



**Meeting of the States Parties
to the Convention on the
Rights of the Child**

Distr.: General
9 January 2007
English
Original: French

COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-third session

SUMMARY RECORD OF THE 1189th MEETING (Chamber A)

held at the Palais Wilson, Geneva,
on Friday, 22 September 2006, at 3 p.m.

Chairperson: Mr. DOEK

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (*continued*)

Initial report of Viet Nam on the implementation of the Optional Protocol to
the Convention on the Rights of the Child on the sale of children, child
prostitution and child pornography (*continued*)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4)
(continued)

Initial report of Viet Nam on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography ((CRC/C/OPSC/VNM/1); list of issues (CRC/C/OPSC/VNM/Q/1); written replies by the State party to the list of issues (CRC/C/OPSC/VNM/Q/1/Add.1)) (continued)

1. *At the invitation of the Chairperson, the Vietnamese delegation took places at the Committee table.*

2. Ms. LE THI THU (Viet Nam) said that the Commission for Population, Family and Children had been established by Parliament in 2002. The duties of the Commission, which had the status of a ministry, included drafting laws and monitoring their implementation and helping the Government to incorporate in domestic law the international instruments to which Viet Nam was a party. The Commission was organized on four levels: central headquarters, provincial branches, district branches and local branches. It also relied on groups of local volunteers who helped it to implement the laws and policies assisting the family and children.

3. In 2001, the Ministry of Justice had launched a policy promoting registration of births and as a result the situation had improved considerably. In particular, following the creation in 2005 of a system of cards giving entitlement to free medical care for children under six years of age, issued only to registered children, many more parents were completing the necessary formalities. Currently, over 90 per cent of Vietnamese children had a birth certificate.

4. The Vietnamese delegation was not in a position to confirm the accuracy of reports that the number of children sold for prostitution in Viet Nam had quintupled, but it would verify those reports as soon as possible and ensure that statistics on that subject were included in the third and fourth periodic reports on the implementation of the Convention on the Rights of the Child which Viet Nam was to submit to the Committee by 2007.

5. Lastly, the Vietnamese Government was convinced that the country's economic development should not be achieved at any cost, and especially not to the detriment of the well-being of children. For that reason, it spent part of its funds on the formulation and implementation of national programmes and action plans for the development of the child, especially in order to provide universal access to primary education and health care.

6. Mr. NGUYEN CONG HONG (Viet Nam) said that the Action Programme on Prevention and Struggle Against the Crimes of Trafficking in Women and Children for the period 2004-2010 comprised four projects, to be implemented by four different ministries. Under the project for which it was responsible, the Ministry of Justice had introduced improvements in the legislation on trafficking in persons and was preparing to submit to the Government draft legislation on the repatriation of trafficking victims. In addition, it had submitted a draft amendment to Decree No. 68 on the adoption

of Vietnamese children by foreigners and on marriages between Vietnamese and foreigners, which had been adopted in July 2006.

7. Before acceding to a new international instrument, Viet Nam had to bring its domestic legislation into line with the instrument in question. The Ministry of Justice was currently studying the existing legislation so that Viet Nam could ratify the United Nations Convention against Transnational Organized Crime. Similarly, the process of alignment of domestic legislation with the Hague Convention on Protection of Children and Cooperation in respect of Inter-country Adoption was under way and the Government should be in a position to accede to that instrument in 2007.

8. Witnesses and victims of trafficking could invoke articles 7 and 55 of the Penal Code to request protection from the police if they were being threatened. In addition, article 18 of that Code specified that, in some cases, victims and witnesses could request that their identity should not be revealed. Victims and families who could not afford a lawyer had access to the services of a counsel provided without charge by the Legal Aid Department of the Ministry of Justice. In the context of the planned reforms of the judicial system, the Ministry of Justice had concluded an agreement with UNICEF for the adoption of investigative measures suited to minors. Information had already been circulated on that subject to members of the judiciary and social workers, and pilot experiments were being conducted.

9. In July 2006, Decree No. 69 had been promulgated to fill gaps in Decree No. 68 on the adoption of Vietnamese children by foreigners that traffickers could use in order to engage in trafficking of minors. The new text, dealing with adoption procedures and oversight arrangements, specified inter alia that adoption agencies must report on the child's situation every six months and that the adoptive parents must keep the competent authorities informed of their child's progress. In addition, agreements had been concluded with various countries in order to verify that the child had been adopted for purely humanitarian reasons. Adoption of a child for the purpose of selling him or her was punished by the Penal Code.

10. Ms. ORTIZ asked the Vietnamese delegation to explain whether the Penal Code punished complicity in acts constituting a violation of the adoption law. In addition, noting that a very large number of intercountry adoptions took place in the State party, she asked what type of agency supervised all those adoptions.

11. Ms. ANDERSON inquired what difficulties the State party had encountered in creating a central agency responsible for intercountry adoptions.

12. Mr. NGUYEN CONG HONG (Viet Nam) said that under the Penal Code the accomplice of an offender was also held liable for the act in question. As regards the creation of an agency to deal with intercountry adoptions, he said that, in view of the number of adoptions, a single organization would not be able to deal with all the cases. That was why responsibility in that area was currently delegated to the local authorities.

13. As regards the protection of victims' privacy, he emphasized that, under the law on the media, journalists were required to respect the privacy of persons and that, if they did not do so, they were liable to penalties ranging

from payment of damages to establishment of a criminal record. In addition, international trafficking in persons and trafficking inside the country were both punished under Vietnamese law, with more severe penalties for the former than for the latter.

14. Articles 253 and 255 of the 1999 Penal Code, dealing respectively with the production, distribution, dissemination and sale of child pornography and with acts connected with child prostitution, imposed more severe penalties when the victim was under 13 years of age. In order for the penal system to be more effective, training courses on questions relating to human trafficking were provided for members of the Judiciary and particularly judges and prosecutors. The lack of juvenile courts was indeed regrettable, but it should be noted that judges specializing in cases involving minors had been appointed.

15. In the context of efforts to combat Internet child pornography, the 1999 Penal Code punished the production, reproduction, dissemination, transport, sale, purchase or storage of pornographic material depicting children (article 253 on the dissemination of obscene cultural products). It was true that the Penal Code did not define precisely who was a child. Viet Nam was aware of that shortcoming and would certainly include a definition when the Penal Code was next revised.

16. Article 228 of the 1999 Penal Code punished the act of requiring a child to engage in forced labour in violation of the provisions governing the employment of child labour and decision No. 19 of the Prime Minister was designed to prevent and solve the problems of street children, child victims of sexual abuse and children forced to engage in hard and dangerous work or work in which they were in contact with toxic substances. Any person employing children in disregard of those legal instruments was liable to imprisonment for two to seven years.

17. Ms. LEE asked what definition of the child was used by judges in their rulings, in view of the contradiction between the provisions of the 2004 Law on Protection, Care and Education of Children, which applied the term "child" to any person from birth to 16 years of age, and the provisions of the 1995 Civil Code, which described any person under 18 years of age as a child. She also requested clarification on the texts governing pornography depicting children, which did not seem to be covered by the law.

18. Ms. NINH THI HONG (Viet Nam) said that the law of November 2005 on young people defined any person under 18 years of age as a "child" and required the State to protect all minors against any form of sexual violence or economic exploitation. In addition, article 31 of the law specified that international law took precedence over domestic law, allowing Vietnamese judges to invoke the provisions of the Convention.

19. Mr. KOTRANE, supported by the CHAIRPERSON, welcomed the fact that the law of November 2005 on young people provided protection for children between 16 and 18 years of age, but stressed the need for the State party to amend its Penal Code so that children in that age bracket were also protected against all the acts and activities mentioned in article 3 of the Optional Protocol, which was not currently the case. Indeed, by virtue of the principle of legality of crimes and penalties, if the State party wanted to

guarantee protection against such acts for all children under 18 years of age, it could not do so without legislation incorporating in its domestic criminal law all the acts prohibited by that instrument, because in criminal matters the judge could only apply the letter of the law.

20. Mr. NGO QUANG XUAN (Viet Nam) said that his country was on the point of ratifying ILO Convention No. 29 concerning Forced or Compulsory Labour and ILO Convention No. 105 concerning the Abolition of Forced Labour, which would make it one of the few South-East Asian States to have acceded to those instruments.

21. He emphasized that human trafficking, and particularly trafficking of women and children, was a new phenomenon in his country - although already a widespread one - and that for that reason victims often hesitated to lodge a complaint. He assured the members of the Committee that the Vietnamese Government was determined to combat that scourge by all possible means.

22. Mr. VU ANH QUANG (Viet Nam) said that during their training journalists of the written press and the audiovisual media were made aware of the need in the exercise of their profession to protect the privacy and the identity of victims of trafficking or of violations of their rights on which they were reporting. The Vietnamese Press Association had even issued a code of ethics on that subject, reminding its members of their obligations and responsibilities in that regard.

23. Viet Nam had a number of policies and programmes for the protection and development of the child, such as the Program on Prevention and Resolution of the Problems of Street Children and Sexually Abused Children for 2004-2010, which included arrangements for such children to receive medical care and attend readaptation programmes, with a view to reinserting them in society and ensuring that they returned to the family domicile.

24. In the area of education, children were involved in decisions concerning them and the Convention was taught in both primary and secondary schools. They were thus aware of their rights and obligations under that instrument and knew that they could use the special telephone line available to them without charge to make their views heard, report violations committed against them and ask that proceedings should be instituted. That telephone line enabled the authorities to collect data on the situation of the rights of the child in Viet Nam and was thus an effective monitoring tool.

25. Ms. LE THI THU (Viet Nam) acknowledged that social work was a relatively recent activity in her country but announced that it was receiving increasing attention from the authorities. For example, in 2004 a five-year training programme had been introduced in 11 higher education institutions so that the country would have qualified social workers. At the same time, one-month or two-month continuous learning courses were offered to judges and other members of the judiciary, members of the police force, physicians and customs officials responsible for frontier interrogations, among others. Thus several thousand professionals had been trained since 2003. In addition, many capacity-building projects had been implemented for professionals working with children, as part of cooperation between Viet Nam and UNICEF. Those projects had resulted in the drafting of documents and policies which ministries and

public agencies could use for the organization of their training courses. In that connection, the Ministry of Public Security had recently formulated in cooperation with UNICEF detailed guidelines concerning investigations of cases of ill-treatment of children, trafficking in children, child prostitution, etc. That document should be extremely helpful to police units which dealt with child victims, giving them a better understanding of children's needs and expectations and also helping to prevent violations in groups of vulnerable children. The Government hoped that those initiatives could be further extended, if international cooperation in that area was stepped up.

26. In Viet Nam, as in almost all countries, the development of the Internet placed children at risk of viewing violent or pornographic content. That was a phenomenon which the authorities had difficulty controlling, although they had adopted new laws prohibiting all pornographic content and providing for immediate closing-down of Internet providers allowing or profiting from the dissemination of such content. Unfortunately, checks conducted in cybercafés revealed a number of violations of those legal texts.

27. Mr. ANH QUANG (Viet Nam) added that the five-year plan adopted by the Government for 2006-2010 focused on social development, protection of the environment and economic development with, for the first time, definite priority given to social development, with emphasis on poverty reduction, elimination of hunger and development of the child. In the area of education, priority had been given to primary education and education of the poorest. In that context and in order fully to integrate the "rights of the child" concept, close contacts had recently been made with UNICEF. The five-year plan received sizeable budget allocations from the State, as well as community and international resources. In view of the large budget of the Vietnamese Commission for Population, Family and Children, the programmes and policies for children had every likelihood of succeeding, especially if cooperation with the international community continued to expand.

28. The CHAIRPERSON welcomed the fact that the State party had integrated the development of the child into its development plan - something that too few States did. The delegation needed to supplement the information given in paragraph 123 of the report and explain whether Vietnamese courts had universal competence regarding sex tourism, in accordance with article 3 of the Optional Protocol.

29. Mr. CONG HONG (Viet Nam) confirmed that Vietnamese courts were competent to prosecute not only crimes committed in Viet Nam but also those committed by Vietnamese nationals outside the country and crimes committed abroad against Vietnamese nationals. However, in order for the relevant provisions of the Penal Code to be applied, use had to be made of mutual legal assistance agreements, diplomatic channels and bilateral extradition agreements. Under those conditions, Vietnamese courts could effectively exercise the universal competence guaranteed to them under the law.

30. Ms. ORTIZ asked what penalties could be imposed on intermediaries who did not respect the law on adoption.

31. Ms. LEE asked the delegation to give further information on the possibility of payment to obtain a reduced sentence.

32. Ms. OUEDRAOGO asked what was done for children who wanted to return home after being abused or forced to prostitute themselves but whose families were reluctant to take them back. The State party should do everything possible to change mindsets and make the population realize that the children concerned were victims.

33. Ms. THI HONG (Viet Nam) said that all persons - women or children - who had been forced into prostitution were considered as victims by the authorities and, as such, were looked after. The Government studied each case carefully and gave families advance notice of the return of the woman or child concerned so as to prepare them and explain to them that their behaviour would be crucial to the reinsertion of the person marked by that painful experience. Medical treatment was envisaged if necessary, as were vocational training or a loan on preferential terms if that was considered useful in order to stabilize the situation of the victim. It was true that there had been cases in which the family had been upset and hesitated to take back the child. The State had then enlisted the help of associations of women victims and in its action had made use of those associations' experience working with victims of trafficking.

34. Mr. NGUYEN NGOC ANH (Viet Nam) explained that the Government had made considerable efforts to organize the procedure of intercountry adoption in the best possible way. It had created a legal framework, drafted legal instruments and concluded bilateral agreements with several countries. In order to prevent adoption-related offences, the State took particular care to supervise the activities of intermediaries. When intermediaries were prosecuted under the Penal Code, the court considered the extent of participation of each of them in determining their criminal liability and the penalty to be imposed on them.

35. A reduced penalty was indeed possible, under article 48, paragraph 1, of the Penal Code, if the perpetrator of a crime compensated the victim. However, that provision did not apply to persons found guilty of trafficking in women or children. Indeed, during the most recent amnesty, such persons had not been released.

36. Mr. DANG HOA NAM (Viet Nam) said that the Government gave preference to national adoptions, so that the child could remain in his or her home country. Even if the number of adoptions of children by foreign parents was constantly increasing, it was far from meeting the demand from foreign countries.

37. The CHAIRPERSON asked whether legal persons, such as associations, incurred criminal liability in Viet Nam.

38. Mr. NGUYEN NGOC ANH (Viet Nam) replied that, when drafting the 1999 Penal Code, the jurists had tried to define criminal liability. It had been decided that, in accordance with tradition, only individuals could be prosecuted.

39. The CHAIRPERSON was of the view that, in the case of organized crimes, it should be possible to punish the legal entity as well as the organization's rank and file, and in particular to confiscate money held in the name of the legal entity. It would be helpful if the delegation could give details regarding the medical examination of recruits.

40. Mr. LE THANH TRUNG (Viet Nam) explained that a commune council was set up to determine, on the basis of the findings of the medical examinations, whether recruits were suitable for military service. He emphasized that not all persons found to be suitable were recruited.

41. Ms. LEE welcomed the very constructive dialogue, which had given the Committee members a more accurate picture of the situation of children in Viet Nam, particularly with regard to the Optional Protocol on the involvement of children in armed conflict, and commended the country's efforts to implement that instrument. She invited the State party to ratify the Additional Protocols to the Geneva Conventions and to ban the recruitment of children under 15 years of age. In her view, it would be appropriate to instruct young people in matters of tolerance, peace, human rights and rights of the child, by including those subjects in school curricula, including those of military schools. It would also be useful to give wide distribution to the final observations to be formulated at the end of the session, associating children in the process.

42. Ms. ANDERSON welcomed Viet Nam's commitment to work on behalf of Vietnamese children. She encouraged the State party to withdraw its reservations to the Optional Protocol and to pursue its legislative reform, ensuring that Vietnamese legislation specifically covered the acts mentioned in the Optional Protocol. She acknowledged that major efforts had been made in that connection and asked the State party to continue on that course. She would also like the country immediately to take steps to compile more statistics, so as to give a better picture of the situation of children in the country. Viet Nam should also take measures to prevent sex tourism and the spread of child pornography on the Internet. Lastly, it would be desirable for it to continue and strengthen its bilateral and multilateral cooperation.

43. Ms. LE THI THU (Viet Nam) welcomed the frank and constructive dialogue established with the Committee and assured it that its recommendations would be duly taken into consideration. In order better to protect Vietnamese children in the spirit of the Convention and of the two Optional Protocols, the Government planned to bring its national legislation into line with the relevant international instruments.

44. The year 2007 would be important for Vietnamese children. The country would be evaluating the Five-Year Plan for implementation of the Declaration entitled "A world fit for children". In September, it would submit to the Committee a report combining its third and fourth reports on the implementation of the Convention on the Rights of the Child. That would be a unique opportunity for the Government and the ministers and organs concerned to review the progress made and the obstacles still to be overcome.

45. Also in 2007, Viet Nam was to work with UNICEF in hosting a national workshop to evaluate the impact on children of the country's accession to WTO, with the aim of mitigating any negative fallout. The workshop should identify the problems that might arise and formulate recommendations for the adoption of suitable policies to protect and care for children. Members of the Committee who would like to visit Viet Nam on that occasion would be welcome.

The meeting rose at 5.10 p.m.