

such as posting on the Internet or using the Internet to propagate depraved information and pictures, or information against the law concerning information on the Internet, but not beyond the boundary of criminal responsibility. In addition to this principal penalty, depending on the nature and extent of the violation, violators can be punished by an additional penalty of being temporarily or permanently suspended from having access to or using Internet services (point a, para. 8, Art. 41).

a.3. Aggravating or extenuating circumstances

101. Art. 253 of the Penal Code stipulates a provision on disseminating debauching cultural products (para. 2): aggravating circumstances are crimes committed in an organized manner; objects involved in the offense are in very great quantities; crimes are committed against juveniles; the crimes cause serious consequences or constitute a case of dangerous recidivism.

a.4. The statute of limitations for penal liability examination

102. According to Art. 253, para. 2, the statute of limitations for penal liability examination for the crime of disseminating debauching cultural products is 10 years if committed against juveniles.

b. Implementation

103. At present, children are at risk of being affected by pornography books, newspapers and toys that are mainly imported from foreign countries. On the other hand, the development of information technology has led to the universal availability of Internet services related to sex such as games, chatting, e-mail, and sex-related websites that are easy ways for propagating cultural products associated with child pornography.

104. Under Decree No. 31/2001/ND-CP of the Government on Administrative Penalties on Infringements in the Field of Culture and Information dated June 26, 2001 and Decree No. 55/2001/ND-CP of the Government on the management, provision and use of Internet services dated August 23, 2001, a number of inspection activities have been conducted by agencies and inter-agency teams in charge of culture and information at different levels. Many serious violations have been handled, including violations of regulations on providing information on the Internet as well as operations of websites on the Internet. In the years between 2000 and 2003, 120.000 supervision and inspection activities were carried out in the field of culture and information that detected more than 600 dangerous games for children and more than 400 pornographic discs and tapes. Administrative fines for such violations accounted for over 10 billion dong, while more than 100 cases were put under investigation for criminal offences.[1]

105. The Government has not only augmented investment for construction of recreational and leisure centers for children and encouraged the production of children's toys, but also prohibited products that produce negative effects on the development of children's identity and spiritual health.

2.6 Handling of means and tools used to commit crimes:

a. Legal context:

a.1. Seizure and confiscation of goods and proceeds referred to in Art. 7 (a) of the Optional Protocol

106. Art. 120 of the Criminal Procedure Code provided: investigators may seize objects that are exhibits as well as documents directly related to the cases. Objects falling into categories banned from storage or circulation must be forfeited and immediately delivered to competent management bodies. In case of the need to seal objects, such sealing must be conducted at the presence of the owners of such objects or their families' representatives along with the administration's representatives as well as witnesses.

107. Art. 41 of the 1999 Penal Code provided: The Court can decide to confiscate the tools and means used to commit crimes along with objects or money acquired through the commission of crime or the trading or exchange of such things. However, objects and/or money illegally seized or used by offenders shall not be confiscated but shall be returned to their lawful owners or managers. Objects and/or money belonging to other persons, if these persons are at fault in allowing offenders to use them in the commission of crimes, may be confiscated by the State.

a.2. The closing, on a temporary or definitive basis, of premises used to commit offences as provided for in Art. 3, para. 1, of the Optional Protocol

108. Premises used to commit offences in relation to violations as provided in Art. 3, para. 1, of the Optional Protocol are considered, in Viet Nam's criminal law, as tools and means used to commit crimes. Therefore, the status of such premises will be similar to objects used to commit offences.

b. Implementation

109. It has been stated above that between 2000 and 2003, there was over 100,000 inter-sectorial inspections in the field of culture and information. Violations have been found on more than 25,000 premises; 1,000 premises have received warnings; 400 premises have been suspended from operation; 100 operating licenses temporarily impounded; and many cases have received administrative penalties or been followed by criminal proceedings. Thousands of video sets and hundreds of thousands of discs, tapes, pictures, magazines, and other exhibits have been confiscated.[2]

B. Extradition (Art. 5 of the Protocol)

1. Extradition policies

110. The extradition of criminals is guided by the 2003 Criminal Procedure Code, based on international agreements, which Viet Nam has signed or acceded to, and other judicial mutual assistance agreements with the Czech Republic, Cuba, Hungary, Bulgaria, Poland, Laos, the Russian Federation, Ukraine, Mongolia, Belarus and so on. As Viet Nam now reserves paras. 1, 2, 3 and 4 of the Art. 5, this Protocol cannot be used as a basis for extradition.

111. As provided by the above-mentioned judicial mutual assistance agreements, extradition is applied only to those whose illegal acts are considered crimes and charged with specific imprisonment under Vietnamese and the other signatory's law (for example, Art. 62 of the Viet Nam-Czech judicial mutual assistance agreement states that extradition is aimed at examining the penal liabilities or administering punishments against those offenders of crimes which may face a sentence of over 1 year imprisonment). Therefore, insofar as a violation stated in Art. 3 of the Protocol is not considered as a crime by the other signatory, Viet Nam cannot request extradition of persons who committed that act. Even when such acts are considered crimes and punitive actions are not as strong as those provided under the judicial mutual assistance agreement, it is impossible to request an extradition of persons who have performed such acts.

112. As regards refusal of extradition, international agreements signed between Viet Nam and some other countries do not have identical provisions. However, in general, in the following cases extradition may be refused: (1) persons to be extradited are citizens of the requested country; (2) at the time of extradition requests, under the laws of the requested country, the prosecution of the case or execution of judgment on the case cannot be implemented since the statute of limitations has expired or for other lawful reasons; (3) persons requested to be extradited have been convicted in the requested country under legally valid judgments for the criminal acts stated in the extradition requests or criminal proceedings of the cases have been ceased; (4) under laws of the two signatory countries, the offenders are prosecuted for penal liability according to the procedure of private prosecution; (5) crimes were committed in the territory of the requested country.

113. In cases of extradition refusal, if persons requested to be extradited are the citizens of Viet Nam they can be examined for penal liability according to the Penal Code of Viet Nam (Arts. 5 and 6 of the Penal Code). Viet Nam may refuse to extradite in cases provided in Art. 344 of the Criminal Procedure Code, as follows: (1) persons requested to be extradited are Vietnamese citizens; (2) under the provisions of the laws of the Socialist Republic of Viet Nam, the persons requested to be extradited cannot be examined for penal liability or serve penalties as the statute of limitations therefore has expired or for other lawful reasons; (3) the persons requested to be extradited for penal liability have been convicted by the courts of the Socialist Republic of Viet Nam under legally valid judgments for the criminal acts stated in the extradition requests or the cases have ceased under the provisions of the Criminal Procedure Code; and (4) the persons requested to be extradited are residing in Viet Nam for reasons of possible ill treatment in the extradition-requesting countries on grounds of race, religion, nationality, ethnicity, social status or political views. In one or another of the following cases the extradition requests may be refused: (1) under the criminal legislation of Viet Nam, the acts taken by the persons requested to be extradited do not constitute offenses; and (2) the persons requested to be extradited are being examined for penal liability in Viet Nam for the acts stated in the extradition requests.

114. In recent years Viet Nam has neither requested nor allowed extradition of juvenile delinquents. Extradition is generally requested or allowed only when Viet Nam and other countries have already signed a judicial or penal mutual assistance agreement. Viet Nam shares its borders with China, Laos and Cambodia. China and Laos have signed such agreements with Viet Nam. Although Cambodia has yet to sign the agreement, the two governments have

unilaterally agreed on extradition as a result of their traditional bilateral relationship. Generally, border provinces of the two countries will negotiate to request or allow a specific extradition. Most provincial administrations have gone along well with this. If not, they report to the central government for settlement in conformity with the judicial mutual assistance agreement or proceed through diplomatic channels.

2. Time limits for extradition

115. Neither the Criminal Procedure Code nor other judicial mutual assistance agreements have specific provisions for time limits for extradition. Under these agreements, however, the extradition - requesting country must first and foremost present its requests and all documents required to the other party. In principle, the requested country can ask for additional documents within two months, which can be extended to two more months. Upon receipt of these requests and documents, the requested country will arrest the persons requested to be extradited. In cases where the extradition-requesting country fails to take charge of the persons requested to be extradited within two months after the notification of the arrest, persons requested to be extradited will be released.

116. As extradition depends on the detention of persons requested to be extradited by the requested country, it is impossible to define the average length of time for extradition.

117. In 2002, a Vietnamese citizen stole the property of another Vietnamese citizen in the Czech Republic. Viet Nam did not succeed in its bid to request for extradition because the Czech authorities argued that the offence has taken place in the Czech Republic and, therefore, would be prosecuted in accordance with Czech law. This kind of outcome has not been the case for child-related crimes.

118. As regards reservations by Viet Nam to the Protocol, according to provisions stated in Chapters 36 and 37, Part VIII on international cooperation in criminal proceedings of the amended Criminal Procedure Code, extradition for examination of penal liabilities shall be carried out in conformity with international agreements that the Socialist Republic of Viet Nam has signed or acceded to or else carried out according to the principle of reciprocity. Part VIII also provides for extradition-refused cases, included for the first time in the Criminal Procedure Code, to serve as a legal ground for extradition of criminals between Viet Nam and those countries that have or have not signed an agreement on extradition. Also, joint extradition efforts will ensure thorough and effective prosecution of juvenile-related crimes. For those reasons, in the future Viet Nam is likely to consider the possibility of annulling its reservations on paras. 1, 2, 3 and 4, Art. 5 of the additional Protocol.

C. Jurisdiction (Art. 4 of the Protocol)

119. The following elements are relevant:

1. Legal context

- The 1999 Penal Code.
- The Criminal Procedure Code.

- Directive No. 766/TTg dated 17 September 1997 by the Prime Minister on assignment of responsibilities to ministries, agencies and localities to implement preventive measures against illicit cross-border trafficking of women and children.

- Resolution No. 09/1998/NQ-CP dated 31 July 1998 by the Government on enhancing the work of crime fighting and prevention in the new circumstances.

- Decision No. 138/1998/QD-TTg dated 31 July 1998 by the Prime Minister ratifying the national program for crime fighting and prevention.

- Directive No. 06/1998/CT-TTg dated 23 January 1998 by the Prime Minister on enhancing the work of child protection and settlement of street children as well as labor-exploited children.

- Decision No. 134/1999/QD-TTg dated 31 May 1999 by the Prime Minister to approve the program of action for the protection of children under special circumstances for the 1999-2002 period.

120. The Penal Code of Viet Nam does not provide specific provisions on jurisdictions over crimes stated in para. 1, Art. 3 of the Optional Protocol. However, it stipulates provisions relating to jurisdiction over all kinds of crimes as follows:

1.1 Legislative measures

121. (a) Art. 5 of the 1999 Penal Code stipulates that the Penal Code applies to all criminal acts committed in the territory of the Socialist Republic of Viet Nam. For foreigners who commit offenses in the territory of the Socialist Republic of Viet Nam but are entitled to diplomatic immunities or consular privileges and immunities under Vietnamese laws or under international treaties which the Socialist Republic of Viet Nam has signed or acceded to, their criminal liabilities shall be settled through diplomatic channels.

122. Art. 172 of the Criminal Procedure Code, which has just been ratified by the National Assembly of the Socialist Republic of Viet Nam, stipulates: "Offenses committed on board aircraft or sea-going ships of the Socialist Republic of Viet Nam, which are operating outside the airspace of the territorial sea of Viet Nam, shall fall under the jurisdiction of the Vietnamese courts at the airports or seaports of first return or the places where such aircraft or sea-going ships are registered".

123. (b) Para. 2, Art. 6 of the 1999 Penal Code stipulates: Vietnamese citizens who commit offenses outside the territory of the Socialist Republic of Viet Nam may be examined for penal liability in Viet Nam according to this Code. This provision is also applied to persons without citizenship residing in the territory of Viet Nam. Foreigners who commit offenses outside the territory of the Socialist Republic of Viet Nam may be examined for penal liability according to the Penal Code of Viet Nam in circumstances provided for in the international treaties which the Socialist Republic of Viet Nam has signed or acceded to.

124. (c) The Code does not stipulate specific provisions on jurisdiction over crimes on the basis of the nationality of the victims.

125. (d) According to Viet Nam's laws, Viet Nam does not implement extradition requests on Vietnamese citizens to be extradited for examination of penal liabilities. For foreigners who commit offenses while in the territory of Viet Nam, extradition will be implemented in conformity with mutual judicial assistance agreements and other international treaties which Viet Nam has signed or acceded to. If Viet Nam and the extradition-requesting countries have not yet signed mutual judicial assistance agreements or other relevant international treaties, extradition will be implemented on the principle of reciprocity and on a case-by-case basis. Viet Nam shall not respond to extradition requests in cases where the persons requested to be extradited are residing in Viet Nam for reasons of possible ill treatment in the extradition-requesting countries on grounds of race, religion, nationality, ethnicity, social status or political views.

1.2 Judicial measures

126. Under the Criminal Procedure Code of Viet Nam, investigating bodies, procuracies and courts exert full authority over legal proceedings against crimes as a whole, and particularly against trafficking of children, child prostitution and pornography, which were committed in the territory of Viet Nam or carried out by Vietnamese citizens, save in some cases.

127. Art. 2 of the Criminal Procedure Code provides that "The Criminal Procedure Code shall be applied to legal proceedings by the Vietnamese investigating bodies, procuracies and courts. Criminal proceedings against foreigners who commit offenses in the territory of the Socialist Republic of Viet Nam and who are citizens of the member states of the international agreements which the Socialist Republic of Viet Nam has signed or acceded to shall be carried out in accordance with the provisions of such international agreements. For foreigners committing offenses on the territory of the Socialist Republic of Viet Nam, who are entitled to diplomatic privileges or consular preferential treatment and immunities in accordance with Vietnamese laws, international agreements which Viet Nam has signed or acceded to or in compliance with international practices; their cases will be settled through diplomatic channels."

1.3 Other measures in relation to jurisdiction over criminal acts

128. According to Art. 4 of the Law on Vietnamese Citizenships dated 31 December 1998, Viet Nam does not extradite Vietnamese citizens to another country for the examination of penal liabilities.

129. On 12 December 2000, Viet Nam signed the United Nations Convention against Transnational Organized Crimes, which stipulated provisions on jurisdiction outside the territory of a country. In the future, after Viet Nam's ratification of the Convention, para. 2 of Art. 6 of the Penal Code can be applied to jurisdictions outside the territory over cases stated in Art. 15 of the Convention. According to Art. 15 of the Convention, a State Party may establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party;

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(c) The offence is:

(i) One of those established in accordance with Art. 5, para. 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;

(ii) One of those established in accordance with Art. 6, para. 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with Art. 6, para. 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

130. As provided by para. 2, Art. 6 of the Penal Code, judicial mutual assistance agreements can also be used as the legal basis for Viet Nam to exercise its jurisdiction over foreigners who commit crimes outside the territory of Viet Nam. Viet Nam has signed a variety of judicial mutual assistance agreements with the Russian Federation, Ukraine, Mongolia, Poland, Laos, Republic of Korea, Czech Republic, Cuba, Hungary, Bulgaria, Belarus, and People's Democratic Republic of Korea. However, these agreements are mainly aimed at such measures as transfer files, investigation, evidence gathering, and extradition for examination of penal liabilities or court judgment enforcement while jurisdiction is guided by domestic law. Also under these agreements, when it comes to judicial mutual assistance, the requested bodies shall apply their own domestic law, or adopt normative procedures of the signatory if requested, as long as these procedures are not contrary to the law of the signatory. In the event of legal incompetence, the requested bodies shall pass the request for judicial mutual assistance onto a competent agency and inform the requesting bodies of the matter. The agreements also specify responsibilities to criminally prosecute the offender, along with procedures for judicial mutual assistance as part of criminal prosecution.

2. Implementation

131. Under the government's guidance, various measures have been taken to combat child trafficking and prostitution.

132. The Ministry of Internal Affairs (now known as the Ministry of Public Security) has produced statistics on cross-border trafficking of women and children; identified hotbeds and fought against groups illegally trafficking women and children abroad; inspected and rooted out illegal foreign-related marriage promotion centers; dealt with travel agents violating regulations on taking people aboard; investigated into and punished individuals and groups selling women and children abroad for sex trade; tightened border controls; formulated and implemented projects on "Prevention and control of organized crimes, criminal crimes of grave dangers, and crimes of international characteristics" and the "Prevention of all abuse of children and juvenile delinquency".

133. Over the past 5 years of implementation (1998-2002), the police at all levels have suppressed 658 cases with 1,239 offenders of trafficking in women and children, and have rescued hundreds of women and child victims.[3] The Ministry of Justice has served as a focal point to draw up and complete a series of related legal documents, for example the 1999 Penal Code, as well as proposals for Viet Nam to accede to other related international agreements such as the UN Convention against Transnational Organized Crimes.

134. The Ministry of Foreign Affairs, through its diplomatic missions abroad, has provided information on related crimes and has made joint efforts to repatriate the victims. The Ministry of Labor, Invalids and Social Affairs (MOLISA) has taken the lead in completing a wide range of policies on the prevention of prostitution, including sexual abuse of children; for example the 2001-2005 Action Program on prostitution prevention and control and the 2003 Ordinance on prostitution prevention and control. MOLISA also put in place a project on "Prevention of the abuse of human dignity, honor and sexual abuse, especially for commercial purposes", provided repatriated women and children with vocational training and jobs, and rehabilitated those victims with sexually transmitted diseases to health and educational centers.

135. The Ministry of Trade and the General Department of Tourism have strengthened their control over tourist services, immigration and emigration to detect and prevent women and children from being illegally taken abroad. The Committee for Child Care and Protection (now known as the Committee for Population, Families and Children - CPFC) have put in place a project on "Communication, education and counseling in different forms for families and communities for the protection and care of children in special circumstances" as well as prevention, repatriation and rehabilitation schemes for child victims.

136. MOLISA has also made concerted efforts to put forward a project on the prevention and resolution of the problems of child homelessness and child labor along with providing guidelines for the enforcement of adolescent labor regulations. The Ministry of Education and Training has developed a study-promotion policy targeted at poor students and remote, mountainous and disadvantageous areas. CPFC has coordinated studies to identify the role of families and communities in strategies for child care, protection and education; piloted a resource-mobilizing scheme for the prevention and settlement of child homelessness and labor. Local People's Committees have demanded local agencies and law enforcement forces to tighten their border controls, management of the population, to fight against the trafficking of women and children, and to incorporate the prevention and resolution of problems concerning children under special circumstances (including trafficked and sexually abused children) in line with local socio-economic development goals. This has been clearly demonstrated by poverty alleviation programs and mutual assistance for household economies.

137. These achievements have resulted in a dramatic change in both the awareness and actions of the whole society concerning child protection and the work of preventing and reducing the number of children in special circumstances, including trafficked children and child sex workers. As a result, the growth of trafficking in children and child abuses has been checked.

D. Protection of the interests of child victims (Arts. 7 and 8 of the Protocol)

138. As children are by nature physically, mentally, psychologically and physiologically immature and vulnerable, Vietnamese law always gives special priority to protecting them from abuses. All of Viet Nam's legislative, judicial and administrative measures are being taken in the best interest of children.

139. Art. 20 of the 1995 Civil Code states: A person aged between 6 years old and less than 18 years old must seek permission from his/her lawful representative to enter into and carry out civil transactions, except those required for providing daily necessities and that are suitable to their age.

140. The 1999 Penal Code provides that educational and preventive measures must be used to help juvenile offenders raise their own awareness and correct their own shortcomings in order to reintegrate themselves into their families and communities so as to become decent citizens. The penal liability examination and imposition of penalties, particularly imprisonment, on juvenile offenders shall only apply to cases where it is absolutely necessary and must be based on the nature of the criminal acts, the personal characteristics of the defendants and the requirements of crime prevention. Additional judicial measures and penalties have been added in order to broaden the possible measures that may be applied while not denying the freedom of juvenile offenders. Life imprisonment or the death sentence shall not be imposed on juvenile offenders. Fines shall not be applied to juvenile offenders aged under 16 years; additional penalties shall not be applied to juvenile offenders.

141. The 2000 Marriage and Family Law.

142. Arts. 119, 120, 121, 122 and 125 of the amended 2002 Labor Code.

143. Decision No. 134/QD-TTg dated May 31, 1999 by the Prime Minister on the approval of the 1999-2002 program of action for protection of children in special circumstances has been implemented in five projects: Prevention and settlement of the problem of street children and abusive child labor; Prevention of the abuse of human dignity, honor and sexual abuse, especially for commercial purposes; Prevention of the drug abuse among children; Prevention all abuse of children and juvenile delinquency; Communication, education and counseling in different forms for people, families, and children.

144. Decision No. 23/2001/QD-TTg dated 26 February 2001 by the Prime Minister on the ratification of the Viet Nam National Program of Action for Children in the 2001-2010 period is mainly aimed at creating the optimum conditions to meet the needs and basic rights of children fully, prevent and push back the dangers of harming children, build a safe and healthy environment for Vietnamese children to have the opportunity to be protected, cared for, educated and develop in all fields and have an ever-better life. The program also set specific objectives on health, nutrition, grassroots education, clean water and environmental hygiene, cultural and re-creative activities as well as the protection of children.

145. Decision No. 130/2004/QD-TTG dated 14 July 2004 by the Prime Minister on the approval of the Action Program on Prevention and Struggle Against Crimes of Trafficking in Women and Children for the period 2004-2010.

146. Child adoption agreements between Viet Nam and France, Italy, Denmark, Ireland and Sweden.

147. Decision No. 72/2001/QD-TTg dated 4 May 2001 by the Prime Minister on the Family Day of Viet Nam.

148. Circular No. 21/1999/TT-BLDTBXH dated 11 September 1999 by the Ministry of Labor, Invalids and Social Affairs (MOLISA) stipulating categories of occupations allowed to take children under the age of full 15 years to work along with the and requirements for doing so.

149. Children are victims in all cases of juvenile delinquencies or abuse. For child victims of offenses relating to the sale of children, child prostitution, and child pornography, safeguarding the best interests of children has been the primary goal in all stages of judicial procedure.

1. Ensuring criminal investigations in cases where the actual age of the victim cannot be established and measures to establish the age of victims

1.1 Legal context

150. The 2000 Criminal Procedure Code has a specific chapter on prosecution proceedings in cases where the accused and defendants are both juvenile:

- Art. 100 provides that criminal cases will be instituted only when indications of criminal activity have been identified. The identification of indications of criminal activity shall be based on the following grounds: denunciation of citizens; information reported by agencies or organizations; information reported by the mass media; criminal indications directly detected by investigating bodies, procuracies, courts, border guards, customs or rangers; and confession by offenders.

- Art. 150 provides that investigating bodies shall examine scenes where offenses have been committed or detected in order to find traces of offense, exhibits and to clarify circumstances significant to the cases. Furthermore, autopsy shall be conducted by investigators with the participation of forensic doctors and in the presence of eyewitnesses (Art. 151).

- Art. 302 provides that in the process of investigation, prosecution and trial, the following information must be clarified: age, physical and mental development levels, indications of criminal acts engaged in by minors; living and education conditions; whether or not the crimes were incited by adults; causes and conditions of the commission of offenses.

151. Decree No. 83/1998/ND-CP dated 10 October 1998 by the Government on civic status registration:

1.2 Implementation

152. As it is important to establish the age of a person in order to decide whether he/she is an adolescent or not so that appropriate provisions of the law can be applied, Vietnamese law contains relevant and well-founded provisions. If a child is a victim of a criminal offense, the determination of age is an important basis on which to define the crime and its penalties. If a child is an offender, the determination of age is also a basis on which to decide whether criminal punishment or administrative penalties will be applied. For a juvenile offender (above the age

of 14 years and under the age of 18) whose date of birth has not been determined exactly, December 31st of the birth year will be used to define the age for assigning criminal responsibility.

153. In the event of disagreement among documents or testimonies regarding the age of the child, the authorities or competent judicial bodies must apply the principle of the best interests of children.

2. The rights of the child victims to dignity, self worth and education; the right of their parents or guardians to be present; the right to be represented by a legal adviser or to apply for free legal aid; legal consequences for juvenile offenders

2.1 Legal context

154. The Law on Child Protection, Care and Education prohibits ill-treatment, humiliation or abandonment of children (Art. 8, para. 2).

155. The 1999 Penal Code dedicates all of Chapter 12 to crimes infringing upon human life, health, dignity and honor. This reflects the humanitarian approach taken as well as the priority given to the protection of children. The Code provides severe penalties for acts committed by adults that infringe upon the lives, health, dignity and honor of children.

156. The 2000 Criminal Procedure Code, Chapter 31, provides procedures applicable to minors and stipulates the rights and obligations of children serving as witnesses as well as those of minors with interests related to criminal cases whose testimonies the procedure-conducting bodies must take in the presence of their lawful protectors. Children will be taken into care by their relatives or the administrations of their places of residence when their parents or care-takers are held in custody, arrested or sentenced to imprisonment:

- Point a, para. 3, Art. 42 on defense counsels of parties involved stipulates that where the persons involved are minors or persons with mental or physical defects, their lawful protectors have the right to attend the taking of their ward's statements and to be present at interrogations conducted by bodies with procedural competence. They also have the right to appeal against verdicts or decisions by the court, which are related to the rights and obligations of persons under their protection.

- Para. 1, Art. 73 provided: In cases where persons arrested in custody or temporary detention have children under the age of 14 years old, the bodies which have issued the custody decisions or temporary detention warrants shall assign such young persons to the care of their relatives or the administrations of the places where they live.

- Para. 5, Art. 110 provided: the taking of statements from persons aged under 16 years old must be witnessed by their parents, lawful representatives or representatives of their schools.

- Para. 3, Art. 185 provided: in cases where the witnesses are minors, the court may request assistance from these witnesses' parents, lawful representatives or representatives of their schools.

- Art. 272 provides: in the process of investigation, prosecution and trial, the following information must be obtained: the ages of the defendants; their physical and mental development levels; their level of perception, if minors, of criminal acts; their living and educational conditions; whether or not their acts were incited by adults; as well as the causes and conditions of their commission of the offenses in question.

- Art. 37, Art. 275 provides that the lawful representatives of minors can participate in the various stages of criminal procedure. Where the accused or the defendants are minors or their lawful representatives refuse to select defense counsels for them, investigating bodies, procuracies and courts must request bar associations to order lawyers' offices to appoint defense counsels for them. In this case, the accused or defendants or their lawful representatives can propose to change or to refuse defense counsels.

- Para. 3, Art. 109 provides: summons of witnesses aged under 16 years shall be handed to their parents or other lawful representatives.

- Para. 1, Art. 277 provides: The composition of a trial panel must include a juror who is a teacher or a cadre of the Ho Chi Minh Communist Youth Union.

2.2 Implementation

157. The Government of Viet Nam has established a wide variety of legal assistance or consultancy centers and has encouraged these institutions to support the child victims of social vices or crimes. There are now 72 centers throughout the country that offer free consultancy or legal advice to children. Those centers give psychological, physiological and legal advice to children in order to raise their awareness and boost their confidence. Children are also offered defense before a court of law free of charge.

158. The rights of children to dignity and self worth, the right of parents or guardians to be present, and the children's right to be represented by a legal adviser are also important principles stressed in training courses for law enforcement officers. In the future, however, more efforts should be made to strengthen this kind of training.

3. The right to be informed about the legal process and about the rights and responsibilities of the child; the child's right to express his/her views, needs and concerns

3.1 Legal context

159. The 1992 Constitution, Art. 69, provides that citizens shall enjoy freedom of opinion and speech as well as the right to be informed.

160. The 1998 Law on Complaints and Denunciations, para. 1, Art. 1 provides: Citizens, agencies and organizations are entitled to complain about administrative decisions and/or administrative acts of State administrative bodies and/or competent persons therein when having grounds to believe that such decisions and/or acts have contravened laws and infringed upon their legitimate rights and interests.

161. The 2000 Criminal Procedure Code stipulates the following provisions:

- For child victims who are offenders, Art. 34 is applied: the accused shall have the right to be informed of the offenses of which they have been accused; to present documents and objects as well as claims; to request a change of procedure-conducting persons, experts, and/or interpreters in accordance with the provisions of this Code; and to defend themselves or ask other persons to defend them. The accused shall have the right to be informed of decisions to institute the criminal cases in question, decisions to apply, change or cancel deterrent measures, written investigation conclusions as well as decisions concerning their prosecution by procuracies; and to complain about procedural decisions and acts of the bodies and persons with procedural competence. The defendants shall have the right to be informed of decisions to bring the cases to trial; to participate in court sessions; to request the change of the procedure-conducting persons, experts, and/or interpreters in accordance with this Code; to present documents and objects as well as claims; to defend themselves or ask other persons to defend them; to have final words before the judgment deliberation; and to appeal against the judgments and decisions of the courts.

- For child victims who are victims of offenses, Art. 39 is applied: Victims or their lawful representatives shall have the right to present documents and objects as well as claims; to be informed of investigation results; to request a change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code; to suggest compensation levels and measures to secure such compensation; to participate in court sessions; to complain about procedural decisions and acts of the bodies and persons with procedural competence; to appeal against court judgments and decisions regarding the compensations to be paid by, as well as the penalties imposed on, the defendants. In cases where victims are deceased, their lawful representatives shall have the rights defined in this Article.

- Para. 2, Art. 36 provides: Defense counsels shall have the right to complain about procedural decisions and acts of the bodies and persons with procedural competence and to appeal against court judgments or decisions if the defendants are minors.

- Para. 2, Art. 37 provides: In cases where the accused or defendants are minors and the accused, defendants or their lawful representatives do not seek the assistance of defense counsels, the investigating bodies, procuracies or courts must request bar associations to appoint defense counsels for such persons. The accused, defendants and their lawful representatives shall have the right to request the change of or refuse to accept defense counsels.

- Art. 276 stipulates provisions for participation in the procedure by families, schools and social organizations. In cases of necessity, the taking of statements and interrogation by the investigating bodies must be attended by representatives of the families of the accused. Their families' representatives may ask questions of the accused, if the investigators so agree; they may produce documents and objects, make requests or complaints and may read the case files upon termination of the investigation.

- Para. 2, Art. 39 provides: In cases where the victims are deceased, their lawful representatives shall have the rights provided in this Article.

- Para. 3, Art. 40 provides: The victims, civil plaintiffs and their lawful representatives shall have the right to present documents and objects as well as claims; to be informed of the investigation results; to request a change of procedure-conducting persons, experts and/or interpreters in accordance with the provisions of this Code; to suggest compensation levels and measures to secure such compensation; to participate in court sessions; to complain about procedural decisions and acts of the bodies with procedural competence; and to appeal against court judgments and decisions regarding damage compensations to be paid by the defendants, as well as the penalties imposed on them.

3.2 Implementation

162. In criminal procedures, children enjoy general rights similar to those of adult accused or defendants as well as the right to express their views. The lawful representatives of the child can exercise these rights and responsibilities on behalf of the child under criminal proceedings. Child victims have the right to express their views and concerns on issues about their rights and responsibilities. The State, society and families must pay attention to, respect and grant opportunities for children to have their voices heard. Children and other people involved (i.e. organizations, families, parents and their lawful representatives) have the right to be fully informed about their rights and responsibilities in criminal proceedings as well as in other activities whose ultimate goal is the protection of children.

4. Provide appropriate support services to child victims at every step of a legal proceeding and provide appropriate assistance for their full social reintegration and full physical and psychological recovery

4.1 Legal context

163. The 2000 Criminal Procedure Code:

- Art. 21 provides: Participants in the criminal procedure may use spoken and written languages of their own nationalities; in this case, interpreters shall be required.

- Art. 200 provided: In cases where the defendants do not understand Vietnamese, after the judgment is pronounced the interpreter must read to the defendants the whole judgment in the language which the defendant knows.

- Para. 2, Art. 37 provides: In cases where the accused or defendants are minors and the accused, defendants or their lawful representatives do not seek the assistance of defense counsels, the investigating bodies, procuracies or courts must request bar associations to appoint defense counsels for such persons. The accused, defendants and their lawful representatives shall have the right to request the change of defense counsels or refuse to accept these counsels.

164. Decree No. 59/2000/ND-CP provides in Art. 1 as follows: Education measures in the commune, ward, or district town towards juvenile offenders decided by the Court are aimed at providing these offenders with work and education in the community and allowing them to prove their remorse in a normal social environment.

165. Art. 2 of the Decree stipulates provisions concerning the supervision and education of juvenile offenders in order to help them correct their shortcomings, observe the laws and principles of community life and become useful citizens in the society. Para. 2, Art. 5 of the Decree provides that juvenile offenders shall enjoy the rights to work and education at their place of residence and to participate in recreational and leisure activities in the community like other citizens.

166. Decree No. 52/2001/ND-CP dated 23 August 2001 on implementation of judicial measures by sending offenders to reformatories provides, in para. 2, Art. 2, that: The reformatories are responsible for the management and education concerning ethnicities, legal information, culture, vocational training, professional education and work for the youngsters in conformity with their ages. This is done in order to help them study and make progress as well as achieve sound development in health, attitude and knowledge in order to become honest and useful persons in the society and to become rehabilitated in to the community after their stay in reformatory.

167. Decree No. 142/2003/ND-CP dated 24 November 2003 by the Government on the implementation of administrative measures by sending offenders to reformatories stipulates the responsibilities of these reformatories for the management, education, vocational training of reformatory students as well as other regulations that concern these students.

168. Decree No. 163/2003ND-CP dated 19 December 2003 by the Government on the implementation of education measures in communes, districts and towns stipulates specific provisions in Chapter IV regarding the responsibilities of organizations and persons assigned to provide direct assistance, along with the family, in the management and education of young offenders needing re-education.

4.2 Implementation

169. Many psychological and physical rehabilitation centers have been built to support sexually abused children in major cities, particularly in Ho Chi Minh City. Furthermore, the system of communication, education and consultancy centers in 61 cities and provinces also provide child victims with legal, psychological and physiological advice and help in social reintegration. Child victims are taken to these centers for physical and psychological diagnosis, treatment and advice. Some are helped to reintegrate into their families and communities while

others are given educational and vocational training so that they can support themselves. Many community-based support and care schemes have been developed with support from concerned agencies, mass organizations and international organizations. Authorities at all levels have also implemented practical and effective activities to protect children's dignity, develop their talents, help those in special circumstances to reintegrate into the community and to protect them from the danger of being abused.

170. However, it is imperative to train voluntary social workers in skills useful for helping rehabilitation and reintegration, and to allocate appropriate funds to support, care for and reintegrate child victims into families and communities as well as to establish rehabilitation and reintegration centers.

5. Protect the privacy and personal identity of child victims

5.1 Legal context

171. The 1995 Civil Code provides in para. 1, Art. 34: the right to privacy of individuals is respected and protected by law.

172. The 2000 Criminal Procedure Code in para. 1, Art. 277 provides that, in cases of necessity, the Court may decide to hold closed sessions.

5.2 Implementation

173. This right is observed according to the law. Staffs of law enforcement bodies and the mass media are given training courses on the rights of the child. Therefore, the mass media do not include photos or personal identification of the child victim in their news reports on cases of child trafficking and prostitution. This is to avoid negative effects on the victims' development in the future.

6. Ensuring the safety of child victims, as well as of their families and individuals/organizations dealing with the prevention and/or protection and rehabilitation of child victims; children's right to access to adequate procedures to seek compensation for damages

6.1 Legal context

174. The 1995 Civil Code provides: In civil transactions, all parties are equal; discrimination cannot be based on the grounds of differences of race, sex, social status, economic situations, beliefs, religion, educational levels or occupations.

175. The 2003 Ordinance on prostitution prevention and combat provides in Art. 21:

- Agencies, organizations and individuals that detect any activities related to prostitution must notify or report these activities promptly to competent State bodies. When receiving information and denunciations, competent State bodies must promptly consider and process them and then notify the results of their handling of such information to the appropriate agencies, organizations or individuals if so requested.

- Those who detect, denounce and struggle to prevent and fight against prostitution shall be protected and their identities kept secret; if they suffer material loss they shall be compensated. If they suffer injuries, health deterioration or loss of life they shall enjoy regimes and policies as prescribed by law.

176. The 2000 Criminal Procedure Code, Art. 205, provides: Defense counsels shall have the right to make appeal to protect the legitimate interests of juvenile offenders.

177. Arts. 39 and 40 provides: The victims, civil plaintiffs and their lawful representatives shall have the right to suggest compensation levels and measures to secure such compensation.

178. Art. 41 provides: Civil plaintiffs and their lawful representatives shall have the right to appeal against court judgments and decisions regarding damage compensation and to be informed of the investigation results regarding damage compensation.

179. The Law on Complaints and Denunciations provides in Art. 16: All acts of obstructing the exercise of the right to make complaints and denunciations are strictly prohibited. Also prohibited are threatening, taking revenge or retaliating against complainants and/or denunciators; disclosing names, family names, addresses and/or autographs of denunciators; deliberately unsettling or settling illegally complaints and/or denunciations; covering and protecting the complained and/or denounced; illegally intervening in the settlement of complaints and denunciations; inciting, forcing, inducing or buying off other people to make false complaints and/or denunciations; threatening and/or offending persons competent to settle complaints and denunciations; and taking advantage of the complaint and denunciation-making process to make distortions or slanders or to cause disorder.

180. The Criminal Procedure Code provides in Art. 24: citizens shall have the right to complain about and denounce illegal acts in criminal proceedings committed by investigating bodies, procuracies and courts or any individuals of such bodies. Competent bodies must receive, consider and settle in a timely and lawful manner complaints and denunciations, then send notices on the settlement results to the complainants and denouncers for their knowledge and to aid them in taking remedial measures.

181. The competent bodies which have handled persons unjustly in criminal proceedings shall have to pay damage compensation to, and restore the honor and interests of, the unjustly punished persons; persons who have committed illegal acts shall be dealt with through administrative penalties or examined for penal liabilities.

182. Art. 61 provides: in order to stave off crimes in time or when there are grounds for proving that the accused or defendants would cause difficulties to the investigation, prosecution or adjudication, or that they would continue committing offenses or if they would impede the execution of judgment, the investigating bodies, procuracies or courts, within the scope of their procedural jurisdiction, may apply one of the following deterrent measures: arrest, custody, temporary detention, ban from travel outside one's residence, guarantee, deposit of money or valuable property as bail.

183. The 2002 Ordinance on Handling of administrative violations provides in para. 1, Art. 3: All administrative violations must be detected in time and stopped immediately. The handling of administrative violations must be effected swiftly, fairly and absolutely; all consequences caused by administrative violations must be overcome strictly according to the law's provisions.

184. The Ordinance on Implementation of Civil Judgments provides:

- Point b, para. 2, Art. 3: judgments and decisions by courts that have not yet taken legal effect but are nonetheless implemented promptly: (a) Judgments, decisions of first-instance trials on relief support, remunerations, re-admission of laborers to work or damage compensation on life and health of citizens, though those judgments and decisions may still be appealed or protested; (b) Temporary urgent decisions to ensure the necessary interests of the parties involved and secure the adjudication or execution of judgment.

- Art. 13 provides that judgment-executing persons have to set a deadline of no longer than 30 days for the persons who have been ordered to execute the judgments, voluntarily to execute the judgments before forced judgment execution measures are applied. Forced judgment execution measures are provided in Art. 29 on the inventory of assets, Art. 39 on the subtraction of income earned by persons who are ordered to execute the judgments, Art. 40 on the deduction of assets of persons who are ordered to execute the judgments.

6.2 Implementation

185. The above-mentioned rights have been promulgated in accordance with the law in order to ensure equality for all citizens, without discrimination, but with a policy of priority for children. All violations of such rights of children will be dealt with seriously. All acts causing loss of property and/or harmful effects to the dignity of persons will be compensated, though these acts may have been committed by authorities in government bodies. Competent persons who handled citizens unjustly during the proceedings must also pay damage compensation.

7. Legal and psycho-physiological education for persons working with children

7.1 Legal context

186. The 2000 Criminal Procedure Code provides in Art. 272: investigators, prosecutors, judges who carry out criminal proceedings concerning minor offenders must possess the necessary knowledge about the psychology and education of minors as well as about activities regarding prevention and combat of crimes committed by minors.

187. Decree 142/2003/ND-CP dated 24 November 2003 by the Government on the implementation of administrative measures by sending to reformatories stipulates criteria for rectors and vice rectors of reformatories as follows: "... [they must have] experience in managing and educating students ..." (Art. 23).

7.2 Implementation

188. Education and information programs about laws relating to children in general and child victims of trafficking and prostitution in particular have been implemented regularly. Training courses for procurators, judges, policemen, cadres and mass organizations at different levels on child rights and judicial measures applicable to minors have been organized in coordination with international organizations in order to raise the awareness and role of the procuracy, court officers and relevant agencies for the protection of the rights of the child.

189. However, the staff working with children still lacks skills on the restoration of mental health and the reintegration of victimized children. At present, Viet Nam is seeking to train such staff and at the same time encourage the development of social work as a profession in Viet Nam.

E. Preventive measures on trafficking of children, prostitution and pornography (Arts. 9 and 10 of the Protocol)

190. In order effectively to prevent the activity of child trafficking, prostitution and pornography, over the past years Viet Nam has carried out a number of measures related to the executive, legislature and justice in the following areas:

1. Communication and education for awareness raising

1.1 Legal context

191. The 2003 Ordinance on the Prevention of Prostitution clearly stipulates the responsibilities of concerned bodies in education and communication activities including their contents:

- Art. 10: Communication and education on the prevention of prostitution is an important measure in order to make all agencies, organizations, individuals and families participate actively in activities aimed at preventing prostitution. The content of communication and education includes: cultural, moral, healthy life-style; the consequences of prostitution; policies, guidelines, measures, models, experience and legal regulations on the prevention of prostitution.

192. Such methods of dissemination have to be combined with the dissemination of information on preventing the use of drugs and the spread of HIV/AIDS.

- Art. 11: Information and communication agencies have a duty to work out appropriate themes and forms of communication to raise the awareness of all citizens about prevention

- Art. 12: Schools and other education centers are responsible for disseminating information and educating people about preventive measures regarding prostitution, with appropriate themes for each type of school, level, age-group, sex and ethnic custom; coordinating with families, agencies, organizations and the local people's

committees to manage closely the students and deter illegal acts against the prevention of prostitution; encouraging students to take an active role in preventing prostitution.

193. Prime Minister's Decision No. 138/1998/CT-TTg dated 13 July 1998 on the National Program for Criminal Control and Prevention refers to solutions for enhancing law education and citizen responsibility in the protection of social security and order.

194. Prime Minister's Decision No. 134/1999/QD-TTg dated 31 May 1999 on the National Program of Action for Protection of Children in Especially Difficult Circumstances 1999-2002 includes the Project on organizing communication, education and counseling activities for people, families and children.

195. Prime Minister's Decision No. 151/2000/QD-TTg dated 28 December 2000 on the National Program of Action for Prostitution Control and prevention in 2001-2005 sets forth some urgent measures, including accelerating educational communication, dissemination of information on public media, various relevant activities of mass organizations as well as movements to develop civilized life styles and encourage all the people to fight against prostitution and the trafficking of women and children.

196. Prime Minister's Decision No. 130/2004/QD-TTg dated 14 July 2004 on the approval of the Action Program on the Prevention and Struggle Against Crimes of Trafficking in Women and Children for the period 2004-2010.

1.2 Implementation

197. In recent years Viet Nam has paid high regard to the communication and dissemination of information and education about laws on the prevention of social evils in general and the sale of children, prostitution and pornography in particular. Such activities are aimed to promote the awareness and responsibility of all people and children regarding preventive activities and participation in the fight against these evils.

198. Communication and education about the prevention of prostitution have been frequently implemented in various mass media forms such as: child-protection and child-care columns in 635 newspapers and journals, on 4 national television programs and 93 provincial television programs. Diverse methods like holding workshops and seminars on relevant legal documents, law learning contests, reportage contests and campaign poster-drawing contests are organized together with traditional campaigns in districts and cities on the occasion of "Action Month for the Children" and "Viet Nam's family day". Moreover, the mass media have also paid great attention to the discovery and reporting of news on cases of child trafficking, prostitution and pornography.

199. Besides using mass media to publicize information, agencies and mass organizations have also produced many types of video tapes and cassettes; have printed hundreds of leaflets and pocket-sized books with clear, easy-to-remember messages and attractive layouts to disseminate directly to families, women and children; organized hundreds of club activities and

artistic performances; held talks and group meetings to publicize laws along with experiences with a view to raising families' awareness of and responsibility for the protection of women and children; and educating everyone to be aware of criminals' tricks.

200. Documents on this issue have also been distributed to hotels, restaurants and entertainment centers, i.e., places where activities like child trafficking and prostitution could occur. Disseminated documents are translated into many ethnic minority languages and are available in all areas of the country.

201. Communication and education on such matters is also carried out through seventy-two other information, education and advisory centers of the Committee on Population, Family and Children; through mobile legal-assistance teams of the judiciary; in consultation centers of the Women's Union. This kind of activity is also conducted through groups of staff of competent agencies working with children as well as through public and social organizations.

202. Besides central and local media, the network of information collaborators in villages and hamlets are also trained, instructed with legal skills as well as publicity skills and share experiences focused on preventing social problems, child trafficking and prostitution. Children in many places (even in and outside of schools) are both the subject of publicity and a force participating directly in activities which teach living and HIV/AIDS prevention skills along with ways to avoid being a victim of child trafficking and sexual abuse. These experiences take place in large part through different fora for children such as: "Small Kid Star", "Children communication teams" (with 12,988 teams nation wide), "Child Rights Clubs" (with 654 teams), "Club of Little Reporters" (with over 10 Clubs). By now, the communication and education on the prevention of trafficking women and children have attracted the concern of agencies and the mass media and are greatly supported by the community. These activities also draw the support and attention of many international organizations.

203. Parallel to the activities of communication and education, movements for building healthy villages, districts and making sure they do not have social problems like heroin addiction and prostitution are also being promoted. In 2003 alone, the nation qualified 2500 villages and wards as healthy residential areas.[4]

204. As a result, in many areas people have understood the risks for their children, have been shown preventive measures to take and have been equipped with knowledge of the law and the policies needed to address and solve the problems of children being abused. A number of children have been taught skills for protecting themselves and to participate in issues concerning their lives as well as to help other children. Leaders at various levels have given timely instructions addressing the issue with a high sense of responsibility. Staffs, whose work deals with children, and who understand the domestic and international situations and the law, are directly involved in the amendment of the law, the formulation of policy and the creation of relevant programs. However, communication and education in isolated, remote areas need to be enhanced further.

2. Socio-economic measures

205. While working to prevent social problems in general and child prostitution, trafficking and pornography in particular, Viet Nam realizes that it is unfeasible to separate the task of education and communication with the implementation of socio-economic measures. Therefore, in recent years Viet Nam has attached great importance to the implementation of socio-economic development measures.

2.1 Legal context

The following points are relevant here:

206. The 2001-2010 Economic-Social Development Strategy has been set with the overall goal of raising Viet Nam out of underdevelopment; to improve distinctly the material, cultural and spiritual life of the people.

207. The Economic-Social Development Plan for 2001-2005 focuses on securing sustainable and rapid economic growth as well as stabilizing and improving the people's life. On the whole this means eradicating hunger, reducing the number of poor households and repressing social evils.

208. The Prime Minister's decision No. 134/1999 dated 31 May 1999 on the approval of the Program of Action for protecting children from especially difficult circumstances, including the project "Protecting children from the abuse of human dignity, honor and from sexual abuse, especially for commercial purposes".

209. The Prime Minister's decision No. 151/2000 dated 28 December 2000 on the ratification of the National Anti-Prostitution Program for the period 2001-2005.

210. The Prime Minister's decision No. 143/2001 on the ratification of the National Target Program on Hunger Eradication, Poverty Reduction and Employment for the period 2001-2005 focusing on supporting production development, assisting the poor through agricultural, forestry and aquamarine incentives as well as through loans for production, cultivation and habitation settlement.

211. The Prime Minister's decision No. 131/2002 on the establishment of a Social Policy Bank.

212. The Comprehensive Strategy on Growth and Poverty Reduction ratified by the Prime Minister (Note No. 2685/VPCP-HTQT dated 21 May 2003) integrates all related National Programs with a view to eradicating hunger and reducing poverty.

213. Art. 14 of the 2003 Ordinance on the Prevention of Prostitution dictates: vocational training and job creation in order to provide income and reduce poverty are considered to be crucial measures for stopping the development of prostitution. Within their competent powers and duties, State agencies along with relevant organizations and entities have the duty to take measures on poverty reduction, healthcare, education, vocational training and to be creative in helping those engaged in prostitution reintegrate into the community.

2.2 Implementation

214. Based on the 2001-2010 Economic-Social Development Strategy, whose main goals are to get Viet Nam out of underdevelopment; to improve the material, cultural and spiritual life of the people; and to increase investment in human resources, in the past few years Viet Nam has focused its efforts on creating jobs, increasing income, eradicating hunger, reducing poverty and stabilizing and developing the economy.

215. The Vietnamese State has paid due attention to creating favorable conditions for all economic sectors to invest in and develop their production as well as develop the labor market for job generation. The State has promoted the process of social-labor structure transformation in conformity with its economic structure and has focused on improving the life of the farmers, built new life in the countryside so as to reduce the income differences between rural and urban areas and between people from different social strata.

216. The State has assisted the poor in terms of education, health care and social subsidies while paying due attention to people in especially difficult circumstances who have no other sponsor. The State has undertaken the National Target Program on Hunger eradication and Poverty reduction as well as establishing of the Bank for the Poor (now called the Social Policy Bank), which integrates hunger eradication and poverty reduction with other economic-social development programs for especially disadvantaged villages and mountainous, isolated areas (Decision No. 135/1998/QD-TTg).

217. Creating jobs has become one of the essential goals. In order to implement this Program, it is necessary on the one hand to create legal favorable conditions and policy mechanisms to encourage foreign and domestic investors to invest in production development as well as attract labor and on the other hand establish a National Foundation to settle the issue of unemployment and make loans with preferential interest rates to assist laborers in creating their own jobs. Labor export has also been promoted.

218. The ratio of poor households decreased from 55% in 1990 to 13.3% in 1999 and 9.96% in 2001-2002. After having conducted a survey about the Vietnamese people's living conditions, the World Bank concluded that the average poverty rate in Viet Nam declined from 37.37% in 1997-1998 to 28.9% in 2001-2002 and as a result, international organizations concluded that Viet Nam has achieved the millennium development goal (MDGs) by halving the poverty rate for the period 1990-2015.

219. Through the Program of Poverty reduction, Hunger elimination and Job creation, children who have fallen victims to trafficking, sexual abuse or might face these risks, along with their families, have received special attention from local authorities, agencies and mass organizations. Over the past few years tens of thousands of disadvantaged or poor pupils have received scholarships to help keep them from dropping out of school. The Social Policy Bank has created favorable conditions for these children's families to borrow money to raise livestock, open small shops and transform the structure of agricultural cultivation. Many children enjoyed vocational training and job assistance so they could earn money and lead stable lives.

220. It could be said that the Program on Hunger elimination, Poverty reduction and Job creation has contributed significantly to the resolution of socio-economic problems.

3. Management of service centers, press, publications, cultural services and information activities. Enhancement of investigation and prosecution of child abuse crimes

3.1 Legal context

The following regulations have been promulgated:

221. The 2003 Ordinance on the Prevention of Prostitution defines:

- Art. 15: Hotels, motels, restaurants, dancing clubs, karaoke bars, massage parlors, saunas and other service businesses, which can easily be misused for prostitution, must have signed labor contracts with laborers and must register with the local labor management authority; the employment of laborers under the age of 18 for jobs which can adversely affect their physical, intellectual and moral development is prohibited.

- Art. 16: Agencies, organizations or individuals are not allowed to produce, circulate, transport, store, buy, sell, export, import or publicize pictures, materials, products or information that are rated as pornographic.

- Directive 03/2000/CT-TTg dated 24 January 2000 on advancing cultural, leisure and recreational activities for children.

3.2 Implementation

222. Viet Nam has created a healthy environment for children's cultural, leisure and recreational activities. To implement the Prime Minister's Directive 03/2000/CT-TTg dated January 24, 2000, line ministries and agencies have carried out the following tasks and activities.

223. The Ministry of Education has instructed the Institute of Scientific Study and its affiliated universities to study and conduct the transfer of technology of children's toy production to conform to child psycho-physiology and to ensure the achievement of educational goals while maintaining Viet Nam's traditional and national cultural identity.

224. The Ministry of Industry is in charge of policy study and the development of the children's toy industry, regulating the quality standards of children's toys so that it is suitable for educational needs at different ages.

225. The Ministry of Trade is in charge of implementing regulations concerning State management on a certain number of cultural products and children's toys with regard to the regulations set out in the Government's decision 11/1999/NQ-CP on banning or restricting some trade services and conditional business activities.

226. The Ministry of Justice is in charge of promoting communication and education about of relevant laws.

227. The Sports Committee is in charge of advancing sports and gymnastics movements among teenagers and of training young athletes.

228. The People's Committees of the central cities and provinces are responsible for planning the development of residential and school areas, including upgrading or building new cultural, leisure and recreation centers for children in localities. By now, almost all provinces and cities have their own provincial children's clubs. Over 50% of provinces and districts nationwide have children's clubs or leisure and recreation centers for children.

229. The Ho Chi Minh Communist Youth Union's Central Committee conducts leisure and recreational activities within the children's club system; organizes groups in charge of leisure and recreational activities for children in the various localities.

230. Mass media agencies arrange appropriate broadcasting hours for children's programs; communicate and publicize different forms of leisure and recreation, cultural products and toys that favor the children's development of intelligence, morality and taste.

231. The Ministry of Culture and Information has strengthened its management and monitoring of business activities concerned with cultural products and services tat may adversely affect children's dignity and health. In 2001, the Ministry inspected the implementation of the Government's Protocol No. 87/CP to tackle negative phenomena such as the use of ecstasy in night clubs, evil deeds in karaoke bars, purchasing and circulation of pornographic compact discs as well as video games with violent and pornographic contents. This inspection was carried out especially strictly in large cities.

232. In 2002, on the Government's instruction, public internet services were monitored nationwide. The results showed that in recent years public internet services had developed rapidly and had played an important role in spreading internet knowledge to all classes of people. Main internet users are teenagers who enjoy sending and receiving emails and playing games. They did not usually use the internet for studying. Three to five percent have access to harmful websites.

233. Some providers of internet services are irresponsible about monitoring and have taken no preventive measures against harmful information. Wide-ranging inspection was conducted to crack down on pornographic or harmful video discs and to find solutions to overcome the increased circulation of illegal video discs. Moreover, the inspection, monitoring and severe punishment of those who violate the law were also enhanced.

234. Administration at various levels has coordinated pro-actively with competent agencies to boost the monitoring and management of businesses such as hotels, motels, restaurants and recreation service providers in order promptly to discover and deal with illegal acts.

4. Enhancing the role of family and promoting recovery and re-integration of victimized children

4.1 Legal context

- The 1995 Civil Code;
- The 2000 Law on Marriage and Family.

4.2 Implementation

235. In Viet Nam, family plays an important role in the formation and development of the child's dignity. It is also considered the first and most crucial place of protection and care for every child. Therefore, Viet Nam attaches great importance to activities which consolidate and enhance the family's capacities and role, thus contributing to implementing children's rights in general and the prevention of child prostitution, trafficking and pornography in particular. Since 1997, Viet Nam's Women's Union has launched a movement called "Women learn actively, work creatively, raise children well and build happy families". The Viet Nam Fatherland Front's Central Committee has coordinated with the Committee of Population, Family and Children to launch a campaign called "Exemplary Adult, Dutiful Child" together with other campaigns like "The whole nation builds a new lifestyle at residential areas", "Build a new family cultural lifestyle"… As a result, the family's role has been enhanced. Also, family members are educated about child's rights as well as about risks that lead to child prostitution and trafficking so as to raise their awareness and responsibility towards their children. Consultative centers have given parents advice on law and on children's psychology.

236. Viet Nam is also active in carrying out activities assisting families and children who have fallen victims to the trafficking of women and children in order to re-integrate them into the community. These activities include education, treatment, vocational training and job creation and follow diverse models such as social sponsor centers, open houses and warm family centers.

237. Currently, Viet Nam is developing the Family Strategy for 2010 aimed at strengthening the capacities of the Vietnamese family while protecting and promoting its values.

F. International cooperation

238. Whilst implementing such guide-lines, programs on the protection of children in special circumstances in general and prevention of child prostitution, trafficking and pornography in particular, Viet Nam maximizes its domestic strength as well as paying due attention to bilateral, multilateral and regional co-operation. Currently, Viet Nam has diplomatic ties with 168 countries, is the trading partner of 150 countries and territories and is a member of many international and regional organizations such as the Human Rights Committee of the United Nations, the UNDP Executive Council, UNFPA, UNICEF, ASEAN, APEC, ASEM and is also preparing to join WTO. Viet Nam has likewise established relations with nearly 500 Non-governmental organizations, 400 of which operate or have headquarters in Viet Nam. In order to have further detailed direction concerning international cooperation, in 2002 international organizations and NGOs participated actively with specialized agencies in Viet Nam in drafting the National Comprehensive Strategy on Growth and Poverty Reduction.

239. International cooperation over the past years has contributed remarkably to poverty reduction and the resolution of slow growth through programs for community development and micro-credit to increase family income, vocational training, as well as raising awareness of the people at various levels and that the children themselves to protect and care for the children, and the rights of the child. Many projects assisting the development of policy, law and mechanisms supervising child's rights, birth register, encouraging the participation of the children and community have been implemented.

240. Government agencies and mass organizations in Viet Nam are coordinating with UNICEF to implement concrete strategies and goals in order to prevent commercial sexual exploitation of children. This is part of the National Action Plan on preventing Prostitution. In addition, UNICEF also assists Viet Nam with preparatory work to become a party to several International Conventions and has suggested the amendment of national policies and plans such as the 2001-2010 Children's Anti-sexual abuse national plan in order to perfect relevant legal policies. UNICEF is currently assisting in the development of a number of models for the prevention of trafficking of women and children and is training social officials to work with these children.

241. Viet Nam is also co-operating closely with the UNDP and the ILO/IPEC in a project aimed at preventing the trafficking of women and children in the Sub-Mekong river region by raising awareness and through, preventive and reintegration assistance for victims in the community. At the same time Viet Nam is focusing on drafting the National Action Plan on the Prevention of the Trafficking of Women and Children. The International Organization on Migration (IOM) is currently assisting Viet Nam in promulgating preventive measures along with repatriating and re-integrating victims and people at risk back into the community.

242. With regard to cracking down on the network of women and children trafficking, Viet Nam's Interpol Office has co-operated closely with International Interpol and Aseanpol to detect and stop these evil activities. Moreover, many NGOs such as the International Children Saving Coalition have participated actively in preventing the trafficking of women and children. Viet Nam has worked with numerous international organizations such as the French Situation Childhood Association as well as with schools from Sweden, the Netherlands, the United States, the Philippines, etc., to enhance the capacity of those who work with children in general and with children in need of special protection in particular (including sexually abused children).

243. Viet Nam is also promoting the implementation of Bilateral Agreements with neighboring countries with shared-borders for more effective co-ordination in the prevention of child prostitution and trafficking and to guarantee the victims' return to their homelands. There will also be co-ordination in training courses on issues of dissemination, education, surveillance, rescue, rehabilitation and re-integration for officials and NGOs of concerned parties at provincial borderlines. At present, Viet Nam is preparing documents to negotiate with Cambodia on bilateral co-operation to eliminate the trafficking of women and children and to help the victims of such acts.

244. The Government of Viet Nam allocates foreign aid through its competent agencies, with priority given to mountainous and isolated areas in special circumstance as well as to the most disadvantaged (especially women and children). However, close co-operation among foreign donors and governmental agencies is needed to make use of this aid effectively.

G. Conclusion

245. Over the past few years, although Viet Nam has had to cope with many socio-economic development challenges, its protection of children in general and its prevention of child prostitution, trafficking and pornography in particular has achieved encouraging results.

246. First and foremost, there has been a considerable change in the awareness at all levels of government and society regarding the prevention of child prostitution, trafficking and pornography; therefore, leaders from various levels and agencies have paid more attention to the protection of children in general and to the prevention of child prostitution and trafficking in particular. Additionally, a campaign on the protection of children, prevention of child prostitution and trafficking has attracted wide-ranging social participation: from the highest legislative bodies to the Justice system, courts and agencies concerned with Procuracy; Public Security; Labor, Invalid and Social Affairs; Information and Technology; Foreign Affairs; Education and Training; Tourism; Population, Family and Children; together with other Unions like the Youth Union, the Women's Union and the National Front. Thereby, many new and beneficial approaches have been widely applied, mobilizing domestic and international resources. As a result, the number of trafficked and sexually abused children has declined.

247. However, Viet Nam still faces many difficulties: (1) The officials' lack of expertise and capacity as well as inappropriate instruction in some localities; (2) limited awareness: many families do not see the threat of children being trafficked and forced into prostitution and the children themselves aren't fully aware of the long-term consequences of these acts and haven't acquired the living knowledge necessary to protect themselves. Thus they often don't realize the need for prevention. Moreover, there remain many people with no conscience who are willing to use children for profit; (3) the money spent on addressing this matter is limited despite further attention being paid to the problem.

248. In the coming period, Viet Nam will focus more on the promotion of co-operation among law enforcement and justice agencies; continue to enhance communication and education about the law in general and the law on the prevention of crimes and social problems in particular, and also give greater responsibility to competent agencies, mass organizations and families for the educational supervision of juveniles; integrate the prevention and resolution of the problem of child prostitution, trafficking and pornography with the implementation of socio-economic development Programs. Viet Nam will also increase investment in research, data gathering and analysis; speed up the detection, investigation, prosecution and fair trial of children committing crimes; promote international co-operation in the field of Children Crime Prevention so as to achieve the goals set by the 2001-2010 National Action Program for Vietnamese children. This latter Program aims to prevent and eliminate the threat of children being abused, reduce the number of trafficked and sexually abused children in 2003 and basically in 2010./.

H. Appendix of relevant legal documents

1. Revised Constitution with some amended Arts. of the 1992 Constitution (adopted by the National Assembly in 2001).

2. The Penal Code of 1999.

3. Criminal Procedural Code (revised, amended in 2000).

4. Criminal Procedural Code (revised, amended in 2003).

5. The 2000 Law on Marriage and Family.

6. Labor Code (revised, amended in 2002).

7. Ordinance on Administrative Measures, 2002.

8. Resolution 40/2000/NQ-QH 10 dated 9 December 2000 on the reform of the elementary education program.

9. The 2003 Ordinance on the Prevention of Prostitution.

10. The 2001 Ordinance on Advertisement.

11. Decree 83/1998/ND-CP dated 10 October 1998 on Residence Register.

12. Decree 89/1998/ND-CP on Issuance of Regulation on Temporary Arrest and Detention.

13. Decree 07/2000/ND-CP dated 9 March 2000 on the Social Aid Policy on subsidies given to the children without custodian.

14. Decree 59/2000/ND-CP dated 31 October 2000 on Implementation of Educational Measures in Commune, Ward to adolescents violating the law.

15. Decree 60/2000/ND-CP on execution of non-custodial reform.

16. Decree 25/2001/ND-CP dated 31 May 2001 on the issuance of regulations on establishment and functions of social security facilities to encourage organizations and individuals to found care centers for the children with special circumstances.

17. Decree 52/2001/ND-CP dated 23 August 2001 on the guidance on execution of judicial measures to correctional schools.

18. Decree 70/2001/ND-CP dated 3 October 2001 on implementation of the Marriage and Family Law.

19. Decree 71/2001/ND-CP on the National Target Programs for the period 2001-2005.

20. Decree 87/2001/ND-CP dated 21 November 2001 on Administrative Measures with respect to marriage and family.

21. Decree 32/2002/ND-CP on Application of the Marriage and Family Law to ethnic minorities groups.

22. Decree 68/2002/ND-CP dated 10 July 2002 on Implementation of provisions of the Marriage and Family on marriage between Vietnamese and Foreigners.

23. Decree 94/2002/ND-CP dated 11 November 2000 on the functions, responsibilities, powers and working mechanism of the National Committee on Population, Family and Children.

24. Decree 55/2001/ND-CP dated 23 August 2001 on the management, supply and utilization of Internet.

25. Decree 11/1999/ND-CP dated 3 March 1999 on products banned of circulation, trade service limiting business, doing business with conditions.

26. Decree 31/2001/ND-CP dated 26 June 2001 on the Administrative Measures in fields of Culture and Information.

27. Decree 142/2003/ND-CP dated 24 November 2003 on the applications of Administrative Measures to correctional schools.

28. Decree 163/2003/ND-CP dated 19 December 2003 on detailed regulations on the implementation of educational measures in commune, ward.

29. Decision 70/1998/QD-TTg dated 21 March 1998 on subjects entitled to free, discounted school fee, including children with special circumstance.

30. Decision 05/1998/QD-TTg dated 14 November 1998 on management of the National Target Program.

31. Decision 28/1999/QD-TTg dated 23 February 1999 on management and utilization of aid of foreign NGOs.

32. Decision 1232/QD-TTg dated 24 December 1999 on approval of the list of communes with special circumstances and bordering communes within the socio-economic development programs for mountainous and remote communes with special circumstances.

33. Decision 142/2000/QD-TTg dated 11 December 2000 on the implementation of child adoption agreement between Viet Nam and France.

34. Decision 647/2000/QD-TTg dated 12 July 2000 on addition of communes to List communes with special circumstances and bordering communed within the socio-economic development program for mountainous and remote communes with special circumstances.

35. Decision 42/2001/QD-TTg dated 26 March 2001 on addition of communes to the List communes with special circumstances and bordering communed within the socio-economic development program for mountainous and remote communes with special circumstances (Program 135).

36. Decision 64/2001/QD-TTg dated 26 April 2001 on issuance of the regulation on management and utilization of aid of foreign NGOs.

37. Decision 72/2001/QD-TTg dated 4 May 2001 on the Viet Nam Family Day.

38. Decision 186/2001/QD-TTg dated 7 December 2001 on the socio-economic development in 6 northern mountainous provinces with special circumstances for the period 2001-2005.

39. Decision 105/2002/QD-TTg on the regime for households affected by flooding on installment of floors and houses made by population groups of the Mekong delta.

40. Decision 131/2002/QD-TTg on the establishment of Bank of Social Policy.

41. Decision 139/2002.QD-TTg dated 15 October 2002 on Medical examination and treatment for the poor.

42. Decision 155/2002/QD-TTg on the Policy for ethnic minority households on-site and households in the Central Highland provinces entitled to buy house on installment.

43. Decision 33/2002/QD-TTg dated 8 February 2002 on the ratification of Viet Nam's Internet Development Plan for 2001-2005.

44. Decision No. 19/2004/QD-TTg by the Prime Minister on Prevention and Resolution of the problems of Street Children, Sex-abused Children and Children working hard in poisonous and dangerous conditions.

45. Decision No. 130/2004/QD-TTg by the Prime Minister on Prevention and Struggle Against Crimes of Trafficking in Women and Children.

46. Directive 06/1998/CT-TTg dated 31 January 1998 on strengthening of the Protection of Children, Prevention and dealing the problems of street children and children of labor exploitation.

47. Directive 34/1999/CT-TTg dated 27 December 1999 on stepping up the implementation of the objectives to the year 2000 for children. Review the National Program of Action for Children for the period 1991-2000 and construct the National Program of Action for Children for the period 2001-2010.

48. Directive 03/2000/CT-TTg dated 24 February 2000 on advancing cultural, leisure and recreation activities or children.

49. Directive 02/2001/CT-TTg dated 9 March 2001 on implementation of "The year of Voluntary Society for the Children with special circumstances" 2001-2002.

50. Directive 13/2001/CT-TTg dated 31 May 2001 on the review of 10-year implementation of the Law on Children Protection, Care and Education.

51. Directive 25/2003/CT-TTg dated 21 November 2003 on implementation of the Ordinance on the Prevention of Prostitution.

52. Resolution 09/1998/NQ-CP dated 31 July 1998 on stepping up the task of prevention and fight against crime in the new context.

53. Decision 1143/2000/QD-LDTBXH dated 1November 2000 of Minister of Labor, Invalids and Social Affairs on the standard of poverty.

54. Decision 27/2002/QD-BHVTT dated 10 October 2002 of Minister of Culture and Information on the circulation of Provision on Management and Issue of License providing information and establishing Internet web-sites.

55. Circular 12/1999/TT-BTP dated 25 June 1999 of Ministry of Justice on the Guidance on implementing provisions of the Decree 83/1998/ND-CP dated 10 October 1998 of the Government on Residence Register.

56. Circular 21/1999/TT-BLDTBXH dated 9 November 1999 Ministry of Labor, Invalids and Social Affairs on the list of occupations, works and conditions for the employment of children under 15.

57. Circular 07/2001/TT-BVCSTE of the Viet Nam's Committee on Children Protection and Care on guidance of the implementation of the Decision 72/2001/QD-TTg dated 4 May 2001 of the Prime Minister on the Viet Nam Family Day.

58. Circular 28/2002/TT-BTC dated 26 March 2002 of the Ministry of Finance on the Guidance on the management and utilization of funding for free newspapers and journals in ethnic minority and mountainous areas.

59. Inter-ministerial Circular 13/2002/TTLT-BGDDT-BTC of the Ministry of Education and Training and Ministry of Finance on guidance of implementation of the Decision 194/2001/QD-TTg dated 21 December 2001 of the Prime Minister on the adjustment of policy scholarship and social subsidy for the ethnic minority pupils and students studying at the state schools.

60. Circular 01/2002/TT-BYT dated 6 January 2002 on the guidance on organization and functions of the humanitarian examination and treatment centers.

61. Inter-ministerial Circular 03/2000/TTLT-BVCSTE-VHTT-TWDTN dated 5 July 2000 of the Viet Nam's Committee on Children Protection and Care, the Ministry of Culture and Information and the Ho Chi Minh Communist Youth Union's Central Committee on guidance of implementation of the Directive 03/2000/CT-TTg dated 24 February 2000 on advancing cultural, leisure and recreation activities or children.

Notes

[1] *Source*: Ministry of Culture and Information, 2003.

[2] *Source*: Ministry of Culture and Information, 2003.

[3] *Source*: Ministry of Public Security.

[4] *Source*: Ministry of Labor, Invalids and Social Affairs, 2003.
