

VIETNAM

International Instrument	Signature	Ratification, Acceptance (A), Approval (AA), Accession (a), Succession (d)	Entry Into Force
UN Convention on the Rights of the Child	13 Feb 1990	1 May 1991	
UN Optional Protocol on the Sale of Children, Child prostitution and Child Pornography	8 Sep 2000	20 Dec 2001	
Protocol to Prevent, Suppress and Punish Trafficking in Persons		8 Jun 2012 a	
UN Optional Protocol on the Involvement of Children in Armed Conflict	8 Sep 2000	20 Dec 2001	
UN Convention for the Protection of All Persons from Enforced Disappearance			
Hague Convention on International Child Abduction			

In Vietnam, there are six laws that refer directly or indirectly to missing children:

1. Penal Code of 1999, amended in 2014;
2. Decree 05/2000;
3. Child Protection, Care and Education Law of 2004;
4. Civil Code of 2005;
5. Youth Law of 2005; and
6. Human Trafficking Prevention and Combat Law of 2011.

General Child Protection

A number of partnerships have developed over the last few years to address child protection more generally. In 2012, UNICEF, in conjunction with the World Bank and Ministry of Labour, Invalids and Social Affairs (MOLISA) began working to reform the social assistance system to aid impoverished women, children, and families.¹ UNICEF and the World Bank also have collaborated to help the Vietnamese Government conduct an overall poverty analysis.² This is important for determining how many children are currently impoverished and how many are vulnerable to abandonment, neglect, and exploitation. This partnership is part of UNICEF's Vietnam Child Protection Programme, which was meant to be implemented between 2011 and 2015.³ The program has three central themes: (1) to increase child protective services, coordination, data collection, and follow up; (2) to develop special protection measures for the most vulnerable children, including those who have been trafficked,

¹ UNICEF, *UNICEF Annual Report 2012 for Vietnam* 5, at http://www.unicef.org/about/annualreport/files/VietNam_COAR_2012.pdf (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

² *Id.*

³ Email correspondence with Ms. An Nguyen Thi, Plan International-Vietnam (Mar. 21, 2014) (on file with the International Centre for Missing & Exploited Children).

exploited, or abandoned; and (3) to establish a justice system that is sympathetic to children, including those in conflict with the law.⁴ Additional partners of this program include Plan Vietnam, World Vision, Save the Children, and Child Fund.⁵ The Government of Vietnam has agreed that – by UNICEF’s goal year of 2016 – proper amendments to current legislation will have been implemented to ensure more comprehensive protections for children who are vulnerable to violence, exploitation, and neglect. Additionally, social workers, law enforcement, and judicial officers will have enhanced training and will be aware of the new policies and procedures in place. The Government also aims for the service systems to be implemented in eight focus provinces before expanding to become part of a national model. To achieve these goals, on 5 April 2016, a new Child Law was passed that focuses on children’s rights and duties, principles and measures to ensure the enforcement of children’s rights, and the responsibilities of State agencies, organizations, educational establishments, families, and individuals to exercise children’s rights and duties.⁶ The law will take effect in June 2017.⁷

Definition of “Missing Child”

While there is no definition for “missing child” in Vietnamese legislation, Vietnam does have detailed definitions of both “disadvantaged” and “street children” in its 2004 Law on Child Protection, Care and Education, which can be used to identify and protect missing children. The Law defines disadvantaged children as those “with physically or mentally abnormal conditions, who are unable to exercise their fundamental rights and integrate with family and community.”⁸ Article 40 provides further detail stating that, “disadvantaged children include orphans having no one to rely on, abandoned children; defective and disabled children; children being victims of toxic chemicals; children infected with HIV/AIDS; children doing hard or hazardous jobs or contacting noxious substances; children working far from their families; street children; sexually-abused children; children addicted to narcotics and juvenile offenders.”⁹

Street children are defined as children “who leave their families and earn a living by themselves with unfixed places of livelihood and residence; children wandering with their families.”¹⁰ This definition indirectly refers to runaways or children who have deliberately left their homes and have ended up lost and on the streets without any direct guardianship or adult supervision.

Articles 41 through 55 of the 2004 Law on Child Protection, Care and Education detail the responsibility of the State to protect and support disadvantaged children. The Articles mandate the creation of child support establishments, surrogate families, and special education establishments that include “moral education” to alleviate children’s disadvantaged circumstances and to provide for their care and development.¹¹ Article 42 (3) states, “the concerned ministries and branches have the responsibility to provide professional guidance for child support establishments in handling and

⁴ *Vietnam Child Protection Overview*, UNICEF, at <http://www.unicef.org/vietnam/protection.html> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

⁵ Email correspondence with Ms. An Nguyen Thi, *supra* note 346.

⁶ *New Child Law maintains legal age of children at 16*, VIETNAM PLUS, Apr. 5, 2016, <http://en.vietnamplus.vn/new-child-law-maintains-legal-age-of-children-at-16/91375.vnp> (last visited May 2, 2016) (on file with the International Centre for Missing & Exploited Children).

⁷ *Id.*

⁸ Law on Child Protection, Care and Education, No. 25/2004/QH11, June 15, 2004, Article 3 (on file with the International Centre for Missing & Exploited Children).

⁹ *Id.* at Article 40 – Disadvantaged children.

¹⁰ *Id.* at Article 3 – Interpretation of terms.

¹¹ *Id.* at Article 42 (3) – State’s policies towards disadvantaged children.

alleviating children's disadvantaged circumstances..."¹² According to an official at World Vision Vietnam, after the dissolution of the National Committee of Population, Family and Children in 2008, the Vietnamese Government designated MOLISA as the center for child protective services.¹³

The Penal Code of 1999 provides protection for children ages 13 to 18 years from rape, prostitution, and forced sexual intercourse. The 2005 Youth Law protects youth from sexual abuse and labor exploitation and places responsibility on the family to ensure that youth do not fall victim to social vices or lead a street life.¹⁴

Vietnam is the only country in Southeast Asia that outlines the different steps that should be taken when a person is absent or missing. However, Section 5 in the Vietnamese Civil Code of 2005 appears to focus only on adults who are missing.

Kidnapping and Abduction

Vietnam criminalizes child abduction in general in the Child Protection, Care and Education Law.¹⁵ However, there is no reference made in this law specifically to parental abduction.

Case Management/Database

There does not seem to be a centralized national database or case management system in place to document missing or unidentified children in Vietnam. However, World Vision's End Trafficking in Persons Program (ETIP) has designed a case management system for victims of human trafficking, which includes a missing person's form. This system has been implemented in ETIP's Vietnam locations, but it is unclear how often it is used and how the information is collected.¹⁶

Awareness-Raising Initiatives

The Ho Chi Minh City Child Welfare Foundation is an NGO that works to raise awareness about the risk of trafficking for vulnerable and at-risk youth. The Foundation focuses on the protection and care of vulnerable children, including children living on the streets, disabled children, and children at increased risk of abuse and exploitation.¹⁷ The Foundation runs two shelters in Ho Chi Minh City where they provide education and skills training.¹⁸

The Thao Dan Child Protection Center, another NGO working in Ho Chi Minh, also manages a safe house for street children ages 6 to 14 and offers them temporary shelter, food, access to education, and other social services when necessary such as outreach activities and practical survival trainings.¹⁹

¹² *Id.*

¹³ Email correspondence with Mr. Nguyen Khanh Hoi, National Coordinator for Project Childhood Prevention Pillar, World Vision Vietnam (Mar. 21, 2014) (on file with the International Centre for Missing & Exploited Children).

¹⁴ Youth Law of 2005 No. 53/2005/QH11, Article 28 – Responsibilities of the State and Article 29 – Responsibilities of the family (on file with the International Centre for Missing & Exploited Children).

¹⁵ Law on Child Protection, Care and Education, *supra* note 351.

¹⁶ Email correspondence with Ms. Le Viet Anh, *supra* note 182.

¹⁷ *Vietnam: Ho Chi Minh Child Welfare Foundation*, HUMANTRAFFICKING.ORG, at <http://www.humantrafficking.org/organizations/276> (last visited Mar. 30, 2016) (on file with the International Centre for Missing & Exploited Children).

¹⁸ *Id.*

¹⁹ *Thao Dan Safe House Information*, THAO DAN (on file with the international Centre for Missing & Exploited Children).

According to an official at World Vision Vietnam, MOLISA runs a child helpline that provides support to all children in cases of violence, abuse, kidnapping, or abduction.²⁰ Childline International and the MOLISA hosted the First Policy Dialogue and the Sixth Regional Consultation for Child Helplines in Asia-Pacific in November 2013 in Hanoi.²¹

Child Helpline Vietnam is funded by Plan Vietnam, an organization that aims to provide early childhood care, development, and protection for children in “ethnic minority areas.”²² The hotline, which was launched in 2004, is open to callers 24 hours per day and, according to the website, has handled hundreds of thousands of cases, primarily from callers aged 15 to 18 years old.²³

Trafficking

Vietnam has been fighting human trafficking in a variety of ways since the early 2000s.²⁴ The 2011 Law on Human Trafficking Prevention and Combat details the prevention, detection, and handling of human trafficking cases; the support systems available for victims; and the responsibilities of the Vietnamese Government agencies, ministries, sectors, and localities to prevent and combat human trafficking.²⁵ However, the only articles in the law that reference children, other than a brief discussion of the management of child adoptions, are Articles 24 (3) and 26 (1b). Both Articles state that in the case of a child trafficking victim, the competent agency, which is dependent on whether the child is a domestic or a foreign national, must notify a relative to take the child or assign a guardian to the victim.²⁶

Vietnam partnered with all six countries in the Greater Mekong Sub-region (GMS)²⁷ to build on and support ongoing national responses to human trafficking through personalized goals for each country.²⁸ In addition, World Vision’s End Trafficking in Persons Program (ETIP) is also working in the six countries of the GMS region. Between 2012 and 2016, ETIP aims to help reduce human trafficking in the GMS region by lowering the risk to vulnerable populations, providing survivors with the appropriate rehabilitative services, and ameliorating government policies to deliver greater overall protections for victims and their families.

In December 2010, UNODC and the Ministry of Public Security in Vietnam organized a workshop of all interested parties to increase inter-agency cooperation at the borders. At the meeting, participants agreed to create an Inter-Agency Committee to assess progress and threats to cross-border collaboration and enforcement.²⁹ Vietnam’s regulations regarding cross-border travel with children are

²⁰ Email correspondence with Mr. Nguyen Khanh Hoi, *supra* note 356.

²¹ CHILD HELPLINE INT’L, *Information Pack “Policy Dialogue and Regional Consultation for Child Helplines in Asia Pacific (2013), at http://www.childhelplineinternational.org/media/71607/info_pack_-_2013.pdf* (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

²² *What We Do*, PLAN VIETNAM, at <https://plan-international.org/where-we-work/asia/vietnam/what-we-do/what-we-do/> (last visited July 23, 2014) (on file with the International Centre for Missing & Exploited Children).

²³ *Id.*

²⁴ *Tackling Human Trafficking in the Greater Mekong Sub-region*, *supra* note 134.

²⁵ Law on Prevention of and Combat against Human Trafficking No.66/2011/QH12, Article 24 (3) – Receipt and verification of domestically trafficked victims and Article 26 (1)(b) – Receipt and verification of victims returning from abroad.

²⁶ *Id.*

²⁷ *Tackling Human Trafficking in the Greater Mekong Sub-region*, *supra* note 134, at 10.

²⁸ THE COMMIT SUB-REGIONAL PLAN OF ACTION, *supra* note 179.

²⁹ *Viet Nam Strengthens Inter-Agency Response to Border Crimes*, UNITED NATIONS OFFICE ON DRUGS AND CRIME, Jan. 26, 2011, at <http://www.unodc.org/southeastasiaandpacific/en/2011/01/border-crimes-vietnam/story.html> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).

minimal. Under the proposal of the Ministry of Public Security and the Ministry for Foreign Affairs, Decree No. 05/2000 on the Entry and Exit of Vietnamese Citizens was passed in March of 2003.³⁰ Although this Decree does not directly mention children, the Embassy of Vietnam states that only a child's parents or legal guardians can apply for a passport for a child under the age of 14.³¹

³⁰ Decree No. 05/2000/ND-CP of March 3, 2000 on the Exit and Entry of Vietnamese Citizens (on file with the International Centre for Missing & Exploited Children).

³¹ *Consular Services*, EMBASSY OF VIETNAM, LONDON, UNITED KINGDOM, at <http://vietnambassy.org.uk/index.php?action=p&ct=Consular%20Services%20for%20UK%20Residents> (last visited Feb. 21, 2016) (on file with the International Centre for Missing & Exploited Children).