



## Vietnam

Submission to the Committee on the Rights of the Child

87<sup>th</sup> Pre-Sessional Working Group, June 2020

NGO Report

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## Introduction

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 87<sup>th</sup> Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following two areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Child Marriage**

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this summary section, we provide an overview of our constitutional and legislative findings, and suggest questions for the Committee to ask Vietnam regarding areas that may not be fully consistent with CRC commitments. We hope the Committee will include these questions for Vietnam in its list of issues, and where applicable, make the recommendations outlined below in its concluding observations. We also hope the Committee will recommend that Vietnam address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations.





## SUMMARY OF KEY RECOMMENDATIONS

***Areas where Vietnam has provisions in place, but where these provisions do not appear to fully address the commitments Vietnam has made through its ratification of the CRC:***

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### A) General Principles: Equality and Non-Discrimination (Article 2)

Based on our review of full-text national constitutions, the constitution in Vietnam guarantees all citizens equality before the law. The constitution further explicitly guarantees equality and non-discrimination based on nationality and sex. However, some groups guaranteed equality in Article 2.1 of the CRC are not explicitly covered by the constitutional provisions above, including persons facing discrimination based on race, colour, language, religion, political or other opinion, ethnic or social origin, property status, disability status, and birth status.

**We hope the Committee will:**

- Recommend in its concluding observations that Vietnam consider amending its constitution to add explicit guarantees of equality and non-discrimination regardless of race, colour, language, religion, political or other opinion, ethnic or social origin, property status, disability status, and birth status.

### B) Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

Based on our systematic review of legislation and country reports, Vietnam establishes a minimum age of marriage for girls of 18 years old and a minimum age for boys of 20 years old. These ages are consistent with CRC commitments, however there remains a gender disparity in the marriage law that allows women to be married two years younger than men.

**We hope the Committee will:**

- In its list of issues, ask Vietnam: Can Vietnam outline any concrete, near-term plans to pass legislation that eliminates gender disparities in the current marriage laws?
  - If Vietnam does not have concrete, near-term plans in place, recommend in its concluding observations that Vietnam pass and implement legislation that removes all gender disparities in its marriage laws.





## Detail

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

### GENERAL PRINCIPLES: EQUALITY AND NON-DISCRIMINATION (ARTICLE 2)

Article 2.1 of the CRC states that:

*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*

Constitutions state the values of a country, outlining the rights of people living within the country and profoundly influencing norms and practices. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws, as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution took any approach to equality across the grounds listed in article 2.1 of the CRC by prohibiting discrimination based on each specific status, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

### VIETNAM'S CONSTITUTIONAL PROVISIONS

Based on our review of full-text national constitutions, Article 16 of the constitution in Vietnam guarantees all citizens equality before the law. Article 5 and Article 26 further guarantee equality and non-discrimination based on nationality and sex, respectively. However, some groups guaranteed equality in Article 2.1 of the CRC are not covered by the constitutional provisions above, including persons facing discrimination based on race, colour, language, religion, political or other opinion, ethnic or social origin, property status, disability status and birth status.





**Constitution of Vietnam, 2013**

*Article 5.*

- 1. The Socialist Republic of Vietnam is the unified nation of all nationalities living on the territory of Vietnam.*
- 2. All nationalities are equal, solidary, mutually respect and assist in their developments; all acts of national discrimination and division are strictly forbidden.*

*Article 16.*

- 1. All citizens are equal before the law.*
- 2. No one shall be discriminated in his or her political, civic, economic, cultural, and social life.*

*Article 26.*

- 1. Male and female citizens have equal rights in all fields. The State has a policy to guarantee equal gender rights and opportunities.*
- 2. The State, the society, and the family create conditions for women's comprehensive developments and promotion of their role in the society.*
- 3. Sex discrimination is strictly prohibited.*

**SPECIAL PROTECTION MEASURES - CHILD MARRIAGE (ARTICLES 19, 24, 28, 34, AND  
GENERAL COMMENT NO. 4)**

General Comment No. 4 (2003) states that:

*The Committee strongly recommends that States parties review and, where necessary, reform their legislation and practice to increase the minimum age for marriage with and without parental consent to 18 years, for both girls and boys.*

Child marriage has life-long health, educational, and economic consequences. For girls in particular, child brides are more likely to drop out of school, be victims of domestic abuse, and experience pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Convention, specifically the right to protection from violence (Article 19), the right to health (Article 24), the right to education (Article 28), and the right to protection from sexual exploitation and abuse (Article 34).

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization's NATLEX database, Pacific Islands Legal Information Institute, Asian Legal Information Institute, JaFBASE, and official country websites.





## VIETNAM'S LEGISLATIVE PROVISIONS

Based on our systematic review of legislation and country reports, Article 8 of the Law on Marriage and Family establishes a minimum age of marriage for girls of 18 years old and a minimum age for boys of 20 years old. These ages are consistent with General Comment No. 4, however there remains a gender disparity in the marriage law that allows women to be married two years younger than men.

### **Law on Marriage and Family, 2014**

#### *Chapter II*

#### *GETTING MARRIED*

#### *Article 8. Conditions for getting married*

*1. A man and a woman wishing to marry each other must satisfy the following conditions:*

- a) The man is full 20 years or older, the woman is full 18 years or older;*
- b) The marriage is voluntarily decided by the man and woman;*
- c) The man and woman do not lose the civil act capacity;*
- d) The marriage does not fall into one of the cases prescribed at Points a, b, c and d, Clause 2, Article 5 of this Law.*





## Reference Sheet

Vietnam: Recommended Questions for the List of Issues and Concluding Observations

*For the Committee on the Rights of the Child, 87th Pre-Sessional Working Group, June 2020*

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*Recommended Questions for Vietnam's List of Issues:*

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Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

- Can Vietnam outline any concrete, near-term plans to pass legislation that eliminates gender disparities in its current marriage laws?

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*Recommended Concluding Observations for Vietnam (where Vietnam's responses to questions from the list of issues do not indicate gaps have been addressed):*

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General Principles: Equality and Non-Discrimination (Article 2)

- Recommend that Vietnam consider amending its constitution to add explicit guarantees of equality and non-discrimination regardless of race, colour, language, religion, political or other opinion, ethnic or social origin, property status, disability status, and birth status.

Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

- If Vietnam does not have concrete, near-term plans in place to pass legislation that eliminates gender disparities in the current marriage laws, recommend that Vietnam pass and implement legislation that eliminates these gender disparities.

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*Brief prepared by the WORLD Policy Analysis Center, University of California, Los Angeles - [www.worldpolicycenter.org](http://www.worldpolicycenter.org)*

