



ENFORCEMENT OF PRIVATE RIGHTS FOR CHILDREN IN VIETNAM

**Report of Centre for Community Development and Social Work
Contribute for Universal Periodic Review
Round 2 – Vietnam – 18th Section – Jan/Feb 2014**

**June, 17th
2013**

This report is prepared by Centre for Community Development and Social Work (Codes). Codes is a Vietnamese non-government organization, established in 2009 and based in Hue city, Vietnam. We are companion with the poor, disadvantage and vulnerable groups. We use all our evidence from practical activities and cooperate with our partners, and networks to advocate for policy. Our efforts are to enforce and protect human rights, especially private rights.

1. Codes supported Vietnam stand for election of the UN Human Rights Council. This is considered as a turning-point and motivation for Vietnam to showing more actively roles in society as well as legislative power for human right. National Assembly of Vietnam has consider to revise the Law of protection, care and education of children (issued in 2004), which has been shortlisted in Legal Revision Program of the 13th- term, Codes expected there will be improvements to ameliorate legal framework of children toward legally localize the Convention on the Rights of the Child (CRC) and International Convention on Civil and Political Rights (ICCPR), that Vietnam is a member state signed on those conventions.

Report target

2. The target of this report is to provide findings from survey of Codes, regarding the most update information on violation of private rights of children drawn on electronic media¹. Codes considers these are clear evidences for recommending Vietnamese's government to use as the foundation to improve violation of private rights of children in term of legislation and reality².

Rationale

3. Through electronic media in Vietnam, it is very easy for readers to find press contents which based on that people can know details of the characters in the articles press, the situation how, associated with their life and many often the address of the characters. It is more significant we learn is that, such information focuses on characters who are victims of illegal behaviors, or the targets of humanitarian activities and vulnerable. We are compelled by the newspaper articles about children who are victims of illegal actives/need humanitarian support that the press describing overdetails/personal situation. The safety of children increasingly threatened because of vulnerability and inability to protect their privacy.

Collecting of evidence process

4. The survey conducted from five electronic media that ranked of top 50 websites in Vietnam based on number of visitors³. This is an independent survey done by Codes. The survey team were all volunteers and having no externally financial support. The evidence gathering is limited in the selected newspapers above and with the articles published in 2012⁴.
5. We also had field trips, meeting relevant stakeholders for a typical case in the Central Vietnam. A consultation meeting was conducted for a case study in the North Vietnam. At the same time, using online advocacy methods for example, sending a letter to the electronic media editors after they published most update articles that we think are not beneficial for children, sending a letter to the Committee of Social Issues of the Vietnam National Assembly (CSI) to recommending CSI to have necessary legal actions. However, we have not received any reply yet. Recently, we organized a *"workshop to raising awareness of protecting children's privacy rights"* together with the relevant stakeholders with the hope of raising awareness and more positive actions to improve the status of violating the children private rights.

Figure evidence

6. The survey on five electronic media in 2012 has showed that the contents of 548 articles do not guarantee the private rights of children. There are articles that have been quoted whether fully from the original document (account for 68%) or partly from the original document to many other different websites (newspapers, media, social networking...) with the repeats up to 2692 times. There is about 62% paper articles described in detail, or detail plus comments on related children. The topic of sexual abuse is the highest percentage of articles (47%), followed by the violence (23%) and humanitarian-charity (11%). Notably, the girls are main targets of these papers (74%) and 79% children who are in difficult areas such as mountainous and rural. There have been 39% articles published the photos of children's face and injury parts with their family or home/school. 47% articles provide information on their parents or guardians. Information about the children address which will provide specific locations to commune / ward / township (30%) and clearly specific address can be found (village / neighborhood / street - 41%). (Appendix 2).
7. There are many consequences and threats to the safety of children that the press does not provide any conditions which information should be private and kept private. It was a report on the case about B girl in gold shop robbery and murders in Northern (Appendix 3), or a 13-year-old girl in Central who have to leave her hometown after overcoming death and lost the baby (Appendix 4), and sixth-grade girl in the South almost kidnapped in the hospital, because bad people could find her on information provided by newspaper (Appendix 5).
8. We suspect the gathering of information process of journalists has not been agreed by children and/or their guardians, or beyond the limits of the permission, and information sources as well as journalists do not follow the principle of "best interests of the child"⁵. Press has violated twice (double violation) the victims of the illegal activities (murder, violence, rape, kidnapping, human trafficking ...) by provision of information which do not protect children's privacy.

Legal framework of Vietnam on the private rights

9. As a part of civil rights, the private right has been prescribed in Articles 37 and 38 of the 2005 Civil Code in Vietnam⁶. Statutory on privacy rights of the Civil Code have shown the clear contents of citizen privacy. Meanwhile, Article 10 of the 1989 Press Law, amended 1999 that regulated "things not allow informing in the press" but it didn't meet the actual requirements, in terms of the relationship between the press activities with private rights⁷. This regulation which leads to legal gap on the gathering information process and posting newspaper articles; at the same time, the procedures allowing publicise personal information of press. These gaps are partly filled by Article 5 of Decree No. 51/2002/ND-CP⁸. However, Article 5 is beyond the scope of the Article 10 of the Press Law⁹.

Recommendations

10. There should be simultaneously solutions (such as enhance monitoring, capacity building for journalists ...) to reduce the violation status of the private rights of children in Vietnam with involvement of other stakeholders. In the

framework of the UPR, we only recommend that legal actions that require the government of Vietnam truly prove, as a member country of the United Nations.

11. **Recommendation 1:** Codes recommending the Government of Vietnam enforce necessary measures to have regular monitor and introduce sanctions for information gathering activities, post on the newspapers, prevent the violation of human rights in general and children's private right in particular. Concurrently, building capacity for the officers working in electronic media monitoring, for best interests of children.
12. **Recommendation 2:** Codes recommending the Government of Vietnam legally localize the Article 16 of the Convention on the Rights of the Child, by regulating privacy rights in the Law on Protection, Care and Education of Children (Amendment) or the Law of Children (new); amending the current Press Law towards stricter regulations and procedures to collect private information published on electronic media with the permission of the individuals involved, especially the private information of children.

¹. In this report, children is understood as a child under 18 according to CRC

². With what will be described in the report, we do not intend to criticize or aim at any party. We are also open / limit comments because to make sure independent and objectivity of evidence shown here

³. The webpage <http://alexa.com> has ranked these 5 electronic media to the top 50 webpage based on number of visitors in Vietnam.

	Electronic media	Rank
1	http://VNexpress.net	6
2	http://dantri.com.vn	9
3	http://vietnamnet.vn	18
4	http://tuoitre.vn	26
5	http://thanhnien.com.vn	30

(Source: <http://www.alexa.com/topsites/countries/VN>)

⁴. The survey team used www.google.com and search engines in each electronic media to find the newspaper article about the illegal behaviors that young children who are victims / or who made the articles and topics that children as humanitarian objects depicted. We consider each article is a "man" to "interview". The survey team "interviewed" by reading the article carefully and fill out the information in the article collected to the information sheet/questionnaire. This information collection form is provided by Google online formats. The members of the investigation team assigned to collect evidence for a specific electronic media, without overlap or duplicate data entered. All data is stored on the spreadsheet data file (excel) and online data provided in this report were handled in excel. This process, we have also consulted with a number of partners and specialists working on children.

⁵ Article 3 (1) of CRC: *"In all activities concerning children, whether undertaken by the social welfare organizations of the state or private, by a court, administrative authorities or legislative agencies, the best interests of the child shall be a primary consideration "*.

⁶ **Article 37. The right to protection of honor, dignity and prestige**

Individuals' honor, dignity and prestige shall be respected and protected by law.

Article 38. The right to personal secrets

(1) An individual's rights to personal secrets shall be respected and protected by law. (2) The collection and publication of information and materials on the private life of an individual must be consented by that person; in cases where that person has died, lost his civil act capacity or is under full fifteen years, the consent of his/her father, mother, wife, husband, adult children or representative is required, except for cases where the collection and publication of information and materials are made by decision of a competent agency or organization. (3) Letters, telephones, telegrams, other forms of electronic information of individuals shall be safely and confidentially guaranteed. The inspection of an individual's letters, telephones, telegrams and/or other forms of electronic information may be performed only in cases where it is so provided for by law and decided by competent state agencies".

⁷ Specifically, Clause 4 of Article 10 this law states that: *"To abstain from disseminating information which is untruthful, distorted, or slanderous and harmful to the reputation of organizations or the reputation and dignity of citizens.."*

⁸ Specifically the clauses that Article 10 of Press Law mentioned, as follow:

"... (3) To abstain from disclosing State secrets including: military, security, economic, foreign relations, and other secrets stipulated by law; (4) To abstain from disseminating information which is untruthful, distorted, or slanderous and harmful to the reputation of organizations or the reputation and dignity of citizens".

⁹ Decree is the document under law referred to is not allowed to specify what the law does not regulate.