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# STATE PARTY EXAMINATION OF VIETNAM'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

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CHILD

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*Vietnam ratified the OPSC on 20 December 2001. On 22 September 2006, the Committee on the Rights of the Child (the Committee) examined Vietnam's Initial Report on the OPSC..*

## Opening Comments

Mrs. Le Thi Thu, Minister and Member of the National Committee for Population, Family and children (NCPFC), headed the delegation. She said children were the future of all people on this planet. Due to the gap between the redaction of the report and the meeting date, the State party prepared an updated report for 2004-2006. The state stepped up the implementation of policy measures in order to improve the rights of the child. The State party seriously considered the previous recommendations of the Committee when reviewing its laws, for example, the ones related to the protection of women and children from trafficking. Trafficking in persons followed increasing trends all around the world. It was a new but complicated phenomenon in the State party. The government saw legal provisions as being the main solutions to address all problems faced. Laws provided for the protection and privacy of victims of abuses. To prevent trafficking in children, child prostitution and pornography, the State party aimed at a strong change in awareness. In 2006, the Prime Minister endorsed an inter-disciplinary programme against prostitution for 2006-2010. It aimed at preventing prostitution among school and university students. The government improved awareness rising through increased media coverage. Training was provided for people working with children affected by trafficking, child prostitution and child pornography. In August 2006, the State party attended a forum with China to collaborate on these issues. In the recent years, the State party had actively worked in order to trial perpetrators. No prisoner convicted of trafficking could be granted amnesty. To support victims was seen as very important. There were consultation and other special centres for women and children trafficked. Those women and children could also benefit from free legal counselling. Information was collected in order to assess the situation of trafficking,

child prostitution and child pornography. A general review of the situation covering 1998-2004 was done. Special importance was attached to coordination. The State party was closely working with neighbour states. It signed many agreements and legal assistance agreements, amongst which an extradition accord with Korea. The State party considered withdrawing its reserves to Article 5.

The country rapporteur, Mrs. Anderson, thanked the delegation for having submitted the report. Quite remarkable progresses were made. The Committee was concerned about the fact that these progresses did not translate in direct positive consequences for children. The Committee would have wished to see a specific Plan of Action targeting child prostitution and pornography.

## **General Measures of Implementation**

The Committee asked for more information on the NCPFC. The delegation explained that Parliament decided to establish the Committee on Population, Family and Children. The director was a minister. The NCPFC was endowed with a state managerial function on all issues related to population, family and children. It devised on legislations and monitored the implementation of laws and other legal documents. It advised the government on issues related to national and international law. It could rely on a decentralised pool of volunteers. Decree 914 stipulated the organisation and functions of the committee.

The delegation said that, when setting up its priorities for 2006-2010, the government realised there were 3 fundamental demands: for social development, environmental protection and economic development. Children issues were included in every socio-economic project and programme. The government tried to incorporate all the UNICEF recommendations and remarks. It tried to incorporate the budget for children affairs in the budget of all localities, as well as in the central budget.

## **Legislation**

The Committee enquired about extraterritoriality. Referring to Article 3 of the OPSC, it asked whether a foreigner that committed a crime involving a national child outside of the State party could be prosecuted in the State party. The delegation replied that foreigners committing crimes against its citizens outside of the country could be prosecuted according to international laws to which the state acceded. But there was a need for cooperation with the country where the crime happened.

The Committee asked why the State party would not ratify the Hague Convention before 2007. The delegation answered that ratifying treaties required certain formalities. It implies commitments and obligations. International laws should match national laws. So the state was currently completing the matching phase and all necessary formalities. The delegation hoped the government would decide on the ratification by 2007. As for the UN Convention on Trans-national Crimes, the national legal situation was being assessed.

The Committee asked if the State party had specific legislation on child pornography. The delegation referred to Article 253, item 2, of the Criminal Code that ruled the dissemination of pornography or other products related to children. There were no definition of "child pornography" as such but, in practice, consent was reached on what was child pornography. Next year, the Criminal Code would be amended, so recommendations would be done in this regard. The Committee noted the urgent need of a precise legal definition of child pornography, together with the defining of relevant sanctions. Without any specific definition, there could not be any sanctions. The delegation objected that the State party's law stipulated that international law prevailed in case of unconformities or gaps in national law. The Committee explained that a judge could not sentence someone for an offence not provided for in national law.

## **Justice and Court Procedures**

The Committee asked if free legal aid programmes were available to children and if any child-friendly measures existed in court. The delegation replied that there was a Department for Legal Assistance at the Ministry of Justice. Everybody had access to this service, free of charge. Court procedures would be revised so that the judicial system was made juvenile-friendly. The government worked in cooperation with UNICEF. There was a need to disseminate information to the professionals working in the judiciary. As there was no separate court system for juveniles, the government tried to overcome this weakness by appointing special judges for juvenile offenders.

The Committee enquired about adoption procedures. The delegation answered that Decree 68 on Marriage and Adoption with a foreign aspect was amended. Adoption was a humanitarian issue. The government tried to fill the gaps in legislation so that perpetrators could not profit from them. There existed mechanisms to monitor adoption activities. The State party requested the parties to report to the relevant authorities every 6 months on the well-being of the adopted child. Every year, the adopting parents had to report to the authorities on the child. There were provisions to punish people who would adopt children in order to sell them. The Committee asked what challenges the National Central Organisation in charge of adoption met. The delegation explained there was a great competitiveness amongst agencies so there was a need to establish some order. National law still had to be equated to international law. That was the reason why the State party thought about acceding to the Hague Convention. The Committee commented on the very high number of international adoption, encouraging the government to favour national adoption before sending children abroad. The Committee then enquired about the growing number of illegal intermediaries. It asked what was being done to address this issue. The delegation said there were favourable developments every year. There was an important legal framework and bilateral agreements were signed with foreign countries. The government was nevertheless still facing difficulties. Intermediaries were considered as “co-perpetrators” under national law.

The Committee asked if there was any Witness Protection Programme and if people were encouraged to come forward and testify. The delegation said there were provisions for the protection of witness (Item 3 of Article 55 in the Criminal Code). Victims and their families had a right to full protection.

## **Media and New Technologies**

The Committee wanted to know if media were sufficiently trained to protect children’s identity. The delegation said protection of children’s identity and privacy was the topic of a course in the Institute for Press and Media curriculum. The Law on Press also ruled them. Media’s responsibility was not only to disseminate information but also to protect people’s identity.

The Committee enquired about the growing use of information technologies by consumers, for example in Internet cafes. It wondered how the government ensured child protection in this area. The delegation said that Internet-based pornography was mostly foreign produced. There was no national production of child pornography. Many measures were set up to limit the negative impacts of Internet. The government immediately closed down any Internet provider that gave access to pornographic websites. It regularly checked Internet cafes and discovered many violations.

## **Return and Rehabilitation**

The Committee addressed the difficulty of returning children to their families. It asked what the government did to help children reunite with their families and communities. The delegation referred to the Prime Minister Decision 69 on the Implementation of the Plan of Action on the Care and Protection of Children. Families were informed in advance of the return of their children and they were given advises on the appropriate treatment to give to victims. The importance of an adequate behaviour on the part of the family and the community was emphasised so that children felt welcome. Vocational trainings and preferential loans were given so that children/women could

stabilise their lives. It was sometimes not easy to identify families. The government mobilised Women Associations and Youth Unions.

The Committee underlined the lack of qualified staff. Social work did not seem to be considered as a profession. The delegation explained that social workers received training and benefited from capacity-building measures. It was a priority in the State party. In 2004, a Tertiary Education Programme for Social Workers was implemented in universities and colleges. It was a 5-year training sharing knowledge on child victims. Short-term (i.e. 1 month) training courses were also offered to prosecutors, medical workers, judges, and so on. Since 2003, thousands of social workers and caregivers had been trained. People working at the reception bureau at boarder gates were also trained. The government cooperated with UNICEF on a capacity-building project for child workers. Vocational training was offered to victims. In 2006, the Ministry for Public Security had for the first time issued comprehensive guidelines for the investigation of cases involving children (trafficking in children, child abuse, and child prostitution). All these programmes really helped the police and social workers understand children's needs. All of these officers participated in prevention activities. As social work was quite new in the State party, the government welcomed international cooperation in order to improve the work done.

### **Trafficking, Exploitation and Forced Labour**

The Committee asked if there was any recognition of trafficking within the country. The delegation replied positively. The governmental Plan of Action to Prevent Trafficking in Women and Children was made of four projects, managed by different ministries. Each ministry was responsible for designing and conducting projects. The government improved legal documents in this area. Trafficking in persons was punished, be it abroad or at home. The cross-border form was more heavily punished because it had a bigger dimension. The delegation said the profit element played a very important role. Trafficking was one of the most lucrative activities because it implied very low investments and generated high profits. That was why it increased so much around the world. Trafficking did not exist before but it was now a cross-border crime and criminals took advantage of gaps in the various countries' laws. Victims were often reluctant to report about criminals so these criminals continued their trade. The government was committed to work on this burning issue.

The Committee asked whether the State party intended to ratify ILO Conventions 29 and 105 on forced labour. Both were needed to integrate a comprehensive definition of forced labour. The delegation replied positively. If the National Assembly adopted these, the State party would be one of the only Asian countries to be a party to these 2 conventions.

The Committee was concerned about the fact that only children under 15 seemed to be protected from forced labour. It asked what the government did for children aged 16 to 18. The delegation explained that there was a recent 2005 youth law. This law covered children from 16 to 18 years old.

### **Concluding Remarks**

The Committee thanked the delegation for all the answers given. It was very aware of the uniqueness of the State party 5-year plan. The State party was one of the 1st to have really integrated children issues in the country Action Plan. It congratulated the State party on its efforts.

The delegation was very thankful for the invitation and for the good comments on its efforts. It found the session very useful and beneficial.