# Protection Of Children's Rights From Violation In The Family: Status And Recommendations In Vietnam

Dr. Nguyen Thi Bao <sup>1</sup>, MSC. Mac Giang Chau <sup>2</sup>

<sup>1,2,</sup> Can Tho University, Vietnam Email: <sup>1</sup> ntbanh@ctu.edu.vn, <sup>2</sup> mgchau@ctu.edu.vn

#### **Abstract**

Violating children's rights within the family is a reality many Vietnamese children have to live with. Despite Vietnam having ratified the Convention on the Rights of the Child and passing various legislation on children's rights, family members violate many children's rights. This article addresses their families' violation of child rights under the purview of violence against children, child labour, and sexual abuse. The article shows the trends in violating these children's rights by family members in Vietnam. The article further looks at various legislation that Vietnam has passed to tackle violence against children, child labour, and sexual abuse of children in Vietnam. Further, the article discusses how the legislation relates to the Convention on the Rights of the Child. In addition, the article has discussed the possible causes of the violation of children's rights by family members in Vietnam. Moreover, the article has suggested possible solutions to the problems associated with each violation discussed in the article. The findings of this article would come in handy to researchers, policymakers, and legislators as they pursue ways of dealing with cases of violation of the rights of children in Vietnam.

**Keywords**— Children's rights violation, child labour, child sexual abuse, child protection

#### Introduction

"In a changing world, we constantly need to adjust our thinking patterns and frameworks to help make sense of the continuing transformations that have a bearing on children, childhood, and children's rights" Karl, 2022). On 7th February 1978, Poland mooted the idea of a 'Convention on the Rights of the Child.' This move was inspired by the apparent lack of a comprehensive way to protect and uphold the Rights of the Child. Hence, Poland proposed the development of the Convention on the Rights of the Child, which would be legally binding to all United Nations member states. At the time, Poland submitted a nineteen-article bill (ten legislative and nine procedural), optimistic that it would be adopted in 1979 (the international year of the child). However, this was not to be,

and it took a decade for the International Convention on the Rights of the Child (CRC) to be adopted in 1989. The Commission on Human Rights created a working group to develop the Convention on the Rights of the Child in 1979. Notably, the working group did not have membership limitations and comprised United Nations Children's Fund (UNICEF), Non-Governmental organizations (NGOs), and the Commission on Human Rights -48 member states. On 20th November 1989, the Convention on the Rights of the Child was adopted and opened for signature, ratification, and accession by the United Nations General Assembly under resolution 44/25. The Convention on the Rights of the Child came into force on 2<sup>nd</sup> September 1990, according to article 49 (Humanium, n.d.). Article 1 of the International Convention on the

Rights of the Child (CRC) states that "For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, the majority is attained earlier" (UN Commission on Human Rights, 1990))

One of the ways that children's rights are violated is through physical violence. Article 19 (1) of the CRC deals with violence against children. The Article reads,

States Parties shall take all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child ((UN Commission on Human Rights, 1990)).

Under CRC, children are protected from all forms of Violence. The forms of violence covered include:

- (i)Physical violence: This is the use of any form of physical violence that can potentially harm a child. These forms of physical violence include torture, degrading treatment, and punishment, corporal punishment in all its forms, e.g., slapping and flogging as well physical bullying.
- (ii) Sexual violence: This is the case where adults perform or try sexual acts on children. These forms of violation could manifest through coercion or coaxing a minor to participate in sexual acts with the said adult. This violation could also include sexual acts performed forcibly by another child. It includes forms such as fondling, rape, pornography, etc.
- (iii) Mental Violence: This rights violation includes psychological maltreatment and mental,

verbal, and emotional abuse. Mental violence manifests in ways such as continued harmful interaction with a child, including persistently telling the child is worthless, unloved, unwanted, etc., and verbal abuse, where the child is subjected to insults, humiliation, and ridicule. Other forms of mental violence include breach of privacy that causes psychological trauma, terrorizing and threatening a child, lack of emotional care and support, exposure to domestic violence or living in a hostile environment, and forced or child marriage.

iv) Neglect or negligent treatment. This form of violation is manifested when those responsible for the care of a child (despite being capable) fail in their duty to register a child's birth, fail to meet a child's physical and psychological needs, etc. Physical neglect includes but is not limited to failing to protect a child from physical harm and not providing a child's necessities. Also, failure by a caregiver to give a child the necessary love, attention, emotional support, etc., is a form of violence. Further, caregivers are duty-bound to care for a child's physical and mental well-being. Moreover, denying a child the right to play and other social needs and deliberate abandonment of a child falls within the purview of violence (ASEAN Secretariat, 2017).

ASEAN countries have shown some notable progress in curbing violence against children. This progress is evidenced in the continuous enactment of laws that protect children from violence. However, it is noteworthy that some ASEAN countries are yet to develop national (NPA) Action Plans that guide implementation of laws on violence against children. ASEAN member states have developed a framework for dealing with violence against children: "shelters, hotlines and helplines, onestop crisis centres, and dedicated women's and children's desks police stations, hospitals/medical centers." (ASEAN Secretariat, 2017). To curb violence against children, which

violates children's rights and is in line with Article 19 of CRC, ASEAN member states developed the ASEAN Regional Plan of Action on the Elimination of Violence against Children 2016-2025. It was adopted on 20<sup>th</sup> November 2015. This framework was t boost the implementation of the 2013 Declaration on the Elimination of Violence Against Women and the Elimination of Violence Against Children in ASEAN. The action plan noted 13 key areas that required immediate attention within the plan's first five years. The areas are:

- The ASEAN Guidelines on a Non-Violent Approach to Nurture, Care and Development of Children;
- 2. Awareness-raising campaigns on all forms of violence against children;
- 3. Alternative family care services;
- 4. Preventive measures against violence in cyberspace;
- 5. Child- and gender-sensitive reporting and complaint mechanisms;
- 6. Protection and support services for children affected by violence;
- 7. Legislative reviews on violence against children:
- Diversion programs and other alternative measures to judicial proceedings and detention;
- Advocacy materials to generate awareness on violence against children;
- 10. National data systems on violence against children;
- 11. National plans of action on all forms of violence against children;

- 12. Coordination mechanisms for preventing and responding to violence against children in disasters and conflict situations;
- 13. Technical assistance from United Nations agencies and other relevant stakeholders (ASEAN Secretariat, 2019, p.13).

#### **Methods**

This article is based on a library-based data collection approach. The author has collected journal publications such as journal articles and news reports, reports by various United Nations organs such as WHO and UNICEF, the Convention on the Rights of the Child, the constitution of Vietnam, and the 2016 law on children of Vietnam, among other sources. Further, the author has analyzed and synthesized these data for this article.

# **Findings**

# • Violence against children by family members

Violence is one form of violation of Children's rights within the family setup in Vietnam. World Health Organization (2022) data shows that three out of four children (300 million) globally within the 2-4-year-old age bracket are regularly subjected to physical and psychological violence by their parents and caregivers. World Health Organization (2020) says, "Violence against children includes all forms of violence against people under 18 years, whether perpetrated by parents or other caregivers, peers, or strangers. It can include physical, sexual, and emotional violence and witnessing violence." Saigoneer (2019) reports that Save the Children's Fund uses the risk of domestic abuse as it tabulates its End of Childhood Rankings. In 2018 was ranked a worrying number 96 out of 150 countries. In addition. despite the government and stakeholders' concerted efforts, domestic violence against children does not show signs of

abating. According to Saigoneer (2019), survey data shows that children between 1-14 years still undergo violence to instill discipline. A report launched on December 13, 2019 at a management and Sustainable Development Institute (MSD) event showed that 68% of Vietnamese children are subjected to violence by their relatives. The data concurs with a similar report launched in 2018 that showed that 68% of children in Vietnam were subjected to physical and mental abuse by their parents. Saigoneer (2019) further avers that another 2017 study showed that 74% of children aged 2-14 years in Vietnam were subjected to physical violence to instill discipline by the families or caregivers. Violence is a form of child abuse. Article 4.5 of Vietnam 2016 Law on Children 102/2016/OH13 defines child abuse as:

Child abuse refers to any act that results in harm to the body, emotion, psychology, honor or human dignity of such child through violence against the child, child exploitation, sexual abuse, neglect and abandonment, and other forms of causing harm to the child.

Also, Vietnamese law recognizes violence against children as a violation of children's rights. Article 4.6 of the 2016 Vietnam Law on Children 102/2016/QH13 defines violence against children. The law states

Violence against the child refers to acts of maltreating, persecuting or beating a child; taking physical abuse or causing harm to the child's health;, reviling or offending honor or dignity of the child;, segregating, driving the child away, and other deliberate acts that cause physical and mental harm to the child.

In addition, Article 37 (1) of the 2013 constitution of Vietnam states that "Children enjoy protection, care and education by the State,

family and society and are allowed to participate in children's affairs. Infringement, persecution, maltreatment, abandonment, abuse and exploitation of labour and other forms of violating children's rights are strictly prohibited."

In this case, Vietnam has legislated in line with Article 19 of the CRC. Vietnam as a nation has attached a lot of importance to the protection of children's rights. This fact is evidenced by Vietnam's ratification of the CRC and the passing of child-specific legislation. Unfortunately, such legislation does not mean that all Vietnamese children are safe from violence. There are instances where some children in Vietnam are subjected to Violence by family members.

Vietnam Law & Legal Forum (2023) reports that according to Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA) data. more than 2000 occurrences of severe child incidents abuse are reported annually. Incidentally, most of these acts of child abuse and maltreatment are carried out by people known and trusted by the children. By the end of 2022, at least 120 children died from physical abuse between 2020 and 2022. Vietnam Law & Legal Forum (2022) quoting VNExpress International, there are about 30,000 distress calls received on Vietnam's 111 child helpline monthly. Disturbingly, the number of distress calls surged at the height of the COVID-19 pandemic and the ensuing lockdowns. This was a period marked by social distancing rules and increased socioeconomic pressure. Distress calls to the 111-child helpline rose to 40-50 thousand calls monthly.

Vietnam Law & Legal Forum (2022) reports the case of N.T.V.A., a girl (8 years old) from Ho Chi Minh City who was beaten to death by her father's fiancée in December 2021.

According to the initial investigation, the perpetrator, Nguyen Vo Quynh Trang, 27, had been living with V.A. and the little girl's father, Nguyen Kim Trung Thai, 36, for more than a year after Thai divorced his ex-wife. Since then, Trang had frequently forced V.A. to do chores and beat her. On the afternoon of December 22, the young victim was brutally beaten by Trang for almost four hours and died on the way to hospital. Trang was arrested on December 23 and charged with "persecuting other persons" and "murder" while Thai was prosecuted for "persecuting other persons" "concealing crimes".

### Also, in different instances,

In late 2020, N.T.M.M., a three-year-old girl in Hanoi, was beaten to death by her mother's lover, Nguyen Minh Tuan, 30. Tuan was later sentenced to capital punishment and the mother, Nguyen Thi Lan Anh, 29, was subject to life imprisonment. Most recently in the last quarter of 2021, L.H.A., a six-year-old girl in Hanoi, was killed by her own father in a fit of anger when he was helping her with school assignments (Vietnam Law & Legal Forum, 2022)

Johnston (n.d.) writes that many children in Vietnam endure violence within their homes, albeit silently. Domestic violence against children is widespread but ignored because many Vietnamese communities have normalized harsh domestic discipline. For example, society seems numb to children being beaten by drunk parents or insulted openly. More than 2000 Vietnamese children suffer at least one form of violence annually. Apparently, more than 91.2% of adults in Vietnam are ignorant of the laws that protect children. Further, Johnston (n.d.), quoting Ninh Thi Hong (Permanent Deputy Chairwoman of

the Vietnam Association), notes that one of the major triggers of violence against children within Vietnamese homes is the deeply entrenched culture of patriarchy as well as Vietnamese parents setting very high (often unrealistic) expectations.

## • Child Labour by family members

Another form of child rights violation prevalent in Vietnam is child labour. According to UNICEF Viet Nam, more than 1 million Vietnamese children aged between 5-17 years are involved in Child labour. This number represents 5.4% of the children within this age group. (UNICEF, n.d.). UNICEF (n.d.) further notes that child labour is extremely detrimental to a child. Child labour could lead to physical and psychological harm and, in some extreme cases, death. Also, exploiting children for labour sometimes is a precursor to slavery and sexual and economic exploitation. The negative impacts of child labour range from keeping children from school to cutting them from healthcare. All these are a form of child rights violations that hurt the future of the victims. In the case of Vietnam, more than 50% of child laboures are involved in hazardous work. Also, approximately 50% of child labourers never attended school (UNICEF, n.d.)

#### Article 32 (1) of the CRC states that

States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development (UN Commission on Human Rights, 1990).

CRC acknowledged the need to protect children from exploitative child labour practices. Article 32 (1) of CRC notes that child labour negatively affects a child's educational opportunities and threatens a child's general well-being. As such, state parties must pass legislation protecting children from child labour. Vietnam's 2016 Children Law states in article 4 (7)

Child exploitation refers to the act of forcing the child to work against the law on labor, perform or produce pornographic products;, organize or supporting for tourist activities for child sexual abuse;, offer, adopting, or supply the child for prostitution, and other acts of using the child for profiteering purpose.

In addition, the constitution of Vietnam has also addressed the matter of child labour in article 37 (1), which states that "Children enjoy protection, care, and education by the State, family, and society and are allowed to participate in children's affairs. Infringement, persecution, abandonment, maltreatment, abuse and exploitation of labour and other forms of violating children's rights are strictly prohibited."

This shows that Vietnam is determined to protect children from exploitative labour practices. The 2016 Law on Children and Vietnam's constitution is the same.

However, despite these progressive pieces of legislation, many children are still weighed down by the yoke of child labour. Many reasons lead to child labour, but the key among them is poverty. The Centre for Child Rights and Business (2022) reports that most of the children involved in child labour are among the rural poor. Many of these children are employed in agriculture, forestry, and fisheries. The Centre for Child Rights and Business (2022) highlights the 2021 story of Y.D.A., a boy from Dak Lak province who had to work long hours with his parents. The story of Y.D.A. is a representative story of many Vietnamese children who have to

endure child labour which is a violation of their rights by their family.

Y.D.A, an 11-year-old boy from an ethnic minority group who was working on the plantations with his parents and had never been to school. In many ways, Y.D.A. became a symbol of the unknown numbers of children in rural Vietnam who too were out of school due to poverty, working and making "invisible" contributions to an international company's supply chain. Y.D.A.'s parents are seasonal agriculture labourers, who travel from one province to another to work on whichever harvest is ripe for picking. Y.D.A.'s family is extremely poor and as the third child, the parents have never been able to send him to school. They also struggled to find someone to care for him during harvest season, so they would bring him along to help with work. At the time of the assessment, Y.D.A. had already worked on pepper, cashew, and coffee plantations (Centre for Child Rights and Business, 2022).

In this case, Y.D.A had to endure long working hours like adult farmers(7:00 am- 4:30 pm with only a one-hour break).

Vietnamese children are also exposed to blatant sexual abuse by members of their families. The family unit is supposed to be a haven for children who should be protected from this form of abuse.

#### Sexual abuse by family members

Sexual violence from family members is an appalling reality that many children must endure globally. YWCA (2017), citing The Children's Assessment Center, Texas and Child Sexual Abuse Fact Sheet (April 2009), noted that

Child sexual abuse is a crime across race, religion, and class and has lifetime effects.

It includes any interaction between a child and an adult (or another child) in which the child is used for the sexual stimulation of the perpetrator or an observer. Child sexual abuse is often predicated on silencing the victim, so reporting and disclosure is low. Even without knowing the full scope of child sexual abuse instances, most experts will agree that 500,000 children will be impacted by child sexual abuse per year.

World Health Organization (2022) noted, "One in 5 women and 1 in 13 men report having been sexually abused as a child aged 0-17 years." World Health Organization (2020) reports that according to data drawn from a sample of 24 high- and middle-income nations, it is estimated that 31% of girls and 3-17% of boys below eighteen years have suffered sexual abuse. Further,

In 14 low and lower-middle-income countries that completed the Violence against Children Survey, the percentage of girls aged 18–24 years who experienced sexual violence before the age of 18 years ranged from 4% and 7% in Cambodia and Lao respectively, to 33% in Zimbabwe and 35% in Uganda. For boys, the lowest rates were 3% in El Salvador and 4% in Cambodia, and the highest, 18% in Kenya and 21% in Haiti (World Health Organization, 2022).

The Convention on the Rights of the Child has covered the need to protect children from sexual abuse in Article 34, which says

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall, in particular, take all appropriate national, bilateral, and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity;

- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials. (UN Commission on Human Rights, 1990)

This article clearly states that children shall be protected from sexual exploitation and abuse. The article outlines the specific forms of possible sexual exploitation and abuse, and member states must pass legislation protecting children from sexual abuse.

Johnston (n.d.) posits that the prevalence of sexual violence against children by family members in Vietnam is worrying. One of the main factors that fueled the spread of this vice is the secrecy that shrouds acts of sexual abuse in Vietnam. Between 2015 and 2019, it is reported that 8,442 child abuse cases were reported in Vietnam, with sexual abuse cases accounting for 75.4% of the total. However, the more worrying fact is that very few sexual abuse cases against children are reported to the authorities because society deals with them with very high secrecy. This means the number of children who suffer sexual abuse from family members is much higher than the official statistics because of under-reporting. Another challenge arises when children feel they will not be taken seriously even if they report their ordeal or nobody believes them. As a consequence, the victims keep quiet in shame and pain. For example:

Queenie\* is among those who chose to keep her assault private out of fear of being dismissed. As a child she was assaulted twice – first by a family friend and then by her cousin's boyfriend – but she was nervous that people would tell her "nothing bad happened so just stay away from him and move on" (UNICEF Viet Nam, 2019).

Regarding the legislation that deals with the sexual abuse of children, Article 4(8) of the 2016 Vietnam Children Law (Law No.: 102/2016/QH13) states that

Child sexual abuse refers to the act of using violence, threatening to use violence, forcing, persuading or seducing a child to engage in sexual acts. The child sexual abuse includes rape, aggravated rape, sexual intercourse or molestation with children and use of children for prostitution or pornography in any form.

Further, Article 6 (3) of the same law, under prohibited acts, states that it is prohibited to "involved in child sexual abuse, use violence against children, abuse or exploit children." while Article 25 regarding the right to be protected from sexual abuse states that "Children have the right to be protected, in any form, from sexual abuse." From this legislation, the question that begs answers is whether the legislation has completely prevented incidents of child sex particularly by family members. Unfortunately, news reports and social studies are rife with reports of children subjected to sexual abuse by family members and caregivers. This is a blatant violation of children's rights within the family. Children are exposed to these traumatic experiences that affect them physically and mentally for the rest of their lives. Children are the future of any nation, and society should endeavor to raise them in a safe environment. In a news article posted on VietnamNet Bridge on 2017 July 31, it was noted that the cases of child sexual abuse were on an upward trajectory. Among the most worrying aspects of this trend is that many incidents of child sexual abuse go unreported. While releasing the data, Nhu Minh Nguyet (Director of the Ministry of Public Security's Police Political Bureau Department) said that it was reported that most of the people who abused children sexually were their relatives or acquaintances. The said perpetrators would mostly take advantage of their close relationship with the children and then abuse them, mainly when their parents were away. It was also noted that some of the incidents emanated from failure on the part of parents to take care of their children and insufficient gender awareness education, among many others. The trend of child sexual abuse may not abate soon because, unfortunately, many families of the sexual abuse victims do not report the incidents. These families fear that if the incidents of sexual abuse were made public, the victim's dignity and privacy would be affected. Child sexual abuse has many complications for the child, and victims are prone to depression, and mental health problems, among other negative effects (VietnamNet Bridge, 2017.

#### **Conclusion and Recommendations**

This article notes that even though Vietnam has made commendable strides in protecting children's rights (Vietnam was the first country in Asia and the second in the world to ratify the Convention on the Rights of the Child), much more needs to be done. Violation of the rights of children is deeply rooted in Vietnamese society, and many of the violations occur within the victim's families.

Vietnam, apart from ratifying the Convention on the Rights of Children, has within its constitution legislation that safeguards the rights of children. Article 37 of the Constitution of Vietnam and Vietnam's 2016 Law on Children, Law no: 102/2016/QH13 deal with children's rights. Therefore, on this facet, Vietnam has made progress in legislation but further legislation, such as making it mandatory for family members to report incidents of child sex abuse. Also, Vietnam could pass further legislation in line

with the CRC to further guard children against violating their rights.

It has been noted that many Vietnamese children are subjected to violence in all possible forms within their families. This is a violation of children's rights by the said family members. Society has also been noted to have normalized physical and mental violence to instill discipline. However, this violates children's rights and goes against the spirit of Article 37 (1) of the 2013 constitution of Vietnam. Article 4.6 of the 2016 Vietnam Law on Children, and Article 19 of the CRC. All these deal with the protection of children from violence. It also has been noted that people are ignorant of the law and commit these violations. Concerted efforts should be made to educate the public on matters to do with violence as a violation of children's rights.

Vietnam should formulate stringent policies to combat violence against children. In addition, the country should develop a network of social workers, trained professionals, community educators, and enforcement officers who would be involved in combating violence against children.

Vietnamese should be sensitized to the adverse effects of violence against children to instill discipline. The mantra "spare the rod, spoil the child" that many Vietnamese families ascribe to harms children both mentally and physically. Eventually, this teaches a culture of a violent nation. Studies have shown that children subjected to physical violence are very likely to do the same when they are adults.

Further, Vietnam should encourage the "be your neighbor's keeper" culture. It was noted that many neighbors note children undergo domestic violence, including violence by drunk parents. These neighbors, unfortunately, disregard these violations. Neighbors should be sensitized on the importance of intervening in such cases,

including reporting (anonymously if need be) such abuses to the relevant authorities.

Regarding child labor, some Vietnamese children suffer this violation of their rights at the hands of their families. Child labour is a contravention of the Conventions on the Rights of the Child Article 32(1), Article 4(7) of Vietnam's 2016 Children's Law, and Article 37 (1) of the constitution of Vietnam.

To combat this vice, the relevant policymakers must acknowledge the existence of this vice and come up with decisive measures on how to deal with the problem. Most child labor cases are witnessed among extremely poor Vietnamese families. In these cases, children must work long hours alongside their parents to earn a living. Vietnam should develop a social welfare system that supports such families, including creating an education fund for the extreme to ensure no child is left behind in terms of literacy.

Communities should be actively involved in developing ways of eradicating child labour. It is logical to assume that a community-centric approach will more effectively eradicate child labour because communities will have a sense of ownership of the process.

The article has also noted the disturbing trend of children being subjected to sexual abuse by family members and people known to them. It has also been reported that, unfortunately, many cases go unreported. These acts of sexual violence go against Article 34 of the Convention on the Rights of the Child, Articles 4(8), and 6(3) of the 2016 Vietnam Children Law.

The fact that many families do not report incidents of child sexual abuse should be a priority for both legislation and policy. Families discovered to have taken part in covering up child sexual abuse should be subjected to stiff penalties to deter such behaviour. Covering up child sexual abuse gives pedophiles room to

continue abusing children because they thrive in a culture of silence where they are not afraid of being exposed or taken through the legal process

In addition, Vietnam should develop strict laws that deal with pedophiles effectively, including mandatory life sentences to curb child sexual abuse.

Further, communities should be sensitized on the importance of reporting cases of child sexual abuse to the relevant authorities. Also, community members should be sensitized not to stigmatize children who have suffered sexual abuse. This initiative would encourage many families to report cases of child sexual abuse.

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