

Situations of Children, Youth, People with disabilities and the National Human Rights Institutions in Vietnam

Statement by HRS – GPAR and Partners¹

UPR Pre-session 2018.

Good morning ladies and gentlemen.

My name is Hanh Dinh, I represent the coalition of Human Rights Space, GPAR, and Partners, including lawyers, academic, youth groups and NGO activists. We have prepared a joint submission in July covering 16 topics in which we combined reports and testimonies from our members. I would like to present with you the report and updated factsheets with most recent development.

In this statement, I would like to draw your attention on three issues: (i) Protection of child rights; (ii) Youth and human rights; and National Human Rights Institutions.

1. Rights of Children.

There are 26 million children in Vietnam, account 30% of the population. Vietnam was the second country in the world ratified the CRC and has very strong commitment in children protection and development. I would like to highlight some of the main challenges the country face in child rights as the following:

- Child poverty and exclusion: **01 in every 05 children experience at least two deprivations** in Education, Health, Nutrition, Shelter, Water and Sanitation, or Social Inclusion²

¹ **HRS:** Human Rights Space is a civil society platform working on human rights protection and promotion in Vietnam founded in 2016. HRS focuses on business and human rights, human rights education, and monitoring & reporting.

GPAR: The Cooperation Group for Governance and Public Administration Reform was established in 2011 by 21 organizations and individuals.

In 2017-2018, HRS and GPAR formed a coalition of community-based groups and individuals, including academic, journalists, lawyers, human rights advocates, LGBTI groups, people with disabilities, students, women, youth activists, and representatives from international and national NGOs, among others. The coalition prepared and submitted a joint-submission for the 3rd UPR of Vietnam in January 2019. The submission combined reports and testimonies from group members, with technical support from HRS and GPAR. It also adopted comments, suggestions and recommendations from one national consultation with 92 participants and one regional consultation with 41 participants from a total of 74 international and local NGOs, media, academic institutions, community-based groups and individuals. These factsheets were developed based on materials for the submission in July 2018, and updated with recent development.

² General Statistics Office, Viet Nam Household Living Standard Survey (VHLSS) 2014, 2015. Quoted by UNICEF in UNICEF.2018. Snapshots: SDGs and Children in Vietnam. Accessed on December 7th 2018 at <https://www.unicef.org/vietnam/sites/unicef.org.vietnam/files/2018-08/Children%20and%20SDGs%20Eng.pdf>

- **1.75 million child labour:** estimated by the Ministry of Labour, Invalid and Social Affairs and ILO in 2018, 1.7 million were in the informal sector;³
- **Discrimination:** by disabilities, health/HIV status, gender identity and sexual orientation; origin & descent; ethnic, etc. Only 01 among 10 children with disabilities get to highschool⁴ 13.7% enrollment for ethnic minorities comparing to 65% in the majorities⁵
- **Sexual abuse: about 4.000 - 5,300 cases of sexual abuses** reported in 2014 – 2016, **80%** victims were **girls** from 13-16.⁶
- **7 in 10 children** age 1-14 experience violent punishment at home⁷
- **2 out of 3 children** who are brought to CRIMINAL COURTS were sentenced to termed IMPRISONMENT, before 2016⁸

The Law on Children revised in 2016 had adopted more child rights principle, in particular with introduction of the Juvenile Court and stronger measures for child protection. However, it failed to increase the legal age of the child from 16 to 18 as recommended several times by the Child Rights Committee. It also did not address the lack of a national Independent Child Rights Monitoring Mechanism.

The challenges that constraint the exercise of the Rights of the Child including the lack of effective mechanism for law enforcement and monitoring, inadequate public awareness- especially by public servants, and lacks of civil society organisations defending child rights.

We would like to put forward three key recommendations:

- 1. Implement repeated recommendation by CRC to establish an Independent Child Rights Monitoring Mechanism;**
- 2. Create an enabling political and legal framework for the establishment and operation of civil society organisations defending child rights, including their fundraising and social mobilization activities.**
- 3. Take stronger steps for the best interest of the child and the implementation of child rights in the realization of SDGs in Vietnam.**

³ MOLISA – ILO, 2018. Quoted by UNICEF in UNICEF.2018. Snapshots: SDGs and Children in Vietnam. Accessed on December 7th 2018 at <https://www.unicef.org/vietnam/sites/unicef.org.vietnam/files/2018-08/Children%20and%20SDGs%20Eng.pdf>

⁴ Quoted by UNICEF in UNICEF.2018. Snapshots: SDGs and Children in Vietnam. Accessed on December 7th 2018 at <https://www.unicef.org/vietnam/sites/unicef.org.vietnam/files/2018-08/Children%20and%20SDGs%20Eng.pdf>

⁵ UNDP. 2015 Quoted by UNICEF in UNICEF.2018. Snapshots: SDGs and Children in Vietnam. Accessed on December 7th 2018 at <https://www.unicef.org/vietnam/sites/unicef.org.vietnam/files/2018-08/Children%20and%20SDGs%20Eng.pdf>

⁶ Vietnam Women's Union, 2017; MOLISA 2018

⁷ Quoted by UNICEF in UNICEF.2018. Snapshots: SDGs and Children in Vietnam. Accessed on December 7th 2018 at <https://www.unicef.org/vietnam/sites/unicef.org.vietnam/files/2018-08/Children%20and%20SDGs%20Eng.pdf>

⁸ Supreme Court & UNICEF, 2012

2. Youth and Human Rights.

The discrimination against youth and students exist in legal documents and in practices. The public education system sets a disciplinary framework with students with restrictions in particular the exercises of freedom of expression – online and offline, freedom of religions, freedom of association and assembly. These restrictions were often tighter than the national legal framework.

Circular 10/2016/TT BGDĐT by the Ministry of Education and Training is an example of national instrument on education which hindered the exercise of rights by students. Similar regulations could also be imposed by educational manager at lower level, such as the Communication No 1192/PGDDT by the Chau Doc City Education & Training sub-Department towards schools in the city.⁹

In practice, for young people, the restrictions also come from families and schools when they are frequently asked not to talk about political issues on social networks and, among others, not to participate in activities outside of the school settings or taking part in peaceful assembly.

These arbitrary practices remain inadequately addressed as students and youth lack of educational opportunities to know their own rights and lack of institutional access to defend their rights, including access to association of their own choice.

By implementing recommendations from the UPR 2014 and other UN mechanisms, the government has adopted a pilot project introduce human rights in the national school system.¹⁰ Human rights started to be introduced as a subject at Law schools or International Studies disciplines.

To better accommodate the exercise of human rights by youth, we would like to express these recommendations to the Government of Vietnam, as listed in Factsheet No.14:

- 1. Revise the legal framework to ensure the exercise of fundamental freedoms and rights of students and young people as provided by the Constitution 2013 and international standards: in particular: amend those incompatible provisions in the Penal Code 2015, the Youth Law 2005, the Law on Cyber Security 2018, Decree 174/2013, Circular 10/2016/TT-BGDĐT, Circular 17/2017/TT-BLDTBXH and other documents.**
- 2. Join the World Program on Human Rights Education; take further steps to introduce human rights into national education system, including human rights education for professional training.**

⁹ As strongly reacted by social media, the Vicechairman of the People's Committee of Chau Doc city, in an interview after the Communication went viral, stated that the People's Committee would ask the sub-Department to repeal its communication. <https://vnexpress.net/tin-tuc/thoi-su/nganh-giao-duc-an-giang-thu-hoi-lenh-cam-like-tren-facebook-3316247.html> accessed on December 7th 2018.

¹⁰ Dec.1309/2017/QĐ-TTg

- 3. Replicate good practices on human rights education for youth and students through providing an enabling environment for human rights education in the non-formal education, especially for initiatives by youth-led organisations and social organisations.**

3. National Human Rights Institutions (NHRIs) and remedies measures.

Vietnam has accepted five recommendations on the establishment of an NHRI in 2014. It also received similar recommendations by several treaty bodies and special procedures. To date there is no independent NHRI in Viet Nam.

The Government has set up a few inter-agencies mechanisms overseeing specific target groups such as the National Committee on People with Disabilities¹¹ and the National Committee on Children,¹² or the Steering Committee on Human Rights of the Government¹³ secretariat by the police.¹⁴ These mechanisms are not permanent full-time independent bodies, neither they were endowed with full functions of human rights protection and promotion.¹⁵ (Factsheet No.01)

In this regards, we would like to recommend Vietnam:

- 1. Take immediate action to implement its commitment on establishing an independent human rights institution,¹⁶ the institution should be established and operated following the Paris Principles.**
- 2. Review and improve functions, practices and effectiveness of existing bodies in charge of human rights towards specialized and effective institutions in human rights protection and promotion.**
- 3. Introduce a comprehensive National Action Plan on Human Rights to implement recommendations from UPR, treaty bodies and Special Procedures and other national commitments**

¹¹ Established by Decision No.1717/QĐ-TTg dated 06/10/2015.

¹² Established by Decision No. 856/QĐ-TTg on 15/06/2017.

¹³This body is led by the Prime Minister, has an inter-agencies structure from the national to the district level. At the provincial level, these steering committees were often named “Steering Committee on Protection and Struggle on human rights” (Ban chỉ đạo công tác bảo vệ và đấu tranh nhân quyền) as stated in several decisions of establishment of such organs at the provincial, city and district level.

¹⁴A Major General of the Ministry of Public Securities acts as the Director of the Permanent Office of the Government’ Steering Committee on Human Rights and the Office operates as a unit within the Ministry of Public Securities.

¹⁵ As stipulated in the respective decisions to establish the body. The decision to establish the Government’s Steering Committee on Human Rights and its Permanent Office under the Ministry of Public Securities (presumably Decision No. 63/2004/QĐ – Ttg dated 16/4/2004) is not found published in the Government’s portal of official documents.

¹⁶This is to repeat recommendations No.143.40 by Portugal and Spain, 143.41 by Congo, France, Madagascar, Togo in 2014, and rejected recommendations from Azerbaijan, Brazil, Germany, New Zealand, France, Mexico in 2009;

On behalf of colleagues at HRS, GPAR and partners, I thank you for your attention and I welcome your questions and discussion.

**Contact us: Email: HRS@HRS.org.vn
Website: www.HRS.org.vn**