

**Sexual Exploitation of Children in Viet Nam**  
**Submission**  
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### **Vietnam Association for Protection of Child's Rights (VACR)**

Contact: Ms. Nguyen Thu Hang  
Phone: +84 2437 823 936  
Address: Cung Tri Thuc Building, 1 Ton That Thuyet Str., Cau Giay Dist., Ha Noi, Viet Nam  
Email: [hoibvqtevn@gmail.com](mailto:hoibvqtevn@gmail.com)  
Website: [treemviet.vn](http://treemviet.vn)

*VACR is the network of individuals and organisations striving to ensure basic rights for children, and to prevent any act of infringement of child's rights. VACR has its branch established in 38 provinces and is the coordination of the child rights network of more than 45 CSOs all over the country.*

*Together with its network, VACR has played a central role in facilitating CSO's policy dialogue with government agencies for purpose of developing and implementing laws and policies related to children. VACR also plays a major role in monitoring and reporting the implementation of child's rights, providing independent comments against related strategies, policies, laws, programs and projects through its networks. Annual advocacy forum organised by VACR serves as a platform for coordination and advocacy with different stakeholders including government authorities, business partners, child's rights organisation networks and media. Over the years, VACR has established trust and good relationship with the government, CSOs, and other stakeholders in the country.*



### **ECPAT International** Special consultative status

Executive Director: Ms. Dorothy Rozga  
Address: 328/1 Phayathai Road, Ratchathewi, Bangkok 10400, Thailand  
Phone: +66 2 215 3388  
Email: [info@ecpat.org](mailto:info@ecpat.org)  
Website: [www.ecpat.org](http://www.ecpat.org)

*ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 26 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 104 network members operating in 93 countries.*

## Justification for Submission

1. The present submission is an update to review the progress that has been made by the Government of Viet Nam (GoV) to end sexual exploitation of children (SEC) and assess the level of implementation of the UPR recommendations pertaining to SEC made in 2014.<sup>1</sup> New recommendations to end SEC in Viet Nam will be made. Recommendations made in this report are in line with the commitment made by the GoV to eliminate all forms of violence against children, including sexual abuse and exploitation with the adoption of the 2030 agenda for Sustainable Development in 2015.<sup>2</sup>
2. The content of this report is mostly based on the work experience of the members of the VACR and recent research by ECPAT.<sup>3</sup>
3. The scope of this report is limited to SEC and its different manifestations, including exploitation of children in prostitution,<sup>4</sup> online child sexual exploitation ('OCSE'), child sexual abuse materials ('CSAM'),<sup>5</sup> trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism<sup>6</sup> ('SECTT') and, child, early and forced marriage ('CEFM').

## Current status and developments of sexual exploitation of children in Viet Nam

4. With an estimated population of 94.5 million inhabitants,<sup>7</sup> Viet Nam is the world's 15<sup>th</sup> most populous country and the ninth most populous Asian country as of 2016.<sup>8</sup> In 2016, the child population in Viet Nam corresponds to almost 26 million.<sup>9</sup>
5. In 1986, Viet Nam launched an economic and political reform called *Doi Moi*, which created a socialist-oriented market economy and brought significant development transformation to the country.<sup>10</sup> The country reached a lower middle-income status. The country now ranked 115 out of 188 countries in the latest Human Development Index released in 2017 and based on estimates for 2015, which gives it the status of medium human development.<sup>11</sup>
6. However, inequality remains high in Viet Nam, particularly for children coming from marginalised groups. Children from ethnic minorities, children living on the street, children living in extreme poverty and children with disabilities are at high risk of being exposed to different forms of violence, including sexual exploitation. Poverty has indeed been identified as a major contributing factor in Viet Nam for the so-called 'voluntary or self-engaged prostitution', which implies that children decide to 'sell' their virginity and/or engage in prostitution.<sup>12</sup> Research has also revealed that children from rural and remote areas are more vulnerable to trafficking, owing to economic hardship and low law enforcement.<sup>13</sup>
7. Under Vietnamese laws, engaging in prostitution is illegal and criminalised by the Criminal Code.<sup>14</sup> Yet it remains widespread across the country and the **exploitation of children in prostitution** is reported to be the prevalent SEC manifestation in Viet Nam.<sup>15</sup> However, accurate estimates of the number of children exploited in prostitution are not available.
8. The CEDAW Committee classifies Viet Nam as a source country for child victims of **trafficking for sexual purposes**,<sup>16</sup> and the Counter Trafficking Network in Viet Nam, which includes representatives from UN agencies, embassies and civil society, has raised concerns regarding the growing number of children being trafficked in Viet Nam.<sup>17</sup> This is because, despite the number of measures taken by Viet Nam, the crime of trafficking is becoming more and more complex. The United Nations Office on Drugs and Crime (UNODC) revealed that Vietnamese trafficked victims are found in different countries all over the world<sup>18</sup>, even though the main part of Vietnamese children trafficking takes place through overland border crossings with neighbouring countries such as China, Cambodia and Lao PDR. This is evident in the Lao Cai province, which has many commercial border gates that make trafficking of child brides into China possible.<sup>19</sup> In 2016, Chinese authorities would have rescued 207 Vietnamese women, and one child, from a cross-border trafficking ring involving 61 gangs.<sup>20</sup>

9. In Viet Nam, accessibility to ICTs is widespread.<sup>21</sup> Even though there is no official statistics, evidence indicates that children are at risk of being sexually abused or taken advantage of online.<sup>22</sup> By contrast, parents often are not aware that sexual abuse and exploitation can be perpetrated using ICTs,<sup>23</sup> leaving children without supervision in the virtual world. A prominent manifestation of **OCSE** seems to come in the form of **CSAM**,<sup>24</sup> and an emerging practise takes the form of a ‘live online child sexual abuse’, which often involves the coercion of a child to participate in sexual activities that are transmitted live through the Internet to be watched by exploiters remotely.<sup>25</sup>
10. Regarding **SECTT**, Viet Nam has experienced an impressive growth in the tourism sector.<sup>26</sup> Statistics provided by the Viet Nam Ministry of Culture, Sports & Tourism revealed that from January to April 2018, international arrivals reached 5,547,314; marking a 29.5% increase compared to the same period in the preceding year.<sup>27</sup> In addition, previous research indicates that the consolidation of policies and law enforcement to combat SECTT in Thailand and the Philippines has diverted exploiters to Viet Nam.<sup>28</sup> Hence, the country is becoming a key destination for exploiters from all over the world. UNICEF and MOLISA have highlighted that, although these issues are commonly reported in large cities, the evidence demonstrates that SECTT is migrating to remote and mountainous areas such as Lao Cai and An Giang.<sup>29</sup>
11. In terms of **early and forced marriage**, data collected by UNICEF from 2010 to 2016 verified that 11% of Vietnamese women aged between 20 and 24 years were married for the first time or in some forms of union before they were 18 years old,<sup>30</sup> and 1% before their fifteenth.<sup>31</sup> The figure rises to 23% for ethnic minorities.<sup>32</sup> According to UNICEF, the practice is on the rise, with rates increasing from 5.4% in 2006 to 11% in 2017.
12. Out of the 13 recommendations concerning child rights in the last UPR review in 2014, only one recommendation targeted child prostitution, trafficking and the use of children in the sex trade, two recommendations addressed the need to take measures to guarantee the reintegration of child victims, one requested Viet Nam to establish policies to protect children from all forms of violence, and one recommended Viet Nam to ratify the CRC Optional Protocol on communication. None of them addressed the other SEC manifestations, namely OCSE/CSAM, CEFM and SECTT.

## **General measures of implementation**

### *National Action Plans and overall Strategies*

13. The GoV does not have a specific National Action Plan (NAP) focused on SEC or crimes described in the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC). It has however a series of plans relevant to the fight against the different manifestations of SEC.
14. In the last country’s review of 2014, Mexico recommend to “*intensify action against child prostitution, child trafficking and the use of children in the sex trade, in accordance with the 2011–2015 action plan against prostitution*”.<sup>33</sup> At a conference in Hanoi aimed at reviewing the five-year implementation of the plan, delegates said the plan had failed to meet expectations.<sup>34</sup> The Government of Viet Nam adopted two new plans: a National Action Plan on Prostitution Prevention and Control for 2016-2020, and an Anti-Trafficking National Action Plan also for 2016-2020. For the first time, men and boys are also recognized as victims of trafficking. No information is yet available on the progress made in the implementation of these plans. It also signed and implemented a number of bilateral agreements on combating trafficking in persons with regional neighbours.
15. In 2017, the GoV also launched the National Action Plan for the Implementation of the 2030 Sustainable Development Agenda which includes commitments to end SEC. For the SDG 16 and its target 16.2, which aims to end abuse, exploitation, trafficking and all forms of violence and torture against children and adolescents, the government committed to integrate child protection into socio-economic development plans; make efforts in implementing effective child-related laws and policies; and enhance monitoring efforts and evaluations of child protection laws and policies.

For the SDG 5 and its target 5.3, which aims to eliminate harmful practices such as CEFM, the government committed to formulate national programmes to prevent child marriages that take into consideration the particularities of affected regions and ethnic minorities, and to formulate advocacy programmes on abolishing these practices.<sup>35</sup> And for the SDG 5 and its target 5.2, which aims to eliminate all forms of violence against girls including trafficking and sexual and other types of exploitation, the government committed to improve its legislation; put into operation a database to track the enforcement of the legislation; and develop the following campaigns: “*city without violence against women and girls*”, “*countryside without violence against women and girls*”.<sup>36</sup>

16. Finally, Viet Nam adopted two national plans of action to implement its policy for the protection of children and promotion of their development. Child Protection Programme 2016-2020 aimed at reducing children in special circumstances by integrating them into the community and giving them access to development opportunities. This plan also strive at ending child abuse.<sup>37</sup> There is also the National Action Program for Children for the 2012-2020 period which overall objective is to build a safe, friendly and health living environment for children so that they can better realize their rights; to incrementally narrow the living condition gap between different groups of children and children in different regions; and to improve the quality of life and create equal development opportunities for all children.

**Recommendations for the GoV to:**

- Accede to the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, as recommended by Thailand in 2014<sup>38</sup>, and ratify the UNWTO Framework Convention on Tourism Ethics.
- Make sure that the National Programme on Child Protection 2016-2020 and the National Programme of Action for Children 2011-2020 address the deep-rooted socioeconomic factors that make children vulnerable to SEC.
- Establish an effective national system of data collection, analysis and dissemination of SEC in all its manifestations, disaggregated by age, gender, place of residence, ethnic origin and socio-economic background, to facilitate analysis on how SEC is present in the country.
- Submit a voluntary national review on the implementation of all the measures related to SEC at the national and sub-national levels.

*Coordination and Evaluation*

17. The country has put lots of efforts in the implementation of adopted policies. However, as highlighted by the CRC Committee, it still suffers from a limited cooperation, as well as a lack of funding and human resources.<sup>39</sup>
18. Coordination for the protection of children’s rights in Viet Nam was transferred from the Committee for Population, Family and Children (CPFC) to the Ministry of Labour - Invalids and Social Affairs (MOLISA) in 2007. MOLISA is now in charge of the cooperation among state agencies in charge of children at all levels.
19. After the adoption of the 2016 Children Law, the Government issued Government Decree No 56/2017/ND-CP, which has helped concretize the implementation of the Law on Children, and details the responsibilities of agencies, organizations and localities. In addition, MOLISA has been joining efforts to prevent SEC in Viet Nam. This is illustrated by the study developed with UNICEF Viet Nam to establish a solid basis for the development of policies and initiatives focusing on

protecting children from SEC and providing appropriate care for the victims of this crime.<sup>40</sup> While research has been carried out previously, this was the first study published by MOLISA, and it has greatly contributed to the identification of the nature and magnitude of SEC in Viet Nam.

#### **Recommendations for the GoV to:**

- Strengthen the coordination and cooperation of policies designed for children and ensure that they are comprehensive, coherent and consistent at the national, provincial, district and communal levels.
- Provide appropriate human, technical and financial resources to support the implementation of child-rights policies and legislation.

#### **Legislative framework**

20. In the country's last UPR review in 2013, Madagascar recommended to the GoV to "strengthen policies to protect children, vulnerable groups and the disadvantaged".<sup>41</sup>
21. In 2015, Viet Nam enacted a new Criminal Code, which came into force on 1 January 2018.<sup>42</sup> The new legislation strengthens child protection in the country by criminalising a broader array of SEC-related conducts and introducing more severe penalties for child marriage and trafficking.
22. However, it also introduced more lenient penalties for some other SEC-related offences, which were previously penalised more severely under the 1999 Criminal Code. In addition, in contrast to the Convention on the Rights of the Child (CRC), a child in Viet Nam is considered a "*human being below the age of 16*",<sup>43</sup> and this is reflected throughout the Criminal Code.
23. The new Criminal Code criminalises and sets a penalty for harbouring<sup>44</sup> and procuring<sup>45</sup> a person between 13 and 18 for **prostitution**, offences being sanctioned more severely if the victim is under 16 years of age. Although there is no specific offense for harbouring and procuring children under the age of 13, the Viet Nam's Ministry of Justice advises that the applicable charge should be complicity or accomplice in rape.<sup>46</sup> However, the gap in the law hinders the work of law enforcement officers, who find it difficult to identify offences and penalties with accuracy and therefore to have a consistent approach.<sup>47</sup> In terms of engaging in prostitution, the 2015 Criminal Code condemns engaging in prostitution with children between the age of 13 and 18,<sup>48</sup> with more stringent penalties when the offence involved a minor between 13 and 16 year old. Although there is no provision for engaging in prostitution with a minor under thirteen, Article 142 criminalises any sexual intercourse as rape with a minor below this age. The ordinance on prostitution prevention and combat defines prostitution as buying or selling sex in exchange of money or other material benefits. It fails however to include all the acts that are prohibited under the OPSC. As a result, the acts of offering and providing a child to be exploited in prostitution are not expressly covered in the national legislation, as required by the OPSC. Finally, the 2015 Criminal Code contrasts with the 1999 Criminal Code by reducing the maximum prison sentence for some of the mentioned offences, such as for harbouring and for sexual intercourse with a minor aged between 10 and 13 years old. On the other hand, the 2015 Criminal Code stipulates additional penalties for offenders who may be banned from holding certain positions, practicing certain occupations or doing certain jobs from 1 to 5 year.
24. The 2015 Criminal Code introduced a specific offence for **trafficking in children**, reflecting the key elements of trafficking in children enshrined in the Palermo Protocol.<sup>49</sup> However, only children under the age of 16 are protected by this provision.<sup>50</sup>

25. Article 16 of the Ordinance on Prostitution prohibits a series of acts prescribed by the OPSC and Article 6, read in conjunction with Article 4, of the Children Law (2016) prohibits the act of forcing the child to perform or produce pornographic products. These two instruments do not however criminalize those acts and the first still uses the term ‘store’ instead of ‘possess’. The Law on Information Technology No. 61/2006/QH119 expressly prohibits and administratively sanctions the use of ICT to disseminate ‘obscene’ materials. The new Criminal Code also introduced two new provisions related to **OCSE**, which are employment of children for pornographic purposes (Article 147) and distribution of pornographic materials (Article 326). In terms of employment, the protection is only provided for children under the age of 16, thereby contradicting the rights enshrined in the OPSC for all children under the age of 18. As regards distribution of pornographic materials, the provision does not cover most of the acts prescribed by the OPSC.<sup>51</sup> Article 326 only sanctions making, duplicating, publishing, transporting, dealing in, or storing CSAM, if those acts are accomplished for the purpose of distributing pornographic materials. Vietnamese law is thus less restrictive in terms of behaviours prohibited than Article 3 (1) (c) of the OPSC which sanctions those acts independently of the finality of the action. Another limitation remains in the fact that the legislation still does not define specifically ‘child pornography’ and does not sanction the mere possession of CSAM, which is an internationally accepted standard.
26. The 2015 Criminal Code remains silent regarding **online grooming**, which is a significant loophole that allows offenders to escape punishment in Viet Nam.
27. The Vietnamese legislation does not address specifically the issue of **SECTT**.
28. Regarding **CEFM**, the Marriage and Family Law sets the minimum legal age for marriage at 18 for women and 20 for men.<sup>52</sup> The Marriage and Family Law also imposes that marriage must be voluntarily decided.<sup>53</sup> Accordingly, the 2015 Criminal Code condemns the act of organising a marriage for a person under the marriageable age<sup>54</sup> and also condemns forcing a person to marry against her/his will. In contrast with the 1999 Criminal Code, which criminalised these offences only in case of recidivism and the perpetrator had been sanctioned administratively the first time, the new legislation criminalises these acts unconditionally.
29. In terms of **extraterritoriality**, the Vietnamese legal system enables the prosecution in Viet Nam of Vietnamese citizens who commit abroad SEC-related offences covered by the Criminal Code,<sup>55</sup> as well as the prosecution of foreign offenders who sexually exploit Vietnamese children outside Viet Nam’s territory.<sup>56</sup> It is not required for the act to be an offence under the law of the territory where it was committed.
30. When it comes to **extradition**, the Law on Legal Assistance stipulates that a person can be extradited to the requesting state if the act committed is an offence under Vietnamese law or under the law of the requesting state. This latter must prescribe one year or more of imprisonment. No principle of double criminality is thus applicable, except when the act has taken place outside of the requesting state’s territory. Vietnamese authority might however refuse to extradite if it is a Vietnamese citizen or when the offence is not a crime under the Vietnamese law. Those discretionary exceptions are problematic when it comes to situations of sexual exploitation that Viet Nam has not criminalized.

#### **Recommendations for the GoV to:**

- Take legislative measures to raise the legal age of a child to 18, in compliance with the CRC, and amend all the relevant provisions, notably in the new Criminal Code, to protect all children under the age of 18 from all manifestations of sexual exploitation and trafficking;
- Enact provisions defining ‘child prostitution’ and ‘child pornography’ in compliance with the OPSC, prohibiting all thereof prescribed acts;
- Take legislative measures to criminalise the act of ‘grooming’ children;
- Enact legislation defining and criminalising SECTT and adopt mandatory policies to protect children in new public and private tourism developments;
- Remove, in case of sexual exploitation offences, the margin of appreciation left to the relevant authorities to refuse extradition to a foreign country when the crime committed abroad is not a crime under Vietnamese law.

#### **Prevention**

31. In the country’s last UPR review in 2014, the Republic of Moldova recommended to Viet Nam “*to undertake measures targeted at vulnerable groups, particularly children, in order to prevent trafficking in human beings for labour and sexual exploitation*”.<sup>57</sup> Belarus recommended to “*continue work on introducing awareness-raising and educational programs on human rights into the curricula of schools and universities and on organizing relevant programs for civil servants*”.<sup>58</sup>
32. Viet Nam has put in increasingly more efforts in raising awareness and educating people on SEC-related issues. A notable example of this is the role that MOLISA has played in developing strategies to raise awareness on SEC at the local level.<sup>59</sup> In 2017, it launched with the Hanoi municipal People’s Committee an action month for children themed ‘Enforcing Child Law and Preventing Child Abuse’. The campaign would involve dissemination of child law, the program on child protection for the 2016-2020 period, and the decree on defining a safe, healthy and friendly environment for children, as well as the organization of seminars and conferences on seeking solutions to prevent and control child abuse and violence.<sup>60</sup> With UNICEF support, the Ministry of Education and Training has also developed a life-skills training program, which includes a module on child abuse, but this module is not mandatory. In addition, several manifestations of SEC are still not specifically targeted by awareness-raising strategies, such as SECTT, and the coverage of those measures is limited.
33. Some initiatives with a specific focus on SEC have been undertaken by NGOs and sensitisation campaigns have proven to be a key strategy to increase awareness of and switch attitudes towards SEC. The Child Rights Coalition Asia has for example collaborated with UNICEF to produce materials for children on how to stay safe online. These materials include booklets available in Vietnamese<sup>61</sup> and videos made by young Vietnamese children.<sup>62</sup>
34. Some private Vietnamese travel and tourism actors committed themselves to prevent and/or denounce sexual exploitation of children in travel and tourism by becoming members of the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, an industry-driven initiative supported by ECPAT, UNICEF and the UN.

35. Regarding youth participation, the international right for children to express their views freely in all matters affecting their lives is guaranteed by the Vietnamese Constitution. The country has been convening provincial and national forums where children can make their voices heard.<sup>63</sup> However, there was no systematic consultation of children and a lack of awareness. The recent Children Law is an important step towards the realisation of this right. It provides comprehensive provisions regarding children’s participation in issues involving them.

**Recommendations for the GoV to:**

- Intensify efforts to raise awareness on SEC by designing and implementing public awareness-raising programs among children, families and groups of professionals working with and for children. Such programs should attend to the needs and be accessible to persons with disabilities and speakers of minority languages.
- Promote to a greater extent the participation of children, including child survivors, in the decision-making of policies and legislation affecting them, by setting up mechanisms at all levels to facilitate consultations.

**Protection of the rights of child victims**

*Measures adopted to protect the rights and interests of child victims*

36. In the last country’s UPR review in 2014, Poland recommended to “*strengthen the national system of investigating complaints of child abuse and neglect*”.<sup>64</sup>
37. In order to improve the quality of the investigations and prosecutions, Viet Nam hosted the 40th Asia Region Law Enforcement Management Program (ARLEMP), with the theme of Transnational Child Sexual Exploitation. ARLEMP is a partnership between the Vietnamese Ministry of Public Security through the General Department of Police, the Australian Federal Police and RMIT International University in Viet Nam. It was the first course held in Viet Nam to focus on training law enforcement officials on online child sexual exploitation, sale and trafficking of children for sexual purposes and sexual exploitation of children in travel and tourism.
38. However, Viet Nam must sustain its efforts to train its officials considering the general lack of knowledge and skills necessary to conduct high quality investigations in those cases. In addition, the total number of violations related to SEC and data on the number of prosecutions and investigations is unknown. The GoV doesn’t have a comprehensive system in place to collect and report data on SEC, which greatly limits its capacity to assess, monitor and prevent SEC offences.
39. The country has also joined international agreements on law enforcement. An important example is the cooperation with the International Criminal Police Organization (INTERPOL) and the ASEAN Association of Chiefs of Police (ASEANAPOL). In addition, a Child Exploitation and Online Protection (CEOP) Advisory Panel has been established in Viet Nam to prevent online child sexual exploitation by British nationals and other foreign nationals.
40. Viet Nam has also a national child protection hotline, and recently set up a new one with an easier number to remember in 2017. The latter is supposed to be effective since December 2017. The MOLISA has assigned the Childcare and Protection Department to co-ordinate with relevant agencies to manage and operate this new hotline service. These hotlines can notably be used to seek legal advice and to report cases of child sexual abuses and trafficking. The information received is classified according to its emergency and is immediately reported to the local police if

necessary. No information is however available on the effective functioning of the centres and their capacity to refer or respond to cases of online child sexual abuse and exploitation.

41. Finally, the Vietnamese Justice system is evolving but is not yet fully equipped to respond to the need of children who come in contact with the law, whether as victims of SEC or as witnesses.
42. Viet Nam had issued a joint circular with a dedicated chapter providing guidance on criminal procedures designed to address the needs of child victims and witnesses based on the previous Criminal Procedure Code.<sup>65</sup> The instrument states that trials involving child victims need to safeguard the latter's best interests by providing child-sensitive information and procedures. Especially for cases of child sexual abuse and trafficking, the instrument also offers the option of in camera hearings in order to protect children's personal rights, honour and dignity. Concerning child statements, there is a provision that allows children to present their statements behind a screen or a shield, or in another room through a camera system, thereby avoiding direct visual contact with the defendant.
43. To the exception of Article 204, which states that minors are entitled, when intervening as witnesses, not to make the pledge of not giving false testimonies,<sup>66</sup> the Criminal Code did not include specific provisions setting up child-sensitive mechanisms. However, even though the 2015 amendments to the Procedure Criminal Code are currently not available, as they haven't been adopted yet, it appears that principles on how to conduct trials involving child victims, such as child-sensitive techniques and confidentiality, have been included in the draft.
44. Regarding protection measures, the current draft of the 2015 amendments in the Procedure Criminal Code state that child victims are entitled to receive protection measures from competent authorities if necessary, which include but are not limited to, confidentially regarding the victim's identity and, as a last resort, change of domicile.<sup>67</sup> In addition, general protection measures can be found in the Law on Human Trafficking Prevention and Combat, which contains provisions regarding confidentiality of information on victims and in camera hearings.<sup>68</sup> Supplementary protection measures are also enshrined in the Children Law. The instrument states that "human life, health, dignity, honour and privacy of children" must be protected and the psychological pressure of children who are testifier must be minimised. The protection measures provided by this law are separated in two categories: denominated support and intervention. In terms of support, the protective measures might consist of assisting children and their families in accessing social support policies. In terms of intervention, protection measures might consist of a safe temporary residence for children, separating them from the environment or individuals that constituted a threat to them.<sup>69</sup>
45. Nevertheless, so far, despite the joint circular, the legislation had not been implemented effectively, thereby demonstrating gaps between the law and the everyday reality of child victims. A previous study reported incidences where child victims of SEC suffered pressure and threats from police officers.<sup>70</sup> In this regard, the CRC Committee in its previous review expressed concern that sexually exploited children are likely to be treated as criminals instead of victims.<sup>71</sup> Likewise, the CEDAW Committee has expressed concerns regarding the administrative penalties imposed on girls exploited in prostitution, and the stigmatisation from which they suffer.<sup>72</sup> The adoption of the new Criminal Procedure Code, which will set up protection measures and child-sensitive mechanisms, must thus also be followed by training and sensitisation. In addition, children under 18 years old must be presumed to be victim of sexual exploitation and should be exempted from any liability that could arise from their exploitation.
46. Pursuant to the Vietnamese legislation, victims, including children, are eligible to receive compensation in case of moral and material damage caused by the offence. Moreover, they are entitled to suggest compensation levels and measures to secure such compensation. However,

limited information was available on cases of children successfully securing compensation in cases of SEC. Evidence suggests thus that children do not have access to effective remedies. This can be further illustrated by the fact that SEC remains underreported, despite its magnitude in the country.<sup>73</sup>

#### *Recovery and reintegration of victims*

47. While the 2011 Law on Trafficking Prevention and Combat contains provisions related to reintegration and recovery<sup>74</sup>, in the last country's UPR review in 2014, the Republic of Moldova recommended to "*develop alternative measures to deprivation of children's liberty and provide children with rehabilitation and reintegration programmes*".<sup>75</sup> In similar terms, India recommended to "*enhance support for the reintegration of victims of trafficking, especially women and children*".<sup>76</sup>
48. Since then, it is possible to review some cases illustrated in a study conducted by the United Nations Action for Cooperation Against Trafficking in Persons (UN-ACT), and other organisations. The 2017 study reports a successful case of referral to shelter programmes, where the child victim received various services including personal and family healthcare.<sup>77</sup>
49. In 2016, Viet Nam had passed a new Children Law which grants the prime responsibility for recovery and reintegration measures to the People's Committee of Communes which also has to coordinate the different actors. Furthermore, Viet Nam signed on to various Memoranda of Understanding (MoUs) regarding cooperation on assistance to victims of trafficking with ASEAN Member States, including Cambodia, Lao PDR, Myanmar and Thailand.
50. However, cases demonstrating the failure of reintegration services in providing access to education were reported.<sup>78</sup> Although sufficient data is not available to analyse accurately the accessibility of child victims of SEC to recovery and reintegration programmes in Viet Nam, it seems that efforts made by Viet Nam are insufficient. Other studies have indeed reported that bureaucratic procedures imposed by the government make it difficult for child victims to access reintegration services.<sup>79</sup> In addition, social workers' lack of knowledge and skills hamper providing adequate care to children in need. Accordingly, the CEDAW Committee and the CRC Committee have drawn attention to the country's inadequacy in providing rehabilitation and reintegration assistance for victims of SEC.<sup>80</sup> The need to invest more in specialised assistance for child victims has also been emphasised by the United Nations.<sup>81</sup>

#### **Recommendations for the GoV to:**

- Advance child-friendly national complaint mechanisms that are regulated by quality standards, implemented by knowledgeable, well-trained staff with adequate resources and easily accessible to all children, and ensure therefore, notably by establishing sanctions, that SEC victims are not treated as criminals.
- Design mechanisms to guarantee that children have effectively access to compensation.
- Continue to develop recovery and reintegration programmes for child victims of sexual exploitation that take into consideration their special vulnerability and are tailored to all SEC victims.
- Make available a systematic training on child rights for all professionals working with and for children; in particular, law enforcement officers, prosecutors, judges, teachers, and personnel working in all forms of alternative care.

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<sup>1</sup> Human Rights Council (2014), “Report of the Working Group on the Universal Periodic Review: Viet Nam”, A/HRC/26/6, accessed on 23 April 2018, [https://www.upr-info.org/sites/default/files/document/viet\\_nam/session\\_18\\_-\\_january\\_2014/a\\_hrc\\_26\\_6\\_e.pdf](https://www.upr-info.org/sites/default/files/document/viet_nam/session_18_-_january_2014/a_hrc_26_6_e.pdf).

<sup>2</sup> Sustainable Development Goal Targets 5.2, 8.7, and 16.2.

<sup>3</sup> ECPAT International (2018), “ECPAT Country Overview, Viet Nam”, forthcoming publication, <http://www.ecpat.org/resources>.

<sup>4</sup> ECPAT prefers the term ‘exploitation of children in prostitution’ instead of ‘child prostitution’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016”, Bangkok: ECPAT, 29, accessed on 26 April 2018, <http://luxembourgguidelines.org/>.

<sup>5</sup> ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. *Ibid.*, 39.

<sup>6</sup> *Ibid.*

<sup>7</sup> The World Bank, “Data: Vietnam”, accessed 25 April 2018, <https://data.worldbank.org/country/vietnam>.

<sup>8</sup> The World Bank, “Population 2016”, accessed 10 May 2018, <http://databank.worldbank.org/data/download/POP.pdf> as referenced in ECPAT International (2018), “ECPAT Country Overview, Viet Nam”.

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