



Convention on the Rights of the Child

Distr.
GENERAL

CRC/C/OPAC/VNM/1
12 December 2005

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8 (1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Initial reports of States parties due in 2004

VIET NAM*

[8 November 2005]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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A. Background

1. In the beginning of 2003, the population of Viet Nam was over 81 million, of which children under 16 years of age and women comprised nearly 34 per cent and 51 per cent respectively. Administratively, Viet Nam is comprised of 64 provinces and cities under the central administration.
2. Over the past years, in the light of the Strategy on Socio-economic Stabilization and Development for 10 years (1991-2000), and despite enormous challenges particularly during the period 1996-2000, Viet Nam's economy has continued to enjoy remarkable development, with an average GDP growth rate of 7.06 per cent per year between 2001-2003 (the GDP growth rate in 2001, 2002, 2003 was 6.89 per cent, 7.04 per cent and 7.24 per cent respectively) while the savings rate and the per capita income rate were steadily on the rise thanks to the efficient implementation of appropriate policies and measures along with the proper promotion of domestic strengths combined with effective international support.
3. Along with the country's overall progress, people's living standards have been much improved. With regard to targeted social development and enhancement of living conditions for both urban and rural populations, including hunger eradication and poverty alleviation, remarkable results have been recorded. During the past 10 years, average life expectancy increased to 71 years in 2003 from 65 in 1989. The rate of household access to clean water doubled; the rate of communes lacking essential infrastructures decreased considerably (in 2000, 88 per cent of communes benefited from a power supply, 95 per cent had driving roads directly to their communal centre); the living conditions of people in many areas have been visibly improved, especially in rural and disadvantaged areas. The protection, care and education of children showed encouraging results. In general, Viet Nam has achieved and even surpassed many of the objectives set forth in different national programs of action for children.
4. The achievements in living standards and health care are well illustrated in the Human Development Index (HDI) of Viet Nam. According to the statistics of the United Nations Development Program (UNDP), this indicator increased from 0.583 in 1985 to 0.605 in 1990 and from 0.649 in 1995 to 0.688 in 2001. In rank, Viet Nam rose from 122nd out of 174 in 1995 to 113th out of 174 in 1998 and from 110th out of 174 in 1999 to 109th out of 175 in 2001.
5. In spite of remarkable outcomes in the field of socio-economic development, Viet Nam remains a low level developing country. The quality of growth still leaves much to be desired; goods competitiveness remains low in the world market; the rates of unemployment and semi-unemployment are notably high; the quality of social, educational and health care services have yet to meet actual demand; the rate of poor households remains high despite its downward trend and the rate of households in poverty was 11 per cent in 2003, particularly in remote and mountainous areas. In addition, Viet Nam is faced with the spread of HIV/AIDS and other social evils such as prostitution, drug-related offences and environmental pollution.

B. Exercise of the rights of the child in Viet Nam

6. During recent years Viet Nam has placed the exercise of children's rights at top of its agenda and has duly carried out its international commitments.

7. Following its ratification of the United Nations Convention on the Rights of the Child in February 1990, the State of Viet Nam supplemented, amended and promulgated many legal documents regarding the protection, care and education of children. These variously took the form of laws, ordinances, resolutions, decrees, decisions, directives and circulars, e.g. the Law on Protection, Care and Education of Children (revised in 2004) and the Law on Education (revised in 2004), the 1994 Labor Code (revised and amended in 2002), the 1995 Civil Code, the 1999 Penal Code, the 2002 Ordinance on Administrative Measures, the 2003 Ordinance on Prostitution Prevention and Combat, etc.

8. Also, Viet Nam formulated many specific policies and programs for the protection and development of children such as the National Programs of Action for Children for the periods 1991-2000 and 2001-2010; Resolution No. 05 on Prostitution Prevention and Combat issued by the Government in 1993; the 1998 National Program on Criminal Control and Prevention; the Program on Prevention and Resolution of the Problems of Street Children, Sex-abused Children; Children being overworked and working in poisonous and dangerous conditions during the period 2004-2010; the Action Program on Prevention and Struggle Against the Crimes of Trafficking in Women and Children for the period 2004-2010, etc. Thanks to all this Viet Nam achieved the following desired goals by the end of the Decade for Children:

9. *Regarding child health care:* the under-five mortality rate was reduced to 42/1000 in 2001; the rate of under-one children immunized against six basic diseases reached 97 per cent in 2001; 100 per cent of vitamin A deficiency related diseases were eliminated; the under-five malnutrition rate was reduced to 30.1 per cent in 2002; poliomyelitis was thoroughly eradicated in 2000.

10. *Regarding education:* 100 per cent of provinces/cities succeeded in primary education universalization and illiteracy eradication; 96.8 per cent of children enrolled in school in conformity with their age in the school year of 2002-2003.

11. *Regarding cultural, leisure and recreation activities of children:* by the year 2000, 50.8 per cent of Viet Nam's districts had built cultural and leisure centers for children. The number of cultural houses and radio and television programs for children has also been increased year after year.

12. *Regarding care for children with special circumstances:* 70 per cent of orphans without care-givers were taken into care in their community; over 80 per cent of harelip and cleft palate children have been operatively cured; 100 per cent of legitimately repatriated children were taken into care and socially reintegrated.

13. Viet Nam has been particularly diligent about protecting children from being conscripted into the armed forces or otherwise being coerced into war or other forms of combat. A number of measures have been taken to ensure that children under the age of eighteen . Viet Nam has ratified the Optional Protocol on the Involvement of Children in Armed Conflict and is doing everything in its power to implement its provisions.

14. This report is meant to describe the measures it has undertaken in this regard. Viet Nam's efforts are ongoing.

C. Measures ensuring children under eighteen would not have to join the armed forces and go to war

1. Military recruitment

15. **1.1 Legal context:**

16. **1.11 General provisions:**

- The 1992 Constitution and the 1981 Law on Military Service stipulated: the protection of the Socialist Fatherland is a sacred task and the noble right of citizens. It is the citizens' duty to serve in the military and to build the system of national defense.
- The 1981 Law on Military Service stipulated:

Article 12: Male citizens having reached the age of eighteen can enlist in the armed forces; the recruitment age ranges from eighteen to twenty-seven years old.

17. **1.12 Military recruitment process:**

18. Military service registration:

- The amended Military Service Law, adopted by the National Assembly on 22 June 1994, states:

Article 19: The People's Committees of the district, small town or city under the authority of the province are responsible for the preparation of citizens serving in the army and for enlisting citizens in army service. According to the regulations of the Minister for Defense, in January, the Chairmen of the People's Committees of the village, quarter or small town; principals of vocational schools and secondary schools; heads of offices; persons in charge of economic or social organizations and other local units must provide a list of male citizens turning seventeen that year to the Military Command Board of the district, small town or city under the authority of the province.

Article 20 of the 1981 Law on Military Service stipulates: Every year, male citizens turning seventeen enlisted by the Military Commander in Chief of the district, small town or city under the authority of the province have to register for military service at the military office.

19. The amended Military Service Law, adopted by the National Assembly on 22 June 1994, stipulates:

Article 24: The People's Committees at all levels establish the Council of Military Service at its level to assist the People's Committee in implementing military services at localities. The Council of Military Service consists of the Chairman of the People's Committee as President, Military Commander in Chief as Vice President and

Commissioners from branches including Labor, Public Security, Health, Culture and Information, Planning, The National Front Committee, the Labor League, the Ho Chi Minh Communist Youth Union, The Women Union, The Farmer Associations The Veterans Association. The Council of Military Service operates under the principle of collective decision-making; the Council's resolutions have to receive approval from over half of its members.

20. The Government's Decree No. 83/2001/ND-CP dated 9 November 2001 on military service registration stipulates:

Article 2: Military service registration consists of completing a curriculum vitae and other necessary information stipulated by the Law for persons old enough to register, so as to enable the local military office to manage and implement law regulations on military service for persons within the age range for military service;

Article 3: Military service registration must be undertaken by the eligible persons themselves according to the correct policies and procedures;

Article 7: Male citizens between the age of seventeen and forty-five have to register for military service, except for those deprived of their service rights in the military armed forces; those under criminal prosecution; persons who are sentenced or under no-detention reclamation; national defense officials; those serving in People's Public Security sections and agencies; the handicapped and those who are mentally ill or suffer chronic diseases listed by the Minister of Health and the National Defense. These persons are exempt from military service;

Article 17: Annually, as ordered by the Commander in Chief of the Military Command Service at the district level, male citizens turning seventeen years of age are obliged to register for military service. In order to register they must go to the District Military Command Service in their area and show identity card as well as fill out the curriculum vitae forms required for registering for the first time that are found in the registration book of persons ready to join armed forces;

Article 18: The District Military Command Service is responsible for:

1. Providing military service registration certificates for persons ready to join the armed forces;
2. Creating files of military service curriculum vitae for persons ready and qualified to join the armed forces;
3. Sending military service curriculum vitae to soldier-receiving units where citizens are recruited to serve in the armed forces.

21. Health examination:

- The 1981 Military Service Law stipulates:

Article 28: The Health Examination Council of the district, small town or city under provincial authority is responsible for examining the health of those recruited to join the armed forces. The results must be widely publicized.

- Circular 13/TT-LB of the Inter-ministry of Health and National Defense dated 13 October 1992 on Health examination, qualification and verification for fulfilling military service stipulates:

Citizens whose health is to be examined must show the health examination invitation paper issued by district military commander in chief along with their identity card.

Health examination includes: Physical examination; detecting and noting diseases in each person's health form to aid in health management; classifying each citizen's health condition (of those ready to join the armed forces as well as those on standby); creating a military service health check form for male citizens seventeen years of age and citizens being checked for the first time.

The military service health check form is the fundamental medical document showing the overall health condition of citizens who are conforming to the Law on Military Service.

1. Military recruitment

22. The following Articles govern military recruitment:

Article 1 of the amended Military Service Law, adopted by the National Assembly on 22 June 1994 stipulates that every year, the appeal for citizens to join the armed forces take place once or twice; the government decides the time of the appeal and the number of citizens recruited for the year.

The 1981 Military Service Law stipulates at Article 21: The recruitment of citizens into the armed forces is carried out under the orders of the Minister of National Defense. People's Committees of all levels are accountable for the recruitment in each locality. According to the resolution of the People's Committee, the military commander in chief of the district, small town or city under provincial authority recruits citizen one by one into the armed forces. The call-up paper must be sent at least fifteen days prior to the date of enlistment. In the case of localities stricken by severe natural disasters, the Minister of National Defense has the right to adjust the time of recruitment.

23. Suspension of military recruitment:

- The amended Military Service Law, adopted by the National Assembly on 22 June 1994 stipulates:

Article 1:

24.d.1 The following persons are temporarily suspended from military service during peacetime:

- Persons not healthy enough to serve in the armed forces as concluded by the Health Examination Council;
- Brother(s) or sister(s) of persons currently serving as non-commissioned officers or soldiers in the armed forces;
- Persons attending school, vocational centers, secondary vocational school, college or university as provided by the Government;
- Persons working in new economic zones during the first three years of the zones' existence.

25. The above-mentioned people must be re-examined every year; if there are no longer any reasons for temporary exemption from military service, and if the person is older than twenty-seven, if the person is still not recruited then his name will be put on the standby list.

26.d.2 The following persons are exempted from military service:

- Sons of war dead, wounded and ill soldiers that are rated as suffering from grave wounds or illness;
- Persons having brothers among the war dead;
- Sons of wounded soldiers rated as one or two and ill soldiers rated as one;
- The Government decree No. 03/1995/NĐ-CP dated 16 January 1995 on temporary and permanent military exemption during time of peace for students, volunteer youths, state officials and workers working in extremely difficult areas, stipulates:

Article 1: During peacetime, male citizens of military service age are temporarily exempted from military service in the following cases: male citizens currently attending schools, colleges, universities or vocational schools for a training period of at least twelve months.

1.2. Implementation

27. According to the Military Service Law, only male citizens of eighteen years' age are recruited to join the army; the recruitment age is counted by the year and a year must include all twelve months in order to eliminate cases of persons old enough by year but not by month; or by year and month but not by day. For example: if a person born on 1 January 1984 then his day for being eligible for recruitment is 2 January 2002.

28. Besides the age qualification, citizens must have their health examined and if qualified they will be recruited. The term of military service is two years, except if it is served at specialized technical units, when the term is three years.

29. Military recruitment is conducted annually. Before joining the army, male citizens turning seventeen have to register at the local military office as being ready to join the army and carry out health check procedure. When they turn eighteen the following year their health will be re-checked and if qualified they will be recruited. The military service health check dossier includes papers such as a personal curriculum vitae and a birth certificate. These are confirmed by the local authority to ensure the genuineness of background and age. It also includes a health check paper that determines the person's health condition before he joins the army.

30. A Council called the "Military service Council", organized at the district and provincial levels, will determine whether the person is qualified to fulfil military service.

31. Before the age of recruitment and before enlisting, male citizens will undergo military training classes in high school. This training includes political education, military training, organizational skills and discipline training as well as physical training.

32. In general, military recruitment is conducted in a strict manner and in line with the Military Service Law.

2. Participation in the self-defense militia force

33. At present, besides the national military troops called the Viet Nam's People's Military, Viet Nam also has a paramilitary self-defense militia force. The organization and operation of the self-defense militia force are provided by the Ordinance on Self-defense militia issued on 9 January 1996.

Article 2 of this Ordinance stipulates that persons selected to join the self-defense militia force have to be eighteen, the same age as citizens recruited to join the army. Citizens under eighteen are not selected for the self-defense militia force.

34. The task of the self-defense militia force is to be ready to fight and defend the locality; when needed, they supplement the army or co-ordinate with the army to safeguard national sovereignty and integrity, fight against invasion and prevent natural disasters from damaging their localities.

35. In order to apply for participation in self-defense militia force, the following papers are needed:

- Personal curriculum vitae confirmed by the local authority to ensure the genuineness of age;
- Health check paper to determine whether the person's health condition qualifies him to join the self-defense militia force.

36. To guarantee the selection of citizens joining the self-defense militia force, Vietnamese Law strictly forbids and punishes illegal organizing of self-defense militia forces as well as all violations of regulations concerning the selection of citizens for the self-defense militia force.

37. At present, besides military troops and the above-mentioned self-defense militia forces, there are no other armed forces operating legally or illegally in Viet Nam.

3. The protection of children under eighteen by guaranteeing that they do not have to join the armed forces or be directly involved in war or other armed conflicts

3.1. Legal context

38. The 1999 Penal Code stipulates:

Article 261: On acting against the regulations governing military service:

1. Those who abuse their position and power to act against the regulations governing military service registration, orders for military service or regular training will be punished by up to 3 years of no-detention reclamation or imprisoned from 6 months to 3 years.

2. Violation of such regulations in war time is punished by imprisonment of from 2 to 7 years.

3. Those convicted of such acts may be banned from holding certain positions from 1 to 5 years.

Article 343 also prescribes very strict punishment for war crimes, including serious violations of international laws or international treaties of which Viet Nam has been an initial signatory or has become a member. Such criminals may be sentenced to imprisonment of between 10 and 20 years, life imprisonment or may even receive the death penalty.

Article 344 on the recruitment of mercenaries or serving as a mercenary:

1. Anyone who recruits, trains or uses mercenaries with the aim of fighting against a country that is a friend of Viet Nam's, or for fighting in a national liberation movement, may be sentenced to imprisonment of 10 to 20 years or life.

2. Anyone who serves as mercenary can be sentenced to between 5 and 15 years' imprisonment.

39. Article 69 of the 1981 Military Service Law states:

1. Anyone who violates the regulations concerning military service registration, selection and orders for military service of eligible citizens or concerning regular training of standby military men; or abuses their position and power in order to act against or hinder the exercise of such regulations or other aspects of this Law will be, depending on the seriousness of the offense, punished through disciplinary formalities, receive administrative punishment or will be prosecuted according to criminal law.

2. Any military man violating the regulations concerning military service selection and orders, demobilization of non-commissioned officers and soldiers or concerning the welfare and rights of military men, or breaching any other provisions of this Law, depending on the seriousness of the offense, will be punished according to the rules governing military discipline or prosecuted according to criminal law.

3.2. Implementation

40. The right of children under eighteen not to join the armed forces or be directly involved in war or recruited as mercenaries is strictly enforced in Viet Nam.

D. The recruitment of students to military schools

1. Legal context

41. Article 13 of the 1981 Military Service Law stipulates that male citizens turning seventeen and having the desire to serve long-term in the military, who have obtained the qualifications offered by the Minister of National Defense, may be accepted into military schools and be recognized as servicemen on active service.

The regulation governing the recruitment of students to military institutes, universities or colleges was issued together with Decision No.273/QD-QP, dated 2 March 1982 , promulgated by the Minister of National Defense.

The regulation governing student management in military schools was issued together with Decision No.2032/2001/QD-BQP dated 30 August 2001, promulgated by the Minister of National Defense.

2. Implementation

42. According to the above regulations, the minimum age for attending a military school is seventeen years old. Age must be counted by the year and a year must include all twelve months while a month must have all its days in order to eliminate cases of people old enough by year but not by month, or by year and month but not by day.

43. For example: if a person born on 1 January 1984 then the day he is considered to be seventeen and thus qualified to take the military schools' entrance exam is 2 January 2001.

44. This only applies to recruitment of students to those military schools under the management of the Defense Ministry.

45. A person who wishes to study at a military school has to pass a strict examination according to the proper procedures, as follows:

Recruitment process and qualifications for entering into military schools

46. The qualification required in order to be accepted is the person's own decision to enrol in military school. This means that the person signing up for the military school board exams has to make a written pledge signifying his voluntary application.

47. Other qualifications are:

- Voluntarism;

- Having graduated with a high-school diploma and having taken all subject exams provided by each school, with no subject graded “0” (mark zero); all marks must be at pass level or higher;
- Having been qualified as being in good health as required for commissioned officers and servicemen working for a long period of time in the military;
- Young people outside the military must be of an age of from seventeen to twenty-one years by 10 September of the examination year.

48. Applications include:

- The application to take the exam;
- An exam registration form;
- An exam attendance form;
- A curriculum vitae confirmed by the local authority and verified by the local military office;
- A high-school record;
- A high-school diploma;
- A birth certificate;
- A health form;
- A personal identity card.

49. Student recruitment regulations are widely disseminated by the mass media and publicly posted at recruitment centres. Recruitment procedures take place at the same time and in accordance with the general regulations of the Viet Nam Ministry of Education and Training.

Curricula and preferential regulations

50. The school term for military institutes, universities and colleges is 4 years or more; for military secondary schools it is two years or more. Study programs at military schools address culture, society and fundamental knowledge about the military. During these studies human rights, especially children’s rights, are protected and respected; spare time for cultural activities, sports and entertainment is guaranteed in accordance with the students’ age.

51. Those attending military schools are entitled to preferential regulations for serviceman on active service, while tuition fees are paid by the State. Students are given jobs in posts in conformity with their expertise and specialized field after they graduate.

52. During the school term, students may leave military schools in the following cases:

- When the Military Medical Examination Council concludes that the student is not healthy enough to be on active service;
- When grade records show the student to be unqualified to continue studying;
- When the student has violated military discipline in a way that deserves expulsion from school.

E. The situation of citizens under the age of eighteen involved in armed conflicts

53. In light of the fact that Viet Nam is a peaceful country, the People's Military Force of Viet Nam was established to safeguard national peace, sovereignty and integrity; its military does not take part in any armed conflicts and therefore there is no involvement of children in armed conflict nor are there any prisoners of war since Viet Nam ratified the "Optional Protocol on the involvement of children in armed conflict".

54. However, Viet Nam still suffers severe consequences from its former prolonged and harsh wars. Victims of Agent Orange, children are born deformed, with their health and intellectual development permanently damaged. Moreover, people's lives are in danger due to left-over landmines and bombs from the war that are yet to be removed. It is our proposal that the United Nations, international organizations and former war participants should fulfil their duties and help Viet Nam overcome these war consequences.

55. At present, Viet Nam's national development is carried out in peace, therefore, there are no specific regulations governing military recruitment in circumstances of foreign invasion. However, in light of Viet Nam's anti-invasion tradition, when the country faces outside aggressors all its citizens are encouraged to fight to protect the country's independence, sovereignty, unity and integrity. It is so stipulated in the 1981 Law on Military Service: when there is an order of general or local mobilization, the call-ups required by that order as well as any following call-ups will be carried out in accordance with the Government's decisions and the orders of the Minister of National Defense (Article 63).

F. Conclusion

56. In recent years Viet Nam has always managed to maintain its political stability, consolidate its national security, firmly safeguard its independence along with its sovereignty and maintain social order. These achievements provide the groundwork for exercising the Rights of Child, including the rights of not having to join the armed forces or be directly involved in war conflicts.

57. In addition to the enforcement of the rights of Vietnamese children under eighteen not having to join the armed forces or be directly involved in war, the adoption of legal documents or regulations concerning the performance of military service and recruitment are carried out with consideration paid to their conformity with the Protocol which Viet Nam ratified. In fact, since the ratification, no cases of violation of the Protocol provisions have been reported.

58. In the coming period, Viet Nam will amend the Law on Military Service, the Ordinance on Self-defense Militia and other relevant legal documents, with due attention to the harmony of these laws with the “Optional Protocol on the involvement of children in armed conflict” it has already ratified.

59. Viet Nam pledges to do its utmost to apply the regulations of the Optional Protocol on the involvement of children in armed conflict as well as all the requirements concerning the Rights of Children as stated in the International Convention on the Rights of the Child. Viet Nam would also like to reiterate the Declaration of the Socialist Republic of Viet Nam attached to the Decision on the Ratification of the Optional Protocol on the involvement of children in armed conflict: “National protection is the sacred and noble task of all citizens. It is the citizens’ duty to serve in the military and participate in the construction of national security. The Socialist Republic of Viet Nam stipulates that only citizens of eighteen years of age are to be recruited; citizens under eighteen do not participate directly in war battles except in cases of protecting the country’s independence, sovereignty, unity and integrity.”

G. Appendix of relevant legal documents

1. The 1992 Constitution.
2. The Law on the Protection, Care and Education of Children (revised in 2004).
3. The Law on Military Service (issued 30 December 1981).
4. The Amended Law on Military Service (issued 22 June 1994).
5. The Ordinance on Standby Mobilized Forces (issued 27 August 1996).
6. The Ordinance on Self-Defense Militia Forces (issued 9 January 1996).
7. The 1999 Penal Code.
8. Government’s Decree No. 03/1995/NĐ-CP dated 16 January 1995 on temporary and permanent military exemption during time of peace for students, volunteer youths, state officials and workers working at extremely difficult areas.
9. Government’s Decree No. 151/2003/NĐ-CP dated 9 December 2003 on administrative punishment measures in the field of National Defense.
10. Government’s Decree No. 83/2001/NĐ-CP dated 9 November 2001 on military service registration.
11. Regulations on the recruitment of students to military Institutes, Universities, Colleges issued together with Decision No. 273/QĐ-QP dated 2 March 1982 of National Defense Minister.

12. Regulation on student management in military schools issued together with Decision No. 2032/2001/QD-BQP dated 30 August 2001 of the National Defense Minister.
13. Inter-ministerial Circular 13/TT-LB of the Ministry of Health and National Defense dated 13 October 1992 on guidance of health examination and qualifications to fulfil the Law on Military Service.
14. The 1991-2000 and 2001-2010 National Action Program for Vietnamese children.
