

## QUICK GUIDE TO ADDRESSING SEXUAL RIGHTS ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON VIET NAM<sup>1</sup>

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- The full text of those paragraphs
- Suggested questions and recommendations.

References in the two working languages of the Council (English and French) have been kept in their original language.

**Issues** are highlighted. References in the National Report are *in Italics*.

All sexual rights issues that do not relate specifically to women are referred to in this Guide. Sexual rights' issues referring specifically to women -as well as other women's issues- are referred to in the Guide on Women's Issues

OP-CRC-SC (Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography) ratified with reservation to article 5 (1), (2), (3) and (4)<sup>2</sup>.

CRC welcomed the information received from the delegation of Viet Nam that the **reservation to article 5** of the Optional Protocol on Sale of Children (**OP-CRC-SC**) made upon ratification has become unnecessary and will be withdrawn and consequently (Para 4, Compilation).

ISSUE	N Report	Compilation	Summary
HIV/AIDS	Law on HIV/AIDS (14), effective prevention and control (35); commitment to information campaigns (88)	Increasing spread among children (63).	
<b>Trafficking/sexual exploitation /violence against children</b>	Need for preventing and combating measures. Consideration of	Amendment of Criminal Code. Domestic legislation considers child those below 16 years. (7). Lack of	Arbitrary detention of children, sex workers, trafficking victims. Harassment, abuse,

<sup>1</sup> These Guides were produced by the Sexual Rights Initiative, a coalition of organizations based in Africa, Asia, Eastern Europe, Latin America and North America whose mandate is to advance women's issues broadly and sexual rights issues in the Human Rights Council. For questions, comments, suggestions please contact Alejandra Sardá-Chandiramani at [alejandra@mulabi.org](mailto:alejandra@mulabi.org)

### 2 Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.
2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.
3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

	reservations withdrawal to Article 5 of CRC-OP-Pornography (88).	definition and criminalization of child pornography. Need to amend Penal Code /other laws to be in line with article 3 of OP-CRC-SC. (8). National Program will reduce worst child labour by 90% by 2010 (14). Prevention and protection national Plans and Programs (15). Need for national system to investigate cases of abuse and neglect (27). Use, procuring, offering of child under 18 for pornography must be prohibited. Concern of police round ups of poor children (28). High rate of sex workers under 18. Need to reinforce measures to combat child prostitution and strategies to prevent exploitation and trafficking. (29)	denial of food, medical treatment and family contact. (15 S)
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## HIV/AIDS

The Government pays special attention to vulnerable groups including ( ) people living with HIV/AIDS. For each group, the Government has put in place concrete priority policies to protect support and provide them with development opportunities and facilitate their social integration. The 2006 **Law on HIV/AIDS Prevention and Control** ... are illustrations of the country's efforts in this area ( ) (Para 14, NR) Viet Nam creates the necessary conditions for the people to enjoy their right to health care, with priority given to women. ( ) **Health insurance assistance, free-of-charge medical treatment, ( ) prevention and control of ( ) HIV/AIDS have proven to be effective (Para 35, NR).** Viet Nam is committed to continuing to work with other countries, Its commitments include: (iv) ( ) **information campaigns on HIV/AIDS prevention ( ) (Para 88, NR).**

CRC was concerned that **HIV/AIDS is spreading and increasingly affects children**, either because **they have been infected** or because **they may have lost parents to the disease** (Para 63, Compilation).

## Trafficking/ sexual exploitation of children

Viet Nam is committed to continuing to work with other countries, Its commitments include: (a) ( ) Consideration of **withdrawal** of its reservations to **Article 5** of the CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; Paying due attention to preventing and combating **trafficking in ( ) children**, strengthening education and information on the **elimination of discrimination against the victims of trafficking** and job and income generation for them; finding solution to the issues of child labour, street children and **violence against children**; close cooperation with other

*countries, especially in the region, on combating trafficking in children and transnational crime; (Para 88, NR).*

CRC welcomed the amendment of the Vietnamese Criminal Code in 1997 and 1999 introducing new offences and more severe penalties for crimes related to the commercial sexual exploitation of children and other efforts to bring the legislation in line with OP-CRC-SC. CRC was concerned that some provisions in the Penal Code refer to children as those below the age of 16 only. Similarly, UNCT noted that domestic legislation still considers the child to be under the age of 16 years, rather than 18 years, as stipulated in the Convention on the Rights of the Child (Para 7, Compilation). CRC was concerned that there are no provisions explicitly defining and sufficiently criminalizing child pornography in line with article 2 (c) and 3 (1) (c), of OP-CRC-SC 24, and (Para 8, Compilation).

In 2008, the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) noted that the National Programme of Action for the Prevention and Elimination of Street Children, Child Victims of Sexual Abuse and Children in Hazardous and Dangerous Work aims to reduce the worst forms of child labour by 90 per cent by 2010 (Para 14, Compilation).

CRC also welcomed the National Programme of Action for Children 2001-2010, the 2004-2010 National Plan of Action Against Trafficking in Women and Children, the 2006-2010 programme on the prevention of prostitution and the national programme on prevention and settlement of street children, sexually abused children and children working under hazardous and dangerous conditions, 2004-2010 (Para 15, Compilation)

The Special Rapporteur on the sale of children, child prostitution and child pornography and trafficking in persons transmitted allegations concerning routine and arbitrary round ups of poor children by police. These children are allegedly sent to Social Protection Centres where they are detained in harsh conditions (Para 28, Compilation). In 2003, CRC noted with concern that a significant proportion of sex workers are under the age of 18. In 2006, CRC expressed concern at the information that child prostitution and sex tourism are an increasing problem in the country. (Para 29, Compilation).

Human Rights Watch (HRW) noted that police are authorized to arrest and detain people without warrants in Social Protection Centers when they are deemed to be "social evils," including street children, sex workers, trafficking victims ( ). Such detainees are also subject to harsh treatment and physical abuse. For example, in 2006 HRW has documented serious mistreatment of street children arbitrarily detained at Dong Dau Social Protection Center near Hanoi—including instances of corporal punishment, collective punishment, placement in isolation, deprivation of food and medical treatment, and denial of family contact (Para 15, Summary).

### **Suggested questions and recommendations**

- Ask Viet Nam what measures are being taken to guarantee that children infected and affected by HIV/AIDS fully enjoy their rights to non-discrimination, health and education /Recommend that Viet Nam takes all necessary steps to guarantee that children infected and affected by HIV/AIDS fully enjoy their rights to non-discrimination, health and education
- Recommend that Viet Nam takes all necessary steps to stop the abuse of street children by the police, including appointing a Children Ombudsman or any similar mechanism; duly

investigating complaints and prosecuting those responsible for violations; and providing sensitivity and awareness training on children's rights to the police.

#### Committee on the Rights of the Child

- To speedily complete the withdrawal of the reservation to article 5 and use it, when necessary, as a legal basis for extradition in respect of all the offences covered by the Optional Protocol (Para 4, Compilation)
- To amend the Penal Code and - where appropriate - other laws, in order to explicitly criminalize all acts listed in article 3 of *OP-CRC-SC* when committed against all persons below 18 (Para 8, Compilation)
- To take all appropriate measures to establish a national system for receiving, monitoring, and investigating complaints of child abuse and neglect, and, when necessary, prosecuting cases in a child-sensitive manner (Para 27, Compilation)
- To continue to strengthen national and sub-regional strategies and programmes on the prevention of sexual exploitation and trafficking, and to increase its efforts to combat child prostitution (Para 29, Compilation)

#### ILO Committee of Experts

- To prohibit the use, procuring or offering of a child under 18 for the production of pornography, or for pornographic performances; to adopt corresponding sanctions; to pursue its efforts to prevent the engagement of children in prostitution, and to indicate the results achieved (Para 28, Compilation)