



**Convention on the Rights
of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD
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**WRITTEN REPLIES BY THE GOVERNMENT OF VIET NAM
CONCERNING THE LIST OF ISSUES (CRC/C/OPAC/VNM/Q/1) RECEIVED
BY THE COMMITTEE ON THE RIGHTS OF THE CHILD RELATING
TO THE CONSIDERATION OF THE INITIAL REPORT OF VIET NAM
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
(CRC/C/OPAC/VNM/1)***

[Replies received on 28 August 2006]

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OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Answer to question 1:

According to Vietnamese regulations, the Penal Code is applicable to any criminal actions done within the territory of the Socialist Republic of Vietnam. Vietnamese national as well as people without state residing in Vietnam who committed crimes outside Vietnamese territory may be subject to criminal prosecution under the Penal Code. Foreigners who committed crimes outside Vietnamese territory may be subject to criminal prosecution under the penal Code 1999 in the cases stated in the international commitments that Vietnam signed or acceded. (Please, refer to the item on jurisdiction in the National Report from 2001 -2003). This regulation is also applied for crimes of recruiting mercenaries or working as mercenaries, which is defined as severe crimes. . Therefore, persons aged full 14 or older but under-16 shall bear criminal liability if intentionally commits this crime and aged full 16 or older shall bear criminal liability for intentionally or tentionally.

Answer to question 2:

Under Vietnamese law, the “no direct participation in hostilities” term is not used. According to the 1994 Vietnamese Dictionary (Social Science Publishing House- Lexicographic Centre), “hostilities mean fighting”, “participation means making one’s own contribution to a concrete activity” and “direct means having relationship directly with stakeholder without intermediaries”. And according to the Military Encyclopedia (People’s Army Publisher 2004), “fighting means an organized act by individuals, units or divisions to combat enemies. The aim of fighting is to destroy or defeat enemies, to occupy or defend areas and targets”.

As such, it can be understood that “no direct participation in hostilities means making no contributions to an organized act to combat enemies”.

Answer to question 3:

Para 59 of the National Report says, “Citizens under 18 do not participate directly in war battles except in cases of protecting the country’s independence, sovereignty, unity and integrity”. This is the reality of Vietnam during the two wars for national liberation and defense, namely the resistance war against the French 1946-1954 and the war against Americans in South Vietnam until 1972. There were youths and children who volunteered to participate in fighting these enemies in local areas to defend their homeland, families and themselves. This is the legitimate right of defense of each people when his or her life is at danger at any time.

Answer to question 4:

As indicated in para 33 of the National Report, self-defence militia forces are paramount armed forces established in accordance with Ordinance on Self-defence Militia issued on 9 January 1996.

This Ordinance was revised on 29 April 2004. Article 1 of the revised Ordinance says: “militia forces are armed forces of the mass, who are still working and form a part of the people’s armed forces of the Socialist Republic of Vietnam. The militia force is organized at the commune level and self-defence force in state agencies, political, economic and social organizations. Self-defence militia consists of core and mass force”. As such, para 33 has been modified.

Answer to question 5:

There are changes with regard to para 58 as indicated in Part I.

Answer to question 6:

Article 82 of the 1992 Constitution of Vietnam stipulates: “Vietnam shall consider granting asylum to foreigners struggling for freedom, national independence, socialism, democracy and peace, or are harmed because of their scientific work”. According to Article 81 of the Constitution, it is provided: “foreigners residing in Vietnam shall obey the constitution and law of Vietnam, they shall receive state protection with regard to their lives, assets and other legitimate interests in accordance with the Vietnamese law. “. Article 65 of the Constitution says: “Children are protected, taken care and educated by families, state and society”.

At present, there are no child victims of armed conflicts who are refugees or seeking asylum in Vietnam. As a party to the Convention on the Rights of the Child and Optional Protocol on the Involvement of Children in Armed Conflicts, Vietnam undertakes to carry out international cooperation activities as mentioned in Article 7 of the Protocol.

Answer to question 7:

This issue does not happen in Vietnam. Accordingly, there is no need for allocating budget for this issue.

Answer to question 8:

The National Commission for Population, Family and Children is the agency in charge of monitoring and evaluating the implementation of the Protocol (see the Answer to Question 3 of protocol 1). There are also other agencies concerned including the Ministry of Defence among others.