



Home Office

# **Country Policy and Information Note**

## **Vietnam: Unaccompanied children**

**Version 1.0**

**September 2021**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [Introduction](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into 2 parts: (1) an assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note - that is information in the COI section; refugee/human rights laws and policies; and applicable caselaw - by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- a person is reasonably likely to face a real risk of persecution or serious harm
- that the general humanitarian situation is so severe that there are substantial grounds for believing that there is a real risk of serious harm because conditions amount to inhuman or degrading treatment as within [paragraphs 339C and 339CA\(iii\) of the Immigration Rules](#) / Article 3 of the [European Convention on Human Rights \(ECHR\)](#)
- that the security situation is such that there are substantial grounds for believing there is a real risk of serious harm because there exists a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict as within [paragraphs 339C and 339CA\(iv\) of the Immigration Rules](#)
- a person is able to obtain protection from the state (or quasi state bodies)
- a person is reasonably able to relocate within a country or territory
- a claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- if a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under [section 94 of the Nationality, Immigration and Asylum Act 2002](#).

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual](#), 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate and balanced, which is compared and contrasted where appropriate so that a comprehensive and up-to-date picture is provided of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote. Full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

### **Feedback**

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the Country Policy and Information Team.

### **Independent Advisory Group on Country Information**

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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# Assessment

Updated: 29 September 2021

## 1. Introduction

### 1.1 Basis of claim

- 1.1.1 Fear of persecution and/or serious harm by non-state actors because they are an unaccompanied child.

### 1.2 Points to note

- 1.2.1 Full consideration of the child's asylum claim must take place before consideration is given to any other forms of leave.
- 1.2.2 A decision on whether a child faces a risk of serious harm or persecution should be based on their individual circumstances and the country situation at the time of the decision.
- 1.2.3 For further analysis and information on additional profile-specific characteristics see the relevant [Country Policy and Information Notes](#) on:
- Trafficking
  - Hoa Hao Buddhism
  - Fear of illegal moneylenders
  - Opposition to the state
  - Ethnic and religious groups
- 1.2.4 For a definition of an unaccompanied child, see the [Asylum Instruction on Children's asylum claims](#).

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## 2. Consideration of issues

### 2.1 Credibility

- 2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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## 2.2 Exclusion

- 2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.2.3 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

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## 2.3 Convention reason(s)

- 2.3.1 Particular social group (PSG).
- 2.3.2 In the reported determination of [LQ \(Age: immutable characteristic\) Afghanistan \[2008\] UKAIT 00005](#), heard 6 October 2006 and promulgated on 15 March 2007, the Asylum and Immigration (AIT) Tribunal concluded that a person's age was an immutable characteristic so that children from

Afghanistan constituted 'a particular social group' for the purposes of the Refugee Convention (paragraph 7).

- 2.3.3 However, in the country guidance case [HK & Ors \(minors, indiscriminate violence, forced recruitment by Taliban, contact with family members\) Afghanistan CG \[2010\] UKUT 378 \(IAC\)](#), heard on 15 July 2010 and promulgated 23 November 2010, the Upper Tribunal found that [LQ](#) is not to be regarded as any form of country guidance nor precedent for any general proposition that **all** children in Afghanistan form a particular social group irrespective of their particular family circumstances (paragraph 42).
- 2.3.4 The Court of Appeal (England and Wales) in [HK \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2012\] EWCA Civ 315](#), heard on 9 February 2012 and promulgated 16 March 2012, concurred with the findings in [HK & Ors](#), noting that the UT held that if the unaccompanied child has family to whom they can return, then [LQ](#) will be inapplicable (para 8).
- 2.3.5 Although HK and LQ relate to Afghanistan, the principles behind the determinations are relevant to children in Vietnam. The same applies to other caselaw relating to children quoted in this assessment section.
- 2.3.6 Although unaccompanied children from Vietnam with no family to return to do form a PSG, this does not mean that establishing such membership is sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular child has a well-founded fear of persecution on return on account of their membership of such a group.
- 2.3.7 For further guidance on Convention reasons see the instruction on [Assessing Credibility and Refugee Status](#).

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## 2.4 Risk

### a. On the basis of being a child

- 2.4.1 Simply being a child from Vietnam does not of itself give rise to a well-founded fear of persecution for a Convention reason. The Court of Appeal considered unaccompanied children in [HK \(Afghanistan\) \[2012\]](#) and held, as a general principle, that 'The onus is on the asylum seeker to make good the asylum claim, and that applies to children as it does to adults' (para 34).
- 2.4.2 In [LQ](#), the Tribunal held that 'At the date when the appellant's status has to be assessed he is a child and although, assuming he survives, he will in due course cease to be a child, he is immutably a child at the time of assessment. (That is not, of course, to say that he would be entitled indefinitely to refugee status acquired while, and because of, his minority. **He would be a refugee only whilst the risk to him as a child remained**)' (paragraph 6 – emphasis added).
- 2.4.3 In the case of [ST \(Child asylum seekers\) Sri Lanka \[2013\] UKUT 292 \(IAC\) \(25 June 2013\)](#), heard 30 April 2013 and promulgated on 25 June 2013, the Tribunal found that risk on return must be assessed at date of decision. However, the Tribunal also held that 'It is clear that the grant of the status of refugee cannot be evaded by the respondent in effect saying that although there is a risk of ill-treatment today, the Secretary of State proposes to grant



discretionary leave to remain until the risk has diminished. Where an asylum claim is determined substantive and the criteria for the status are met, there is a right to the status...' (paragraph 27).

- 2.4.4 Equally, the Court of Appeal held in [EU \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2013\] EWCA Civ 32 \(31 January 2013\)](#), heard 17 December 2012, that '... to grant leave [as a refugee] to remain to someone who has no risk on return, whose Convention rights will not be infringed by his return, and who has no other independent claim to remain here... is to use the power to grant leave to remain for a purpose other than that for which it is conferred' (paragraph 6).
- 2.4.5 [ST](#) held that any risk of serious harm that **might** happen to a child in his or her country of origin does not necessarily make that child a refugee (paragraph 22 – emphasis added).
- 2.4.6 In the case of [KA \(Afghanistan\) & Ors v Secretary of State for the Home Department \[2012\] EWCA Civ 1014 \(25 July 2012\)](#), heard 27/28 March 2012, the Court of Appeal considered 'the eighteenth birthday point':
- 'Although the duty to endeavour to trace does not endure beyond the date when an applicant reaches that age [18], it cannot be the case that the assessment of risk on return is subject to such a bright line rule. The relevance of this relates to the definition of a "particular social group" for asylum purposes. In [DS](#), Lloyd LJ considered [LQ](#) (Age: immutable characteristic) Afghanistan [2008] UKAIT 00005 in which the AIT held that "for these purposes age is immutable", in the sense that, although one's age is constantly changing, one is powerless to change it oneself. Lloyd LJ said (at para 54):
- "that leaves a degree of uncertainty as to the definition of a particular social group. Does membership cease on the day of the person's eighteenth birthday? It is not easy to see that risks of the relevant kind to who as a child would continue until the eve of that birthday and cease at once the next day."
- 'Given that the kinds of risk in issue include the forced recruitment or the sexual exploitation of vulnerable young males, persecution is not respectful of birthdays – apparent or assumed age is more important than chronological age. Indeed, as submissions developed there seemed to be a degree of common ground derived from the observation of Lloyd LJ.' (paragraph 18).
- 2.4.7 In the case of [ZH \(Afghanistan\) v Secretary of State for the Home Department \[2009\] EWCA Civ 470 \(07 April 2009\)](#), on eligibility for UASC Discretionary Leave, the Court of Appeal held that:
- 'The mere fact that a child applicant for asylum falls within the [unaccompanied minor] policy of the Secretary of State is not in my judgment of itself sufficient to discharge the burden on the child applicant to demonstrate that he is at real risk, or there is a serious possibility that he will be persecuted if returned. The threshold for what amounts to persecution is relatively high, the policy sidesteps that difficulty by being broader in scope. The unaccompanied child does not have to demonstrate that he would be at real risk of persecution if returned to fall within the Secretary of State's policy. All he has to demonstrate is that he is unaccompanied, that his

parents cannot be traced and that adequate reception arrangements cannot be made for him. Thus, the policy is plainly broader in scope for perfectly understandable policy reasons than the narrower definition of what amounts to refugee status. Thus it does not follow automatically, simply from the fact that a child falls within the Secretary of State's broader policy, that there is a real risk or a serious possibility that that particular child's basic human rights will be so severely violated that he will suffer what amounts to persecution' (paragraph 10).

- 2.4.8 For guidance on the UASC leave policy see the [Asylum Instruction on Children's asylum claims](#).
- 2.4.9 For further guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#).

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#### b. General risk

- 2.4.10 Poverty and homelessness have reduced in recent years, but high poverty rates remain amongst ethnic minority communities. Statistics from Save the Children note that 15% of the population come from an ethnic minority background but that they make up 47% of the poor. Children from ethnic minority backgrounds are more likely to live in poverty and face difficulties in accessing health care, schooling, shelter, and safe water. Children with disabilities are also more likely to live in poverty and subsequently more likely to face difficulties accessing facilities and schooling (see [Child poverty](#) and [Children with disabilities](#)).
- 2.4.11 There are currently around 22,000 orphaned or abandoned children in government run shelters and approximately 11,000 in privately run institutions, a large number of these children suffer from some form of disability (see [Orphaned/abandoned children](#)).
- 2.4.12 The Covid-19 pandemic has hindered access to facilities such as schooling and medical care and has also increased stress and anxiety among children. It has also exacerbated some of the risks that children from poorer and ethnic minority backgrounds face (see [Impact of COVID 19](#)).
- 2.4.13 Street (homeless) children, not all of whom are orphans, tend to come from villages as migrants to the cities. There are no reliable recent statistics to indicate how many children are living on the streets, but a commonly quoted figure is 23,000. Some of these children are subject to threats of violence, abuse, sexual exploitation, and police harassment and can be at risk of being trafficked. They have little or no access to government-run services (see [Street children](#)).
- 2.4.14 Sexual violence against children occurs in many settings including schools and homes and is usually inflicted by someone known to the child. Progress has been made in strengthening the laws to address violence against minors but some forms of violence are not clearly defined in the Penal Code (see [Child abuse, including corporal punishment and sexual violence](#)).
- 2.4.15 Whilst the legal age for marriage is 18 for girls, child marriage still occurs. Prevalence of early/forced marriage varies across the country and girls from all regions and levels of society can be vulnerable although it is more likely in

rural areas and amongst ethnic minority groups (see [Early and forced marriage](#)).

- 2.4.16 Some children, particularly those from poorer areas and girls from ethnic communities in the highlands, are vulnerable to human trafficking both within and, less frequently, from Vietnam for the purposes of early/forced marriage, forced labour and sexual exploitation. Some children are influenced/encouraged by their parents, families and or community to migrate for better opportunities and subsequently end up in exploitative situations (see [Trafficking](#) and [Child labour](#)).
- 2.4.17 Each case must be considered on its facts and decision makers must establish whether the treatment an unaccompanied child is likely to experience is sufficiently serious by its nature and repetition that it will reach the high threshold of being persecutory or otherwise inhuman or degrading treatment.
- 2.4.18 For information that may also be relevant to the child, including guidance on assessing risk, see the relevant [Country Policy and Information Notes](#) on:
- Trafficking
  - Hoa Hao Buddhism
  - Fear of illegal moneylenders
  - Opposition to the state
  - Ethnic and religious groups.
- 2.4.19 For further guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Children's asylum claims](#)

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## 2.5 Protection

- 2.5.1 Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, decision makers must assess whether the state can provide effective protection. Details of any previous attempts to secure protection should be sought. The onus is on the person to demonstrate why they would be unable to access effective protection (see also the [Asylum policy guidance on Children's asylum claims](#)).
- 2.5.2 In contravention to the Convention on the Rights of the Child (CRC), which Vietnam ratified in 1990, the law in Vietnam defines a child as a person below the age of 16 (see [Legal context](#)).
- 2.5.3 The law criminalises acts related to the exploitation of children such as prostitution, forced labour and trafficking. However owing to the definition of a child, the exploitation of children 16-17 years old for purposes of child prostitution and trafficking are not fully criminalised and required there to be a demonstration of force, fraud, or coercion to constitute a sex trafficking offense (see [Domestic legislation](#), [Early and forced marriage](#) and [Trafficking](#)).

- 2.5.4 The law also prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development. However the laws on the mistreatment of children were not consistently enforced (see [Legal context](#) and [Violence against children](#)).
- 2.5.5 The Ministry of Labour, Invalids and Social Affairs (MOLISA) provides protection and reintegration support for a range of vulnerable individuals. They operate social protection centres through local authorities, which provide services to a wide range of vulnerable groups, including trafficking victims, although there are no shelters that deal specifically with children (see [Government support and protection](#) and [Government shelters](#)).
- 2.5.6 Vietnam aims to have an inclusive social protection system and social work centres in districts and towns. However, the current system is limited with a lack of trained child protection workers such as social workers, police, judges, teachers and medical experts and the system is unable to deal with multiple risks affecting children's wellbeing (see [Government support and protection](#)).
- 2.5.7 Although the state may be willing, in general it is unable to provide effective protection to children who may be at risk of and/or experience serious harm or harassment amounting to persecution and there continues to be a lack of adequate arrangements in place for child protection. Each case must be considered on its merits. The onus is on the person to demonstrate why they would be unable to seek and obtain state protection.
- 2.5.8 For guidance on assessing the availability of state protection for additional profile-specific characteristics, see also the [Country Policy and Information Notes](#) on:
- Trafficking
  - Hoa Hao Buddhism
  - Fear of illegal moneylenders
  - Opposition to the state
  - Ethnic and religious groups.
- 2.5.9 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Children's asylum claims](#).

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## 2.6 Internal relocation

- 2.6.1 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation taking full account of the individual circumstances of the particular person especially the fact that this is an unaccompanied child. While the onus is on the person to establish a well-founded fear of persecution or real risk of serious harm, decision makers must demonstrate that internal relocation is reasonable having regard to the individual circumstances of the person.
- 2.6.2 For guidance on assessing internal relocation for additional profile-specific characteristics, see also the [Country Policy and Information Notes](#) on:

- Trafficking
  - Hoa Hao Buddhism
  - Fear of illegal moneylenders
  - Opposition to the state
  - Ethnic and religious groups.
- 2.6.3 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Children's asylum claims](#).

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## 2.7 Return and reception arrangements

- 2.7.1 In [HK \(Afghanistan\) \[2012\]](#) the Court of Appeal held that it would not, in all cases, be appropriate to draw an adverse inference that the child would be safely received merely from the failure of the child to try to make contact with his or her family (paragraph 35). Conversely, nor did it necessarily follow that a child with no family to receive them in Afghanistan could not safely be returned (paragraph 36).
- 2.7.2 In [ST \(Child asylum seekers\) \[2013\]](#) the Tribunal confirmed that an assessment of risk (of conditions on return) is required on the hypothesis that the child will be removed at the time of decision (paragraph 29).
- 2.7.3 Therefore, decision makers must make an assessment of risk of persecution or serious harm using the hypothetical scenario that the unaccompanied child will return to Vietnam at the time of the decision, taking into account that return of the child would only take place where:
- family contact is established and ongoing
  - adequate reception arrangements are in place
  - it is in the best interests of the child, as a primary consideration, to leave the UK, return to their home country and reunite with their family members
  - safe and practical return arrangements are confirmed
- 2.7.4 In the case of [Ravichandran \[1995\] EWCA Civ 16](#) the Tribunal held that '... in asylum cases the appellate structure... is to be regarded as an extension of the decision-making process'. Thus applying the general principle that an appellate tribunal must consider asylum cases on the basis of the latest evidence when considering return, including any which postdates the original decision, whilst also taking into account the hypothetical scenario, utilised in [ST \[2013\]](#), that return and reception arrangements are in place.
- 2.7.5 However, if adequate and sustainable reception arrangements with family members cannot be made, and there is no current prospect of them being made, and but for this it would be reasonable for the child to return, decision makers must consider granting UASC leave under paragraphs [352ZC to 352ZF of the Immigration Rules](#).

2.7.6 For further guidance on reception arrangements for the return of unaccompanied children, see the [Asylum Instruction on Children's asylum claims](#).

## 2.8 Certification

2.8.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.8.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

Section 3 updated: 6 September 2021

## 3. Demography

### 3.1 Population

- 3.1.1 Vietnam has an estimated population of approximately 102 million<sup>1</sup>. According to statistics from 2018 there were approx. 26 million people under the age of 18<sup>2</sup>.

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### 3.2 Family structure

- 3.2.1 The University of Massachusetts Medical School country guide on Vietnam, updated 2 November 2020, stated:

'The traditional Vietnamese family is patriarchal, patrilineal, and patrilocal, often with two or four generations under one roof. There is the immediate family (nha) and the extended family (ho). In Vietnam, the immediate family is the nuclear family plus the husband's parents and the grown sons' spouses and children. The extended family is the immediate family plus family members of the same name and relatives residing in close proximity. Father has ultimate responsibility and acts as an authority leader while delegating tasks and involving others in decision making. In Vietnam, the father often worked outside the home, while the mother cared for the children and managed the household. Grandparents helped with childcare, and children helped with various chores. Younger siblings are to respect and obey older siblings, and aunts and uncles are treated as patients[sic].'<sup>3</sup>

- 3.2.2 The Organisation for Economic Co-operation and Development (OECD) Social Institutions and Gender Index (SIGI) 2019 country profile for Vietnam stated that:

'The 2014 Law on Marriage and Family proclaims equal rights and obligations between husband and wife, as well as between parents. In this respect, married couples must share family work (art. 19 para. 1) and jointly agree on their domicile (art. 20). Both parents share the obligation to meet their family's essential needs (art. 37 para. 2), to jointly care for and raise their children (art. 71 para. 1), and to act as their legal guardians (art. 73 para. 1), regardless of their marital status. Patriarchal attitudes persist in practice, with son preference resulting in men becoming the head of the household and wives being responsible for housework and childcare under the subordination of their husbands ([Jones N. et al., 2014](#); [CEDAW, 2015](#)). Moreover, wives are traditionally required to live in the home of their husband's family ([Hays, 2014](#)).'<sup>4</sup>

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<sup>1</sup> CIA, '[World Factbook – Vietnam](#)' (People and Society), 13 April 2021

<sup>2</sup> Unicef, '[The State Of The World's Children 2019-Growing well in a changing...](#)' pg 195, 2019

<sup>3</sup> UMASS, '[Vietnam](#)', updated 2 November 2020

<sup>4</sup> OECD SIGI, '[Country profile- Vietnam](#)', 2019



## 4. Legal context

### 4.1 Constitution

- 4.1.1 Article 37 of Vietnam's Constitution makes specific reference to the welfare and protection of children:

'1. Children shall be protected, cared for and educated by the State, family, and society; children may participate in child-related issues. Harassing, persecuting, maltreating, abandoning, or abusing children, exploiting child labor or other acts that violate children's rights are prohibited.

'2. Young people shall be provided by the State, family and society with the conditions for learning, working, entertaining themselves, and developing their physiques and minds, and be educated in morality, national traditions and civic consciousness; and shall take the lead in the cause of creative labor and national defense.'<sup>5</sup>

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### 4.2 International law

- 4.2.1 Vietnam is signatory to the Convention on the Rights of the Child (CRC), ratified on 28 February 1990 and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC), ratified on 20 December 2001<sup>6</sup>.

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### 4.3 Domestic legislation

- 4.3.1 The law recognises a child as being a human below the age of 16 (Article 1)<sup>7</sup>. Vietnam's Children's Law of 2016, sets out the general provisions, including: '... [R]esponsibilities; rules and methods of ensuring children's rights; duties of agencies, organization, education facilities, families and individuals to exercise children's rights and responsibilities.'<sup>8</sup>

- 4.3.2 The Australian Government, Department of Foreign Affairs and Trade, Country Information Report Vietnam, 13 December 2019, (2019 DFAT report) stated:

'Vietnam was the first country in Asia and the second globally to ratify the CRC in 1990. Vietnam's Law on Children (2016), however, defines a child as a person under 16 years of age, in contravention of the Convention's definition of a child as a person under 18 years of age. The minimum age for criminal liability in Vietnam is 14 years of age. The 2015 Penal Code narrowed the scope of crimes for which 14-16-year olds serve time in prison, limiting it to 28 very serious crimes under Article 12 of the Penal Code, with a maximum sentence of 12 years imprisonment. Offenders 16 years or older

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<sup>5</sup> Vietnam Law & Legal System, '[The 2013 Constitution of the Socialist Republic ...](#)', 7 October 2014

<sup>6</sup> OHCHR, '[Ratification Status for Viet Nam](#)'.

<sup>7</sup> Socialist Republic of Vietnam, '[Children Law \[English translation\]](#)', 5 April 2016

<sup>8</sup> Socialist Republic of Vietnam, '[Children Law \[English translation\]](#)', 5 April 2016



are criminally liable for any offence and face a higher maximum sentence of 18 years imprisonment.’<sup>9</sup>

4.3.3 The US State Department, Country Report on Human Rights Practices 2020, (2020 USSD report), published 30 March 2021, stated:

‘The law criminalizes all acts of sale or deprivation of liberty of children as well as all acts related to the exploitation of children in prostitution and forced child labor for children younger than 16. The exploitation of children in prostitution is not fully criminalized for 16- and 17-year-old children. Sentences for those convicted range from three years to life imprisonment and significant fines. The law specifies prison sentences for conviction of acts related to the exploitation of children in prostitution, including harboring prostitution (12 to 20 years), brokering prostitution (seven to 15 years), and buying sex with minors (three to 15 years). The production, distribution, dissemination, or sale of child pornography is illegal, and a conviction carries a sentence of three to 10 years’ imprisonment. The country is a destination for child sex tourism.

‘The law prohibits all acts of cruel treatment, humiliation, abduction, sale, and coercion of children into any activities harmful to their healthy development and provides for the protection and care of disadvantaged children.

‘The minimum age for consensual sex is 18. Conviction for statutory rape may result in life imprisonment or capital punishment. Penalties for sex with minors between the ages of 16 and 18 vary from five to 10 years in prison, depending upon the circumstances. The penalty for rape of a child between the ages of 13 and 16 is seven to 15 years’ imprisonment. If the victim becomes pregnant, the rape is incestuous, or the offender is in a guardianship position to the victim, the penalty increases to 12 to 20 years’ imprisonment. The law considers all cases of sexual intercourse with children younger than 13 to be child rape, with sentences ranging from 12 years’ imprisonment to death. The government enforced the law, and convicted rapists received harsh sentences.’<sup>10</sup>

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Section 5 updated: 6 September 2021

## 5. Social and economic rights

### 5.1 Education

5.1.1 Bertelsmann Stiftung Index (BTI), Country Report on Vietnam, stated: ‘Vietnam’s education and training system includes formal and informal education at four levels: early childhood education: nurseries and kindergarten; general education: primary school, lower-secondary and upper-secondary schools; vocational education and training (VET); and higher education.’<sup>11</sup>

5.1.2 The 2019 DFAT report, stated:

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<sup>9</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 3.85), 13 December 2019

<sup>10</sup> USSD, ‘[Country Report on Human Rights Practices 2020 – Vietnam](#)’ (Section 6.), 30 March 2021

<sup>11</sup> BTI, ‘[BTI 2020 Country Report - Vietnam](#)’, (p26), 2020

‘Education in Vietnam is compulsory from ages five to 14. The national education policy provides universal access to education and ensures minimal conditions are met in every primary school. Vietnam has high primary school completion rates, strong gender parity, low student-to-teacher ratios, and low out of school rates. Since 2008, the government has spent around 20 per cent of its national budget on education.

‘Access and quality remain concerns for lower secondary education (grades 6-9). According to UNICEF [United Nations International Children's Emergency Fund], only 60 per cent of students in lower secondary school transition to upper secondary level nationwide. Education quality is particularly limited in remote areas. While school tuition is free, families are required to pay for textbooks, uniforms, and school maintenance services, which can limit school enrolment from disadvantaged groups.

‘Access to facilities is also a major problem for ethnic minority children, who typically live in remote areas. The government operates around 300 boarding schools in 50 provinces for ethnic minority children, primarily in the Northwest and Central Highlands and the Mekong Delta. The government has also developed local-language curricula with local officials in a number of ethnic minority areas. This has reportedly proven more effective in the Central Highlands and the Mekong Delta than in the Northwest Highlands. The government also subsidises several technical and vocational schools for ethnic minorities. While ethnic minority students are exempt from paying school fees under a government subsidy program, their attendance can be limited by government and family budgets for education. Some, particularly in rural areas, may also be restricted from attending school due to the need to assist their families in agriculture.’<sup>12</sup>

#### 5.1.3 The 2020 USSD report stated:

‘By law education is free, compulsory, and universal through age 14, but school fees were common. Under a government subsidy program, ethnic-minority students were exempt from paying school fees. Authorities also did not always enforce required attendance laws or enforce them equally for boys and girls, especially in rural areas, where government and family budgets for education were limited and children’s labor in agriculture was valuable.

‘Gender gaps in education declined, but certain gaps remained. There were substantial differences in the education profile of men and women at the postsecondary level, notably in applied technology programs. The government sometimes denied education to children from families not registered in their locality, with particular discriminatory effect on H’mong communities in the Central Highlands and on the children of some political and religious activists.’<sup>13</sup>

#### 5.1.4 See also [Impact of COVID 19](#).

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<sup>12</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 2.33-2.35), 13 December 2019

<sup>13</sup> USSD, ‘[Country Report on Human Rights Practices 2020 – Vietnam](#)’ (Section 6.), 30 March 2021

## 5.2 Health and welfare

5.2.1 Under-five mortality rate has steadily declined from the 1960's when it was recorded at 86.3 in every 1,000 live births to 19.9 in every 1,000 in 2019<sup>14</sup>.

5.2.2 A joint report by Ministry of Labour, Invalids and Social Affairs (MOLISA), United Nations Development Programme (UNDP) and Development Pathways, *Social Assistance in Viet Nam: A Review and Proposals for Reform*, 2016, stated:

'Viet Nam's social care system has traditionally been based around a nationwide network of social protection centres, which provide residential accommodation for vulnerable categories of the population. In total, there are 393 units, of which 213 are publicly run and 180 are managed by nonstate entities. Overall, the social protection centres serve around 41,500 people, including the following categories of the population:

- ‘ 156 units for children;
- ‘ 134 mixed units for a range of vulnerable categories of the population;
- ‘ 27 units for people with disabilities;
- ‘ 26 units for people with mental health issues;
- ‘ 13 units for older people; and,
- ‘ 37 general social work centres.’<sup>15</sup>

5.2.3 In an article on the UNICEF website of July 2020 Ms Rana Flowers, UNICEF Representative in Vietnam stated with regards to social protection policies:

'In Viet Nam, social protection policies are narrowly targeted, with only 10 per cent of children receiving child benefits – these are mainly educational stipends for ethnic minority children and children narrowly categorized by the law. Less than 1 per cent of children under 36 months are receiving child benefits, and it is at a very low value. Administrative bottlenecks such as multiple targeting approaches, complicated beneficiary identification processes and a delivery mechanism that heavily relies on the Post Office excludes even the eligible families and children. This was the case for the Government's cash assistance package in response to COVID-19.

Moreover, the current social protection system is not responsive to shocks such as economic crisis, natural disasters and pandemic outbreak. The regular cash assistance system does not offer flexibility to expand the coverage at the onset of crisis. As a result, many children and families still lack the support they so desperately need, not only to recover from the impact of the COVID-19 period but to reestablish their lives and livelihoods on more stable footing over the long term.’<sup>16</sup>

5.2.4 UNICEF's undated page on 'children in Vietnam' noted that:

'...many children still fail to get the best start to life and access to quality health care, with 100 children under-5 dying each day of preventable causes – a figure 3.5 times higher among ethnic minorities in northern mountainous

<sup>14</sup> World Bank, '[Mortality rate, under-5 \(per 1,000 live births\) – Vietnam](#)', 2020

<sup>15</sup> MOLISA, UNDP and Development Pathways, '[Social Assistance in Viet Nam: A ...](#)' (p30), 2016,

<sup>16</sup> UNICEF, '[Sustainable poverty reduction begins with children- The battle against...](#)', July 2020

areas. Although ethnic minorities account for 15 per cent of the total population, the rate of mortality of children under-5 among this group is 3.5 times higher than for the Kinh majority. Deprivations around health and nutrition have also left 1.9 million children under-5 suffering from stunting, leaving permanent physical and brain damage. Unsafe water and sanitation still account for a significant number of communicable diseases, with three million children deprived of clean water.<sup>17</sup>

5.2.5 The BTI 2020 country report on Vietnam noted that:

‘Vietnam’s social welfare system has slowly developed as the market economy continues to evolve. Progress has been made more in poverty reduction and health care than in pension provision. In health care, government spending increased from 1.5% to 2.5% of the GDP from 2000 to 2015 and is now higher than most of its neighbors. Health insurance enrollment increased from 15% to 70% of the population in the same period; 30% of the population remains uninsured. Out of pocket medical expenses can drive many households into poverty. Corruption is pervasive in the system, with 22% of recently surveyed respondents reporting having paid a bribe at a health facility last year.’<sup>18</sup>

5.2.6 See also [Impact of COVID 19](#) and [Children with disabilities](#). For further information on the provision of mental healthcare for children see the [Country Policy and Information Note Vietnam: Mental healthcare](#).

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### 5.3 Impact of COVID 19

5.3.1 In an article on the UNICEF website of July 2020 Ms Rana Flowers, UNICEF Representative in Vietnam discussed the situation of child poverty in Viet Nam. She stated that:

‘COVID-19 is inevitably a child right crisis – the disruption to regular services has placed pressure on families to spend more on health care, food supplies, internet credits for online learning, childcare and alternative transport. Meanwhile, many parents experienced job loss or reduced income. Families already living in poverty will slide further in, and those on the cusp of escaping poverty will be flung back. Many more families will struggle to provide for their children and to access the childcare and other support they need to cope. Economists predict that the crisis will be protracted, with a long path to recovery ahead.’<sup>19</sup>

5.3.2 The August 2020 UNICEF report on the impact of COVID 19 on children and families noted that:

‘The COVID-19 pandemic and resulting nonpharmaceutical interventions (NPI) have pushed many people, especially those in rural areas and ethnic minorities, into poverty due to unemployment, underemployment and loss of incomes...

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<sup>17</sup> UNICEF, [‘Children in Vietnam’](#), undated

<sup>18</sup> BTI, [‘Vietnam Country Report 2020’](#) (welfare regime), 29 April 2020

<sup>19</sup> UNICEF, [‘Sustainable poverty reduction begins with children- The battle against...’](#), July 2020

‘The COVID-19 pandemic and resulting social distancing measures hindered the access of families with children to routine maternal and child healthcare services, meanwhile some healthcare facilities became overwhelmed with work to control COVID-19 transmission. Routine immunization services in Viet Nam were temporarily suspended during the social distancing period between 1 and 22 April 2020. About 100,000 mothers and new-borns would be at risk of not receiving pre- and post-natal visit.

‘...In terms of mental and psychological child health, the pandemic has led to increased stress, anxiety and depression among children. This unprecedented pandemic has created many overwhelming changes in children’s social activities. As a result of social distancing and school closures, children’s daily lives were seriously disrupted.

‘...The COVID-19 crisis heightened risks for children experiencing or witnessing violence, exploitation and abuse.

‘...All distance learning modalities (online, TV, radio and paper-based) posed unique challenges with respect to ensuring inclusive and quality learning. For example, online learning compounded inequality in education for the most disadvantaged groups, especially children from sub-optimal socio-economic backgrounds (ethnic minority groups and poor families) due to the digital divide and literacy. Teachers, especially in disadvantaged areas, were not well prepared to facilitate online learning, with 93 per cent of teachers in remote provinces reporting not having used modern technologies in class prior to the COVID-19 crisis. This compromised the quality of online teaching. Furthermore, ethnic minority students could not benefit from mother tongue-based online learning due to a lack of online materials in ethnic minority languages.’<sup>20</sup>

5.3.3 The Overseas Development Institute (ODI), an independent global thinktank, noted in January 2021 that:

‘The pandemic has caused disruptions to the lives of adolescents in Viet Nam..., precipitating symptoms of stress, anxiety and depression.

‘... Viet Nam mandated the closure of all education institutions, affecting more than 25 million Vietnamese students, at the beginning of February 2020 when the first Covid-19 infections were reported. Where possible, teaching and instruction was moved online. It was only in May 2020 that the country decided to reopen schools with the necessary sanitation and health protocols. ...Some children are more vulnerable to the impact of school closures than others. More than six million children live with disabilities in Viet Nam and parents have struggled to find alternative childcare arrangements. ...In Viet Nam, there was also a stark digital divide that called into question the inclusivity of distance learning (Minh et al., 2020). Socioeconomically disadvantaged areas and rural areas struggled to access and keep up with online classes. Ethnic minority students were not able to access much of the online learning material because of language barriers. As a result, students reported increased anxiety and psychosocial disorders.’<sup>21</sup>

<sup>20</sup> UNICEF, ‘[Rapid assessment on the social and economic impacts of COVID...](#)’, (p23) August 2020

<sup>21</sup> ODI, ‘[Impact of Covid-19 on adolescent mental health in Viet Nam and Tanzania](#)’, 27 January 2021



## 5.4 Children with disabilities

### 5.4.1 The 2016 joint report by MOLISA, UNDP and Development Pathways, stated:

‘As with the general population, the challenges people with disabilities face vary over the lifecycle. Children with disabilities are more likely to live in poverty than non-disabled children: for example, at age 10-14 years, the poverty rate among children with disabilities is 74% higher than among nondisabled children. This may well reflect the fact that their carers are less able to work, thereby reducing family incomes. They also face challenges with schooling. It has been estimated that only around 52% of children with disabilities have access to education, although other studies place the proportion as low as 20%.

‘Furthermore, around 33% of children with disabilities are illiterate. The difficulties children face in accessing schools could be due to a range of reasons, including discrimination, a lack of appropriate facilities and trained teachers, insufficient social care services to support children at home, but also the additional costs faced by families in sending their disabled children to school. This is likely to affect most those on low incomes but even those with higher but still insecure incomes may well struggle.’<sup>22</sup>

### 5.4.2 UNICEF’s undated page on ‘children in Vietnam’ noted that: ‘Much work also remains to ensure education is accessible to all children with disparities persisting between rural and urban areas, gender and ethnicity, while just one-in-10 children with disabilities attend secondary school out of a population of 1.3 million.’<sup>23</sup>

### 5.4.3 UNICEF and the General Statistics Office conducted a one-year large-scale survey using international standards about disabled people in Vietnam (2016-2017). The survey findings, published in 2018, noted that the disability rate among 2-17-year olds is 2.83%. The report went on to note that: ‘The prevalence rate for rural area is almost 1.5 times higher than in urban areas. The region with the highest disability rates is the North Central and Central Coast (NCCC), the lowest are found in the South East (SE) and Central Highlands (CH).’<sup>24</sup>

### 5.4.4 The same report further found:

‘Accessible opportunities to schools for children with disabilities is much lower than for non-disabled children. Primary net enrollment rate for children with disabilities is 88.7%, while the rate for non-disabled children is 96.1%. The gap of this rate among children with disabilities and non-disabilities increases at higher education levels. At the upper secondary level, only 1/3 of children with disabilities go to school at the right age (33.6%), compared with 2/3 of nondisabled children (88.6%).’<sup>25</sup>

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<sup>22</sup> MOLISA, UNDP and Development Pathways, ‘[Social Assistance in Viet Nam: A ...](#)’ (p45), 2016,

<sup>23</sup> UNICEF, ‘[Children in Vietnam](#)’, undated

<sup>24</sup> UNICEF, ‘[Children with disabilities in Viet Nam, Findings of Viet Nam's national ...](#)’ (p14), 2018

<sup>25</sup> UNICEF, ‘[Children with disabilities in Viet Nam, Findings of Viet Nam's national ...](#)’ (p19), 2018

5.4.5 The 2019 DFAT report stated: ‘Around half a million children reportedly have a disability of some kind. These children also face challenges in accessing education, primarily due to a lack of specialised school facilities and training for teachers. Many children with disabilities either remain out of the education system or fail to complete primary or secondary school.’<sup>26</sup>

5.4.6 A Ministry of Labour – Invalids and Social Affairs (MOLISA) article reporting on caring for and ensuring the rights of people with disabilities, 7 December 2020, noted:

‘People with disabilities are also among the poorest in the society. They are vulnerable due to natural disasters and social causes such as prejudice and stigma. Thanks to the joint efforts made by all people in the country and international community, Vietnamese people with disabilities have received careful care so that their rights have been ensured over the past years. Various forms and models have been launched at all levels to create funds for them. People with disabilities have also enjoyed social welfares including healthcare insurance and capital for start-up as well as various preferences from the State and the whole community. In addition, many have been making efforts to overcome all difficulties to not only develop their own economy but also help others in the same plight.’<sup>27</sup>

5.4.7 Reporting on education for children with disabilities, UNICEF, noted in an undated article:

‘An estimated half a million children with disabilities live in Viet Nam. These children face significant challenges in their daily lives and multiple forms of discrimination, which leads to exclusion from society and school. While every child has the right to an education, attitudes towards children with disabilities as well as a lack of understanding of their needs compound the challenges they face in claiming this right. With access to school a primary issue, of equal concern is the inability of the education system to ensure quality education for children with disabilities.

‘Today, such children still face a number of barriers that leave inclusive education out of reach, in particular the lack of specialized school facilities and training for teachers and inconsistencies in the definitions of children with disabilities within different sectors. Together, they mean too many children with disabilities remain out of the classroom, fail to complete primary or secondary school and claim their rights to a meaningful education.’<sup>28</sup>

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## 5.5 Illegitimate children

5.5.1 Article 17. of the Law on Nationality states:

‘The nationality of a child born to parents, one of whom is a Vietnamese citizen

‘1. A child born to parents, one of whom is a Vietnamese citizen and the other is a stateless person; or his/her mother is a Vietnamese citizen while his/her

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<sup>26</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 2.36), 13 December 2019

<sup>27</sup> MOLISA, ‘[Caring for and ensuring the rights of people with disabilities](#)’, 7 December 2020

<sup>28</sup> UNICEF, ‘[Inclusive Education for Children with Disabilities](#)’, undated

father is unknown, shall hold Vietnamese nationality, regardless of whether the child was born inside or outside the Vietnamese territory.<sup>29</sup>

- 5.5.2 Consortium for Street Children, a global alliance launched in 1993 who advocate for street children, stated in their Vietnam profile that: 'In the case of a child with an unidentified father, the information regarding last name, race and native province, and nationality is recorded according to that of the mother. The information regarding the father is left blank in the birth certificate and the civil status register.'<sup>30</sup>
- 5.5.3 Humanium, an international child sponsorship NGO, noted on its undated website: 'In Vietnam, 12% of children are not registered at birth. Some unmarried women do not register their child out of shame, or wrongly believe that children born out of wedlock cannot be registered.'<sup>31</sup>

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## 5.6 Orphaned/abandoned children

- 5.6.1 Vietnam's 2018 report to the UN Committee on the Rights of the Child, stated: 'The 2016 Law on Children regulates alternative care arrangements for orphans, abandoned children, helpless children, children who cannot live with their parents for safety reasons, children affected by natural disasters, child refugees and children whose parents are unidentified.'<sup>32</sup>

- 5.6.2 GlobalGiving, a US based charity which links other charities with donors, noted on their website:

'In Vietnam, there are an estimated 22,000 children within government orphanages, as well as 11,000 children within privately run institutions. Over half of these children have disabilities. Decades of research shows that orphanages cannot provide the individualised care, love and attention a child needs to develop and thrive. Largely hidden from their communities and living in very close quarters with other children, the spread of COVID-19 only deepens the needs of this vulnerable group.

'Our local team travels across Vietnam providing training and support in foster care<sup>4</sup> [sic] to government orphanages. This enables them to establish foster care programmes, whereby children are moved out of the orphanage and into local foster families. As foster care is completely new to Vietnam, this project will initially work with just two orphanages, developing and testing training materials before rolling out the programme nationwide.

'This project has the potential to impact 22,000+ orphaned and abandoned children, across Vietnam, giving them the chance to grow up within local, loving families where they will be nurtured to reach their full potential.'<sup>33</sup>

- 5.6.3 Care for children, a UK based charity who work in partnership with the Vietnamese government, stated that there are currently 22,000 orphan children in over 300 government-run/monitored institutions across Vietnam<sup>34</sup>.

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<sup>29</sup> National Legislative Bodies, '[Law No. 07/1998/QH10 on Vietnamese Nationality of 20 May 1998 ...](#)'

<sup>30</sup> Consortium for Street Children, '[Vietnam- Legal identity](#)', last updated April 2019

<sup>31</sup> Humanium, '[Realizing Children's Rights in Vietnam](#)', undated

<sup>32</sup> UN CRC, '[Combined fifth and sixth periodic reports submitted by Viet Nam ...](#)' (p30), 3 March 2020

<sup>33</sup> GlobalGiving, '[Orphans into foster families in Vietnam](#)', 2020

<sup>34</sup> Care for Children, '[Where we work- Vietnam project](#)', undated



5.6.4 According to the Consortium for Street Children website: 'Pursuant to the Law on Civil Status, abandoned children or children with an unidentified father and/or mother are entitled to birth registration.'<sup>35</sup> The same source also detailed the process for registering abandoned children.

5.6.5 See also the section on [Orphanages, shelters and care homes](#).

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## 5.7 Child poverty

5.7.1 In an article on the UNICEF website Ms Rana Flowers, UNICEF Representative in Vietnam, discussed the situation of child poverty in Vietnam. She stated that:

'Despite progress made in poverty reduction in the last decades, there remain about 4 million children in Viet Nam who experience at least two deprivations in the areas of education, health, nutrition, shelter, water and sanitation, information, social inclusion and protection. Evidence confirms that more than half of ethnic minority children experience multidimensional poverty.

'Complicating the challenges, children face multiple vulnerabilities due to the changing socio-economic context: They are affected by rapid urbanization and climate change and natural disasters. The most disadvantaged children are the hardest hit because they are already extremely vulnerable and at higher risk of falling into poverty due to malnutrition, lack of access to water and sanitation as well as to quality education and skills development; their parents often have unstable jobs in the informal sector. The COVID-19 pandemic has intensified child poverty, wherein the multiple dimensions have been exacerbated by school closure, limited connectivity, isolation at home, reduced health seeking behaviors, lack of access to water and sanitation and increased violence at home.'<sup>36</sup>

5.7.2 Save the Children stated in undated entry on their website that whilst Vietnam is one of Asia's fastest growing economies there remains inequalities particularly among the country's ethnic minorities, who live in hillside communities. The website stated that: 'In fact, ethnic minorities account for about 15% of Vietnam's population, but a staggering 47% of the poor. Despite progress in reducing child malnutrition, nearly one-quarter of Vietnamese children are stunted – and stunting among ethnic minorities is up to 4 times higher.'<sup>37</sup>

5.7.3 World Bank noted in a report entitled 'Persistent Malnutrition in Ethnic Minority Communities of Vietnam' published in 2019 that:

'Although poverty has fallen significantly across the country, high poverty rates persist in minority communities. In fact, poverty is concentrated among ethnic minorities, with the smaller ethnic minority groups and those living in the northern and central mountains being particularly affected (95 percent of poor people live in rural areas). Making up only 14 percent of the population, ethnic minorities accounted for 73 percent of the poor in 2016. Poverty

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<sup>35</sup> Consortium for Street Children, '[Vietnam- Legal identity](#)', last updated April 2019

<sup>36</sup> UNICEF, '[Sustainable poverty reduction begins with children- The battle against...](#)', July 2020

<sup>37</sup> Save the Children, '[Help Save Children in Vietnam](#)', no dated

reduction in these groups stalled between 2012 and 2014, but recent data show a significant decline of more than 13 percentage points between 2014 and 2016. Nevertheless, 44.6 percent of ethnic minorities still lived in poverty in 2016 (World Bank staff analysis of household survey data).<sup>38</sup>

- 5.7.4 An August 2020 article by The Borgen Project, a US charity addressing poverty and hunger, noted:

‘While the nation of Vietnam has long struggled with poverty, homelessness in Vietnam has been successfully reduced by the government during a period of five years ranging from 2003 to 2008. These efforts have reduced the number of street children by 62%. This accomplishment is partly due to the fact that Vietnam has been aggressively fighting poverty for years. Every year since 2012, the percentage of people who live in poverty has lowered by a range of 4.6% to 6.9%. This effectively cut the percentage of people living in extreme poverty since 2012 in half. This is due largely to the fact that Vietnam has been experiencing massive economic growth in the last decade. In addition, it has been shifting to a market-based economy with a socialistic orientation.

‘...While the numbers are improving for Vietnamese-born homeless children, the population of migrant children is on the rise. It is estimated, in 2006, that the number of these children was around 23,000. Migrant children, according to some reports, are coming from rural areas in Vietnam. They represent a new social phenomenon in Vietnamese society. Many of these children are homeless and their parents use them to generate income. Many of them don’t have identification or any personal papers and are very vulnerable to labor exploitation by those who employ them. Those children cannot attend university or go to the hospital. Sadly, homelessness in Vietnam often exposes them to other risks such as sexual abuse and even certain diseases.’<sup>39</sup>

- 5.7.5 See also the section on [Street children](#).

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Section 6 updated: 6 September 2021

## 6. Juvenile justice

### 6.1 Judicial and penal rights

- 6.1.1 Section 1 of Chapter XII of the [Penal Code](#), sets out the regulations applied to juvenile offenders<sup>40</sup>.

- 6.1.2 United Nations Children's Fund (UNICEF), reported in an undated article:

‘Like most countries in the world, Viet Nam’s justice system is designed for adults and is not equipped to meet the unique needs of children. As a result, thousands of Vietnamese children face major obstacles to access justice. They include approximately 11,000 juvenile alleged offenders and 2,000 child victims of violence, as well as an unknown number of children involved in the more than 60,000 family law cases every year. Critical bottlenecks

<sup>38</sup> World Bank Group, [‘Persistent Malnutrition in Ethnic Minority Communities of...’](#) (pg 56), 2019

<sup>39</sup> The Borgen Project, [‘Homelessness in Vietnam’](#), 3 August 2020

<sup>40</sup> WIPO, [‘Socialist Republic of Vietnam Criminal Code’](#), 27 November 2015

include weak coordination and strategic planning, limited child justice capacity, ineffective community-based diversion and alternatives to detention, lack of public awareness and reliable data collection.<sup>41</sup>

6.1.3 The UNICEF report, *Situation Analysis on Children in Ho Chi Minh City – Vietnam 2017*, November 2017, stated:

‘Ho Chi Minh City has constantly reported the highest number of juveniles in conflict with the law in Viet Nam. Although the majority of juvenile offenders were boys (89%), more than 10% of juvenile offending was committed by girls, almost three-fold the national average. One-in-five alleged juvenile offenders could neither read nor write, or only had elementary education. The most common offences committed by juveniles were property-related ones (approximately 75%), with snatching particularly common among juvenile offenders in Ho Chi Minh City (26.5%). More than half of alleged juvenile offenders were charged with a criminal offence while the rest were handled through the administrative system for minor violations. Ho Chi Minh City is the first city in Viet Nam to establish the Family and Juvenile Court in April 2016. The City also has been piloting a model of “community-based support for persons under 18 years old in conflict with the law”<sup>42</sup>

6.1.4 A UNICEF article dated 11 June 2019, stated:

‘The Supreme People’s Court of Viet Nam, UNICEF and the European Union (EU) are working together to improve the situation of children who come into contact with the justice system. Drawing on international good practices and promising initiatives, a workshop was held today in Ha Noi on “Experience Sharing in Handling Cases under the Jurisdiction of Family and Juvenile Courts”. The workshop was conducted under the European Union ‘Justice and Legal Empowerment Programme’ (EU JULE) ...

‘The creation, and now the national roll-out of the Family and Juvenile Court to 38 provinces since 2016 is a major milestone for children’s rights. The Family and Juvenile Court is a vital component in the prevention and response to sexual violence against minors. UNICEF encourages the continued roll-out to the remaining provinces. The new Family and Juvenile Court has dedicated judges who are appointed and trained to handle minors’ cases, thus enabling Court decisions to be responsive to the needs of each individual minor and ensuring that the minor’s best interests are a primary consideration.<sup>43</sup>

6.1.5 A journal published by the American Association for Science and Technology (AASST), dated 19 January 2019, stated: ‘In Vietnam, juveniles or people below 18 years old comprise about 34 per cent of the national population which was more than 90 million by 2013. Each year, around 15,000 juveniles are recorded as breaking the penal law. Thirty per cent are treated as juvenile offenders under the criminal procedures while others are dealt with under administrative procedures or a combination of administrative and judicial measures.’<sup>44</sup>

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<sup>41</sup> UNICEF, [‘Vietnam- Child Justice’](#), undated

<sup>42</sup> UNICEF, [‘Situation Analysis on Children in Ho Chi Minh City – Vietnam ...’](#) (p20), November 2017

<sup>43</sup> UNICEF, [‘Viet Nam is Committed to Improve Justice for Minors’](#), 11 June 2019

<sup>44</sup> AASCIT, [‘The Implementation of International Standards in the ...’](#) (Introduction), 19 January 2019

#### 6.1.6 The AAST journal added:

‘The PC [Penal Code] (art 12) prescribes that persons aged 16 years or older have to bear criminal liability for all crimes they commit; and persons aged from 14 to below 16 years have to bear criminal liability for very serious crimes committed intentionally, and for extremely serious crimes. This means that the minimum age of criminal responsibility is 14 years old. Persons below 14 years old shall not be the subject of criminal sanctions. As for those who are 12 to 14 years old have committed particular serious or very serious crimes with intent shall be sentenced to education in a commune or to reformatory school as administrative-judicial measures under the Law on the Handling of Administrative Violations.

‘In cases of criminal liability, juvenile offenders shall be treated under not only common articles but also provisions specifically applicable to people below 18 years old. Therein, the punishment shall be lighter than that imposed on adults committing a similar crime; and the death penalty and life committing a similar crime; and the death penalty and life imprisonment shall not be applied (PC: arts 68–77).

‘The procedures for dealing with juveniles are different from adults. Juvenile justice procedures are applicable to any person below 18 years old at the time when the proceedings are undertaken. Persons aged 18 or older are the subject of adult criminal procedures, regardless of whether they were juvenile when they committed the criminal act. Therefore, Vietnam’s law on the age of criminal responsibility and the jurisdiction of juvenile justice is mostly compliant with international standards.’<sup>45</sup>

#### 6.1.7 Vietnam’s 2018 report to the UN Committee on the Rights of the Child, stated:

In Viet Nam, a specialized court has been created to handle family and juvenile related cases, according to the Law on Organization of the People’s Courts 2014. The Family and Juvenile Court is established under provincial and district People’s Courts, specializing in criminal cases where defendants are under 18; especially when victims are suffering from serious psychological damage, or need special assistance. The courts adjudicate on decisions to send juveniles convicted of administrative offenses to correctional institutions. Courts also deal with family and marriage-related cases such as disputes over child custody, changes in child custody, and restriction of parental rights over juveniles.<sup>46</sup>

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## 6.2 Juvenile detention

#### 6.2.1 The USSD 2020 report noted that juveniles are generally held in detention separate to adults, except for the rare occasions where they had to be held with adults for short periods. Young children, up until the age of three, were sometimes kept with their mothers, according to a former political prisoner<sup>47</sup>.

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<sup>45</sup> AASCIT, ‘[The Implementation of International Standards in the ...](#)’ (p127-128), 19 January 2019

<sup>46</sup> UN CRC, ‘[Combined fifth and sixth periodic reports ... by Viet Nam ...](#)’ (p5), 3 March 2020

<sup>47</sup> USSD, ‘[Country Report on Human Rights Practices 2020 – Vietnam](#)’ (Section 1.), 30 March 2021

- 6.2.2 Further information on arrest and detention of minors can be found in the [Country policy and information note: trafficking, Vietnam, Report of a Home Office fact-finding mission, Vietnam, September 2019](#) (Page 81-84: Meeting with UN-ACT, 27 February 2019)

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Section 7 updated: 6 September 2021

## 7. Violence against children

### 7.1 Child abuse, including corporal punishment and sexual violence

- 7.1.1 The UNICEF report, Situation Analysis on Children in Ho Chi Minh City – Vietnam 2017, stated:

‘Violence against children: Corporal punishment as a way of disciplining children has traditionally been considered a private, family matter and officials are still not able to interfere effectively. There are structural causes, such as poverty, migration and unemployment that increase the risks of children experiencing violence by family members. In addition, cases of violence in schools have recently received attention in the media, and not only between students but also between teachers and students.’<sup>48</sup>

- 7.1.2 A Guardian news report of June 2019, stated:

‘In Vietnam, the law on child sexual violence is ambiguous, making convictions difficult. Some forms of sexual violence aren’t even considered a criminal offence – sexual assault remains an administrative violation and the maximum fine is just \$13 [circa £10]... Vietnamese police recorded 1,547 child abuse cases in 2018 but due to the culture of secrecy around abuse, the real numbers are suspected to be much higher.

‘... after several high-profile abuse cases, many involving the abuse of pupils by their teachers, the government has launched several initiatives to finally bring the issue out into the open.

‘The move has included the creation of an “Ending physical violence against children at home and in school” initiative by the ministry of education and introducing mandatory sexual assault-prevention classes for those in first grade, as well as textbooks teaching children how to deal with assault and what parts of their bodies are private.’<sup>49</sup>

- 7.1.3 A UNICEF article dated 11 June 2019, stated:

‘Under the Penal Code the group of criminal offences relating to sexual abuse of minors has generated significant attention from the National Assembly. The Supreme People’s Court has expressed its commitment to work closely with UNICEF to help the Court system in Viet Nam play its role in contributing to ending sexual violence against minors, including through the development of a Judicial Council Resolution on handling child sexual abuse matters.’<sup>50</sup>

- 7.1.4 A further UNICEF article, dated 24 July 2019, stated:

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<sup>48</sup> UNICEF, ‘[Situation Analysis on Children in Ho Chi Minh City – Vietnam ...](#)’ (p19), November 2017

<sup>49</sup> The Guardian, ‘[Shame and pain: Vietnam starts to grapple with child abuse ...](#)’, 19 June 2019

<sup>50</sup> UNICEF, ‘[Viet Nam is Committed to Improve Justice for Minors](#)’, 11 June 2019



‘Sexual abuse and exploitation against minors is of growing concern in Viet Nam. Between 2013-2017, approximately 8,100 child sexual abuse cases were brought to the courts. However, this is only the tip of the iceberg. In recent years, Viet Nam has made considerable progress in strengthening national laws to address violence against minors. However, some forms of sexual violence are not clearly defined in the Penal Code nor in alignment with the Convention on the Rights of the Child (CRC) and Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC), both of which Viet Nam has ratified.’<sup>51</sup>

7.1.5 The USSD 2020 report noted:

‘The government did not effectively enforce existing laws on child abuse, and physical and emotional mistreatment was common.

‘Observers concurred that violence against children occurred in many settings including schools and homes and was usually inflicted by someone known to the child. The most common types of school violence were bullying and corporal punishment by teachers. The number of reported cases of child abuse, especially child sexual abuse, was increasing. UNICEF stated in July 2019 there were no effective interdisciplinary child- and gender-sensitive procedures or processes for handling child-abuse reports and that the responsibilities of government agencies were unclear. The child protection workforce, from social workers to relevant professionals such as police, judges, prosecutors, teachers, and medical experts, was poorly trained, uninformed, and generally insufficient to address the problem, especially at local levels.’<sup>52</sup>

7.1.6 A UNICEF press release of 14 June 2021 stated that a recent survey they had conducted indicated that 1 in 5 children and adolescents had been victim of cyberbullying and harassment from peers, yet, three quarters were not aware where to seek help. ‘There is a growing number of cases reported in Viet Nam of child sex offenders and traffickers, predominantly men, using the internet and mobile phones to groom, entice and blackmail children into subsequent exploitative situations. For children who are online, little has been done to protect them from the perils of this abuse of the digital world or to increase their access to safe online content.’<sup>53</sup>

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## 7.2 Early and forced marriage

7.2.1 The minimum legal age for marriage is 18 for girls and 20 for boys. It is a criminal offense to organise or enter into a marriage with an underage person<sup>54</sup>.

7.2.2 The DFAT report stated:

‘Despite these prohibitions, child marriage remains an issue in Vietnam. While its prevalence varies across geographic areas, girls from all regions and levels of society are vulnerable to early marriage, which may take the

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<sup>51</sup> UNICEF, ‘[Viet Nam strengthening minors’ access to justice](#)’, 24 July 2019

<sup>52</sup> USSD, ‘[Country Report on Human Rights Practices 2020 – Vietnam](#)’ (Section 6), 30 March 2021

<sup>53</sup> UNICEF, [UNICEF Congratulates...First Programme on Child Online Protection](#), 14 June 2021

<sup>54</sup> USSD, ‘[Country Report on Human Rights Practices 2020 – Vietnam](#)’ (Section 6), 30 March 2021

form of family arranged marriage, love marriage, marriage to “resolve pregnancy” and bride abduction/trafficking. In 2014, one-in-10 women (aged 20 to 24 years) was married or in a union before their 18th birthday and one-in-100 women before their 15th birthday. Child marriage is more common in rural areas, with the highest rates in 2014 (most recent statistics) reported for women in the Northern Midlands and Mountainous area (18.8 per cent), the Central Highlands (15.8 per cent) and the Mekong River Delta (13.8 per cent). Although most child marriages involve girls, some involve underage boys.’<sup>55</sup>

7.2.3 The DFAT report further noted:

‘In 2015, a national 10-year program (2015-2025) was approved to address child marriage in ethnic minority areas. A child bride is reportedly more likely to be a member of one of the 53 ethnic minority groups in Vietnam than a member of the majority Kinh population. In 2014, 23.1 per cent of ethnic minority women (aged 20-49 years) were married before the age of 18. Still, a significant percentage of Kinh women (9.2 per cent) were married before their 18th birthday. The rate of child marriage is especially high in ethnic minorities with small populations (less than one million).’<sup>56</sup>

7.2.4 The UNICEF report, *Ending Child Marriage, Empowering Girls: Understanding Child Marriage in Vietnam*, 21 March 2018, stated:

‘In the patrilocal system, women are expected to marry young and move in with their husband’s family, have children and contribute to the household. Cultural norms and practices, including patrilineal/patrilocal systems relating to gender roles and unequal power between men and women are key driving factors of child marriage and early unions in Viet Nam...

‘The cultural notion of “childhood” and the beginning of adulthood differs throughout Viet Nam. Some communities assume new roles and responsibilities for children at an early age. The Law on Children 2016 upheld the age limit of 16 years for the definition of a child, which shows that this assumption does not solely apply to ethnic minority groups but is a widespread cultural and legal notion in Viet Nam. This partly explains the practice of child marriage and the acceptability thereof within communities. Marriage is perceived as an important milestone in a child’s life as it marks the start of adulthood and maturity. It confers social status, responsibility and security.

‘Viet Nam has a long-standing traditional practice of parents arranging marriages for their children. However, children themselves also decide to marry regardless of parents’ views... Social pressure and networks may influence a girl’s decision to marry. Under pressure of honour and economic security, parents often agree with marriages of their children.’<sup>57</sup>

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<sup>55</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 3.86), 13 December 2019

<sup>56</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 3.86), 13 December 2019

<sup>57</sup> UNICEF, ‘[Ending Child Marriage, Empowering Girls: Understanding ...](#)’ (p7-8), 21 March 2018

### 7.3 Street children

- 7.3.1 Humanium, an international child sponsorship NGO, noted on its undated website:

‘According to estimates, more than 65,000 children roam the streets of the major cities of Vietnam, including 7,600 in the capital and more than 18,800 in Ho Chi Minh City. This phenomenon has not escaped the notice of the authorities, who try to hide the troubling reality during large public events by rounding up these street children and holding them in social centers for the duration of the event. Numerous campaigns of arrests have evidently been carried out by authorities in recent years, and many children have experienced ill-treatment over the course of their arrest and confinement.’<sup>58</sup>

- 7.3.2 Vietnam’s 2018 report to the UN Committee on the Rights of the Child, stated: ‘Street children (children who are homeless) come mostly from villages as migrants to the cities. They are notably disadvantaged and take many risks to survive. Numbers of street children have decreased dramatically according to estimates for the period 2015– 2017.’<sup>59</sup>

- 7.3.3 In a March 2020 fact sheet on street children Blue Dragon, an Australian not for profit public company who help children and families in crisis, noted that:

‘Since early 2012, there has been an increasing phenomenon of adult men, both Vietnamese and foreign, preying on Hanoi’s street children for sex. These men befriend boys and offer them a place to stay, long term or overnight, and some money in return for sex. Some children are reporting to Blue Dragon that their sexual abuse is being photographed and filmed. With the burgeoning of social media platforms, paedophiles use the internet to find and groom vulnerable children for exploitation. Blue Dragon has worked on several cases where paedophiles force children to use drugs, most notably methamphetamine, to cope with the pain of the sexual abuse. These boys can be as young as 11.

‘Compounding the lack of services and the increase in sexual exploitation is the growing phenomenon of rural children leaving their homes to come to the city. Blue Dragon’s experience in working with runaway children is that family breakdown and domestic violence, sometimes coupled with extreme poverty, are the main factors causing children to travel to the city in search of a better life. However, once on the streets, they find themselves targeted by the authorities for arrest and detention or by paedophiles for sexual exploitation. After being exploited or becoming involved with criminal activity, the children become difficult to reach, and the chances of a successful reunion with their family are extremely low.

‘...It is notoriously difficult to get reliable and current statistics about street children in Vietnam. In 2006, The Ministry of Labour, Invalids, and Social Affairs (MOLISA) estimated that there were 23,000 street children throughout Vietnam and 1,500 in Hanoi. This is one of the most quoted and recent figures. An estimate by Hanoi’s city authorities corroborates this, placing the number of street children in Hanoi at 1,500 as of 2010. According to a study conducted by the Management and Sustainable Development

<sup>58</sup> Humanium, ‘[Realizing Children’s Rights in Vietnam](#)’, undated

<sup>59</sup> UN CRC, ‘[Combined fifth and sixth periodic reports ... by Viet Nam ...](#)’ (p30), 3 March 2020



Institute (MSD) in 2013, 92.5% of street children in Ho Chi Minh City had been sexually abused at least once and 98.3% of street children in Ho Chi Minh City had used drugs or substances at least once (beer, cigarette, marijuana, methamphetamine, adhesive, among others). The same study estimated the number of street children in Vietnam to be at 22,000.<sup>60</sup>

- 7.3.4 An April 2020 Viet Nam News reported about the Blue Dragon Children's Foundation, noting:

'The Blue Dragon Children's Foundation has helped thousands of disadvantaged youngsters get their lives back on track. But in March [2020] alone they have identified 30 new juveniles sleeping rough in the capital. "Normally we would meet about 10 new street kids every month in Hà Nội. In March we met about 30," Skye Maconachie, co-CEO, told Việt Nam News. "Kids are not in school, their families are not earning income and they might come from a home where there is already abuse in that home, or some difficulties or complexities. "So they are coming to the streets of Hà Nội to try and earn money or get away from something."'<sup>61</sup>

- 7.3.5 The USSD 2020 report noted that: 'Media outlets reported approximately 22,000 children lived on the streets and sometimes experienced police harassment, sexual exploitation, and abuse.'<sup>62</sup>

- 7.3.6 See also the section on [Orphanages, shelters and care homes](#).

- 7.3.7 Further information on support and access to social services can be found in the [Country policy and information note: trafficking, Vietnam](#) and [Report of a Home Office fact-finding mission, Vietnam, September 2019](#).

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## 7.4 Trafficking

- 7.4.1 Article 151 of the [penal code](#) deals with trafficking of a person under the age of 16<sup>63</sup>.

- 7.4.2 The US State Department, 2021 Trafficking in Persons Report: Vietnam, 1 July 2021 (USSD TiP report, 2021), stated:

'Article 150 of the penal code criminalized labor trafficking and sex trafficking of adults and prescribed penalties of five to 10 years' imprisonment and fines of 20 million to 100 million Vietnamese dong (VND) (\$867 to \$4,330). Article 151 criminalized labor trafficking and sex trafficking of children under the age of 16 and prescribed penalties of seven to 12 years' imprisonment and fines of 50 million to 200 million VND (\$2,170 to \$8,670). These penalties were sufficiently stringent and, with regard to sex trafficking, commensurate with other serious crimes, such as rape. Inconsistent with international law, Article 150 applied to children between the ages of 16 and 17 years old and required a demonstration of force, fraud, or coercion to constitute a sex trafficking offense; therefore, it did not criminalize all forms of child sex trafficking. Civil society previously reported this led to confusion on how to

<sup>60</sup> Blue Dragon, '[Street Children in Vietnam- factsheet](#)', March 2020

<sup>61</sup> Viet Nam News, '[COVID-19 forces more children onto the streets](#)', 30 April 2020

<sup>62</sup> USSD, '[Country Report on Human Rights Practices 2020 – Vietnam](#)' (Section 6), 30 March 2021

<sup>63</sup> WIPO, '[Socialist Republic of Vietnam Criminal Code](#)', 27 November 2015

treat cases involving 16- and 17-year-old children, especially for cases involving labor trafficking, resulting in victims being treated as adults.’<sup>64</sup>

- 7.4.3 The UK Home Office conducted a Fact-Finding Mission (FFM) to Vietnam between 23 February and 1 March 2019. The report of the mission based on information provided by an NGO noted

‘An NGO told the FFM that if you to apply the definition in articles 150 and 151 will never apply to them [victims of trafficking from the UK] as they agreed to go with the trafficker. The same source also noted that there are many gaps or problems where the victim is over 16 years old but under 18. If a person is under the age of 16 years the authorities will automatically assume that the person is a victim of trafficking, if they are over 16 but under 18, they must prove that there have been fraud or cheating elements involved in order for a prosecution to occur. The source noted one example in Vietnam where a trafficker could not be prosecuted because the victim went with them willingly and was not forced.’<sup>65</sup>

- 7.4.4 Coram International, a research institution and consultancy specialising in issues relating to children, in their report: *Casting Light in the Shadows: Child and youth migration, exploitation and trafficking in Vietnam*, October 2019, stated:

‘The overwhelming majority, 92.3%, of young people with indicators of child trafficking (and 84.4% of young people with indicators of coercion or exploitation in the context of migration) were reported to have been trafficked internally (from one location to another within Vietnam). According to estimates from this research, cross-border child trafficking, on the other hand, appears to be a relatively rare phenomenon: with a prevalence estimate of just 0.4%. Despite the scale of the issue, research findings suggest that cases of internal trafficking are much less likely to be identified or formally recognised by authorities.’<sup>66</sup>

- 7.4.5 The Coram International report, added:

‘Dominant narratives about child trafficking tend to construct victims as passive, invoking stories where children are kidnapped, abducted or taken by force. As one commentator observes, “human trafficking is frequently framed as the result of the involuntary movement of victims, with stories of women [and children] who are lured or kidnapped against their will”. Evidence on how trafficking happens in practice in Vietnam indicates that whilst this scenario does occur, it is rare. Both qualitative and quantitative findings suggest that, in the majority of cases, trafficking victims are not forcibly taken by recruiters, but make active decisions to migrate in pursuit of opportunity or survival and become victims of exploitation in the context of these pursuits, often due to their vulnerability. Indeed, of the respondents in the survey research who exhibited indicators of child trafficking, only 13.0% (around 1 in 8) reported having been “taken against my will” ...

‘Research findings demonstrate that children’s recruitment into trafficking is often influenced by their parents, families and communities. This reflects the

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<sup>64</sup> USSD, [‘2021 Trafficking in Persons Report: Vietnam’](#), 1 July 2021

<sup>65</sup> UK Home Office, [‘HO FFM report’](#)- Annex D NGO, September 2019

<sup>66</sup> Coram International, [‘Casting Light in the Shadows: Child and youth ...’](#) (p28), October 2019

dependency of children, who are less likely to have autonomous control over decisions affecting their lives and are more likely to be influenced by the wishes and decisions of others. When asked whose decision it was for them to leave home, nearly half (47.3%) of respondents with indicators of child trafficking reported that the decision was made by their parents (or, more rarely, a relative or other person). Younger children were found to exert less agency in the decision to leave home when compared to older children. Survey results reveal a significant relationship between a child's age and his or her likelihood of identifying the decision to migrate as his or her own: with each year of age associated with a 27% increase in a child's likelihood of saying "it was my own decision to leave [migrate]" ...<sup>67</sup>

7.4.6 The 2019 DFAT report noted that:

'Vietnamese children, particularly girls, are vulnerable to human trafficking, including for the purposes of early and forced marriage. The US Department of State reported in 2018 (published March 2019) that many children from impoverished rural areas, primarily girls from ethnic minority communities in the Northwest Highlands, and an increasing number of children from middle class and urban settings, were subjected to sex trafficking. Sources in Vietnam described a recent and increasing trend of young children also being trafficked for adoption. In February 2018, international media reported that a Child Helpline established by Plan International in Vietnam had received nearly 8,000 trafficking-related calls in the previous three years. All acts of sale or deprivation of liberty of children, including child labour and prostitution, are criminalised in Vietnam, with sentences ranging from three years to life imprisonment, and fines from VND5 million to VND50 million ... [approx. £155- £1549].'<sup>68</sup>

7.4.7 According to the UK Modern Slavery National Referral Mechanism (NRM) statistics for 2020 there were 247 Vietnamese minors identified in the UK who were referred to the NRM as potentially being exploited as children. With regards to minors, Vietnam were the second most commonly referred nationality to the NRM<sup>69</sup>.

7.4.8 See also the section on [Child labour](#).

7.4.9 Further information on trafficking can be found in the [Country policy and information note: trafficking, Vietnam](#) and [Report of a Home Office fact-finding mission, Vietnam, September 2019](#).

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<sup>67</sup> Coram International, '[Casting Light in the Shadows: Child and youth ...](#)' (p31-35), October 2019

<sup>68</sup> DFAT, '[Country Information Report Vietnam](#)' (para 3.87), 13 December 2019

<sup>69</sup> Home Office, '[Modern Slavery: National Referral Mechanism and Duty to...](#)', 18 March 2021

## 8. Child labour

### 8.1 Prevalence

8.1.1 In July 2020 Vietnam Times noted in an article that: ‘In 2000, the proportion of child labor aged 5 – 14 was 28%, and in 2019, the figure sharply dropped to 9.6% in 2019.’<sup>70</sup>

8.1.2 The International Labour Organization, reporting in December 2020, stated: ‘Viet Nam’s second [National Child Labour Survey](#) launched this morning (18 December) identifies an estimated 5.3 per cent of the 5-17 year olds engaged in child labour. This accounts for more than 1 million children, over half of whom are working in hazardous conditions.

‘Conducted by the Ministry of Labour Invalids and Social Affairs (MOLISA) in coordination with the General Statistics Office with technical support from the International Labour Organization (ILO), the rate of child labour in Viet Nam is approximately 2 percentage points lower than the regional average for Asia and the Pacific...

‘A total of 58.8 per cent of working children in Viet Nam are engaged in child labour, undertaking work that has been prohibited either because of the age of the child concerned, the number of hours worked or the nature of the tasks involved. Child labour encompasses work that is detrimental to the physical or mental health of a child, and negatively affects their schooling or development.

‘In line with global trends, 84 per cent of children in child labour in Viet Nam are concentrated in rural areas and just over half of them work in the agricultural, forestry and fishery sector. Other sectors where child labour is prevalent include the service sector and the industry and construction sector. Notably 40.5 per cent of children in child labour work as unpaid family workers...

‘The survey estimates that nearly 520,000 children in Viet Nam are engaged in hazardous child labour, or work which poses significant risks to a child’s health, safety or morals. Children in hazardous child labour are more likely to work in the industry and construction sector, with a lower participation rate in the agricultural sector compared with children in child labour. Hours of work for children in hazardous child labour tend to be high, with 40.6 per cent of children in this group working for over 40 hours per week.’<sup>71</sup>

8.1.3 The USSD TiP report, 2021, stated:

‘Within the country, traffickers are sometimes parents, family members, or small-scale networks exploiting Vietnamese men, women, and children—including street children and children with disabilities—in forced labor, although little information is available on these cases. One study suggests 5.6 percent of children in Vietnam may experience coercion or exploitation

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<sup>70</sup> Vietnam Times, ‘[Child labour in Hochiminh city is supported for prevention...](#)’, 25 July 2020

<sup>71</sup> ILO, ‘[Viet Nam’s child labour rate lower than region’s average by 2 ...](#)’, 18 December 2020

indicative of trafficking or in the context of migration, with children from rural and deprived communities particularly at risk.<sup>72</sup>

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## 8.2 Types of child labour

### 8.2.1 The USSD TiP report, 2021 stated:

‘Traffickers exploit children ...in forced labor in the garment sector, where workers are coerced to work through threats and intimidation. Traffickers force children into street hawking and begging in major urban centers. Traffickers subject some children to forced or bonded labor in brick factories, urban family homes, and privately run rural gold mines. Sex traffickers target many children from impoverished rural areas and a rising number of women from middle class and urban settings. Traffickers increasingly exploit girls from ethnic minority communities in the northwest highlands, including in sex trafficking and forced labor in domestic service, by channeling their criminal activities through the traditional practice of bride kidnapping. ...Child sex tourists, reportedly from elsewhere in Asia, the UK and other countries in Europe, Australia, Canada, and the United States exploit children in Vietnam.’<sup>73</sup>

### 8.2.2 The USSD 2020 Report, stated:

‘Illegal child labor was reported in labor-intensive sectors, such as construction, production of garments and textiles, bricks, fish, furniture, footwear, and leather goods, agriculture, and some manufacturing. Local media also reported children working as beggars in gangs whose leaders abused the children and took most of their income. Some children started work as young as 12, and nearly 55 percent of child workers did not attend school.

‘In the garment sector, children as young as age six reportedly produced garments in conditions of forced labor. The most recently available information from government raids, NGOs, and media reports during the year indicated this was most common in small, privately owned garment factories and informal workshops.

‘The Ministry of Labor is responsible for enforcing child labor laws and policies. Government officials may fine and, in cases of criminal violations, prosecute employers who violate child labor laws. As part of the government’s 2016-20 National Plan of Action for Children and National Program for Child Protection, the government continued efforts to prevent child labor and specifically targeted children in rural areas, disadvantaged children, and children at risk of exposure to hazardous work conditions.

‘International and domestic NGOs noted successful partnerships with provincial governments to implement national-level policies combatting child labor.’<sup>74</sup>

### 8.2.3 See also the section on [Trafficking](#).

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<sup>72</sup> USSD, ‘[2021 Trafficking in Persons Report: Vietnam](#)’, 1 July 2021

<sup>73</sup> USSD, ‘[2021 Trafficking in Persons Report: Vietnam](#)’, 1 July 2021

<sup>74</sup> USSD, ‘[Country Report on Human Rights Practices 2020 – Vietnam](#)’ (Section 7.), 30 March 2021



## 9. Childcare and protection

### 9.1 Government support and protection

#### 9.1.1 An undated UNICEF article reporting on social protection for children, noted:

‘Viet Nam aspires to an inclusive social protection system relevant to its lower middle-income status and to better realize basic human rights. However, the current social protection system is fragmented, with limited coverage and an inadequate range of benefits neither progressive nor child sensitive. As a result, the system is unable to address the multiple disadvantages, risks and vulnerabilities affecting children’s well-being.

‘Just 10 per cent of children can access social transfers, yet they are more affected by poverty than any other age group - accounting for 36.7 per cent of Viet Nam’s poor. There is a lack of basic cash support for children to address age-specific risks such as malnutrition, while eight-in-10 ethnic minority children are deprived from access to social services.’<sup>75</sup>

#### 9.1.2 UNICEF noted in another undated article on social work development that:

‘With rapid economic development, Viet Nam is increasingly confronted with complex child-related challenges. In response, the government has prioritized development of the social work profession with UNICEF at the forefront providing strong advocacy and technical support to ensure the country meets its ambitious target of one social work service centre per 713 districts and towns by 2020.

‘While progress has been made in establishing such centres and introducing social work services to 80 per cent of central hospitals and 30 per cent of provincial ones, the lack of trained social workers has constrained the quality of service delivery to children in need. This is especially the case for children who experience violence, exploitation, neglect, disability, drug abuse or are in conflict with the law.’<sup>76</sup>

#### 9.1.3 The UNICEF report, *Understanding Children’s Experiences of Violence in Viet Nam: Evidence from Young Lives*, November 2016, stated: ‘Children and young people have limited sources of support to draw on in facing domestic violence, the most important of which is their social networks. In particular, neighbours and respected members of the community (such as teachers and community leaders) are key sources of support for children in situations of violence.’<sup>77</sup> (See: [Violence against children](#))

#### 9.1.4 The UNICEF report, *Situation Analysis on Children in Ho Chi Minh City – Vietnam 2017*, November 2017, stated:

‘In September 2015, a high-level roundtable conference kicked-off a commitment by the Ho Chi Minh City People’s Committee and UNICEF to create the first “Child Friendly City” (CFC) in Viet Nam, in which every child is given a fair start to life and opportunities to live and thrive in a safe and

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<sup>75</sup> UNICEF [‘Social Protection’](#), undated

<sup>76</sup> UNICEF, [‘Social Work Development’](#), undated

<sup>77</sup> UNICEF, [‘Understanding Children’s Experiences of Violence in Viet Nam:...’](#) (p40), November 2016

clean environment. Achievement of such a city requires implementation of the Convention on the Rights of Children (CRC) at local level. In practice, this means children's rights are reflected in city-level policies, laws, programmes and budgets.<sup>78</sup>

9.1.5 The UNICEF Situation report further added:

'At local level, Ho Chi Minh City People's Committee approved the "Programme of Action for Children" (PAC) for 2013-2020 with specific interventions and plans for children, especially those in special circumstances and economically disadvantaged conditions. This PAC sets general strategic directions on childcare, protection and development and realization of child rights, including public awareness raising and behavioural change, implementation of programmes on childcare, protection and development approved at national level, revision of legal systems, policies and plans on childcare, protection and development and child rights, social mobilization and system strengthening for government staff working for children.'<sup>79</sup>

9.1.6 A UN Committee on the Rights of the Child, report, dated 3 March 2020, stated:

'The Government has a subsidy policy for children in extremely difficult circumstances, including provision of subsidies to childcare. The Prime Minister approved the project on care for orphanages or orphaned children, children living with HIV/AIDS, children who are victims of chemical toxins, children with severe disabilities and children affected by natural and man-made disasters (2013–2020). This project mobilizes the participation of society, especially families and communities, in caring for and supporting children in particularly difficult circumstances in order to stabilize their lives, to accord them the opportunity to exercise their rights as children, to assist their reintegration into the community and to develop alternative forms of child care for disadvantaged children based in communities. The overall goal is to step-by-step narrow the gap in living standards between children in particularly difficult circumstances and normal children in their places of residence.'<sup>80</sup>

9.1.7 The UNICEF, Summary Report of the Situation Analysis of Children and adolescents in Da Nang, November 2020, stated:

'While protective policies and laws are in place, the enabling environment and systems for protecting children from violence, exploitation and abuse should be further strengthened. A key gap is the lack of qualified trained social work/child protection officers at all levels in Da Nang. Such workers are needed on the frontlines to identify vulnerable and at-risk children and provide necessary support to prevent them from becoming victims of violence and abuse. These workers can play a crucial role in reversing the norms that consider domestic violence and violence against children as a legitimate measure of disciplining children. Likewise, professional and trained staff at commune and district levels can help children and women

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<sup>78</sup> UNICEF, '[Situation Analysis on Children in Ho Chi Minh City – Vietnam ...](#)' (p23), November 2017

<sup>79</sup> UNICEF, '[Situation Analysis on Children in Ho Chi Minh City – Vietnam ...](#)' (p38), November 2017

<sup>80</sup> UN CRC, '[Combined fifth and sixth periodic reports submitted by Viet Nam ...](#)' (p18), 3 March 2020

victims access needed services and legal remedies.’<sup>81</sup> (See: [Violence against children](#))

9.1.8 The same UNICEF Summary report added: ‘Monitoring and reporting of child abuse cases is currently weak and must be strengthened. In addition, the city currently only has one social work service centre at provincial level, limited psychosocial support and no child-friendly justice services... There are still many shortcomings in disseminating policies and laws to all families and people. This is partly due to limited financial and human resources in the child protection system.’<sup>82</sup>

9.1.9 Vietnam Investment Review noted in an article from June 2021 that:

‘The Vietnamese prime minister on June 1 signed Decision No.830/QD-TTg, approving the national programme on protecting children on the network environment in the 2021-2025 period, the first legislation of its kind in the country.

‘The programme aims to protect children’s secret private life while preventing and dealing with injuries and harms done to children on the network environment. It also helps equip children at different ages with the necessary knowledge and skills so that they can recognise danger and protect themselves...

‘The programme involves several ministries and agencies, including the Ministry of Information and Communications (MIC), the Ministry of Labour, Invalids and Social Affairs, the Ministry of Education and Training, the Ministry of Public Security, and social organisations, as well as IT businesses.’<sup>83</sup>

9.1.10 Further information on police effectiveness and the judiciary can be found in the [Report of a Home Office fact-finding mission, Vietnam, September 2019](#).

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## 9.2 Government shelters

9.2.1 An email response from an official at the British Embassy in Hanoi, dated 31 October 2018, stated:

‘... Sunflower House, which was completed in July 2017, it is a shelter for women and children who are victims of modern slavery/human trafficking, so no males are accommodated there. Sunflower House is located in Nghe An province, which is the province in north central Vietnam from where many victims come from, as supported by NRM [National Referral Mechanism] stats.

‘Male victims can be accommodated in a number of other shelters run by local authorities and some NGOs [Non-Governmental Organisations].

‘Sunflower House can accommodate up to 25 women/children, offering high quality victim-centred reintegration services, which includes medical and counselling services, and support with education and offering training opportunities to assist victims and ensure they don’t become re-trafficked.

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<sup>81</sup> UNICEF, ‘[Summary Report of the Situation Analysis of Children and ...](#)’ (p21), November 2020

<sup>82</sup> UNICEF, ‘[Summary Report of the Situation Analysis of Children and ...](#)’ (p21), November 2020

<sup>83</sup> Vietnam Investment Review, ‘[Vietnam announces national programme on children...](#)’, 5 June 2021



Although Sunflower House was a HMG [Her Majesty's Government] project, after it was built (on land donated by the Nghe An local authorities) it was handed back to the authorities who run it themselves with trained staff.<sup>84</sup>

- 9.2.2 The UK Home Office Fact-Finding Team (FFT) were informed in February 2019 by representatives from MOLISA that there are no government run shelters specifically for victims of trafficking; all vulnerable people stay in one shelter. They told the FFT that there were 400 government run shelters for vulnerable people and there were not separate shelters for men, women or children. According to MOLISA, the law states that victims are allowed to stay in the shelter for a maximum of 60 days. Whilst there, they can receive health support, (including mental health support), legal support, accommodation, and food. They can also get support to find jobs. All these services are free<sup>85</sup>.
- 9.2.3 The USSD TiP report noted that the: 'The government continued to operate 94 social protection or social service centers, some funded by NGOs, to assist vulnerable groups, including trafficking victims, nationwide, but none provided services to male or child victims exclusively.'<sup>86</sup>
- 9.2.4 The Center for Women and Development, an institution directly subordinated to the Vietnam Women's Union (affiliated to the Communist Party of Vietnam), noted on their website that they manage the Peace House in Hanoi. They stated that:
- 'The Peace House offers comprehensive services to ensure women and children recover from the trauma of family violence and access Legal Aid, health, vocational training and job support services that enable them to reintegrate into their communities and live happy lives. The effectiveness of the Law on Prevention of Domestic Violence, includes the implementation of quality and support services to women and children affected by family violence. The Center for Women and Development with support from the Central Committee of the Vietnam Women's Union has implemented the Peace House shelter model including the comprehensive package of safe accommodation and services to support women to reintegrate into their communities.'<sup>87</sup>
- 9.2.5 Further information on support and access to social services can be found in the [Country policy and information note: trafficking, Vietnam](#) and the [Report of a Home Office fact-finding mission, Vietnam, September 2019](#).

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### 9.3 NGO support and shelters

- 9.3.1 The following is a non-exhaustive list of some of the organisations that provide support and accommodation to vulnerable children:
- [Alliance Anti-Traffic](#), is a non-profit, non-partisan and non-religious organization that aims to protect women and children in Southeast Asia from sexual exploitation and trafficking.

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<sup>84</sup> British Embassy in Hanoi, Email response, dated 31 October 2018

<sup>85</sup> UK Home Office, '[HO FFM report](#)'- Annex D MOLISA, September 2019

<sup>86</sup> USSD, '[2021 Trafficking in Persons Report: Vietnam](#)', 1 July 2021

<sup>87</sup> Center for Women and Development, '[Counseling Services and Social Activities](#)', undated

- [Blue Dragon Children's Foundation](#)- based in Vietnam since 2003 they help children and young people in crisis situations such as slavery, homelessness, and extreme poverty. They provide shelter, family reunion, education, healthcare and legal advocacy for children in crisis.
- [Children of Vietnam](#)- founded in 1998 assists children and families in breaking the cycle of poverty, ill health and homelessness. Some of their work includes awarding scholarships to children in primary and secondary school, arranging medical assistance for children whose families are unable to afford it, distributing food to vulnerable children and families in crisis and helping construct new homes for destitute families living.
- [Friends of Hue Foundation](#)- founded in May 2000 they operate a shelter in Hue for children offering education and guidance to those in need. They also undertake community support work which includes: 'distributing food and resources to impoverished families, offering educational assistance and scholarships, micro-financing, and health services to those who need it...' <sup>88</sup>
- [Hagar Vietnam](#) an international NGO in Vietnam which aims to support women and children affected by trauma particularly from domestic violence and trafficking. <sup>89</sup>
- [Pacific Links Foundation](#) is an international NGO who 'leads counter-trafficking efforts at the frontiers of Vietnam by increasing access to education, providing shelter and reintegration services, and enabling economic opportunities.' <sup>90</sup>
- [Stichting K.I.D.S \(Kids in Distress\) foundation](#), referred to as K.I.D.S, provides accommodation, care and schooling for street children in and around Ho Chi Minh City. They operate a number of shelters around the Ho Chi Minh City area <sup>91</sup>.
- [Xuân](#) started in 1993 and supports children of Vietnam in impoverished situations. They operate homes for disadvantaged/orphaned children aged 6-18 in Da Nang and Can Tho. They also help children access education and provide scholarship programmes in Phu Vang and Kon Tum to those at risk of being unable to complete their education, due to financial hardship <sup>92</sup>.

9.3.2 Information on shelters can be found in the [Country policy and information note: trafficking, Vietnam](#) and [Report of a Home Office fact-finding mission, Vietnam, September 2019](#).

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<sup>88</sup> Friends of Hue Foundation, '[Hue Vietnam- community support](#)', undated

<sup>89</sup> Hagar International, '[Vietnam](#)', undated

<sup>90</sup> Pacific Links Foundation, '[Homepage](#)' undated.

<sup>91</sup> K.I.D.S, '[Homepage](#)', undated

<sup>92</sup> Xuân, '[Homepage](#)', undated

## 9.4 Orphanages

- 9.4.1 The following sources provide details of some of the orphanages in Vietnam, but this is not an exhaustive list.
- 9.4.2 The website of [Adopted Vietnamese International \(AVI\)](#) provides a list of some of the orphanages in Vietnam<sup>93</sup>.
- 9.4.3 The [Te-Phan Orphanage](#), was established in Ho Chi Minh City in 1985 has more than 30 years' experience in caring for disadvantaged people, including the homeless and solitary elderly, and orphans with disabilities<sup>94</sup>.
- 9.4.4 Loving Kindness Vietnam, a charity who help orphanages, charity schools, and those in poverty in the area surrounding Nha Trang, Vietnam, list a number of orphanages in the Nha Trang area on their page- '[Who we help-orphanages](#)'<sup>95</sup>.

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Section 10 updated: 6 September 2021

## 10. Documentation

### 10.1 Citizenship

- 10.1.1 Article 16. of the Law on Nationality states 'A child born to parents, both of whom are Vietnamese citizens, shall hold Vietnamese nationality, regardless of whether the child was born inside or outside the Vietnamese territory.'<sup>96</sup>
- 10.1.2 Article 17. of the Law on Nationality states:
  - '1.A child born to parents, one of whom is a Vietnamese citizen and the other is a stateless person; or his/her mother is a Vietnamese citizen while his/her father is unknown, shall hold Vietnamese nationality, regardless of whether the child was born inside or outside the Vietnamese territory.
  - '2.A child born to parents, one of whom is a Vietnamese citizen and the other is a foreign national, shall hold Vietnamese nationality, if so agreed in writing by his/her parents at the time of registration of their child's birth.'<sup>97</sup>
- 10.1.3 The USSD 2020 Report stated: 'Children born to stateless parents or to a stateless mother and unknown father may acquire Vietnamese citizenship if the stateless parents or stateless mother are permanent residents, making the process difficult in most cases.'<sup>98</sup>

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### 10.2 Birth registration and certificates

- 10.2.1 Humanium, an international child sponsorship NGO, noted on its undated website:
  - 'In Vietnam, 12% of children are not registered at birth. Some unmarried women do not register their child out of shame, or wrongly believe that

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<sup>93</sup> Adopted Vietnamese International (AVI), '[Orphanage Lists](#)', 2021

<sup>94</sup> Te-Phan Orphanage, '[Who are we?](#)', undated

<sup>95</sup> Loving Kindness Vietnam, '[Who we help- orphanages](#)', undated

<sup>96</sup> National Legislative Bodies, '[Law No. 07/1998/QH10 on Vietnamese Nationality of 20 May 1998 ...](#)'

<sup>97</sup> National Legislative Bodies, '[Law No. 07/1998/QH10 on Vietnamese Nationality of 20 May 1998 ...](#)'

<sup>98</sup> USSD, '[Country Report on Human Rights Practices 2020- Vietnam](#)' (Section 6), 30 March 2021

children born out of wedlock cannot be registered. Somewhat less than half of families fail to register their child within the legal time limit. The Vietnamese authorities abolished the penalties for registering late and extended the deadlines in an effort to decrease the number of stateless children. Currently, the deadline is set at one month from birth in the plains regions and two months in the remote regions and the high mountainous plateaus.<sup>99</sup>

#### 10.2.2 The 2019 DFAT report stated:

‘Under the Law on Civil Status (2014), Vietnamese citizens have rights and obligations to register civil status events including births, marriages and deaths. The Ministry of Justice manages the national Civil Registration and Vital Statistics (CRVS) system. The office of the justice clerk in every commune maintains a civil and vital events register to record births, deaths, and marriages of commune residents, which are then reported to district, provincial and central levels. Applications for birth registration of a Vietnamese child born overseas, or the reissuance of original birth certificates for Vietnam-born citizens based overseas, can be processed through the relevant Vietnamese embassy. It is unclear whether replacement identity cards can be issued overseas.

‘Article 15 of the Law on Civil Status stipulates that births are required to be registered within 30 days. Article 13 of the Law stipulates that certificates be issued by the local (commune) authority where the mother is living or registers her permanent address. The application for certificate requires: evidence to prove the birth of the child; a marriage certificate for the parents (if any); family residence book or temporary residence certificate of the mother; and an identity document for the person who registers the baby. The application is free and is generally processed within a day, but applications can reportedly be expedited by payment of facilitation fees to the processing officer. Birth certificates are required to access public services, including education and health care.’<sup>100</sup>

#### 10.2.3 The 2019 DFAT report further stated:

‘UNICEF estimated in 2016 that 359,000 children under five years of age in Vietnam did not have birth certificates, with most living in remote areas. International observers have reported that some parents, particularly from ethnic minorities, have chosen not to register their children; while there have also been instances of local authorities preventing some parents from registering the births of their children to discourage migration. Victims of human trafficking also often lack birth certificates. MOLISA reported in 2014 that there were approximately 150,000 to 176,000 orphaned or abandoned children in Vietnam who may also lack birth certificates. Others potentially in this category include children born outside of marriage, to parents with HIV/AIDS, or as the third child (under the previous two-child policy), as their parents may not approach authorities for fear of social stigma, official discrimination or other consequences in these circumstances.

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<sup>99</sup> Humanium, ‘[Realizing Children’s Rights in Vietnam](#)’, undated

<sup>100</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 5.36-5.37), 13 December 2019

‘Rates for the reissue of a birth certificate vary between localities. The rate in Hanoi is reportedly VND5,000 ...[£0.15p] at the Communal Peoples’ Committee, and VND50,000... [£1.54] at the District People’s Committee. DFAT is aware of claims that unofficial facilitation fees are often required but does not have any information in relation to this. There have been some reports that the Public Security Bureau, which provides background checks before birth certificates are issued, may offer individuals the option of providing community service, for example being a neighbourhood guard, in lieu of paying for a birth certificate. DFAT does not have any specific information in relation to how common this practice is.’<sup>101</sup>

- 10.2.4 The USSD 2020 report stated: ‘The law requires a birth certificate to access public services, such as education and health care. Nonetheless, some parents, especially from ethnic minorities, chose not to register their children, and local authorities prevented some parents from registering children to discourage internal migration.’<sup>102</sup>
- 10.2.5 The joint submission by Boat People SOS, Coalition to Abolish Modern-day Slavery in Asia, Hmong United for Justice, Junior Sacerdotal Council of Cao Dai Religion, Montagnards Stand for Justice and Vietnam Coalition Against Torture in their February 2020 submission to the UN Committee on the Rights of the Child noted: ‘thousands of Hmong and Montagnard children have not been issued a birth certificate or have been listed as fatherless on their birth certificates because of the Government’s policy of denying household registration to Hmong and Montagnards who refuse to renounce their Christian faith.’<sup>103</sup>
- 10.2.6 For specific information on street-connected children and their right and possibility to obtain birth registration documents see: [Consortium for street children, Vietnam, Undated](#).

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### 10.3 Household Registration System (Ho Kau)

- 10.3.1 The World Bank, in an undated policy note, stated:

‘The household registration system known as ho khau has been a part of the fabric of life in Vietnam for over 50 years. The system was used as an instrument of public security, economic planning, and control of migration, at a time when the state played a stronger role in direct management of the economy and the life of its citizens....

‘The 1964 law established the basic parameters of the system: every citizen was to be registered as a resident in one and only household at the place of permanent residence, and movements could take place only with the permission of authorities. Controlling migration to cities was part of the system’s early motivation, and the system’s ties to rationing, public services, and employment made it an effective check on unsanctioned migration. Transfer of one’s ho khau from one place to another was possible in principle but challenging in practice...

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<sup>101</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 5.38-5.39), 13 December 2019

<sup>102</sup> USSD, ‘[Country Report on Human Rights Practices 2020- Vietnam](#)’ (Section 6), 30 March 2021

<sup>103</sup> Boat People SOS etc, ‘[Joint Submission Responding to the 5th and...](#)’ para 32, 28 February 2020



‘Most critically, it is no longer necessary to obtain permission from the local authorities in the place of departure to register in a new location. Additionally, obtaining temporary registration status in a new location is no longer difficult. However, in recent years the direction of policy changes regarding ho khau has been varied. A 2013 law explicitly recognized the authority of local authorities to set their own policies regarding registration, and some cities have tightened the requirements for obtaining permanent status.’<sup>104</sup>

#### 10.3.2 The World Bank policy note further added:

‘Temporary registrant households have relatively few children and larger numbers of people of working age. Just 13% of temporary registrant households have children, compared to 22% of permanent registrant households. Almost no one with temporary registrant status is over age 60. There are no sharp differences in gender or ethnicity by registration status...

‘Although broadly the gaps in service access are less severe than those suggested by earlier studies, temporary registrants continue to face limited access to some public services. Children with temporary registration are substantially less likely to be enrolled in school at the lower and upper secondary levels, even after controlling for individual and household characteristics. At lower levels, overall enrollment rates are similar but temporary registrants are much more likely to be enrolled in more expensive private schools...

‘Despite a national policy of free health insurance for children under age 6, one-quarter of temporary registrant children in that age group lack health insurance. Qualitative evidence indicates that this is due in part to their registration status. Some temporary registrants also face obstacles in designating a local facility as their health care location, which means that they pay higher fees for health care.’<sup>105</sup>

#### 10.3.3 On 17 November 2020, Tuoi Tre News reported:

‘Vietnam’s lawmaking National Assembly has agreed to remove the “ho khau” or house registration books, in 2023 and replace it with an online database of citizens’ information. The decision is part of the revised law on residency, which was approved by the National Assembly during its tenth session last week. Although the law is set to take effect from July 2021, people in Vietnam are allowed to continue using their books until the end of December 31, 2022, in order to minimize inconvenience for residents and pressure on management authorities during the transition phase.

‘If the national population database and residence database are complete and thoroughly operated and managed by all-level authorities ahead of December 31, 2022, the residence books may be scrapped sooner than the original schedule. From July 2021 to December 31, 2022, any important changes to the information in household registration books will be adjusted

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<sup>104</sup> World Bank, [‘Reforming Vietnam’s Household Registration System’](#) (p1-2), undated

<sup>105</sup> World Bank, [‘Reforming Vietnam’s Household Registration System’](#) (p2-3), undated



in the online residence database, as local authorities will not re-issue the books during this period.’<sup>106</sup>

- 10.3.4 The Tuoi Tre News article further added: ‘People without permanent residency – meaning whose names are not included in any “ho khai” – are also denied issuance of national ID cards, the fundamental document for every public service in Vietnam.’<sup>107</sup>
- 10.3.5 Further information about the Household Registration System (Ho Khai) can be found in the [Country policy and information note: trafficking, Vietnam](#) and [Report of a Home Office fact-finding mission, Vietnam, September 2019](#).

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Section 11 updated: 6 September 2021

## 11. Return and reintegration

### 11.1 Returnees

- 11.1.1 The following reports should be consulted to gain an insight into the possible issues that returnees, including unaccompanied children, might face upon return:

[Country Policy and Information Notes](#) on:

- Trafficking
- Hoa Hao Buddhism
- Fear of illegal moneylenders
- Opposition to the state
- Ethnic and religious groups

- 11.1.2 The 2019 DFAT report stated:

‘Returnees, including failed asylum seekers, labour migrants and trafficking victims, typically face a range of difficulties upon return. These include unemployment or underemployment, and challenges accessing social services, particularly in cases where household registration has ceased. In addition, trafficking victims face social stigma and discrimination, and may experience difficulty in accessing appropriate trauma counselling services outside of large cities.’<sup>108</sup>

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### 11.2 Reintegration

- 11.2.1 The 2019 DFAT report stated:

‘A number of formal programs support the reintegration of returnees, including with the support of foreign governments. The International Organization for Migration provides financial assistance for education or income-generating activities or in-kind goods. The Reintegration Network is a non-funded, voluntary alliance of local and international organisations and

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<sup>106</sup> Tuoi Tre News, [‘Vietnam to discard household registration books in 2023’](#), 17 November 2020

<sup>107</sup> Tuoi Tre News, [‘Vietnam to discard household registration books in 2023’](#), 17 November 2020

<sup>108</sup> DFAT, [‘Country Information Report Vietnam’](#) (para 5.33), 13 December 2019

UN agencies that specifically supports the return and reintegration of women and children, including through improving the coordination of referrals and reintegration assistance provided to returnees.<sup>109</sup>

11.2.2 On their website International Organisation for Migration (IOM) in Vietnam noted that:

‘Via the Assisted Voluntary Return and Reintegration (AVRR) program, IOM Vietnam in cooperation with other IOM missions all over the world provides return and reintegration assistance to help irregular migrants return to Vietnam and re-establish themselves.

‘Reintegration assistance ranges from a reinstallation allowance to a variety of socio-economic assistance measures provided directly to the returnees. Beneficiaries of the AVRR include:

- Migrants in an irregular situation,
- Persons whose asylum claim has been rejected
- Victims of trafficking
- Any person with legal status in the host country, but without means to return home (including stranded persons and students);
- Labour migrants at the end of their contracts.

‘Most of these categories – particularly victims of trafficking – may include unaccompanied minors, whose inclusion in a return process requires additional and specific measures and considerations for assistance along with other vulnerable migrants.’<sup>110</sup>

11.2.3 The 2019 report ‘Precarious Journeys’, published by several anti-slavery charities with funding from the Home Office Modern Slavery Innovation Fund, noted:

‘As evidenced in interviews conducted with victims of trafficking returning to Vietnam from Europe, it is clear they experience a lack of support and continued debt burden upon their return to Vietnam. Pacific Links have found through their research that opportunities to recover, gain education, skills and self-confidence are limited. The IOM provide support to those returning voluntarily. On returning, some Vietnamese may also have concerns about reprisals from Vietnamese authorities and the state.’<sup>111</sup>

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### 11.3 Family reunion

11.3.1 According to Article 23 of the Law on Child Affairs dated 5 April 2016

‘Children have the right to know their natural parents, unless this might cause adverse influence on their best interests. They are entitled to stay in touch or contact with both parents when they or their parent(s) resides (reside) in different countries or are detained or expelled. They also have their immigration facilitated to be united with their parent(s). In addition,

<sup>109</sup> DFAT, ‘[Country Information Report Vietnam](#)’ (para 5.34), 13 December 2019

<sup>110</sup> IOM, ‘[Migrant Integration](#)’, undated

<sup>111</sup> ECPAT UK et al, ‘[Precarious Journeys- Mapping vulnerabilities of victims of ...](#)’, 7 March 2019

children are protected from illegal transport to the outside of the territory of Vietnam and provided with information when their parent(s) is (are) missing.<sup>112</sup>

11.3.2 Vietnam's 2018 report to the UN Committee on the Rights of the Child, stated:

'The 2016 Law on Children specifies that children have the rights to: know their biological father and mother, except where this knowledge may be against the best interests of the child; maintain contact with both parents when children and parents reside in different countries or when they are in custody or in a deportation process; favorable conditions for exit and entry to reunion with parents; protection from being sent abroad in contravention of law; be provided with information when a parent is missing.<sup>79</sup> In addition, measures to support victims of child trafficking in family reunions have been implemented. Protection and support services are designed to meet the specific needs of trafficking victims, especially children. Considerations include ensuring physical safety, security of personal information, finding and reuniting with families, provision of alternative care and reintegration services.'<sup>113</sup>

11.3.3 The International Committee of the Red Cross (ICRC) assists with restoring family ties in Vietnam<sup>114</sup>.

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<sup>112</sup> MOLISA, '[Law on Child Affairs](#)', 5 April 2016

<sup>113</sup> UN CRC, '[Combined fifth and sixth periodic reports submitted by Viet Nam ...](#)' (p17), 3 March 2020

<sup>114</sup> ICRC, '[Restoring Family Links in Viet Nam](#)', undated

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- **Demography**
  - Population
  - Family structure
- **Legal context**
  - Constitution
  - International law
  - Domestic legislation
- **Social and economic rights**
  - Education
  - Education for children with special needs
  - Health and welfare, disabled children
- **Judicial and penal rights**
  - Juvenile justice
  - Juvenile detention
- **Violence against children**
  - Child abuse, including corporal punishment and sexual violence
  - Early and forced marriage
  - Street children
  - Trafficking
- **Child labour**
  - Forced labour
- **Childcare and protection**
  - Government/NGO support
  - Orphans, orphanages, shelters and children's homes
- **Documentation**
  - Citizenship
  - Birth registration and certificates
  - Fraudulent documents

- **Return and reintegration**
  - Household Registration System (Ho Kau)
  - Reintegration
  - Family reunion

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **29 September 2021**

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### **Official – sensitive: Start of section**

- The information in this section has been removed as it is restricted for internal Home Office use.

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### **Official – sensitive: End of section**

## Changes from last version of this note

New CPIN on this topic

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