

# A HUMAN RIGHTS-BASED APPROACH TO PROGRAMMING FOR CHILDREN AND WOMEN IN VIET NAM: KEY ENTRY POINTS AND CHALLENGES



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## EXECUTIVE SUMMARY

Asian nations and socialist countries are often referred to in international discussions as especially difficult environments for the realisation of human rights. Viet Nam falls into both categories: it is an Asian society and a socialist one-party State. This case study examines the conditions for and experiences with “human rights-based programming” for children in Viet Nam. The Human Rights-based Approach to Programming (HRBAP) is a new approach to development programming supported by UNICEF. It was introduced in UNICEF in 1998, and since then its application has been analysed in numerous case studies around the world. This case study presents a situation analysis on child rights in Viet Nam. It identifies key strategies and entry points, as well as challenges and future topics for progress in rights-based programming in the country. It is the first case study of its kind in East Asia.

Social and economic rights, as well as civil, political and cultural rights of Vietnamese children and women are analysed in the context of the country’s complex history and recent evolution. The situation analysis of child rights—and to a lesser extent women’s rights—in Viet Nam is organised around the four main human rights principles: universality, indivisibility, participation, and accountability. The study describes the historical evolution of child rights and women’s rights within changing family structures and traditions, and analyses Viet Nam’s spectacular achievements in poverty reduction as a result of the introduction of the market economy. The case study examines challenges for HRBAP, such as the situation of children in conflict with the law, ethnic minority children and children infected and affected by HIV/AIDS. Several examples for rights-based activities and projects supported by UNICEF Viet Nam are presented and analysed.

The case study demonstrates that a human rights-based approach to programming is possible within the process of modernisation and urbanisation of Asian societies. It also shows that the Convention on the Rights of the Child can be successfully implemented in a political system governed by only one party. But human rights-based programming under such cultural and political conditions demands a clear and accurate understanding of the historical and political environment, in order to identify the right entry points for rights-based projects and activities. Methodologically speaking, this requires a stronger focus on historical and political trends in UNICEF’s situation analysis documents and a long-term vision for long-term programme planning of at least 10–15 years. Experience in Viet Nam also shows that implementation of HRBAP requires a technically solid and politically firm, but nevertheless non-confrontational, advocacy strategy. Such a strategy calls for ongoing dialogue between UNICEF and the Government and exposure of Government staff to international fora and debates around child rights.

Despite a number of important advances, the rights-approach to programming is still at a relatively early stage in Viet Nam. The main difficulties for child rights programming in Viet Nam identified here include cultural traditions that do not recognise children as subject of rights and new economic market mechanisms that contribute to growing social gaps among the population. The rule of law was only introduced in Viet Nam since the beginning of the 1990s. Therefore, the legal framework for children is still relatively weak and mechanisms to monitor and handle complaints of child rights violations are still insufficient. Moreover, the country has scant experience with child participation. Thus key challenges for further progress in the implementation of child rights in Viet Nam consist of: strengthening the rule of law, widening spaces for child and adolescent participation, addressing the negative impact of privatisation on poor families and improving living conditions of ethnic minority children. The future agenda for rights-based programmes in Viet Nam will have to include increased technical assistance in law-making and justice reform, and the development of innovative pilot projects on child participation in and out of school. The Vietnamese State will need support to set child-friendly standards for private and public social service providers, to develop rights-based policies and programmes for ethnic minorities, and to up-grade its capacity for monitoring and inspection of children’s and women’s rights.

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## ACRONYMS

<b>AFA</b>	Area-focused approach
<b>ARI</b>	Acute respiratory infections
<b>BCC</b>	Behaviour change communication
<b>CBM</b>	Community-based health care monitoring
<b>CDD</b>	Control of diarrhoeal disease
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CEM</b>	Committee for Ethnic Minorities
<b>CPCC</b>	Committee for the Protection and Care of Children
<b>CPFC</b>	Committee of Population, Family and Children
<b>CPRGS</b>	Comprehensive Poverty Reduction and Growth Strategy
<b>DFID</b>	United Kingdom's Department For International Development
<b>DPCs</b>	District People's Committees
<b>EPI</b>	Expanded Programme on Immunisation
<b>GDP</b>	Gross national product
<b>HCMC</b>	Ho Chi Minh City
<b>HIV/AIDS</b>	Human Immuno-Deficiency Virus/Acquired Immuno-Deficiency Syndrome
<b>HLLS</b>	Healthy Living and Life Skills
<b>HRBAP</b>	Human Rights Based Approach to Programming
<b>IEC</b>	Information, Education and Communication
<b>IECD</b>	Integrated Early Childhood Care and Development
<b>ILO</b>	International Labour Organization
<b>IMR</b>	Infant mortality rate
<b>INGOS</b>	International non-governmental organisations
<b>M&amp;E</b>	Monitoring & evaluation
<b>MDGs</b>	Millennium Development Goals
<b>MOLISA</b>	Ministry of Labour, War Invalids and Social Affairs
<b>MPO</b>	Master Plan of Operations
<b>MTR</b>	Mid-Term Review
<b>MTSP</b>	Medium Term Strategic Plan
<b>NERs</b>	Net enrolment rates
<b>NGOs</b>	Non-governmental organisations
<b>NPA</b>	National Programme of Action for Children
<b>ODA</b>	Overseas development aid
<b>PPAs</b>	Project Plans of Action
<b>PPCs</b>	Provincial People's Committees
<b>PPP</b>	Programme Policy and Procedure
<b>PRSP</b>	Poverty Reduction Strategy Papers
<b>RWSS</b>	Rural water supply & sanitation
<b>SPOs</b>	Senior Programme Officers
<b>UN</b>	United Nations
<b>UNDAF</b>	United Nations Development Assistance Framework
<b>UNDP</b>	United Nations Development Programme
<b>USA</b>	United States of America
<b>VLSS</b>	Viet Nam Living Standard Survey
<b>VNCC</b>	Vietnamese National Committee for Children
<b>WES</b>	Water, environment and sanitation
<b>WHO</b>	World Health Organisation



# 1. INTRODUCTION

The “human rights-based approach to programming” (HRBAP) is a programme strategy that aims to incorporate the paradigms and provisions of the Convention on the Rights of the Child (CRC) into UNICEF’s development programmes. It was officially introduced in 1998 as an Executive Directive and reaffirmed in a paper to the UNICEF Executive Board in 1999.<sup>1</sup> The human rights-based approach to programming calls for putting “short-term programme objectives in the context of longer-term goals that seek to fundamentally change deeply rooted conditions that perpetually undermine the full implementation of the Convention on the Rights of the Child and the Convention on the Elimination of all Forms of Discrimination against Women.” In other words: the ultimate goal of this strategic approach is to strengthen national processes of social and cultural change towards respect for and fulfilment of children’s rights and women’s rights.<sup>2</sup>

Using a HRBAP does not mean that the way UNICEF has worked in the past has to change completely. However the concept introduces a new way of looking at the design, implementation and evaluation of programmes. Essential to the HRBAP are two ideas: (1) the child is a subject of rights; and (2) child rights are based on a fundamental relationship between the child as rights-holder with claims on adults—in the State, the community, and the family—who bear legal responsibility for fulfilling those claims.<sup>3</sup> The HRBAP supports a new understanding of the child as subject of rights in an increasingly complex world and within a global trend toward democratisation and the rule of law. It strengthens the position of the child as subject of rights in many ways. A HRBAP emphasises technical support for the codification of child rights and public duties into laws and policies, thus fostering the creation of a child-friendly state and family environment. Another added value of this approach for children is that rights-based programmes foster self-esteem, creativity and joy (in short: dignity) through increased opportunities for children and adolescents to participate in family, school, community and society. A HRBAP also increases the receptiveness of development planners and implementers to respect the civil rights of children. It draws increasing attention to the need to protect children from violence, abuse, neglect and exploitation, and places new tasks—such as reforming institutional child-care and improving law enforcement against violators of child rights—on the development agenda.

The “rights” perspective therefore pushes UNICEF’s programme managers to pay greater attention to law-making, public policies and budgets, as well as to integrated and cross-sectoral service delivery. It emphasises participation, information and communication as means to empower people. It intensifies the nature of UNICEF’s collaboration with civil society movements and introduces the goal of building mechanisms to monitor children’s rights and handle complaints about their violations.

It should not be forgotten that UNICEF’s HRBAP is a result of lessons learned from programmes undertaken throughout the second half of the last century. On several occasions UNICEF

has pointed out that while development efforts in the 1990s were very successful in reducing infant and child mortality, they were less successful in achieving goals with more complex causality, such as protein-energy malnutrition and maternal mortality. From this perspective, the HRBAP tries to address these lessons by responding to complex problems with more sophisticated programmatic approaches.<sup>4</sup>

Capacity building for claiming of rights and fulfilment of duties is the second key idea underlying rights-based programmes.<sup>5</sup> Rights-based programmes should strengthen three main capacities among public and private duty-bearers. First, HRBAP can influence the acceptance of responsibility by duty-bearers and rights-holders to fulfil or claim child rights through advocacy, technical assistance and communication activities. Second, they can help to build the authority of duty-bearers and rights-holders to undertake action for the fulfilment of rights through law and policy development, as well as through communication and education. Third, rights-based programs can support efforts by duty-bearers and rights-holders to access the resources required to fulfil duties or to claim their rights through training, supplies and financial support.<sup>6</sup>

Given the central importance of the relationship between rights-holders and duty-bearers for a HRBAP, it is of utmost importance that programmes be based on an in-depth understanding of the historical and political conditions for capacity building on human rights. For this reason the rights-approach to programming has an especially great impact on situation analysis and strategic planning. UNICEF’s programme guidance proposes three key dimensions for situation analysis:

- 1. Causality analysis:** Description of the main challenges for child rights as well as their immediate, underlying and structural causes, including recommendations on how best to address them
- 2. Pattern analysis:** Analysis of why and how individuals and institutions responsible for the realisation of children’s rights are not complying with their duties or cannot claim their rights, and development of key areas for building capacity and advocacy to overcome shortfalls.
- 3. Resource analysis:** Are sufficient human, financial and organisational resources allocated and controlled by relevant actors at all levels of the State and society?<sup>7</sup>

Since its introduction in 1998 numerous trainings and case studies on HRBAP have taken place around the world.<sup>8</sup> An excellent theoretical and methodological analysis of the approach was published<sup>9</sup> and UNICEF has held several global consultations about this approach in Africa/Tanzania (2002), in Latin America/Ecuador (2003) and in Asia/Vietnam (2004).<sup>10</sup> As a result of these efforts, the HRBAP has become a widely known and intensively debated concept within UNICEF. During a 2002 survey of 165 country offices nearly all senior programme managers expressed their familiarity with the approach.<sup>11</sup> However the survey indicated that the concept was less well-known among technical programme staff, suggesting that implementation of HRBAP is not yet as well developed as the theory itself.

An assessment of UNICEF annual reports and programme documents in 2002 confirmed limited clarity and coherence regarding such specific aspects of HRBAP implementation as legislation, public policies, participation and accountability.<sup>12</sup>

Human rights-based programming is not restricted to UNICEF. It is part of a wider historical and political process of reorienting international development aid. The political context behind the emergence of development aid in the middle of last century—struggle for independence in the developing world, solidarity movements in the developed world, political conflict between super-powers during the cold war—has largely disappeared. This has sharply reduced the sense of social and political urgency for delivering development aid on the part of leaders in developed countries. Decreasing financial commitments for ODA are a clear sign of this trend. As the traditional development discourse loses its political and financial attraction, a broad process of rethinking development aid has started, and a search for new paradigms for international cooperation has emerged. One of these new paradigms is the human rights approach to development.

Several ideas and political practices have significantly contributed to the development of the new approach.<sup>13</sup> An important source for HRBAP is efforts by lawyers and development professionals to explore the practical implications of international human rights conventions for national laws, policies and programmes. Another type of input comes from the social, political, economic and cultural demands of people's movements all over the world—such as the women's movement and indigenous movements. A third backbone of HRBAP has emerged from academic and political discussion around the concepts of citizenship and governance. And a fourth stream is connected to the rethinking of the role of the State in developing countries after very mixed social experiences with two decades of neo-liberal paradigms and policies. Several authors agree with the statement that:

The rights-based development agenda has to be situated in relation to globalization and to the neo-liberal ideologies that have driven development in recent years. After a period of apparent state withdrawal, new demands are being made for the state to take a more active role in development. In this respect, it can be argued that the international community and other actors are trying to translate the rights-based agenda into a redefinition of the modern State...<sup>14</sup>

The multiple experiences and views undergirding the HRBAP are generating an interesting international debate among many development organisations about the exact meaning and practical implications of this concept.

While some people believe these new rights-based approaches offer the potential for a fundamental and positive change for international development agency relations with governments and civil society in aid recipient countries, others remain puzzled as to their relevance for achieving the Millennium Development Goals. Some observers suspect that agencies have appropriated the "rights" language without changing their underlying beliefs.<sup>15</sup>

Others have pointed out that the HRBAP is fruitful in leading human rights organisations, as well as development agencies, towards a comprehensive understanding of the equal importance of economic, social, cultural, civil and political rights for the true fulfilment of human rights:

Until recently donor governments have been mainly interested in promoting fairly narrow definitions of human rights related to civil and political liberties as an aspect of good governance. A rights-based approach is generally understood to be broader than this because all rights, including economic, social and cultural rights, are considered indivisible, inter-related and inter-dependent.<sup>16</sup>

Among the most enthusiastic supporters of a HRBAP are civil society organizations and non-governmental organizations like Redda Barnen.<sup>17</sup> Some bilateral aid organisations have also examined and advocated for the new approach, such as Britain's DFID, Swiss Aid (DEZA) and especially Sweden's SIDA.<sup>18</sup> While the World Bank remains ambivalent about the HRBAP, an agreement was reached among several UN agencies in 2003 to move towards a common understanding of a human rights approach to programming.<sup>19</sup> This common understanding states that all UN-supported programmes of development co-operation should "further" the realisation of human rights as defined in the Universal Declaration of Human Rights and other international human rights instruments. Development programs should aim at strengthening the capacity of duty-bearers to meet their obligations and of rights-holders to claim their rights.<sup>20</sup>

This common agreement on HRBAP is an important step for ensuring that all UN Agencies support implementation of the Millennium Declaration in its full meaning. The September 2000 Millennium Declaration emphasises the principles of human rights, child rights, democracy and good governance for world peace and development: "We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to the entire world's people, especially to the most vulnerable and, in particular, the children of the world, to whom the future belongs."<sup>21</sup>



## 2. CHILD RIGHTS AND THE *DOI MOI* REFORM PROCESS IN VIET NAM

Viet Nam is going through an extremely rapid, complex and contradictory process of social and economic change known as *doi moi*, which forms the backdrop for the current status of child rights in the country. The process started in 1986, when the 6th Congress of the Communist Party of Viet Nam decided to substantially reform the Vietnamese State and society.<sup>22</sup> *Doi moi* is based on three key processes: (1) transition from a centrally planned economy to a market-oriented economy with state management, (2) strengthening of the rule of law and citizen's participation in decision-making processes and (3) an open door policy towards all countries of the world. These processes have marked the development of Vietnamese society since the mid-1980s, and have opened the door for the introduction of children's and women's rights in development programmes and projects.

Documents from the 6th Party Congress used the word "rights," but the language reveals an ideological struggle between different currents within the Party over concepts such as democracy and rights: "The people's right to collective mastery should be institutionalised by law and organisation. Democracy goes hand in hand with discipline; so do rights and interests with responsibilities and obligations. Everyone must master their own labour, work with discipline, with high productivity and high efficiency, so as to make worthy contributions to the building of the country."<sup>23</sup>

Although the general provisions of the 6th Party Congress pushed strongly for economic reforms, and to a certain extent democratization, its guidelines for social sectors—particularly relevant for UNICEF's counterparts and programmes—were still completely embedded in traditional ideologies. These guidelines focused on a number of social policy issues that remain high on Viet Nam's social agenda: employment creation; primary health care; family planning; early childhood, primary, secondary and higher education and vocational training; culture; social safety nets; and special attention to ethnic minorities. But in 1986, these topics were addressed only in a simplistic manner that lacked a differentiated set of goals, strategies and objectives.

In 1989 Viet Nam adopted and ratified the CRC, making it the first country in Asia and second country in the world to do so. This was also the year of the fall of the Berlin Wall and the subsequent dissolution of the socialist states in Eastern Europe. These international events had a deep impact on Viet Nam. Financial, material and technical support from Eastern European states suddenly ceased. In response to the new international situation and the failure of socialism in Eastern Europe, the Communist Party of Viet Nam decided to speed up economic reforms—but became very cautious about any form of political pluralism.

The success of economic reforms apparently led leaders at the 8th Party Congress in 1996 to reconfirm and expand the

direction taken in past years and to add an ambitious time-frame: "From now to the year 2020, we will strive strenuously to turn our country basically into an industrialised country." This decision was supported a detailed agenda of economic modernisation, including attracting foreign investment and establishing guarantees for private property "to encourage private capitalists to invest in and operate long-term businesses." The Party Congress documents from that period also contained a clear, concentrated and even more detailed agenda for social policies than in 1986: employment generation, hunger-eradication and poverty alleviation, health care, family planning and the fight against "social evils"—the first mention of this concept in public policies. A strong call for decentralisation of the state apparatus, as well as for the reform of the justice system and the fight against corruption, also emerged at this time. Despite numerous references to the needs of children and adolescents, there was no mention of child rights.

At the same time, Viet Nam started to play a prominent role within the United Nations: the country was elected Vice Chair of the Executive Board of UNICEF from 1996–98, brought onto the United Nations Economic and Social Council for 1998–2000, and onto the Executive Board of UNDP/UNFPA from 2000–02. Subsequently, Viet Nam ratified International Labour Organization Convention 182 against the worst forms of child labour in 2000 and the two optional protocols to the CRC in 2001 (covering the sale of children, child prostitution and child pornography and the involvement of children in armed conflict).

The 9th Party Congress followed the line of previous Congresses in further detailing and specifying the goals, plans and strategies for the reform process. The Party endorsed a 10-Year socio-economic strategy (2001–10) for reaching the goal of industrialization in 2020, a five years socio-economic plan, and several broad-based programmes for poor people and ethnic minorities. In addition, the idea of private service providers for health care was introduced ("to develop State and private health consultation...try on experimental basis form of joint venture between State and foreign health services in both medicine and pharmaceuticals").

The appointment of a new Party Secretary General, Nong Duc Manh, raised expectations for a continued strong commitment to the reform process.<sup>24</sup> In fact, after the 9th National Congress the Government made a number of economic decisions to further increase the speed of reforms. It signed a bilateral trade agreement with the United States in December 2001, and in 2002 the Communist Party approved a regulation allowing party members to run their own businesses. These decisions boosted the proliferation of private enterprises, which had begun as a result of the new law on private enterprises. In 1990 there were only 110 private enterprises in Viet Nam; by 2000 the number had grown to 35,000 and probably doubled again in 2001, according to the World Bank. At the same time, the Government conducted a comprehensive participatory process towards a Comprehensive Poverty Reduction and Growth Strategy (CPRGS).

## Child Rights Recognized in Viet Nam

The 9th Party Congress used the term “children’s rights” for the first time in official Party Documents: “...The policy on child protection and care shall be implemented in close connection with socio-economic development strategies, facilitating the implementation of children’s rights, enabling children to live in a healthy and safe environment, develop physically, intellectually, spiritually and ethically in a harmonious way.” The introduction of child rights into the terminology of the Communist Party was a breakthrough that enabled UNICEF and its counterparts to work on the concept at all levels of the State and society.

## Doi moi at the Crossroads

Today, *doi moi* is regarded as an example of a successful transformation process from a centrally planned socialist state economy to a market economy, representing a “third way” between socialism and capitalism. It has generated annual growth rates of around 8% since 1990 and enabled impressive improvements in the living conditions of the population. (figure 1). Massive improvements in child health and education were largely a result of raising family incomes, primarily linked to liberalisation of the rural economy. However, the next phase of reforms will be very challenging. The social and economic baselines are now much higher than they were in the 1980s, so sustained economic growth and further social improvements will require even more comprehensive changes. Additional gains will not happen “automatically” as a consequence of increased family income. The ambitious goal of transforming Viet Nam into an industrialised

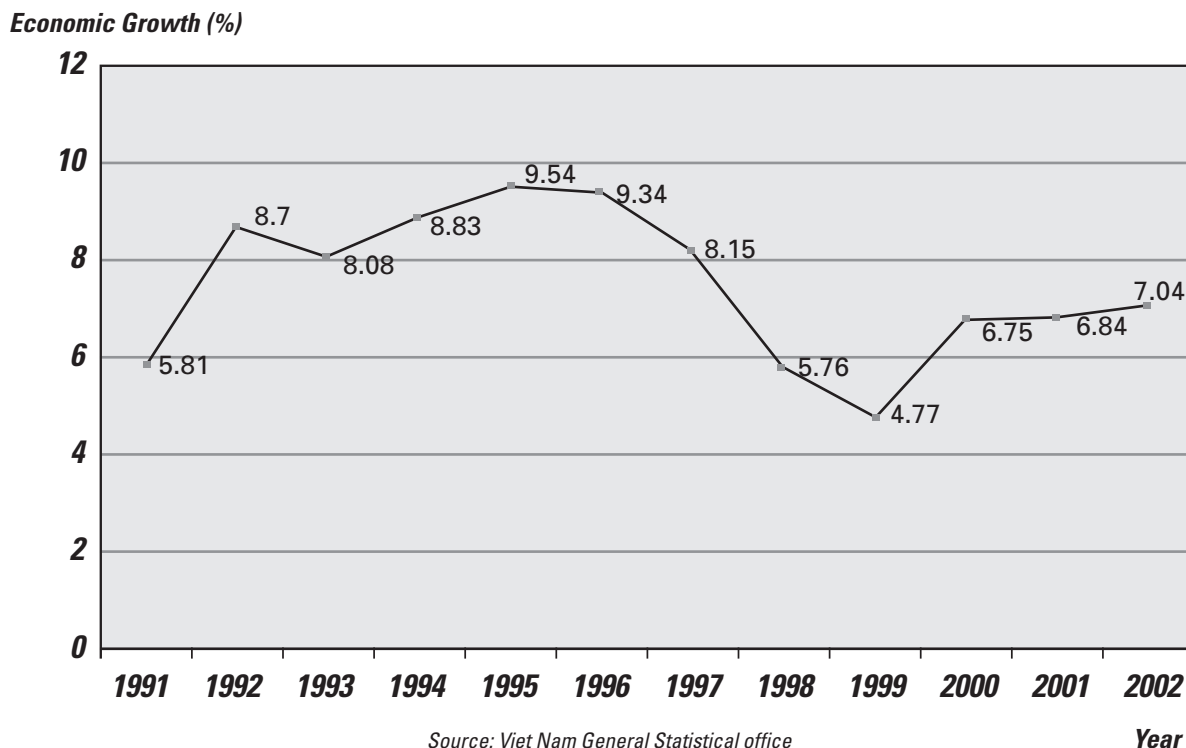
society by 2020 will demand significantly higher technical and managerial capacity by state agencies in the different policy fields, and a careful balance between economic and social goals to maintain social and political stability.

The reform process poses two fundamental questions for the Party leadership:

1. How can the process of economic liberalisation be fostered without losing the positive social results of the socialist system? The introduction of market mechanisms in the economy has increased social gaps among rich and poor, and poses a challenge to maintaining social equity in the country.
2. How can the Party ensure its monopoly over political power when, in the future, entrepreneurs and the general population might demand more civil and political rights? A market economy and rising living standards generate expectations for more individual and economic freedom and political participation among the population. Therefore, the political leadership in Viet Nam will have to find ways to channel this demand by opening additional spaces for participation without compromising their exclusive leadership role.

These general challenges also define spaces and boundaries for the application of a HRBAP in Viet Nam. Against this background, a lively discussion of children’s rights has developed, including the introduction of a rights-based approach in the Country

**Figure 1: Viet Nam GDP growth rates 1991–2002**



Programme of cooperation between UNICEF and the Government of Viet Nam. Such ideas and debate ultimately reflect a strong need to reform laws, policies and programmes for children in order to prepare children for the giant changes that Viet Nam is experiencing.

## ***Doi moi* and Child Rights**

Why are rights necessary? Are human rights-based programmes better for children? A government as pragmatic and successful in poverty reduction as the Government of Viet Nam has raised questions about the how HRBAP adds value to traditional, sectoral development approaches. There are many ways to answer that question. From a historic and materialistic point of view, one would argue that the necessity of developing the position of children as rights-holders in all aspects of life comes along with the modernisation of society. The extremely rapid social change that Viet Nam is going through confronts children and adolescents with a whole set of possibilities and problems that were barely known to earlier generations, who grew up during the war against France and the United States of America (1954–75). These changes strengthen the role of the individual in production, property, and social relations, while ties with the community and the family—the main social spaces for child rearing and child development—gradually lose strength and intensity. In this situation, child rights are a means of empowerment and protection of the child by the State, because the traditional social fabric in Viet Nam is weakening.

The new social problems that arise within a process of change towards an industrialised and urbanised society will not be resolved if State and society address them through traditional means of charity, top-down social assistance, propaganda (social mobilisation and ‘IEC-campaigns’) and punishment. It is precisely a human rights approach to programming that provides a more adequate and effective strategy in the context of a modern State and a modern economy, where economic and legal concerns and individual interests in business and private life gain weight. Children’s rights emerge as an unavoidable part of the general progress in legislation, rule of law and introduction of a market economy. Under the new economic circumstances and social conditions, child rights represent an important policy instrument allowing the State to guarantee high levels of support and protection for children at a time when the role of the State in economic and social life is diminishing, subsidies are being reduced, and more economic responsibilities are devolving to private entrepreneurs and families.

## **Child Rights and Human Rights**

The gradual introduction of child rights in Viet Nam also has “catalytic” effects on the promotion of human rights. Child rights are a field of human rights that can be discussed openly and widely in Viet Nam. The Government itself has pointed this out very clearly in its Report to the Committee on the Rights of the Child: “The Convention on the Rights of the Child is one of the important United Nations treaties on human rights that Viet Nam has ratified. At present, implementing child rights is one of the focuses of human rights in Viet Nam.”<sup>25</sup> While the Government’s openness in the area of child rights is

encouraging, it should not be forgotten that concepts related to human rights in general are still regarded with a certain degree of suspicion and sensitivity.<sup>26</sup> This can be easily seen by looking at the United Nations Development Assistance Framework (UNDAF). The UNDAF for 2001–05 defines as the overarching goal of cooperation between the United Nations and Viet Nam: “...to assist in the promotion of the rights enshrined in the declarations, covenants, and conventions of the United Nations to which Viet Nam is a signatory, with particular emphasis on those areas given priority in the Government strategic plans.”<sup>27</sup> Although the text does not mention the term “human rights” explicitly, it refers to the topic indirectly as social and economic rights, or “development rights.” For example in relation to the issue of governance, the UNDAF underlines the principles of non-discrimination and participation: “Vulnerability to abuse and discrimination may be diminished by actively protecting the rights of the poor and disadvantaged groups. More equitable and relevant policies and laws may be developed when there is greater participation in policy dialogue and local decision-making by all sectors of society.”<sup>28</sup>

Today, the country is staking out a path between socialism and capitalism, between national development priorities and global standards in human rights. This places contemporary Viet Nam at the crossroads between socialist and capitalist understanding of human rights; between Confucianist positions and Western paradigms. This situation is not new for Viet Nam. Vietnamese society has been subject to intensive change—and not only since the advent of *doi moi*. Lively discussions about “old” and “new” values and forms of social interaction have been common features of intellectual discussions in the country since the second half of the 19th century. From a long-term historical perspective, *doi moi* may have accelerated an already ongoing process of social and economic change. In order to understand current social development properly, it is important to understand that Viet Nam’s contemporary political ambivalence and contradictions are part of a broad historical process of modernisation, industrialisation and urbanisation that the country has been undergoing during the last 150 years—not just a reflection of the introduction of a market economy since 1986. For example, young news editor Nhat Linh wrote in 1932: “When the old civilization is brought out and put into practice before our very eyes, we are dissatisfied with the results. We can only continue to hope in Western Civilization. Where that civilization will lead us to we do not know, but our destiny is to travel into the unknown, to keep changing and to progress.”<sup>29</sup> European and American thinking continued to influence young Vietnamese during the war against the U.S., when North Vietnamese students were sent abroad to study in the Soviet Union and other Eastern European Countries and South Vietnamese students travelled to the USA and France.

Against this historical background, the sometimes ambiguous findings of this case study on rights-based approaches to programming reveal a thrilling encounter between traditional concepts of childhood, deeply rooted in East Asian rural traditions and new, urban ways of looking at children.

### 3. UNIVERSALITY OF RIGHTS

The universality of human rights means that these rights can be claimed by every human being and thus should be respected, accepted and implemented in all nations of the world. For this to happen, measures to support national and local assimilation and acceptance of human rights through legal reform and rights promotion activities are needed. The most important processes leading to universal validity of human rights are (a) harmonisation of national laws and justice systems with international legal standards and (b) fostering cultural change towards a human rights ethic through media and education systems. Both processes ultimately lead to the introduction of human rights in the normative frameworks of societies.

In the case of children the practical recognition of child rights is intimately determined by the family environment. But the patriarchal character of the family in most countries shapes traditional views on the status of children and women in society, and often constitutes a widespread cultural barrier for the realisation of children's rights and women's rights. This is the main reason why the rights of children and women are closely inter-linked and have to be analysed together.<sup>30</sup>

#### Family Structures and Women's Rights

A "rights-based" look at the national conditions for the universal fulfilment of child rights in Viet Nam must begin with an analysis of the history and structure of the Vietnamese family and its links to women's rights. Historically, traditional family structures in Viet Nam were strongly influenced by Confucianism, and they remain patriarchal in nature today. Confucian family customs gave absolute power over all family members to the male head of the family. Women were completely subordinated to men: "According to moral law, a woman is always in a state of subjection. She must follow the three obediences (tam tong): at home she follows her father, married she follows her husband, widowed she follows her son. All her life she is a minor."<sup>31</sup> The same was true for children. They were completely subordinated to the will of their fathers. Wives and children had to work to increase the family wealth and had no assets of their own. The man had absolute rights over all members of his family. Fathers could sell their children, hire them out, or give them as collateral to creditors. A husband could do the same with his wife. The father had absolute rights regarding the marriage of his children. He even held the right of life and death over them.<sup>32</sup> Until the first decades of the 20th century a "child" remained a child until his/her parents died and only acquired limited rights when married. According to social customs, female adolescents could marry at 16 years and male adolescents at 20, when young men would put on turbans and young women would start to wear hair pins to show their readiness to marry.<sup>33</sup> There were some legal provisions in the past that underlined parental responsibility to provide adequate education and nutrition to their children.<sup>34</sup> But all in all for many centuries Vietnamese children had no rights at all and women's rights were extremely limited.

Although it is widely recognised that Confucianism was the dominant paradigm in Vietnamese politics and culture for many

centuries, opinions among Vietnamese scholars on the degree of Confucian influence on Vietnamese families—especially on the position of women in the family—vary considerably. Vietnamese women were clearly subordinated to men within the Confucian family, but the discrimination against women in Vietnamese society was probably less severe than in other Asian countries. While it is certainly true that thousand years of Chinese occupation left deep traces in society, Vietnamese society is a mélange of native cultures, Confucianism, Buddhism, and Taoism, as well as Christian religion and Western thinking.<sup>35</sup> Vietnamese history is full of tales and myths that celebrate female heroes in the struggle for independence and autonomy. The sisters Hai Ba Trung, for example, led an Army of 80,000 warriors against Chinese occupation in 43 AD, and there are many similar examples of female leadership in Viet Nam. Moreover, women possessed certain rights according to national laws quite early on. For example the Hong Duc Code of 1483 established women's rights to inherit, to divorce and to be protected from violence.<sup>36</sup>

However, the demand for equal rights of women and men has become a feature of discussion in Viet Nam mainly in conjunction with the growing intellectual influence of the West, particularly the French Revolution. At the same time that women's rights were fiercely violated under French colonial rule, new ideas of human rights and equality between men and women penetrated the thinking of young Vietnamese intellectuals. As early as 1917 famous writer Pham Quynh addressed "the education of women," writing:

Women in our country were not abused, but they were treated like "minors" and like minors they remained for all their lives, never becoming independent or self-sufficient and in no need of much teaching or education...Is such thinking still appropriate today? Certainly not! Women are certainly not born inferior to men.<sup>37</sup>

Such ideas contributed to a push for the codification of women's rights, such as the 1931 Tonkin Civil Code, which highlighted the right of both men and women to decide over marriage—a provision aimed against the traditional custom of arranged marriages: "Marriage is nonexistent if there is no consent of the couple or of one of them."<sup>38</sup>

When Ho Chi Minh freed North Viet Nam from French domination, he and his comrades developed the first Constitution of Viet Nam, which promulgated equal access for men and women to education and training in 1946. National literacy campaigns were launched to improve women's education. During the war against the Americans women also started to occupy more political responsibilities in local Governments, and helped in many ways to support the continuing struggle for independence. Between 1964 and 1975, the percentage of female members of district people's councils rose from 25.5% to 45.8% and the Women's Union (WU) became a powerful mass organisation with several million members.<sup>39</sup> The long years of warfare that Viet Nam went through during the last century meant that traditional family life was often disrupted or not possible at all. Many children were brought up by women alone, and mothers and children had to work extremely hard to ensure their survival. A whole generation of children grew up without fathers.

The reunification of the country in 1975 led to the introduction of socialism in all of Viet Nam. As a consequence, the family as a social institution lost importance, and the main social and economic functions were taken over by state institutions.

Political activities and spiritual life as well as the career of each individual took place following a special model outside the family. The family was almost replaced by other social institutions with regards to its educational function... Family members of working age became mostly State employees, civil servants, or cooperative members. The family, having been an independent unit of production, stopped performing its economic function (for cooperative members, the family's economy remained, but played only a minor role). The family became a unit providing labour forces to society. Wages and incomes of family members depended on the distribution by the State and cooperatives.<sup>40</sup>

The economic reforms that began in 1986 had far-reaching impact on the socialist family model as well as on the situation of women. Households had to begin to manage their economic performance by themselves. They had to become active in organising family income. This included new tasks, such as seeking jobs or marketing their agricultural production by themselves. This placed pressure on families to perform well economically. If they succeeded, then social services and consumer goods would become affordable. However, opportunities and abilities to succeed economically are uneven, and since a large proportion of families live under or just slightly over the poverty line, many were very vulnerable to shocks. Currently, families develop different income-generating activities according to seasons or engage in multiple income-generating activities simultaneously. In both cases families need more labourers to implement these strategies. Hence, millions of children of rural families have to participate in income generation, in- as well as off-farm. Many families also migrate temporarily to urban centres in search of jobs. However, due to their lack of qualifications, they usually have to perform unskilled labour and remain dependent on low-paid employment, mainly in the informal sector. Women, children and older people are often employed in this sector. Statistics suggest that about 1–2% of workers in informal enterprises are children under 15, and another 5–8% are adolescents between 15 to 18 years.<sup>41</sup> Informal workers are not legally protected in terms of working hours and conditions, minimum wage, accidents, illness, retirement or pension.<sup>42</sup>

While migration may be an effective strategy for ensuring a basic income for the family, it often entails the separation of husband and wife or of parents and children for extended periods. This causes several problems for children. Families are torn apart and many migrated children, both girls and boys, must work in hazardous jobs to support families. They are vulnerable to exploitation and abuse, including sexual and drug abuse, violence, HIV/AIDS and even trafficking. In addition, new forms of “labour supply” networks, both organised (occupational associations) and un-organised, emerge. The cooperation between migrants and their families at the place of origin through informal networks is of particular interest. They involve interaction and exchange of workers and tend to promote child labour in all forms.<sup>43</sup>

The economic reforms also posed new challenges to women's rights and gender equality. Viet Nam is a country in which gender roles are in transition. Gender stereotypes and gender values in Viet Nam have changed little from earlier decades or centuries, although what women do as part of their daily tasks has changed dramatically in recent years. “Juggling these multiple, and sometimes contradictory expectations, has created new stresses for the younger generations of Vietnamese women. The present full-time productive workloads of women are conflicting with traditional roles and values, causing anguish and confusion for many women trying to fulfil all expectations themselves.”<sup>44</sup>

According to some researchers, *doi moi* has had a mixed impact on women. On the one hand, Vietnamese women have benefited from the general rise in income, and gender gaps in education are relatively low.<sup>45</sup> But on the other, women are at a structural disadvantage under current market mechanisms. They have only limited access to land and capital, as almost all land certificates in Viet Nam are in the name of men. Only 2.3% of land certificates carry the name of both husband and wife. So when women apply for loans, or when they want to retain property after a divorce, they often do not succeed. Currently only one-third of formal credits are given to women.<sup>46</sup>

The percentage of Vietnamese men and women who are economically active is nearly even (86.8% and 86%). However women generally work in the informal sector or in a few typically “female” branches, such as the textile industry. A gender analysis of the national labour force clearly indicates structural disadvantages for women, who are underrepresented in all branches where new technologies are applied or that require higher education.<sup>47</sup> This also has an impact on women's income, since wages in those sectors are usually higher.

As mentioned above, the reduction of state subsidies and the rising costs of social services through direct and indirect user fees has increased pressure on men and women alike to earn money. This situation has fostered migration of men to the cities, leaving the double task for rural women to care for the family and the land. Studies have shown that rural women work about 16–18 hours per day—six to eight hours more than rural men.<sup>48</sup> This situation has a negative impact on women's physical and mental health, and severely restricts their time for education, vocational training, and participation in local decision-making committees.

Finally, *doi moi* is leading to a change in intra-family relationships and values. These transformations are occurring more rapidly in large urban centres than in rural areas, where social and cultural tradition is naturally more deeply rooted. Although marriage is still very popular in Viet Nam, young people in the cities tend to marry later. More and more young Vietnamese have premarital sex, and couples have fewer children. While in the past three or more generations lived together under one roof, presently about two-thirds of Vietnamese families consist of parents and children living together, and less than one-third comprise three or more generations.<sup>49</sup> Young urban citizens no longer marry with the primary aim of preserving family lines, but rather to find love and personal happiness. So, if husband and wife have continuous quarrels, the marriage may be ended. Although divorce



is still rare and not socially approved, rates are increasing. In 1989 the national divorce rate was 0.5%, but this percentage climbed to 1.2% in urban areas in 1999. The main reasons for divorce in Hanoi (23,720 cases) were violence and maltreatment (31%), adultery (14.8%) and conflicts with mothers-in-law (8.8%). Press reports from June 2002 noted that Ho Chi Minh City alone registered more than 11,700 cases of divorce in 2000, an increase of 12% since 1990. Another significant change in Vietnamese families is the shift from a multigenerational family towards a nuclear family.

Urbanisation and industrialisation have also generated or intensified different forms of direct violence and exploitation of women. For example, trafficking of girls and women remains largely a “hidden” problem and there is a considerable lack of information, as the problem is a new and only limited data are available. Regarding intra-family violence, a comprehensive national study has not been conducted so far, but analysis of several small-scale studies show that gender-based violence exists in both urban and rural areas, and within families of all income levels.<sup>50</sup>

## The Child as Subject of Rights

The idea that children have rights is an historically new concept, thus its acceptance cannot be taken for granted in any society. Social dissemination and cultural adoption of this new concept probably occurs more easily and rapidly in societies where the idea that adults have rights is well established and the rule of law is fully in place. Societies where the concept of rights for adults is not fully recognised or practiced may find it much harder to understand and agree to the idea that children are subjects of rights.

Viet Nam is certainly among those countries that have only recently begun to introduce the rule of law in social and political life. This process started in the 1990s. The Communist Party of Viet Nam, along with its goals in economic reform and poverty reduction, has promoted the rule of law as an important feature of the *doi moi* process:

Management of the country should be performed by the law, not only by moral concepts. The law is the institutionalisation of the Party’s lines and policies, a manifestation of the people’s will; it should therefore be uniformly put into force throughout the country. To observe the law is to implement the Party’s lines and undertakings. Management by the law requires that attention be paid to law-making. It is necessary to step-by-step amend and perfect the legal system so as to ensure that the State machinery be organised and operated in accordance with the law.<sup>51</sup>

What has the introduction of the rule of law in Viet Nam meant for children and adolescents? Initially, it meant a huge flow of laws and decrees. Between 1998 and 2002 alone, the National Assembly, the Prime Minister and Government agencies issued more than 110 laws and regulations relevant to children. Their common themes were promotion of education for children, strengthening services for children, and improving the protection of children from violence through more stringent punishment of

perpetrators. The most important law passed in the aftermath of the CRC was the Law on the Protection, Care and Education of Children of 1991 (currently under revision), which emphasises public responsibility for the protection and care of children, calls for severe punishment of infringements on children’s rights, states children’s right to express their views and opinions on matters that affect them, and establishes free primary health care for all children under 6 years of age. Other key legislation includes the Law on the Universalisation of Primary Education (1991), which introduced compulsory primary education for all Vietnamese children between the ages of 6 and 14 years and the Law on Public Health (1989), which states that every child is entitled to free medical examination, treatment and vaccination against certain diseases.<sup>52</sup>

The Penal Code of 1997 (revised in 1999) was another major step forward. It defined the age of criminal responsibility of children to be 14 years and established child rights violations as criminal offences. According to this law, sanctions against juveniles should have an educational and preventative—not a punitive—intent. Imprisonment should be a last resort, and only be applied in extremely severe cases. Juvenile prisoners are subject to reviews for early release. Neither the death penalty nor life imprisonment can be applied to children and adolescents.<sup>53</sup> According to Redda Barnen “The development of that legal code resulted in the release of a lot of people from reform schools and prisons at the time.”<sup>54</sup>

The fact that so many laws and regulations have been issued since the ratification of the CRC is an indication of increased awareness among Party and State institutions of the importance of a legal framework for children. However “laws” and “rights” are not synonymous concepts. The sheer number of new laws does not necessarily mean that the legal position of children as subjects of rights has significantly improved. A closer analysis shows that this concept is not (yet) the basis for legal principles, provisions and standards in Viet Nam.

## Understanding Child Rights

As stated earlier, the idea of children’s rights is new to the Vietnamese State and society. The common Vietnamese view of children’s rights seemed to be that they are a set of norms and principles defined in the CRC, and which must formally be added to existing laws. Child rights are not seen as a new paradigm for the design and drafting of legislation and policies for children. What prevailed in national law was the traditional view of the child as an object of support and protection by the State rather than as a subject of rights. Hence, many child-related laws define the role of the State vis-à-vis children mainly as one of service provider to fulfil the needs of children and protector of children from harm, by guaranteeing public security and punishment of perpetrators of crimes against children. While this in itself is positive and taken seriously by Government institutions, it does not cover other important dimensions of children’s human rights. For example, references to the principles of participation and empowerment or to the idea of accountability of the State are scarce in Vietnamese laws. Consequently, the potential for children or adults to hold the state accountable for the fulfilment of their rights is limited, as will be seen.



The limited success of introducing the idea of children as subjects of rights has many causes. Some are ideological, political and philosophical; others have to do with a lack of technical and financial capacity in the area of legislation. The previous subchapter has described a deeply rooted cultural barrier to the idea that children are subjects of rights: the patriarchal traditions of Vietnamese families and society. These traditions have shaped the political and juridical philosophy of the country. The interests of the State ultimately prevail over citizens' affairs, very much like the head of the family over the other family members. The notion of rights as inalienable and innate entitlements of human beings is not very strong in Vietnamese legal theory or in traditional cultural practice. In Viet Nam's Confucian social thinking, the human being does not have "natural rights;" rather, his value and authority stem from his contribution to maintaining the existing social order as defined by the State and its authorities. "Men prevail over their fellow-creatures only within the measure that they are worthy of collaborating with the maintenance of social order, considered as the substructure and model of universal order."<sup>55</sup> Hence, individual rights are not greatly appreciated, while the fulfilment of duties to the family, the community and the State are highly regarded. This thinking was (and still is) the basis for the human rights critique of Asian Governments at the International Conference on Human Rights in Vienna 1994.<sup>56</sup>

If, as a matter of fact, for the Westerner the sense of individual rights is fundamental and finds itself protected and activated by the conception of justice, for the Confucian, the advantages which every one can claim are of no account. He knew only the duties which every one has the imperious obligation to fulfil correctly."<sup>57</sup>

This view of the role of the human being in State and society and the prevalence of moral obligations over individual rights has implications for the legal system. Huard and Durand have characterised the main principles of Vietnamese law through the end of the 19th century: the law is the expression of the will of the sovereign. Hence, there is no jurisprudence or doctrine. Laws do not reflect general rules or principles, but are drafted in an opportunistic way to address specific problems.

Thus, law expresses a constant confusion of rights and ethics. It's just a means to moralize individuals, families and people. This explains the poorness of private law, its uniformly penal character, and the absence of procedure... lawyers and juridical formality. The moralist's preoccupations aren't those of the judge. Thus the notion of obligation erases or dominates that of right and the public order; regulation seems much more important than care for private interests.<sup>58</sup>

Although there is a clear tendency to grant the State absolute primacy over individual rights or needs, this primacy over the individual is not unconditional. It is bound to the State's duty to provide a good living standard for the population. What matters is the fulfilment of social duties by citizens and good economic performance by the State. It is for this common economic interest that the State can assert that the interests of the collective (as expressed by the State) ultimately prevail over individual rights.

Viet Nam's Civil Code clearly states: "civil rights and obligations must not infringe upon State interests, public interests, and legal rights and interests of other rights."<sup>59</sup> According to the Penal Code it is a criminal offence to "abuse the rights to freedom of speech, freedom of press, freedom of belief, religious assembly and other democratic freedoms" when it "infringes upon the interests of the State." (Art. 258)

This Confucian view of the relation between citizens and the State is deeply rooted in many countries of the region, as has been pointed out in numerous studies about human rights in East Asia.

The highest ideal of political thinking in China was never the rights of the individual but to make use of the individual for society through compliance with his or her duties. The individual always had to surrender to the collective; the highest principle of Confucian thinking was the idea of the social duty towards the entire State and the community. The improvement of the situation of the individual was not an end in itself; the human being was always seen as part of a broader community—the family, the clan or the State.<sup>60</sup>

These cultural paradigms are reinforced by socialist understanding of human rights, in which "the idea of inalienable and pre-state natural rights is lacking. The source of citizens' rights is not an innate human right. Citizens' rights stem from the situation of the individual in a specific social context, his role in the production process, the socio-economic structure of the State itself. They are class rights."<sup>61</sup>

The difficulty of reconciling a political and philosophical tradition such as the one described above with the philosophical and political traditions that have generated the idea of human rights is obvious. Human rights concepts were developed as part of the struggles of the bourgeoisie against the absolute power of the feudal State in Europe. Thus the basic idea of "rights" is to empower the citizen vis-à-vis the State and to limit the arbitrary use of state power against individual citizens through laws and rights. Put simply, it could be said that in European tradition the legitimacy of the State is based on compliance by public authorities with laws and rights, whereas in Viet Nam it is the other way around: laws and rights are ultimately legitimate only if granted by the State.

Socialist and Confucian theories and traditions nurture another concept that hampers the introduction of human rights and children's rights: the garden state. This patriarchal and technocratic idea portrays the State as gardener and citizens as plants. Vietnamese government officials frequently make reference to this idea at conferences and workshops about children, citing Ho Chi Minh: "To reap a return in ten years, plant trees; to reap a return in 100, cultivate people." The Vietnamese State and people have accordingly consistently sought to "cultivate the people..."<sup>62</sup> It is obvious that this vision of the State does not facilitate discussions about decentralisation, grassroots participation or widening citizen rights because the State is presented as knowledgeable and active, while citizens are seen as passive recipients requiring State assistance to become useful for society. Figure 2 shows the sectoral and vertical structure of the Vietnamese State, with clear supremacy of the State vis-à-vis individual citizens and an uneven distribution of power among State institutions.<sup>63</sup>

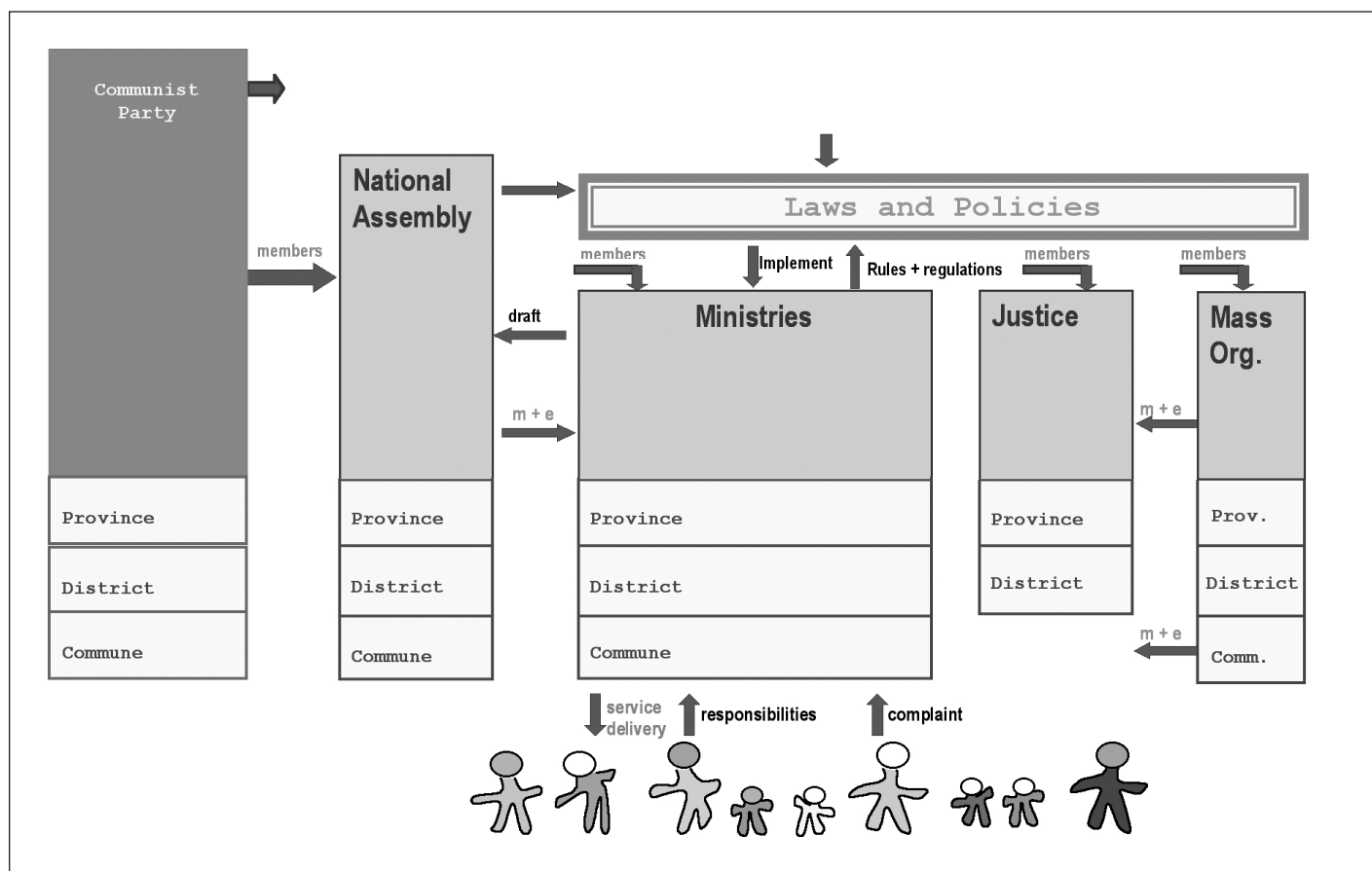
Within the State, executive branches are particularly strong. Formally, the National Assembly is the institution designed to

transform the general orientations and guidelines of the Party into laws, ordinances and resolutions and to monitor their compliance by the executive branch. However the Assembly's technical capacity and staffing levels are insufficient to fulfil these duties. Therefore, the National Assembly must rely heavily on the technical staff of ministries for drafting laws. When the National Assembly finally passes laws, they are generally not immediately enforceable, but rather need to be supplemented by a large number of orders and decisions by government agencies. This process tends to generate a huge flow of rules and regulations, giving government agencies a privileged position in the law-making process: they draft the laws and rules that regulate their own functions.

### Changing Concepts

All in all, the examples above demonstrate that the position of individual rights-holders in Viet Nam is relatively weak, while the power of public duty-bearers is very strong. However the imbalance between civil and political rights of the individual and social and economic duties of the State is gradually changing

**Figure 2: Institutional structure of the Vietnamese State**



as a result of the *doi moi* process. The first Report of the Government to the Committee on the Rights of the Child from 1992 emphasises this fact in a reform-oriented and unusually outspoken manner: “The economic system is moving away from central planning towards a market-oriented system, and gradual political change is hastening democratisation and increasing respect for human rights.”<sup>64</sup> These are not empty words. The 1992 Constitution introduced important legal guarantees to the legal system of Viet Nam. Most far-reaching innovations happened in the economic arena, with the introduction of property rights; freedom of business; right to ownership over capital, property and real estate; and inheritance rights. In terms of political rights, the Constitution opened important spaces for modernisation of the justice system, stating that no one should ever be arrested without a court decision and introducing the principle of presumption of innocence. The Constitution also underlined citizens’ rights as human rights—political, social, economic, cultural and social rights. It is the first legal document in Vietnamese history to contain the words “human rights,” and serves as an important legal basis for all UNICEF-supported training on the CRC and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) with Government staff.<sup>65</sup>

These broader changes in the function of laws in Viet Nam also have an impact on the legal concept of the child. Little by little the view of children as objects of concern is changing. The first State Report for the Committee on the Rights of the Child stressed the tension between popular concepts of the child and the new vision enshrined in the Convention in a remarkable and self-critical way. It emphasised rightly the high value that “Vietnamese families and society give to children”<sup>66</sup> but also noted critically that:

One could not so confidently state that the personal attitudes of ordinary Vietnamese people always serve the best interests of children in Viet Nam. Low standards of living affect both ways of life and attitudes...attitudes dating back to feudal times still retain considerable influence: the result is perpetuation in some areas of discrimination against women and girls-children and of attitudes to children in general that place high value on obedience and filial piety, and do not encourage a view of children as complex, highly varied individuals.<sup>67</sup>

In addition, this Report linked the general trend towards rule of law and citizen’s rights in Viet Nam to an increasing emphasis on public policies for children: “In Viet Nam, where children have always been the object of special protection and care, what better guarantee could there be that child-oriented policies will be more fully implemented than that national wealth and democratic rights are irreversibly advancing?”<sup>68</sup> Changing views about children and their relationship with state and society are reflected in legal provisions on children. Article 40 of the Constitution refers directly to the relationship between the child and society: “It is the responsibility of the State, society, the family and the citizens to ensure care and protection for mothers and children...” The Law on Protection, Care and Education of Children states: “Children are the happiness for families, the future of the country and are heirs to the cause

of national construction and defence,” adding “children shall be the object of respect and protection as to their life, body, dignity and honour; they shall be entitled to express their views and aspirations on issues related to them.”<sup>69</sup> Such concepts obviously contain elements of the duty-bearer/rights-holder approach towards children.

The historic passage of the 9th Party Congress statements on child rights in 2001 also reflects changing thinking about children, and comes closer to the idea of a child as subject of rights than any previous document. It combines the idea of children’s rights and child protection with the duty of State and society to ensure child-friendly living conditions for all Vietnamese children: “...The policy on child protection and care shall be implemented in close connection with socio-economic development strategies, facilitating the implementation of children’s rights, enabling children to live in a healthy and safe environment, develop physically, intellectually, spiritually and ethically in a harmonious way.”<sup>70</sup>

## Children in Conflict with the Law

It is useful to broaden the analysis children’s status as subject of rights and take a closer look at the situation of Vietnamese children who become victims of abuse and violence, as well as those considered to be juvenile offenders.

During the 1990s the Ministry of Public Security issued annual statistics that registered between 11.000–14.000 juvenile offenders in Viet Nam. The age of criminal responsibility in Viet Nam is 14 as mentioned above. By far the most frequent offence was theft (48.9%), followed by drug abuse (4.4%).<sup>71</sup> The level of violence involved in juvenile delinquency can be characterised as low, compared to the situation in other regions of the world.

When a child comes into conflict with the law, Vietnamese State authorities can apply two types of legal systems. The first and most common is the Administrative System, according to which district councils composed of heads of people’s committees (charged with public administration of towns, cities, etc.) together with technical staff from the Committee of Population, Family and Children (CPFC), the Women’s Union and the Youth Union decide on sanctions and supervise their implementation. Administrative Sanctions are generally applied for minor offences, and constituted nearly three-quarters (73.5%) of all sanctions against children in conflict with the law in 2001. Sanctions included warnings, fines and compensations as well as supervised community based “re-education.” Nearly 10% of the children were placed in a “reform school” (re-education centre) for up to two years.<sup>72</sup>

The Criminal Judicial System is the second possible option for dealing with a child in conflict with the law, and is used in case of severe infractions. The adolescent must appear before a criminal court and is tried by a judge according to criminal law. In 2001, around 2,500 trials were held. Criminal sanctions against children between the ages of 12 and 18 included warnings, fines, community-based education, and placement in reform schools. Imprisonment is seen as measure of last resort. However in 2001, there were 317 cases with prison sentences

longer than five years.<sup>73</sup> Children under 14 cannot be put into prison, maximum imprisonment for children between 14–16 years is 12 years, for children between 16–18 years it is 18 years; both include possible review for early release.

In recent years Viet Nam has considerably improved its legal provisions and processes for dealing with children in conflict with the law. However, there is still a need for action to achieve international standards in this field.

Generally, it is positive that Vietnamese children who commit minor offences are treated through an administrative channel rather than through the judicial system. This prevents children from having a criminal record and facilitates reintegration into society. However there is very little difference between criminal and administrative sanctions. For example, children in conflict with the law can be sent to the same reform school under both regulations. Clearer criteria on when to apply each process are needed. Also, specific guidelines for local authorities are missing, so there is little guarantee that the administrative procedures fully respect the rights of the children. Addressing overlaps and achieving a sharper distinction between both processes would help to ensure the best interest of the child.

Deprivation of liberty is possible under both systems. According to international standards, this is supposed to be a measure of last resort. Imprisonment and institutionalisation in “reform schools” are not effective ways of dealing with the growing problem of juvenile delinquency. Such measures have a negative effect on adolescents and young people, for whom prison can easily become a ‘school of crime;’ institutions are places with high risk for child rights violations and are very expensive to build, maintain, and staff. In Viet Nam, there seems to be no regulation or external evaluation of “reform schools,” even though this is an international requirement to ensure that care and treatment of children in such institutions respects their rights. In addition, there are currently no social services available in Viet Nam to facilitate community reintegration of children in conflict with the law.

The decision to send a child to “reform school” is not made by a judge or a court alone, but in conjunction with the Head of the District People’s Committee. The criteria for such a decision are seriousness of the offence and whether the accused is a repeat offender. But other than that, there seems to be considerable undefined space for decision-making by public authorities, which creates the risk of arbitrary decisions. Furthermore, under existing regulations, it is not clear how long a young person can remain in custody until the case is investigated and an official decision is made. To help authorities avoid imposing imprisonment, provisions for alternative sentencing, rehabilitation, and child-friendly procedures need to be worked out in detail.

Another weakness of the current system is that the “Ordinance for Handling Administrative Violations” distinguishes between children that are officially registered and those who have no official residence. While the first choice of sanctions for children in conflict with the law with official residence is community education, children with no fixed residence can be sent immediately to reform school. This is probably an reflection of the idea that

institutions are good for children with behavioural difficulties, especially when they have no family to care for them. But such regulations put street children at a legal disadvantage, granting them less legal protection from deprivation of liberty than children with permanent residence. Therefore such regulations need to be revised in order to grant all children the same level of legal protection.

The attitude of police constitutes another challenge for the reform of Viet Nam’s juvenile justice system. Training workshops for police officers and awareness-raising campaigns have significantly improved the conduct of Vietnamese police towards children in conflict with the law. However there are still reports of beatings of children by the police: “Children who are caught stealing might be beaten. Sometime the police beat the children, but more often it is the people on the street who do it.”<sup>74</sup> Surveys of street children reveal fear of being arrested by the police, as harsh treatment, including shouting and beating, might take place. It should be noted, however, that the level of violence against children in Viet Nam seems to be considerably lower than in many other regions of the world. There are no reports of police torturing or “disappearing” street children, as occurs in some Latin American countries.

Another concern regarding juvenile justice is the right of children to due process, which may be violated during police raids:

There is also some evidence that legal procedural rights may not be adhered to when the police arrest children. Nowadays, police frequently make raids of parks and other places where kids gather to use heroin. They sweep the entire place and arrest everyone using heroin. They take them to the police station and process them quickly and send them to temporary detention centres. The first time the child’s family hears is when the police arrive to tell them their child has been sent away.<sup>75</sup>

Also, the right of children in conflict with the law to a lawyer is a fundamental condition for appropriate defence and needs to be strengthened.

Finally, it is not clear whether community-based education programmes for juvenile offenders ensure sufficient privacy to protect a young person from stigmatisation and public shaming. While administrative sanctions by nature do not create a criminal record for the accused, files about administrative procedure are widely distributed among agencies and are maintained by all actors involved: People’s Committee, police, mass organisations.<sup>76</sup>

## Child Victims of Violence and Abuse

The State also regulates and protects children’s rights when a child becomes a victim of violence or abuse. Viet Nam’s children face considerable abuse in and outside their family, both as victims and witnesses of (domestic) violence. The level and frequency of physical abuse against children at home is as high as in other countries of the world, and thus of great concern: 70% of 2,800 children interviewed as part of a recent

UNICEF-supported study on child abuse reported spankings; more than half of the children were beaten with an object (51.4%), and 16.2% had experienced a physical attack by an adult.<sup>77</sup>

In the past, legal protection for children from some forms of child abuse was mentioned in more than 30 laws, policies and regulations. But there is no law specifically prohibiting child abuse in Viet Nam. Physical assault of persons is recognized as a crime in the Penal Code of Viet Nam. An assault is considered to have occurred when more than 11 percent of the victim's body is injured.<sup>78</sup> This regulation also applies if the victim of the assault is a child, in which case punishments are significantly more harsh. But this definition means that only severe violence against a child is considered a crime. For example, breaking the limb or the nose of a child, or harming the child by creating a permanent disability constitutes a criminal offence. However if the child has bruising over his hands, face, head or other parts of the body, welt or cuts due to whipping or beating or blisters caused by an adult who intentionally burned the child, this is not liable for legal prosecution. Therefore, current laws need to be revised in order to fully protect children from physical harm.<sup>79</sup>

When a child faces violence in his or her family, the hamlet leader or other senior members of the community, including the police, the Women's Union or local staff from the Committee of Population, Family and Children (CPFC) usually meet with the parents to urge them to improve their treatment of the child. If the situation doesn't improve, they will suggest that the parents place their child in another household or in an institution. Children cannot be removed from their family against the will of their parents, except by court decision. While this community-based system of child protection is a positive protective factor, it may need further strengthening:

...current law and practices in relation to protecting children from physical abuse within the home may not be sufficient to adequately protect children at risk of harm or risk of further harm, particularly in cases where parent-offenders deny there is a problem. Similarly, the current practices and procedures responding to cases of child physical abuse appear to lack formality. Clear statutes for intervention and specialist training for those intervening in cases of suspected child abuse may significantly improve the responses to children...<sup>80</sup>

In the past the CPFC and the WU have conducted information campaigns to promote child rights and protection of children from violence and neglect, often with support from UNICEF and other international non-governmental organisations (NGOs). According to the UNICEF evaluation study mentioned above, these campaigns have resulted in raising some awareness regarding violence and abuse of children in communities and within the professional staff working for children and families. However they have not yet been sufficiently sustained and powerful to propel a broad-based change in detrimental behaviour patterns. The general population still regards beating as an important measure to educate and discipline children, and it appears that the common understanding of "child abuse" is limited in practice to the rape of girls.

## 4. NON-DISCRIMINATION AND EQUITY

The principle of "non-discrimination" is intimately linked to the principle of "universality." If the latter strives towards the establishment of legal, ethical and moral standards, then "non-discrimination" draws attention to the practical fulfilment of human rights: all human beings should be able to enjoy the fulfilment of their rights. One of the biggest barriers to the full realisation of human rights is poverty.

The State, as guardian of the common social good, is crucial to fulfilling the principle of non-discrimination. It is a public duty to guarantee all children their right to grow up in dignity and with opportunities to lead a productive and happy life. But all adults, especially those with adequate income and assets, share a duty to contribute to the fulfilment of the rights of all children in any given society. Article three of the CRC particularly emphasises the responsibility of both public and private sector to consider the best interest of the child in their actions.

A primary implication of the non-discrimination principle for policy-makers and programme design and delivery is the importance of offering equitable access to social services, justice and participation to all groups of the population. Therefore, special attention needs to be given to children who are economically marginalised, belong to socially discriminated groups or are otherwise excluded from the full realisation of their rights.

Discrimination against and marginalisation of certain groups of people results from a combination of economic, social, cultural and political factors. Worldwide, poor families, women and certain ethnic groups face special social and economic obstacles to the fulfilment of their rights. In addition, HIV/AIDS both results from and exacerbates social exclusion and discrimination. Hence, rights-based programmes must focus their service delivery, technical assistance and advocacy on improving the situation of these excluded groups. Rights-based programs aim to reach the unreached.

There are various levels of programmatic response for achieving "non-discrimination." The classical answer to social marginalisation is to improve the delivery of social services and strengthen job creation within comprehensive poverty-reduction strategies. Another type of response is to strengthen social welfare mechanisms and social security systems, such as health insurance, social insurance and pension schemes.<sup>81</sup> Such systems are probably the most sustainable way to minimise marginalisation and discrimination of the population, including children, Economic policies, especially policies of privatisation and 'mobilisation of funds for social services,' must also be examined and their impact on the poor and on social disparities evaluated to assess the need for change.

This chapter describes the successes of Viet Nam's poverty reduction strategies and programmes and the growing social gaps that have resulted from the introduction of a market economy. The analysis includes current approaches to taxation, foreign aid



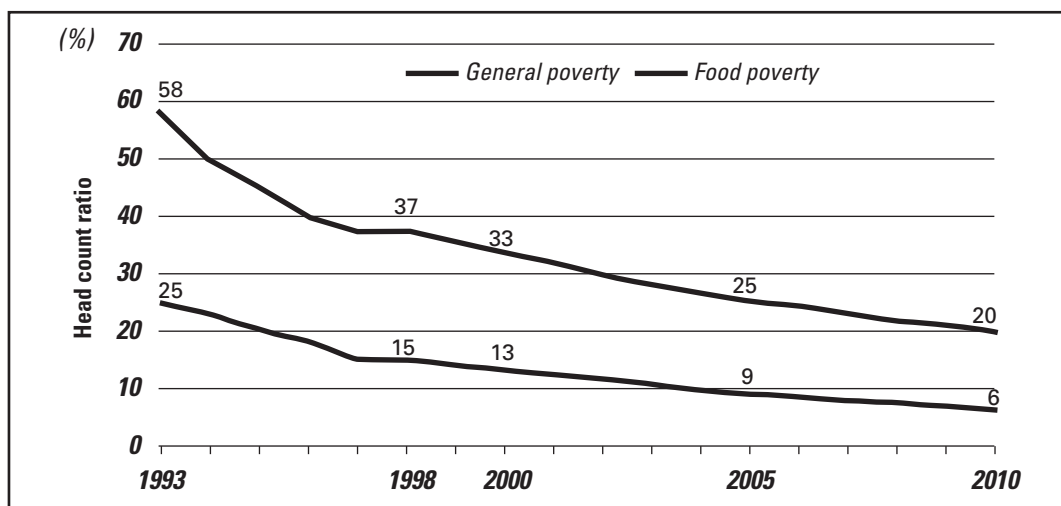
and sector financing, as well as strategies for reforming social safety nets. Special attention is given to the situation of ethnic minority children.

## Successes and Challenges for Universal and Non-discriminatory Fulfilment of Rights in Viet Nam

The Government of Viet Nam has achieved outstanding results in universalising children's social rights. Viet Nam was able to nearly halve poverty, from 58% of the population in 1993 to 37% in 1998. (figure 3) Preliminary results of the national living standards household survey undertaken in 2002 (VLSS) indicate that poverty levels have dropped even further, to the level of 29% of the population.<sup>82</sup>

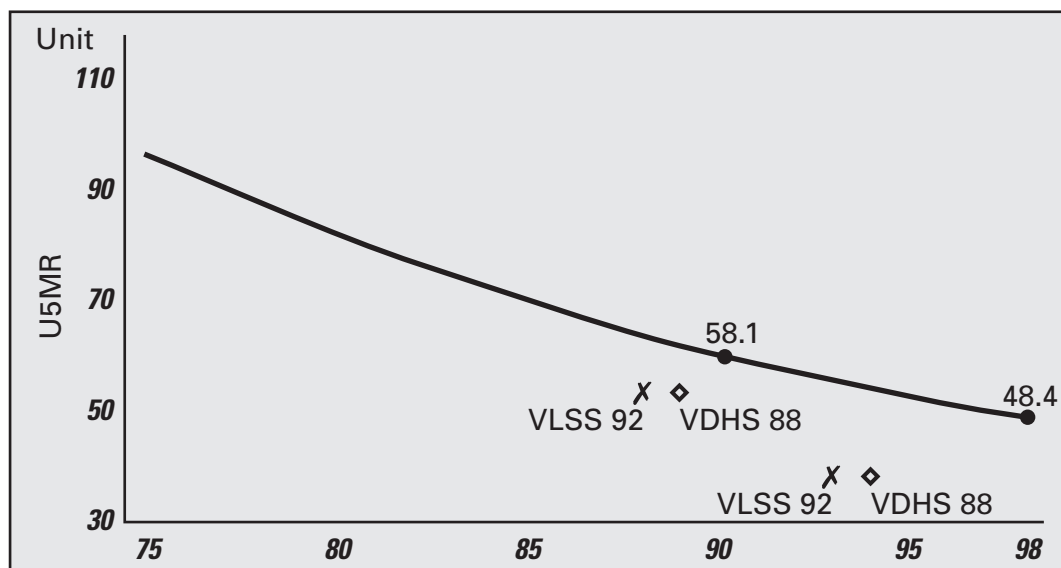
Similarly, under-five mortality rates fell significantly (figure 4) and the percentage of malnourished children was reduced from more than 50% to 33%—a figure that is still very high. (figure 5) Efforts to improve school enrolment have been extremely successful. Viet Nam has achieved a 95% enrolment rate in primary school and is striving towards universalisation of lower secondary education. (figure 6) But improvements in reducing maternal mortality have been much slower, and the provision of clean water and sanitation is insufficient. Only half of the population has access to clean water, only 38% have safe sanitation facilities, and hygiene awareness among the population is still low. (figure 7) But all in all, Viet Nam provides its children with the same or better survival and development opportunities as children born in many countries with higher per capita income. This was achieved in only two decades of rebuilding a country that, in 1975, had been completely devastated by war.

**Figure 3: Projected poverty reduction to 2010 base case assumptions**



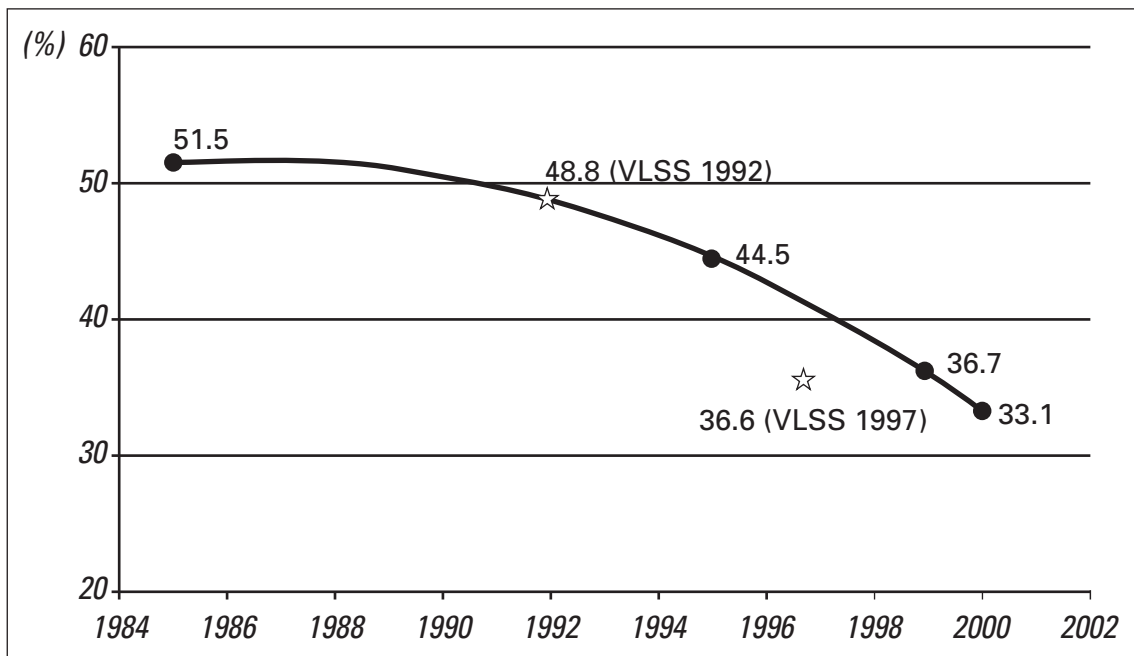
Data Source: CIE estimates based upon VLSS98.

**Figure 4: Trends in under-five mortality**

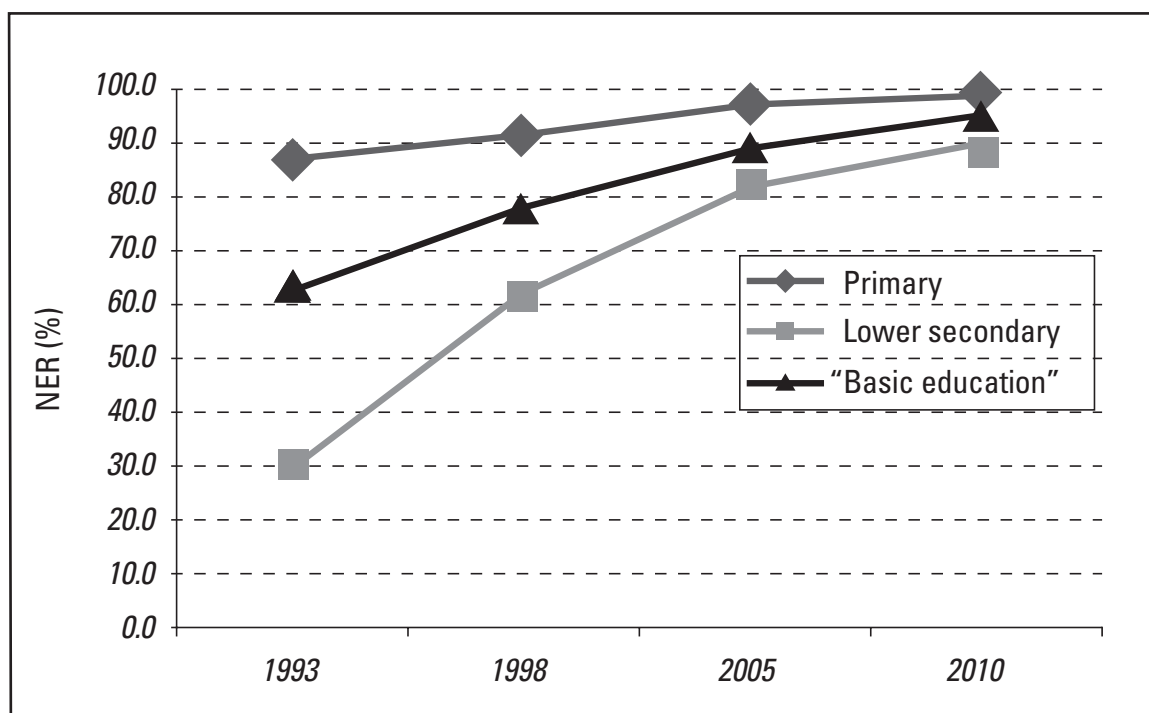


Source: Poverty Task Force - Improving Health status and Reducing Inequalities, p 4



**Figure 5: Trends in malnutrition**

Source: Poverty Task Force - Improving Health status and Reducing Inequalities, p 22

**Figure 6: Net enrolment rates for primary, lower secondary and basic education, 1993–98 and targets for 2005 and 2010**

## Growing Social Gaps

The impressive gains in economic growth and improved living conditions of the Vietnamese population were accompanied by widening social gaps. Rising inequalities are perhaps the most serious unintended and undesired effect of *doi moi*. The second United Nations Report on the Millennium Development Goals in Viet Nam presented data on growing income inequalities. In 1993, the poorest 20% of the population accounted for 8.8% of national income, which dropped to 8% in 1998. During the same period the rich increased their share from 40.4% to 43.7%.<sup>83</sup> The first Human Development Report on Viet Nam devoted considerable attention to this issue:

...the gini coefficient for Viet Nam appears to have risen significantly, from 35.6 in 1995 to around 40.7 in recent years. While this is around the same level as China's income-based gini coefficient of 40.4, it may be of some concern that Viet Nam appears to be reaching such inequalities much more quickly and at a much lower level of average income per capita than China.<sup>84</sup>

Increasing economic inequalities are rapidly transforming into social inequalities. For example, despite general gains in public health, World Bank studies indicate that children of the poorest fifth of the population may have seen no improvement in their survival prospects during the 1990s.<sup>85</sup> (figure 8)

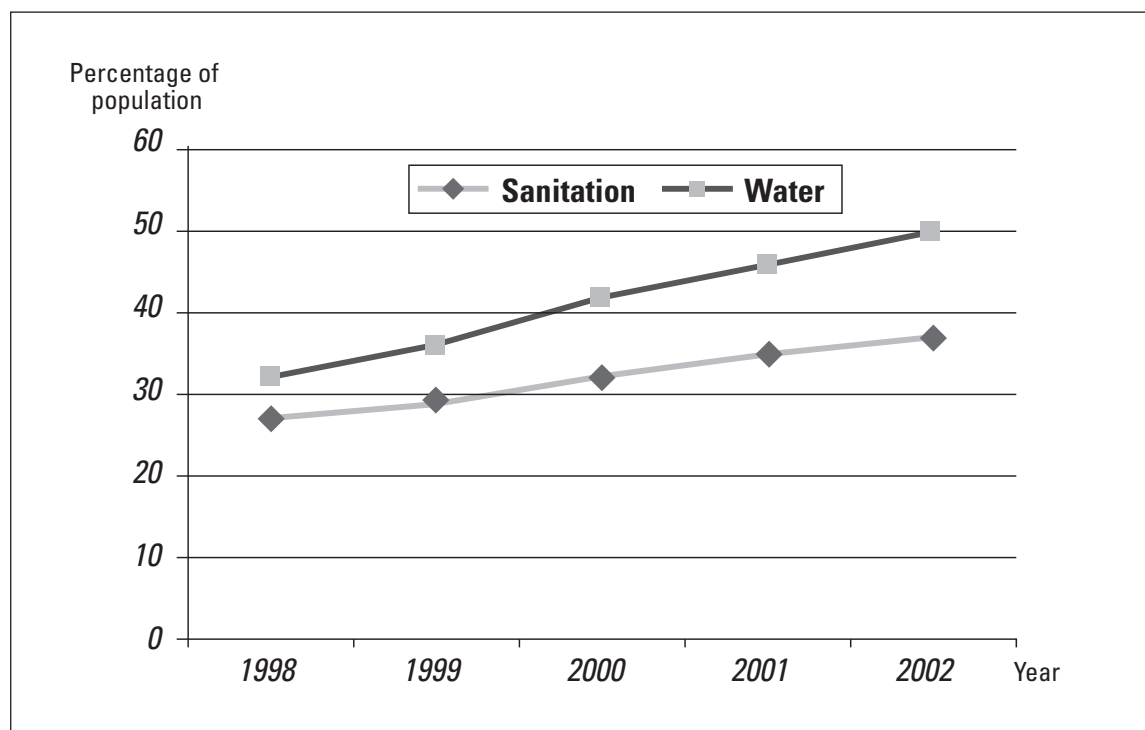
## Unfinished Agenda in Social Policies

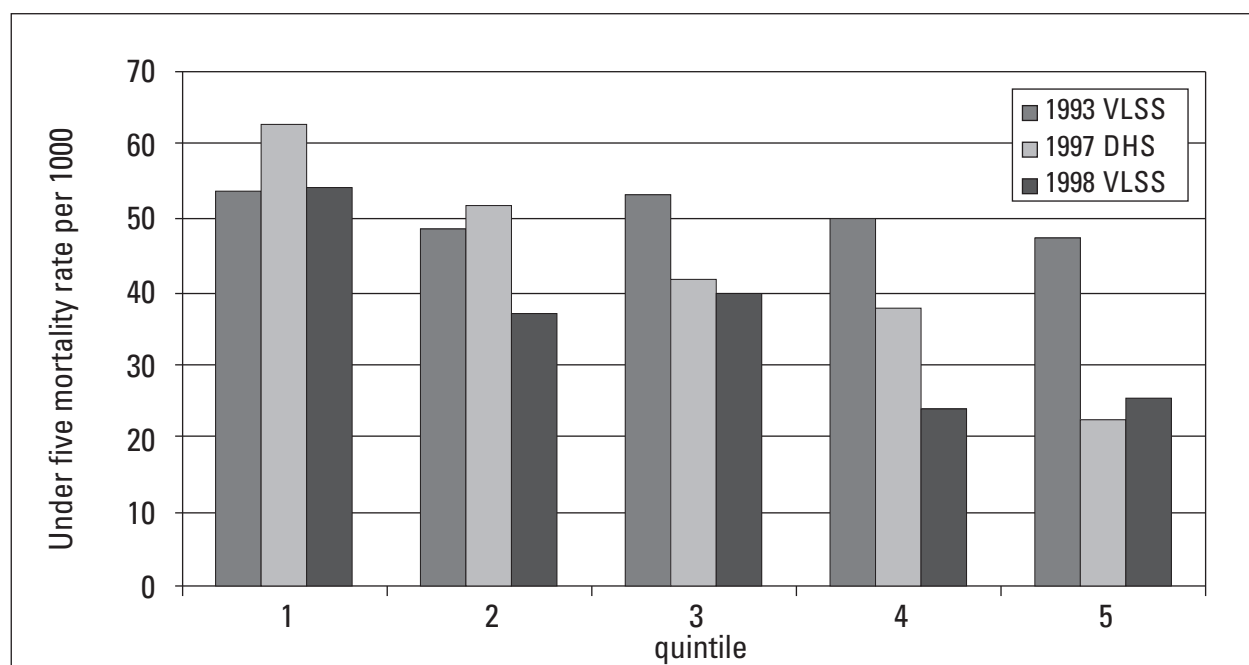
As noted earlier, the success of the Vietnamese State in improving the living conditions of the population is outstanding.

But more needs to be done. The unfinished agenda in social policies and basic social services includes a need to further reduce child malnutrition and maternal mortality rates and to increase access to clean water and sanitation. However, progress in social policies requires profound reforms in the way that social services are planned, financed and delivered. One example is nutrition. Malnutrition among children is not caused only by insufficient food intake, but also by ineffective care practices and inadequate knowledge on the part of caregivers about infant feeding. Diarrhoea and measles can aggravate the nutritional status of children. Therefore, access to clean water and sanitation facilities and protection from communicable diseases are also decisive in determining children's nutritional status. Hence progress in combating malnutrition depends on a number of factors, including parent's access to information, behaviour change in infant care practices and availability and quality of various services.

Another example is centrally planned national poverty-alleviation programmes. Decentralisation of planning, budgeting, implementation, monitoring and evaluation of such programmes is necessary for further gains in poverty reduction. Poor people are increasingly concentrated in specific rural and urban locations, requiring public authorities to direct poverty-alleviation programmes and social safety nets more precisely to those in most dire need. These and other similar examples mean that the traditional vertical and sectoral method of service delivery will not be sufficient to achieve further improvements in children's survival and development.

**Figure 7: National coverage in water and sanitation**



**Figure 8: Improvements in under-five mortality**

Source: Wagstaff and Nguyen Nguyet Nga (2002). VLSS stands for Vietnam Living Standards Survey and DHS for Demographics and Health Survey. Quintile "1" is the poorest and quintile "5" the richest.

## Vulnerability of Past Gains

The positive social results of past macroeconomic reforms are vulnerable to setbacks. Although the percentage of poor among the Vietnamese population has declined sharply, studies have shown that most families still live on the edge of poverty. In 2002, about half of the Vietnamese population (47%) was considered to be poor or close to the poverty line.<sup>86</sup> (figure 9)

The speed and range of social improvements in Viet Nam was intimately linked to impressive annual economic growth rates of between 8–12% over the last 10–15 years. Economic growth has led to significant increases in household incomes, and children were among the primary beneficiaries of rising living standards. But if optimistic economic forecasts are not fulfilled, past gains in human development may be at risk. Since so many citizens live close to the poverty line, marginal reductions in income can drive them back into poverty. Although some of the achievements of the past 15 years could well be irreversible—such as more widespread knowledge about health and improved education levels among the Vietnamese population—improvements in living conditions may be reversed more easily, especially for the poorest 20% of the population. There are already worrisome developments, such as the increase in child mortality rates within this sector of the population.<sup>87</sup> The risk that past social gains may be gradually lost is also high because of increasing under- and un-employment. Every year 1.4 million young men and women enter the labour market, often without appropriate vocational training. Most of these young people will find some kind of employment; but in many cases it will be highly exploitative, not very profitable and sometimes illegal.

Current country assessments by the Government and the donor community point out that future economic growth will not be as pro-poor as was the case in the past, so social gaps may widen still further. The World Bank stated in its 2003 Development Report:

In the absence of vigorous action inequality is likely to increase, maybe substantially, during the new phase of growth. This is because the poverty effects of land redistribution in rural areas are probably reaped by now. At the same time, integration with the world economy will make skills more valuable, so that inequalities in education will translate into increasingly bigger inequalities in opportunities and earnings. The gap between urban and rural areas will widen, as will the gap between those who can fully benefit from globalization and those who are left behind. Increasing inequalities in health cannot be ruled out either.<sup>88</sup>

In sum, what is at stake in Viet Nam's social development today is equity! Therefore, the challenges for public policies favouring universal and non-discriminatory fulfilment of social and economic rights are threefold: to sustain past social gains for the whole population; to obtain further progress in the reduction of malnutrition, maternal mortality and better access to water and sanitation; and to halt the strong trend towards social inequalities. These challenges are especially daunting with respect to Viet Nam's ethnic minorities.

## Financing Social Development

A key factor linked with rising inequalities in relation to access to quality basic social services has been the establishment of a fee-based system for services. This has enabled public institutions to generate their own income, and contributed to the growth of private services for those who can afford them. However, this trend is making it increasingly difficult for poor people to pay for basic health care and to provide their children with quality education.

The Government has generally exempted poor people from direct fees, and this policy is implemented in reality, as assessments at the commune level have shown.<sup>89</sup> But this does not stop school administrations and public health providers from charging indirect fees. To qualify for free services, families must be extremely poor; earning only about US\$100 income a year. There are strong indications that the current modes of social sector financing are not in the best interest of the child,<sup>90</sup> as will be further discussed below.

## Financing Education

Education has been a top priority of Viet Nam's development agenda. Around 4.5% of the gross national income is invested in the education system. This is more than most developing countries spend on education and has been applauded from all sides,

including NGOs who traditionally have a very critical posture towards Government policies. Britain's Oxfam noted:

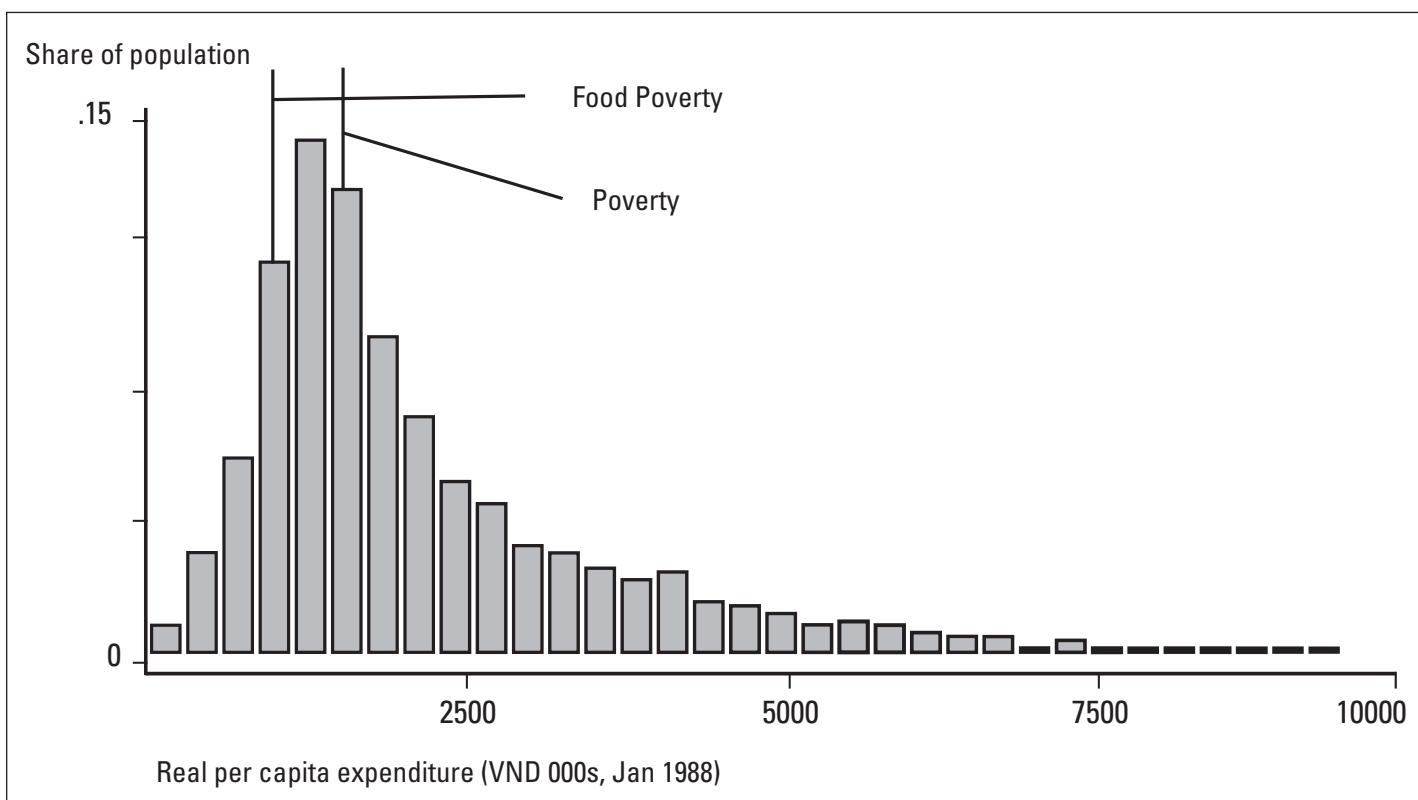
"Expenditure on education dramatically increased to around 15 percent of total public expenditure by the late 1990s. Within this there has been an overall increase in the proportion of expenditure allocated to basic education. This trend to shift public expenditure from higher to lower education levels presents an important contribution to equity, as participation of the poor is largest in lower grades."<sup>91</sup>

The Government of Viet Nam plans to increase investment in education even further—to 18% of the total state budget in 2005 and up to 20% in 2010 (6.9% of GDP). A significant part of the increased expenditures for education will be financed from contributions by parents, communities, the private sector and ODA. While the Government budget covered over 70% of all costs of the education sector in 2000, this share is now set to decrease to slightly over 60% by 2010, leaving nearly 40% to come from "non-government budgets."<sup>92</sup>

In order to achieve the necessary "social mobilisation" of funds, the Government issued Decree 10 in 2002, allowing public service providers to manage their own budgets and charge fees to their clients. The Decree is an instrument designed to shift from centrally controlled budgets and give local staff more decision-making power over financial and human resources. But in the education sector there are limitations on adjustment.

## Figure 9: Structure of poverty

### Distribution of household well-being relative to poverty line in Viet Nam



Source: Poverty Task Force - Reducing Vulnerability and Providing Social Protection. Strategies for Achieving the Viet Nam Development Goals. Hanoi 2002, 4

The largest block of costs in school management is salaries, which are determined by official national salary scale. The number of teachers in any given school depends on the official ratio of teachers to pupils and on the curriculum. Therefore the discretion school administrations possess, in reality, is to pay their staff additional bonuses and to improve the physical environment of schools with additional funds raised from parents and communities.<sup>93</sup> This means that: (a) fund-raising becomes the most important tool for school development, and (b) schools in economically developed areas will have far more potential for raising their standards than schools in poor communities. As stated before, the policy exempting poor children from school fees is generally respected in Viet Nam, although its application might not be “sufficiently robust in areas with more localized poverty.”<sup>94</sup> However, even if poor families do not have to pay a direct fee, indirect fees for construction, school activities, textbooks and utilities may be unaffordable for them. This generally affects school attendance of girls first.

The main challenge for education financing is to ensure sufficient government funding for a basic standard of quality for primary schools in poor and remote communities that cannot raise contributions from their very poor constituencies. This will be a difficult task for many primary schools because the current state budget has placed priority on pre-schools. Budget allocations, especially for schools in poor and remote areas, will have to increase in order to avoid a deeper quality gap in education. Viet Nam will have to prevent a situation in which the poor have access only to miserable schools while the better-off can send their children to high-quality educational institutions.

## Health Sector Financing

The situation in the health sector is significantly different from that of education. Although the coverage of Viet Nam’s community healthcare network is better than that of most developing countries,<sup>95</sup> overall public investment into healthcare in Viet Nam is one of the lowest in the world. The State spends less than US\$4 per capita (less than 1% of gross national product in 2001) on health care for its citizens. This situation creates a threat to the right to health, as the United Nations in Viet Nam has pointed out: “The current health financing system in Viet Nam has led to increasingly inequitable access to health care and to health inequalities.”<sup>96</sup>

This chronic under-funding of the health sector creates strong pressure to mobilise additional funds from clients, and has led the Government to allow private healthcare providers to operate in the country. The introduction of user fees in the public healthcare system started in the early 1990s. Data on hospitals reveal the profound impact of this measure: revenues from user fees and health insurance accounted only for 10% of hospital budgets in 1991—seven years later such income made up more than 50% of the budget of central, provincial and district hospitals.<sup>97</sup> Private health services began operating in 1986; the pharmaceutical sector was deregulated in 1989.<sup>98</sup> According to data from the Ministry of Health, in 2001 there were already more than 56,000 private health providers operating in Viet Nam, mainly medical doctors (48%) followed by drug stores (32%) and traditional practitioners (17%).

The consequence of this private/public healthcare mix is that so-called “out of pocket” expenditures for health became “by far the most important source of financing in Viet Nam.”<sup>99</sup> As only 13.5% of the Vietnamese population is covered by health insurance, the current structure of healthcare financing severely restricts the ability of poor families to access quality healthcare services. “Waivers and ceilings were introduced to protect the poor from user fees, but they have not led to the desired results in terms of free access to curative health care.” And: “There is evidence that many Vietnamese, and especially the poor, have dramatically switched away from professional health care to cheaper providers, such as drug vendors and traditional healers.”<sup>100</sup> Estimates suggest that out-of-pocket spending for medical care has contributed significantly to poverty—approximately 2.6 million Vietnamese lived in extreme poverty 1998 because of the health expenditures they had to incur.<sup>101</sup> The World Bank Development Report defined illness as a main cause for impoverishment in Viet Nam.<sup>102</sup>

Current epidemiological trends aggravates this situation. Injuries and accidents have become a leading cause for death and sickness in Viet Nam and the health costs associated with injuries, as well as the loss of family income due to inability of a breadwinner to work, create a “catastrophic” situation for affected households, if they are poor.<sup>103</sup>

From a human rights point of view the situation is critical, because a sick person doesn’t have much choice—he or she has to pay for the service immediately or risk severe consequences for his or her health status. In the absence of insurance, health costs cannot be planned, as can costs for education. Poor families often have to take emergency loans with high interest rates to cover medical expenses of a sick or injured family member. Therefore sickness can drive them deeply into poverty under the current regime of health care financing.

Another “rights based” concern is the laissez-faire attitude of the State towards the private sector. The lack of “both a strong legal framework for the private sector and enforcement capacity” of the State has allowed serious violations of the right to health by private institutions: some private doctors are prescribing unhealthy quantities of medicines, such as antibiotics, and private vendors are selling spoiled drugs.<sup>104</sup> In responding to concerns of the Committee on the Rights of the Child about the impact of the *doi moi* process on children, UNICEF-Viet Nam has pointed out: “For both private and public services, however, adequate monitoring, effective supervision and in-service capacity development are key issues of concern.”<sup>105</sup>

Given the circumstances described above, the United Nations has recommended caution in the application of Decree 10 and further liberalisation of the health system:

It is recommended that the government does not consider public health providers, including hospitals and medical centres, to be ‘revenue-raising public service entities.’ The implementation of the Decree will result in harm to the health of both the individual patients and the public.<sup>106</sup>

The World Health Organization (WHO) has gone even further, recommending a profound reform of Viet Nam's health-financing systems to ensure equitable access and affordability of health services.<sup>107</sup>

## Financing Water and Sanitation

The impact of financing modalities in water and sanitation on poor families' access to quality services has not received the same attention as that for education or health. Recent assessments by UNICEF, however, suggest that current patterns of investment and cost-recovery tend to exclude ethnic minorities from access to drinking water, especially if they live in sparsely populated, remote villages. Investments in water supply concentrate on high-density areas such as centres of communes or districts. In economic terms this is a logical choice. Provision of water services in such areas reduces the per capita cost of water supply, while investing in poor and geographically isolated places would cost more than usual.<sup>108</sup> But even families who live near commune or district towns are often too poor to afford cash contributions to water facilities. Therefore, public investment patterns and priorities, as well as subsidies for poor ethnic minority villages, will have to be reconsidered in order to provide unreached families with clean water.

## Reform of Social Safety Nets

To achieve equity, the Government of Viet Nam will have to pursue a strategy of reform of its current social assistance and welfare policies. Analysis of existing social safety nets shows that the coverage of these programmes is quite limited and that, in most cases, the majority of beneficiaries belong to the richer quintiles of the population. Hence, it is necessary to reform these programmes to achieve better targeting of the poorest 20–40% of the population. (figure 10)

## Ethnic Minorities and Inequalities in Education

The growing social gaps especially affect ethnic minorities in all areas of life. The UN Report on Millennium Development Goals stated that "out of the weakest performing 12 provinces in the MDG ranking, seven include a majority of ethnic minority population."<sup>109</sup>

The life of many ethnic minorities is full of hardship. They live in remote places that often lack access to roads, electricity and water. Most of them practice traditional agriculture, and do not produce enough to feed their family throughout the year, so that some families face the risk of hunger and thirst for several months a year.

**Figure 10: Social Safety Net Coverage**

Average benefits from social protection / poverty reduction programmes, by consumption quintile											
Consumption quintiles		Social insurance		Social subsidies		Education scholarships		Poverty alleviation programmes		NGO assistance	
		Incidence	Average level of benefit	Incidence	Average level of benefit	Incidence	Average level of benefit	Incidence	Average level of benefit	Incidence	Average level of benefit
5	Richest	13.9%	1,010,353	7.3%	251,192	5.6%	141,286	0.2%	327,000	0.1%	443,000
4		12.1%	903,628	10.0%	175,030	2.7%	103,926	0.9%	92,111	0.2%	143,000
3		11.6%	849,509	9.6%	182,875	1.9%	97,684	1.3%	46,692	0.3%	112,667
2		9.1%	745,967	9.4%	181,074	0.8%	96,500	2.1%	76,190	1.2%	42,333
1	Poorest	9.5%	731,642	11.6%	196,422	1.1%	105,273	6.4%	41,438	0.5%	206,000
Average, all		11.2%	867,366	9.6%	194,156	2.4%	120,875	2.2%	57,636	0.5%	104,200

Source: Poverty Task Force



Practically all social indicators confirm the general disadvantage of ethnic minorities in Viet Nam. Around 75% of ethnic minority people live in poverty—compared to 31% of the Kinh majority.<sup>110</sup> The infant mortality rate (IMR) in provinces with a high percentage of ethnic groups among the population tends to be much higher than the average. For example, the IMR in Kon Tum is eight times higher than that of Ho Chi Minh City or Hanoi. The picture for child malnutrition rates is similar.

Disparities in education are also of great concern. An assessment of local health and education services for ethnic minorities conducted by the Committee for Ethnic Minorities (CEM), with support from UNICEF, revealed deplorable conditions for ethnic minority communes:

Classrooms in most villages were nothing more than temporary bamboo structures, and everywhere there was a shortage of tables and chairs. Most teachers complained they did not have adequate resources and many were forced to make their own teaching aids and purchase additional teaching manuals with their own funds.... There were far too few dormitory rooms at district schools, meaning a large number of students were forced to spend the year in temporary structures built with the help of their parents. Those that could afford rooms often had to put up with cramped and dirty conditions, using their beds as desks, kitchen tables and places to sleep.

Accommodations for most teachers was no more than three square meters of personal living space shared with two to three others. Married couples and long-time teachers were afforded private housing. Utilities everywhere were substandard and bathrooms were dirty and unhygienic. Many communes were not hooked up to the national power grid, and generators only provided electricity for a few short hours at night. When the power cut off, many teachers continued to prepare classes using oil lamps. Many teachers and students often bathed in streams, putting their health at risk from contaminated water...In some areas, the level of unqualified teachers reached 50 per cent...Vietnamese-speaking teachers had difficulty communicating with students in ethnic minority areas and as a result the quality of education suffered. In addition, most textbooks were only available in Vietnamese, and work could not be submitted in their own language.<sup>111</sup>

The World Bank has pointed out very clearly that inequalities in education will be a major factor in fuelling further growth of social gaps in Viet Nam—inequalities in enrolment and achievement will translate into greater inequalities in income and professional opportunities in years to come.<sup>112</sup> Given current disparities in access to quality education, the disadvantages of ethnic minorities may become even worse in the coming years. Enrolment rates among ethnic minorities are almost 10% lower than those of the Kinh majority.<sup>113</sup> In particular, enrolment rates for secondary education reveal high disparities.<sup>114</sup> Although Vietnamese education statistics show only a tiny gender gap, educational opportunities for girls from ethnic minorities seem to be unequal: Around 70 percent of all school drop-outs in ethnic minority communes are girls!<sup>115</sup>

An important aspect of the rights of ethnic minority children is to receive education in their native language. Within a HRBAP, bilingual education is considered to be a key aspect of non-discriminatory fulfilment of the right to education. The Vietnamese State recognised the right of ethnic minority people to bilingual education very early on. After the foundation of the Democratic Republic of Viet Nam in 1945, the Vietnamese Government immediately introduced Vietnamese in schools and universities, substituting for the dominant French language. A year later the first Constitution of Viet Nam established the right of ethnic minorities to use their mother tongue in primary school. This right was underlined in all subsequent Constitutional Reforms, and since then public policies have always supported bilingual education in primary school. Nevertheless implementation of policies and distribution of ethnic minority language texts has been slow, and numerous Government Decrees have called for better implementation of bilingual education in ethnic minority locations throughout recent decades.<sup>116</sup>

A major impediment for ethnic minority children's transition and acceptance into lower secondary schooling is the ethnic minority curriculum itself. Although a new national standard primary school curriculum for children from ethnic minorities was introduced during the 2002–03 school year, it will only cover all five primary school grades by the 2006–2007 school year. In other words, ethnic minority children will continue to learn from a 120-week curriculum, compared with the 165-week curriculum of the Kinh majority. The former only covers three subjects, whereas the latter covers nine subjects. As far as the number of instructional lessons are concerned, Kinh children receive 4,801 lessons during the five-year period whereas ethnic minority children receive only 2,160—or less than half the number of lessons enjoyed by majority children during their primary school cycle. Since all children eligible for lower secondary education must pass a standardised test, it is not surprising that a relatively small number of ethnic minority children qualify for the next level of learning. Another important factor behind low enrolment at the lower secondary level is the shortage of facilities and qualified teachers, particularly in the poorest regions and communities, which are often located far-distant from the nearest lower secondary school. This, again, has an effect on enrolment of certain minority groups, particularly for girls, who have to live in boarding facilities far from their homes.<sup>117</sup>

## Social Unrest

Academic researchers suggest several reasons for Viet Nam's ethnic disparities. First, there are objective reasons, such as the geographical isolation of remote ethnic minority villages, poor quality of land and lack of irrigation and water supply, all of which put them at an economic disadvantage. Second, there are subjective reasons, such as lack of education and experience in productive agricultural practices. In some cases there may also be political reasons for marginalisation of ethnic minority groups. During the war of independence several ethnic groups collaborated with the French and the Americans, so that their social and economic welfare might not be very high on the Governments development agenda.<sup>118</sup> Today, the Government is massively increasing its material support for ethnic minorities through several poverty-reduction programmes. But it is not

clear how effective existing vertical and non-participatory policies and programs for ethnic minorities will be in addressing their needs and rights.<sup>119</sup>

The difficult social situation faced by ethnic minorities contributed to ethnic minority protests in the Central Highlands of Viet Nam in 2001. Similar social unrest had occurred three years earlier. In 2003, Human Rights Watch issued a report and a briefing paper charging Government security forces with excessive use of force and detention of 200 ethnic minority citizens (“Montagnards”) between 2001 and 2003. Similar information was reported by the U.S. Department of State in 2001 and 2002.<sup>120</sup> The main accusation against the Vietnamese Government was suppression of Protestant sects (“Dega Protestantism”) and violation of the right to freedom of religion. However, it is not clear whether anti-Communist groups of overseas Vietnamese fostered these protests. While the protests probably reflected frustration among ethnic minorities over their difficult living conditions, slow social and economic progress and corruption of local officials, anti-revolutionary cadres among certain ethnic minority groups trained by French and U.S. military forces during the Viet Nam War may have deliberately fuelled the anger. Similar strategies of introducing ultraconservative religious sects and churches in indigenous groups have been used in counterinsurgency tactics in Latin America. U.S. NGOs working in Viet Nam, as well as the policy research and analysis service Oxford Analytical, have shared the concerns mentioned above but put them into perspective: the general trend in Viet Nam regarding respect for human rights is positive. “While there is no denying that the government takes an uncompromising line towards its perceived opponents, the heavy attention to dissident activity in foreign media provides a misleading picture of Viet Nam’s policies.”<sup>121</sup>

## 5. INTER-DEPENDENCE AND INDIVISIBILITY OF RIGHTS

Human rights are based on a holistic view of the human being. The achievement of human dignity is the vision behind human rights. The realisation of human dignity encompasses the political aim of fulfilling all rights because all rights are interconnected. The principles of “interdependence” and “indivisibility” point to the synergies among different rights. Human rights mutually enforce each other. Indivisibility also means that one right should not be achieved by suspending another one. As one colleague in UNICEF has put it:

The principle of indivisibility also means that you don’t divide existing rights into a part you care about and a part that you don’t care about (or resolve to care about later). In practice this means that you don’t achieve one right by infringing on another. I believe, in this sense, this principle has wider implications, especially in countries with much Government interference, where social progress is—perhaps sometimes—being achieved by restraining the enjoyment of other rights.<sup>122</sup>

Interdependence and indivisibility of rights are the human rights principles that pose the most stubborn obstacles to implementation in development programmes. Their conceptual implications may be easier to address in the world of laws than in development programming. Budgets and human resources for development activities are limited; priorities must be set, thus certain rights are implicitly or explicitly ranked over others: “...there is no hierarchy of rights. Nonetheless, scarcity of resources and institutional constraints demand that actions to realise rights must be prioritised. This often means policy choices.”<sup>123</sup> Furthermore, the idea of interrelated realisation of rights poses serious management problems for policymakers and development programmers. Well-coordinated implementation of comprehensive, inter-sectoral programmes is very difficult because state apparatuses are usually sharply divided by sector and managed along vertical, not horizontal, lines. State programmes prevail in many countries. In addition, strong advocacy is required around the concept of indivisibility of rights when rights violations occur. This may hamper smooth implementation of development programmes and can generate conflict with governments.

### Comprehensive Policy Frameworks and Interdependence of Rights

Since socialist ideology is grounded on a holistic approach towards society, and socialist state bureaucracies have a “natural” preference for comprehensive long-term planning, Viet Nam has developed a number of comprehensive policy approaches for the fulfilment of all types of rights. There is a ten-year socio-economic strategy and a five-year socio-economic plan. Both are paramount for Government action and their implementation is regularly monitored by the Party, the National Assembly and the Prime Minister. Although these plans contain

a broad set of development goals, including goals for social development, the key priority of public policies is clearly economic growth and industrial development.

A subset of national development goals for children is contained in the National Plan of Action for Children. In 1991, Viet Nam adopted its first Plan of Action for Children (figure 11).<sup>124</sup> The plan addressed exclusively the basic needs of children, and was complemented by the formulation of sub-national programme

plans of action for children in each of the country's 53 provinces by the end of 1993. Ten years later, a new Plan of Action for Children 2001–10 was issued (figure 12), containing goals from the previous Plan (1991–2000) but expanding their number from 21 to 37, including a number of new areas in child protection, media and information, and recreation. The expansion of goals and areas reflects a growing awareness of the complexities of children's rights, as well as of the increasing social problems faced by certain groups of children and families in Viet Nam.

**Figure 11: Goals for National Programme of Action for Children 1991–2000**

Goals for the National Programme	Progress in 1991	Progress in 2000
1. To reduce under-1 mortality rate to less than 30 per 1,000 live births	46	36.7
2. To reduce under-5 mortality rate to less than 55 per 1,000 live births	81	42
3. At least 80% of under 5 year old children suffering from diarrhoea use ORS		97
4. At least 90% of children 1 years of age immunised against 6 preventable diseases (EPI)		95
5. To reduce maternal mortality rate relating to pregnancy to below 70 per 100,000 live births	110	100
6. At least 65% of women use modern contraceptive methods	40	
7. To reduce malnutrition rate among children under 5 years of age to less than 30% (weight/age)	51.5	33
8. To reduce the low birth weight of below 2,500 gr. Down to below 10 per cent.	14	8
9. At least 90% of children at the age of 14 complete primary education.	90	
10. 90% of children complete grade 3 when reaching the age or 14.		94
11. The repetition rate among primary school pupils is less than 5%.	13	2.5
12. At least 14% of children under 3 years old go to nursery school.	12	12
13. At least 40% of children aged 3–5 go to kindergartens.	32	42
14. At least 93% of people aged 15 and above are literate.	88	94
15. At least 200,000 people participate in the anti-illiteracy programme every year.		220,000–280,000
16. 100% of returned children to receive financial support and to reintegrate in community life.		100
17. At least 70% of orphans to be taken care of in community or in social support centres.		70
18. At least 70% of disabled children to receive health check-ups and functional rehabilitation		45
19. At least 82% of population has access to safe water.	29	52
20. At least 65% of households have access to hygienic latrines.	24	44
21. At least 50% of provinces and districts have playing centres or cultural houses for children.		51

**Figure 12: Goals for National Programme of Action for Children 2001–2010**

Goals for the National Programme	Progress in 1991	Progress in 2000
1. To reduce under-1 mortality rate	36.7	25
2. To reduce under-5 mortality rate	42	32
3. At least 95% of children 1 years of age immunised against 7 preventable diseases (EPI)	95	95
4. To reduce maternal mortality rate relating to pregnancy	100	80
5. To reduce malnutrition rate among children under 5 years of age (weight/age)	33.1	20
6. To reduce the low birth weight of below 2,500 gr. Down to below 10 per cent.	8	5
7. Rate of children going to primary school at right age	95	99
8. Children at the age of 14 complete primary education.	76	95
9. To ensure that 80% of children in especially difficult circumstances complete primary school		80
10. To increase lower secondary school completion	70	75
11. Children under 3 years old go to nursery school.	42	55
12. Children aged 3–5 go to kindergartens.	85	95
13. People aged 15 and above are literate.	94	100
Percentage of displaced orphans to be taken care of	70	100
Percentage of children in difficult circumstances to be taken care of	70	
Percentage of disabled children to be taken care of		
-Surgical operations	80	95
-Functional rehabilitation	45	70
-Reintegration education	—	40
Reduction of child injuries		To a minimum number
Reduction of drug abused children		90
Reduction of street children		
-Child-beggars or those working in dangerous, hazardous conditions		90
-General - street children to be cared for and returning home	70	
Sexually abused children or children sold for prostitution		Gradually reduced
Trafficked children		Basically reduced
Reduction in the rate of children in conflict with the law		
-Children committing serious crimes	90	
-Children in conflict with the law	70	
Percentage of children having birth registration certificates	72	90
Percentage of rural population having access to safe water	37	85
Percentage of urban population having access to safe water	73	90
Percentage of rural households having access to sanitation facilities	32	70
Percentage of urban households having access to sanitation facilities		90
Percentage of school having access to clean water and sanitation facilities	66	100
Percentage of provincial and district towns having play centres for children.	50	100
Percentage of communes/wards having standard playgrounds for children	30	50
Number of publications for children	175	380
Number of television hours for children (in hours)	182.5	182.5
Number of radio hours for children (in hours)		1.764
Number of schools having adequate physical educational facilities (schools)	9,000	11,400

Another important instrument with significant potential for realising the principle of interrelatedness of human rights and child rights are poverty reduction strategy papers (PRSPs). Governments have to develop PRSPs to obtain loans from the World Bank. In Viet Nam, the PRSP is called “Comprehensive Poverty Reduction and Growth Strategy” (CPRGS), and was developed during 2001–02 in a very open and participatory process involving the World Bank, the Government of Viet Nam, donors and development agencies, as well as local stakeholders. Early drafts of the CPRGS hardly referred to children or social policies, but advocacy by UNICEF and other UN agencies and partners helped to introduce social issues into the document. This has resulted in a technical upgrading of social issues in the CPRGS, as well as in greater prominence of child-related issues throughout the strategy paper. The final paper contained detailed goals and strategies for coverage and quality of services for children in areas such as child health and nutrition, water and sanitation, HIV Aids, education and injury prevention. Also, specific text related to children in need of special protection was added. However, the rights of adolescents and young people are still not mentioned in the text, and overall the CPRGS has little “rights base.” For example, it lacks accountability measures in the event that the government fails to implement the strategy. Despite the presence of a monitoring mechanism for Government and international agencies, there is no recourse allowing poor people to hold the government accountable. Rights-based analysis of the CPRGS acknowledges a strong emphasis on non-discrimination and grassroots participation. But the document does not address violence and abuse against women and children and “there is nothing in the document to imply that the Government sees itself to be under any obligation under human rights law to carry out the measures described in the Strategy. Consequently, there are few references to follow-up measures and how the Government and its staff are to be held accountable if obligations are not respected.”<sup>125</sup>

UNICEF-Viet Nam has not taken the PRSP process very seriously in the past, thus UNICEF’s presence during the process was weak. In addition, there seems to be a lack of understanding and consensus on HRBAP even among UN agencies, so there was no common position on the part of the UN system in Viet Nam towards the CPRGS with regards to rights-based programming. Also, many bilateral and multilateral organisations did not take HRBAP seriously into account, with the exception of Sweden. While the U.K.’s Department for International Development (DfID) and Swiss Cooperation work on this issue at the headquarters level, this commitment did not translate into visible action towards the adoption of a HRBAP for Viet Nam’s CPRGS by these actors at the country level.

If future PRSP exercises are to become more rights-based, then UNICEF needs to work more on this issue with the World Bank at both the headquarters and country levels, and the HRBAP should become a common standard of programming for all UN agencies. The process of UN Reform, especially attempts to harmonise and simplify procedures, could be an opportunity to advance the HRBAP in the UN system as a whole.

## Indivisibility and Vulnerability of Rights

It has been stressed that under the principle of indivisibility, one right cannot be suspended in order to achieve other rights or interests. However this principle is debated and contested in Viet Nam, as shown in Chapter 4. Rights of certain groups of the population can be suspended if this is perceived to be in the higher interest of the State. One example is the isolation of injecting drug users and commercial sex workers in camps to protect the right to health of the general population from the threat of HIV/AIDS. Another example was a Government decision in August 2003 to take all “wanderers, beggars, child job seekers” into social protection centres before the SEA-GAMES, a high-level regional sporting event hosted by Viet Nam in December 2003.<sup>126</sup> Wandering, begging and working on the street are not a legal offence under national law. Hence the potential deprivation of liberty of persons that have not committed any offence constitutes a violation of rights. At the same time, the decision was obviously guided by a spirit of improving the situation of street children through accelerated programmes of community-based reintegration and alternative care for children. The Government aimed to find “suitable solutions” for children and adults on a case-by-case basis, by encouraging “families with good conditions to receive and take care of these people in the family” and promoting “models for sponsorship and care of orphans,” with the aim of “creating awareness-change in the community and society.” This decision depicts the ambiguity of the current situation, in which citizens’ rights can be suspended in the interest of projecting a positive image of Viet Nam to international visitors. But at the same time concerned authorities also sought to safeguard some rights of children lacking primary caregivers. It should be noted that the Vietnamese press criticised this decision, which in itself reflects greater freedom of the press and growing concern for the rights and well being of children in public life.

Another group of Vietnamese children and adolescents that are far from enjoying full and universal realisation of their rights are those infected and affected by HIV/AIDS. The current Government approach towards HIV/AIDS is to label the disease as “social evil,” a policy formulation dating back to 1993 and the promulgation of two Government decrees to halt the growing HIV epidemic. Decision No 5. of Jan. 29, 1993, addressing prevention and control of prostitution, stated:

Prostitution is a social evil in our country, which has been basically eradicated after the liberation of the North and the South but cropped up again in recent years, eroding the moralities and fine customs of the nation, to the prejudice of the socio-cultural life, social order and moreover, causing AIDS to be disseminated resulting in severe consequences for the lineage.

Decision No. 6, addressing control of the drug trade, said about drug use:

This social evil is opposed to the moral tradition of the nation with negative impact on the economic development and being harmful to the health of a section of the population, to the prejudice of the national lineage with severe consequences for the future generations. That is a great concern and worry for the whole society. It must be determined to fight this social evil through propaganda drives, education, economic, administrative and penal measures.

The consequence of the “social evils” approach is that HIV-infected people are morally stigmatised and at risk of being deprived of their liberty, especially in the case of drug users and commercial sex workers. Despite the mention of education and prevention in government policies, the predominant measures have been punitive. Only recently, the Government issued a Decision that allowed district officials to send all drug users over 12 years of age into mandatory rehabilitation for up to two years (2002). A few weeks later, the People’s Committee of Ho Chi Minh City issued a decision to send 20,000 drug users and 3,000 sex workers into camps by the end of the year.<sup>127</sup> According to data from the Ministry of Labour, War Invalids and Social Affairs (MOLISA), the Vietnamese Government currently runs 71 rehabilitation centres (camps) for drug users and sex workers. These centres are operated by Provincial Departments of MOLISA; the Ho Chi Minh Youth Union administers seven and the Hanoi Youth Union one centre. The purpose of these centres is to treat people with addictions and offer vocational training. Although there are officially no special camps for people infected with HIV, there are indications that some of the MOLISA camps are in fact serving to isolate HIV-positive men and women. “At least one drug detention centre visited by the author in the past acted as a de facto quarantine centre for people with HIV/AIDS...”<sup>128</sup> And: “Most officials say that HIV serostatus is not a determining factor in whether a woman sex worker is detained or the length of her detention, but several sex worker informants who have been released from centres have informed the author otherwise.”<sup>129</sup>

There are children and adolescents in these camps. Their numbers may be low, but specific data are not available. Some of these adolescent sex workers or drug users may be between 16 and 18 years of age, and thus not protected by the Law on Care and Protection of Children, which defines children as those under 16 years of age. Another group are small children who live in the camps with their mothers. “Orphans whose mothers had HIV are detained in at least one centre.” The rights of the detainees, adults, adolescents and children, are not respected. HIV testing is compulsory, and results may not be released until the detainees leave the camp. Results might even be disclosed to families and local authorities without consent of the infected person. There is no counselling or care provided for infected persons in these centres.<sup>130</sup>

While the number of HIV-infected children (those under 18) in camps may be limited, the general figure of children infected and affected by the disease has reached tragic highs. A recent UNICEF study calculated that more than 283,000 children are affected by HIV/AIDS in Viet Nam. This figure includes over 263,000 children living with HIV-positive parents and 19,200 children infected by the virus.<sup>131</sup> These children suffer discrimination: they are refused admission by school authorities, rejected in health facilities, bullied by other children and stigmatised and isolated by adults in their communities.

United Nations Agencies and other international organisations have urged the Government to abandon the “social evils” approach, and recent language in official decisions and statements avoids use of the term.<sup>132</sup> Also, in the case of children, MOLISA is reviewing its overall policy on institutional care and looking to shift towards models of community-based care. Both developments are very promising. If these trends gain prominence in Government policies, it will help to fight discrimination against children and adults infected or affected by HIV/AIDS, and in the long run may improve their potential for a life without fear. In addition the Law on Protection and Care for Children will be revised in 2004. Most likely, the definition of “child” will be raised to 18, in line with the Convention on the Rights of the Child. This measure will undoubtedly strengthen the protection of Vietnamese children and adolescents suffering from HIV/AIDS, drug addiction or commercial sexual exploitation.

Despite progress in the recognition of child rights in Viet Nam, these examples illustrate the vulnerability of “rights” and limitations of the principle of indivisibility of rights. The question, then, is what to do about this situation? Usually the answers to the partial suspension of rights for certain groups of the population are quiet diplomacy or public advocacy. Both strategies are very difficult—though not impossible—in Viet Nam, given the limited division of power within the State.



## 6. PARTICIPATION AND EMPOWERMENT

Participation is fundamental to a human rights-based approach to programming. UNICEF and other organisations are just beginning to understand how to apply this concept to participation by children.<sup>133</sup> Although the concept of childhood is changing in the world because of the Convention on the Rights of the Child, children are not yet influencing the way adults live and societies function. In this sense, all societies in the world are far from achieving child participation. Within this context, the “evolving capacities” of the child to participate in decision-making need to be studied more in detail, and the concept of “manipulation” needs clarification.

In Viet Nam, traditions of child-rearing are centred around survival and good education of the child. Neither parents nor children are accustomed to discussing issues of relevance with each other, nor do parents usually listen to children’s opinions. Families tend to over-protect their children rather than encourage them to make up their own mind, make their own decisions, and have their own experiences. The latter is sometimes practiced among highly educated families, where parents tend to listen more to their children. Changing such deeply rooted cultural customs in order to widen spaces for participation in the family, at school and in the community will take time. Therefore progress on the principle of participation and empowerment has been slower than in the area of universalisation and indivisibility of rights.

Progress in child participation will most probably be linked to overall progress in citizens’ participation in Viet Nam. Currently, there are increasing possibilities for grassroots participation and media communication. Spaces have opened for support and capacity-building in community participation and increased collaboration with emerging civil society organisations. The following sections explore the potential for access to information by adults and children in Viet Nam, as well as spaces for community participation and child participation at home and in school.

### Information and Communication

A fundamental requisite for the empowerment and participation of citizens is access to information, which is a first step toward creating awareness about child rights among leaders and the general population. While awareness-raising through information, education and communication (IEC), as well as behaviour-change communication (BCC), have become increasingly important in Viet Nam, current strategies and interventions have not proven effective. Surveys, research activities and assessments have shown that traditional propaganda approaches to communication do not have a strong impact on the awareness, opinion or behaviour of audiences.<sup>134</sup> Traditional ideology views Vietnamese citizens as part of a class or a collective; thus communication focuses on collective commonalities of “the working class” “women” etc. This view tends to underestimate differences in communication and information

behaviour among and within different population groups. In contrast, modern social marketing techniques develop and distribute messages according to the specific characteristics of recipients, and thus highlight differences among people in their audience research and communication strategies. Therefore, the reform of traditional information and communication strategies in Viet Nam must involve an acknowledgement that people are different and have a variety of individual needs and behaviours. Such approaches to communication is not (yet) in place in Viet Nam, and will need to build on conceptual models in behavioural sciences, social learning, persuasion theory, and social marketing to achieve realistic objectives.

In regard to children’s access to information, Viet Nam has 15 newspapers published exclusively for children.<sup>135</sup> Most of the country’s other 635 newspapers and magazines have columns for children. No data are available regarding coverage and acceptance of existing child media by children. Although children have access to child-friendly media, their participation in media production is just beginning. Moreover, even when children have access to national media, adults often play a leading role in formulating content and activities. In the true spirit of the CRC, greater efforts should be made to give children and youth a freer hand in sharing their views with others.

### Participation

While discussions about new forms of information and communication have barely started, the issue of participation has been a constant feature in the *doi moi* process since 1986. The 6th Party Congress had noted:

For those specific policies that will be directly related to the people’s life in the whole country or in various localities as well as grassroots units, the Party committees or administrative bodies must organise consultations with the people before making any decision. Let the people know, discuss, work and control; that is a daily practice of society, which materialises the system and ensures the working people’s right to manage State affairs themselves.<sup>136</sup>

#### Communities

Nevertheless, the nature of “participation” in Viet Nam is not well defined and can take different forms. Participation could mean, for example, financial contribution by communities obligatory community work, or voluntary participation in decision-making, implementation and maintenance. In 1998 UNICEF noted, for example: “For the most part, parental and community participation in education follows a traditional pattern of financing, constructing and maintaining pre-primary and primary school facilities. While these efforts are important, they fail to effectively meet the education needs of poor and disadvantaged parents and children.”<sup>137</sup>

Over the years, the Communist Party has continued to enhance and encourage grassroots participation. The most important expression of this policy is the Grassroots Democracy Decree of 1998, which promotes monitoring/supervision, discussions and consultations, transparency and participation at the grassroots level and defines the nature of community participation in four areas:

1. **People must be kept informed** of changes and revisions in areas such as law, policy, and administrative procedures; local socio-economic development strategy and the land use plans; budget planning and expenditures; state or other funded programmes and loan programmes for poverty reduction.
2. **People should discuss and directly decide** on people's contribution for infrastructure development, formulation of customary rules, and formulation and monitoring the management of people-created funds.
3. **People should discuss and be consulted** before the local government decides on the draft economic development plan, draft land-use plan, draft plans for implementing national programmes on environment and clean water and others.
4. **People should monitor and check** activities of popular councils, implementation of resolutions of the councils and decisions of the people's committees, settlement of claims, land use, expenditure of funds.

Several decisions by the Party and the Government have underlined the importance of community participation in development, the latest being Decree 79 of July 2003. The constant "pushes" from high-level authorities toward compliance with the Grass Roots Democracy Decree are an indicator of insufficient progress and a certain hesitation in State institutions regarding participation. A report on decentralisation stressed:

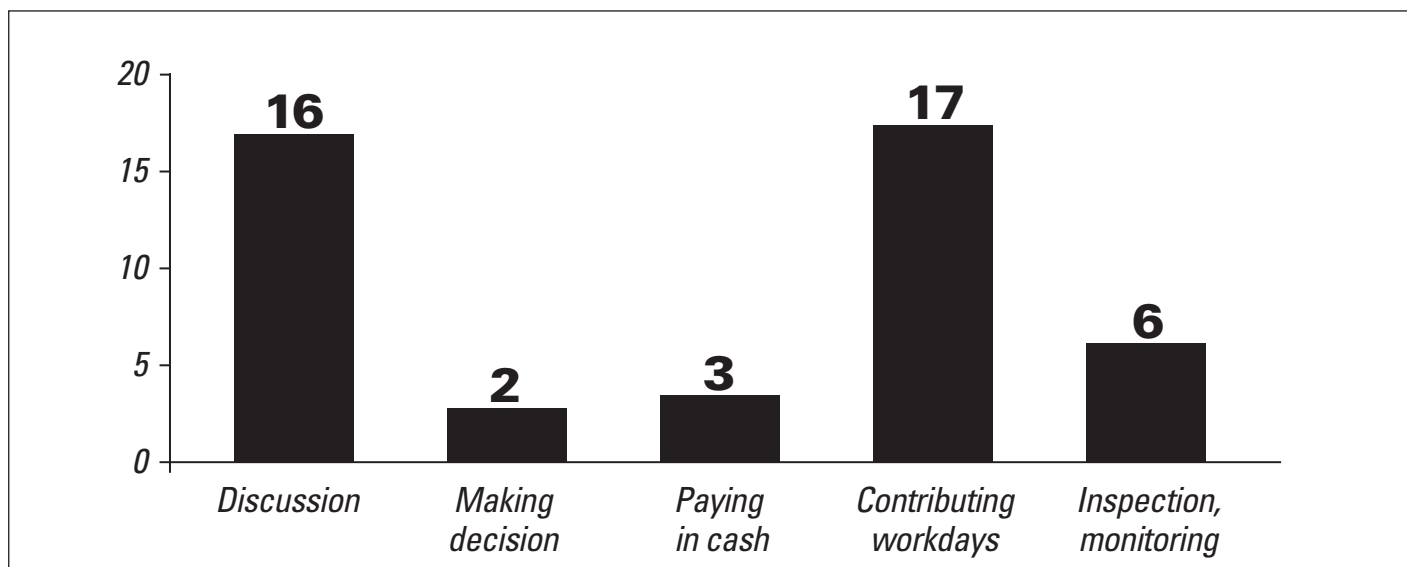
While the local leadership (even to the community leader) may voice support for participatory planning, it is likely to resist reductions in whatever (limited) control it enjoys over resource allocation and decision-making. This is particularly true when proposed reforms involve an untested process of decentralized planning that could leave the leadership vulnerable to criticism by upper levels for inefficient planning or ineffective implementation of higher-level mandates.<sup>138</sup>

At the same time citizens' demand for increased grassroots participation appears not to be very high, due to factors such as lack of experience of local leaders with participatory planning or negative experiences with token participation modalities in the past. Also the time limitations of hardworking poor farmers in very isolated areas inhibit participatory processes. An evaluation of community participation in water and sanitation projects found that involvement in decision-making processes was not customary among project beneficiaries or potential beneficiaries. Only 3.8% of beneficiaries participated in project decisions and only 2% of potential beneficiaries expressed an interest in becoming involved with making decisions. The latter group preferred to be included in discussions and contribute to construction work.<sup>139</sup> (figure 13)

#### Women

Political participation by women in Viet Nam is gradually increasing. Vietnamese women are better represented in the national political system than in many other countries of East Asia. However their presence is still far behind the national goal of equal gender representation in State institutions. About 27% percent of National Assembly members are female, the Government has only three women among its 30 Ministers—all in traditionally "female" social policy fields—and the representation of women on Provincial People's Committees is very low (6.3%). An even worse pattern of under-representation of

**Figure 13: People's wishes to participate**



UNICEF Viet Nam and Institute of Sociology: *Identifying methods and approaches in reaching the poorest households with WES support*. Hanoi: December 2002,36.

women in decision-making positions can be detected in the economic sector: only 9% of executive managers are female, only 4% of deputy general directors and 2% of general directors are women.<sup>140</sup>

But women's participation is not only a matter of quantitative representation. A UNICEF study on gender inequality in water services and environmental sanitation found that although government staff were generally of the opinion that men and women had equal access—for example to WES training—according to many beneficiaries this was not often the case. Women were, in reality, clearly under-represented in water management relative to men. In addition, the study confirmed that formal inclusion of women at WES meetings alone was not sufficient to ensure that their voices would be equally heard and taken into account in decision-making.<sup>141</sup>

### *Children*

The previous analysis described some of the difficulties encountered by adults in realising the right to participation. Opportunities for children and adolescents to express their opinions and participate in every day decision-making are even more limited. Views on child participation in daily life are divided within both Vietnamese State and society. While some government staff see child participation as an important tool for strengthening democracy and People's participation, others see it as a dangerous Western influence.<sup>142</sup> A closer look will underline this opinion divide on the participation rights of children and adolescents.

Vietnamese perceptions of children are still strongly influenced by Confucian traditions, which require that children obey their parents. Until recently, the issue of participation by children and adolescents had not been seen as important or problematic in Viet Nam. Very little information is available on this issue. The few existing studies on the extent to which children's opinions are taken into account in the family or at school confirm that their views and ideas do not play an important role in the family or the community. Research by the Youth Research Institute of the Ho Chi Minh Communist Youth Union on punishments applied by parents to their children showed that Vietnamese children are often punished first, and only afterwards allowed to explain to their parents what happened (72.4%). Nearly 10% are punished by their parents without any type of communication before or afterwards.

The fact that so many of the children reported enduring the punishment in silence, with or without later explanation, suggests that children feel relatively powerless in their relationship with their parents, particularly within the context of punishment. It also suggests that many parents may be used to punishing first and asking questions later.<sup>143</sup>

The law forbids corporal punishment at school. Nevertheless, some children report physical punishment in the classroom. For example they may be hit with a ruler if they do not answer correctly.<sup>144</sup> Only 1.8% of children turn to their teacher for support after they have suffered punishment.<sup>145</sup> Although pupils at all levels of the school system are said to have the right to lodge grievances,<sup>146</sup> there is no mechanism to articulate and

process these complaints. Vietnamese schools have a regimen that, in principle, permits certain democratic elements such as selection of "school monitors" or group heads "to manage their studies and activities."<sup>147</sup> But in practice, the teacher often selects pupils based on their good behaviour and good marks. These students seldom act as representatives of the interests of their schoolmates nor do they intervene on behalf of their peers in cases of conflict with teachers or school authorities. Their role is to help the teacher to maintain oversight and assist in a number of organisational matters (recording absentees or late-comers, distributing working sheets and didactic material or collecting petty cash). Sometimes they may even punish other schoolmates on behalf of the teacher. All of this suggests that schools are not places where children feel confident to express their opinions or where their views are respected.

Outside the school, adolescents cannot express any complaints to authorities on their own, nor can the idea of adolescent rights be found in official documents. According to the law, adolescents shall "exercise their rights to complaint through their lawful representatives."<sup>148</sup> The Government's most recent Youth Strategy envisions adolescents and young people mainly as future "human resources" for economic development, socialist cadres for the Communist Party, or as the source of "social evils" like drug addiction, prostitution or juvenile delinquency—but not as subjects of rights. The Strategy points out:

Youth development is to build a new generation of human being, with comprehensive development, loyally and excellent succeeding the revolutionary process of the Party and the nation. Investing in youth is investing in the future, meaning nurturing and harnessing the human factor for successful implementation of the objective of rich people, strong nation, equal and civilized society.<sup>149</sup>

A UN study of youth issues in Viet Nam revealed special concerns regarding different interpretations of the term 'participation.' "It was noted by some that coerced volunteerism, or even simple attendance at officially sanctioned gatherings, is often mistaken for genuine participation..." And: "Viet Nam has no tradition of including young people in discussions around their issues."<sup>150</sup> On the other hand, there is a long tradition of youth participation within the Communist Party of Viet Nam and its mass organisations. In fact, one could say that resistance to French colonialism and the American invasion was largely organised and carried out by young people. In May 1941 the Youth Union for National Salvation was established and renamed Young Pioneers in 1945.<sup>151</sup> Today organisations of the Communist Party such as the Young Pioneers and the Youth Union offer spaces for organisation and participation by children, adolescents and young people. In addition there are a number of initiatives mushrooming around the country, and the Government has pointed out on numerous occasions that the CPFC, and mass organisations such as the Young Pioneers and the Youth Union, as well as the mass media, provide a number of opportunities for children to inform and express themselves.<sup>152</sup>

## 7. ACCOUNTABILITY AND MONITORING

Accountability is a key component of a human rights approach to programming. “States voluntarily acknowledge and accept obligations when they ratify human rights treaties. In so doing they agree to implement these treaties and be accountable for fulfilling the rights and meeting the needs of the people within their jurisdiction.”<sup>153</sup> One key element of accountability is the existence of systems to monitor compliance and mechanisms that enable rights-holders and their advocates to hold states accountable for the fulfilment of rights. Another is the potential for the population to lodge complaints about child rights violations and take legal action to ensure the enforcement of laws.

Most governments resist being held accountable, making the monitoring of rights a globally sensitive issue. This is also true in Viet Nam, although increasing transparency is one of many positive offshoots of the *doi moi* process. Nevertheless, access to information remains restricted, or very difficult, in areas perceived to be relevant for national security. In the case of children such areas include, for example, the situation of adolescents in prisons, reform schools, and rehabilitation camps, as well as the handling of complaints about violations of children’s rights and many issues in the field of child protection.<sup>154</sup> This situation is aggravated by a new Ordinance on National Secrets that has generated widespread confusion among government staff regarding what kind of information about children and women constitutes a national secret and what does not. The evaluation report of the CPFC/UNICEF project for local ombuds networks was seriously hampered by lack of access to information: “For example, there was no access to data bases, to the general statistics of the project, to annual reports, or to data related to complaints about children’s rights at community level, and only limited access to groups of children.”<sup>155</sup>

### Monitoring

From a “rights” perspective, monitoring compliance and quality of ministries is a key challenge in Viet Nam. Vietnamese ministries are exceptionally powerful. Recently the Communist Party has begun to strengthen monitoring mechanisms outside the ministries in order to achieve a better balance of power among different State institutions. In fact, Party decisions strengthened the role of the National Assembly in law-making and monitoring through support for improved competencies, better staffing and higher budgets. Today, the National Assembly has only about 200 staff for 498 parliamentarians, but the goal of the Party is to significantly increase quality and quantity of its human resources in the short run. The National Assembly now meets for longer periods, has more full time deputies, debates legal reforms and publicly questions government authorities. Candidates for parliament are now allowed to nominate themselves, instead of needing to be nominated by the Communist Party. National Assembly members of People’s Councils at the provincial and district levels monitor the performance of Government administration at sub-national level (People’s Committees). Furthermore, serious efforts to

improve the transparency of the legislative process for citizens are under way. Draft laws, or laws under revision such as the Land Law and the Code of Criminal Procedure, were recently published on the Internet and in newspapers to encourage public feedback.<sup>156</sup>

It is very encouraging to see such reallocation of power from the executive branch—which in Viet Nam has the greatest share of power—to the legislative branch. This national process of redistribution of power is essential not only for the overall protection of rights, but also for better monitoring and improved accountability of State institutions. This transition is taking place within the existing political system, and needs to be understood as one way to improve its efficiency. The Party still effectively controls elections, and non-Party members occupy almost no decision-making positions in the State.<sup>157</sup>

### CPFC

The most important Government body monitoring child rights in Viet Nam is the Committee for Population, Family and Children. Its history dates back to 1991, when the former Vietnamese National Committee for Children (VNCC) was renamed and significantly upgraded in terms of staff, budget and legal reach. The new Committee for the Protection and Care of Children (CPCC) would become the major advocate for children’s rights in Viet Nam, with impressive results in advocacy vis-à-vis the Communist Party, the National Assembly and other government agencies. The CPCC was set up to advise the Government on all matters relating to children and to co-ordinate and monitor implementation of the Convention on the Rights of the Child. It thus represents a concrete expression of the commitment of the Vietnamese Government towards children’s rights. In 2002 the CPCC was merged with the Ministry in charge of family planning, and was renamed Committee for Population, Family and Children (CPFC).<sup>158</sup> It has about 300 staff in Hanoi, 20 at the provincial level, and between three and five representatives at the district level.<sup>159</sup> This enables the CPFC to monitor children’s rights at both the national and local levels. The CPFC also handles complaints of child rights violations, and is led by an influential cabinet minister. The agency has started to implement projects for children, with a focus on information, communication and social mobilisation.

The CPFC has become an absolutely indispensable and committed advocate for children within the Government. For example, statistics on juvenile justice might not have been made publicly available by Ministry of Public Security without advocacy and technical support from the CPFC. Nevertheless, its monitoring capabilities require further strengthening. It is always difficult for a cross-sectoral body to effectively monitor line ministries with large budgets and strong positions in the Government. Examples are the Ministry of Labour, War Invalids and Social Affairs (MOLISA) with its huge poverty-alleviation programmes and its projects for children in especially difficult circumstances, and the Ministry of Education and Training, the Ministry of Health, the Ministry of Justice, the Ministry of Public Security. In addition the CPFC is implementing its own projects for children, families and family planning. Who monitors these? This question prompted the Committee on the Rights of the Child to propose

an independent ombuds-person for children in Viet Nam in their review of the second Government Report on the CRC. These recommendations make sense from an international perspective, but will not be feasible within the current organisation of the Vietnamese state.

## Mass Organisations

Several mass organisations, such as the Fatherland Front, the Women's Union and the Youth Union, have the mandate and capacity to monitor government policies. They are civil arms of the Communist Party, and should help to ensure compliance by the state apparatus with Party decisions and guidelines. However, their role in monitoring is ambiguous because these organisations are often closely related to the Government, and generally support Government policies through their programmes. Despite this potential ambiguity it should be noted that the Women's Union, in particular, has played an active role in promoting and protecting children's and women's rights at the local level.

Another important channel for monitoring children's rights is the Communist Party itself. The Party has its own national system of branches at the central, provincial, district and commune levels. The capacity of this system to monitor children's and women's rights could be strengthened significantly, and could also help to improve the position of citizens to make complaints about government authorities.

## Non-Governmental Organizations

In many developed and developing countries, non-governmental organisations (NGOs) play a key role in monitoring government compliance with human rights standards, advocating for improvements and denouncing rights violations. In Viet Nam, NGOs are a new phenomenon.

## International NGOs

The presence of international NGOs in Viet Nam is closely linked to worldwide solidarity movements during the Viet Nam War. More than 60 international NGOs (INGOs) provided humanitarian aid during the war in the early 1970s. Some were Friendship Associations from socialist countries that supported North Viet Nam; others were Christian missions and relief organisations operating in South Viet Nam. When the war ended in 1975, most INGOs closed down their operations and only returned in the early 1990s, when the US-led embargo against Viet Nam was lifted. Since then the number of international NGOs in Viet Nam has nearly tripled (from 185 in 1993 to 514, from 26 countries, in 2003). Most of the international NGOs come from the U.S. and Canada (35%); another 35 percent are from Western Europe, and the rest are from several Asian countries, including Japan and Australia. INGOs have sponsored about 16,000 projects and disbursed about US\$700 million over the past decade. The volume of their annual financial contributions is about US\$80 million—comparable to funding from all UN agencies combined in Viet Nam.<sup>160</sup>

The position of the Government towards international NGOs in Viet Nam is ambivalent. On one side, there is some suspicion that INGOs do not follow the policies of the Government, and could introduce ideas and practices that are not endorsed by the State and the Communist Party. As the Chairman of the Vietnamese Committee for foreign NGO Affairs puts it: "There are still some cases where INGOs have not acted in conformity with Vietnamese rules and regulations, traditions and customs."<sup>161</sup> On the other, the Vietnamese Government sees political benefits in working with NGOs through building on the historically friendly attitude of INGOs towards Viet Nam. Deputy Prime Minister Vu Khoan mentioned in an interview with Voice of Viet Nam the intention "to make full use of support from NGOs to help foreign countries gain a better understanding of Viet Nam's real situation, including Party and State policies, so that they can improve their role in supporting Viet Nam's economic development."<sup>162</sup> An example of advocacy support by NGOs regarding Viet Nam was the public rejection of the "Human Rights Bill" by American NGOs. This legislation was presented to the U.S. Congress by ultraconservative groups and aimed to tie economic relations with Viet Nam to improvements in human rights. Another example was NGO critiques of U.S. trade barriers against Vietnamese shrimps and catfish.

The stance of International NGOs towards the Vietnamese Government is, indeed, very friendly—even at times uncritical. The Speaker of International NGOs in Viet Nam stated at a 10-year review conference of international NGOs in Vietnam:

The positive contributions of INGOs described above have only been possible through the pro-poor stance of the Government. A major lesson that has emerged from the INGO experience in Viet Nam has been regarding the importance and the value of working with and through the Government. This has been a challenge to the philosophy of many INGOs, who typically work more independently in other countries and focus primarily on developing partnerships directly with local civil society organizations and beneficiaries. However, many INGOs in Viet Nam have identified that the Government— together with the mass organizations—ultimately provides and effective structure for capacity building and for the sustainability of interventions, as well as a ready made channel for sharing experiences and replicating INGO models.<sup>163</sup>

A rights-based approach to programming has not played a mayor role in the work of international NGOs in Viet Nam. The evaluation of ten years of NGO work in Viet Nam published by the NGO-Resource Center in 2001 does not even mention the word "rights," nor does it refer to international conventions or human rights bodies.<sup>164</sup> It may well be that this omission is an indicator of the sensitive political environment in which INGOs operate, but even so, the lack of references to international law and human rights in this report is striking.



Nevertheless, a few international NGOs working for children are making efforts to introduce a HRBAP and to develop their traditional capacity as monitors and advocates for rights. A number of INGOs operating in South Viet Nam have undertaken a strategic mapping exercise that reveals a broad variety of programme strategies for children—including the rights-based approach. The mapping itself was written in rights language and underlined the necessity for common monitoring and advocacy of children's rights:

At times our terminology has been different but there are a number of common policy advocacy messages. These can be re-stated within a construct of accountability to child rights principles...Building stronger mechanisms of accountability to child rights among state agencies in Viet Nam is difficult given its institutional architecture. Some of us are now engaging with state development plans as a means to legitimize their efforts to include communities in district planning processes or supporting the promotion of government decrees which endorse due democratic process...Others are also aiming to influence CRC compliance through engagement with national reporting mechanisms to international monitoring bodies and there is greater evidence that some INGOs are beginning to operationalise a rights-based approach.<sup>165</sup>

However collaboration among international NGOs is still weak, which limits their potential for common monitoring and advocacy: "...there is little evidence of joint initiatives in support of developing our collective understanding of children's issues, building the capacities of our staff and partners, or undertaking collaborative process that generates wider impact for children."<sup>166</sup> One of the reasons is definitely an adverse political environment for advocacy and policy dialogue for foreign non-governmental organizations in Viet Nam, although this may change over time. "Viet Nam does not have a long history of INGO engagement and government is naturally cautious about supporting stronger linkages between foreign organizations."<sup>167</sup>

## National NGOs

National non-governmental organisations scarcely exist in Viet Nam. Currently, there are professional associations such as the Lawyers Association, the Open University and others, which are mainly located in Hanoi and Ho Chi Minh City (HCMC), as well as some charity groups and grassroots organisations usually led by committed individuals who mobilise funds and volunteer work of local citizens for a good cause.<sup>168</sup> Vietnam does not have a policy of enhancing the creation of NGOs or a relevant law to govern their operations. NGOs have to register with local authorities, and the process is extremely cumbersome. There is no specific framework regulating roles and responsibilities of NGOs or clear assignment of responsibilities among Government agencies to register and supervise their activities. Hence: they can operate if the authorities tolerate them. Their main role is to provide social assistance complementing public programmes for the poor. Currently, NGOs are often led by retired government or party officials with the objective of providing welfare services to vulnerable populations. Sometimes national NGOs have been born out of social consciousness and solidarity with children.

More and more young people are looking for opportunities to volunteer in national charity associations or non-governmental service providers in order to acquire work experience in a highly competitive labour market.<sup>169</sup> In light of reduced state subsidies and other public social investments, and in view of rapidly growing social problems within the process of modernisation and industrialisation in Viet Nam, the role of national NGOs as providers of social (and other) services is likely to increase.

The particular situation in HCMC, with its rapid economic growth and strong migration seems to generate a particular demand for more non-governmental action for children.

An important feature of the institutional landscape in HCMC is the presence of semi-private agencies that are accredited by government and exist under the wing of provincial associations. In this context it is worth mentioning Thao Dan Street Children Programme, Ho Chi Minh Child Welfare Foundation, Social Development Research Center and the Open University. HCMC has a history of social work and we should not underestimate the importance of the Psychology Association and the organizations under the HCMC Youth Union, particularly the Social Welfare Center and the Disabled Youth Association.<sup>170</sup>

One example is the NGO "Thao Dan" Centre, founded in 1992 and now helping some 3,000 street children in Ho Chi Minh City. The organisation works through three centres and a broad network of street workers. Approximately 10 full time staff and 40–60 volunteers run the programmes. Thao Dan is managed by one director in a "family style:" "There is no money in this work, there is no status, and there are little thanks except for that expressed by the children, their families, and a handful of supporters. While this spirit of volunteerism is not unheard of in Viet Nam, neither is it common. This spirit, while not easily put into words, is key to understanding Thao Dan, the achievements today, and the future possibilities."<sup>171</sup> It is this high level of personal commitment and deeply felt solidarity with suffering children that motivates social workers and volunteers to become strong and engaged advocates for the rights of children in society.

Social dynamics in other regions of the world have shown that over time, street children NGOs, in particular, often become advocates for the rights of their beneficiaries. An example of this process is the street children's movement in Brazil, which started as a loosely coordinated group of street children's advocacy organisations in 1985. They held a national congress for street children that attracted nationwide attention and was followed by mass meetings and demonstrations for children's rights in many cities and towns. Over the years, the street children's movement was instrumental in ensuring the inclusion of children's rights into the Constitution, ratification of a law on children and adolescents and the foundation of district children's committees.<sup>172</sup> In Viet Nam, the potential for such a trajectory is in the long term; currently, Vietnamese NGOs lack the capacity to monitor children's rights.



The direction that a future civil society movement in Viet Nam might take is difficult to predict. It will most probably be different from Western or Latin American civil society movements, where direct confrontation with Government—through demonstrations and public criticism—are important means of civil advocacy. Civil society organisations in Viet Nam can only operate if tolerated by the Party and the Government. This means that they must establish good contacts with the Government, and their methods of advocacy must be non-confrontational. Subtle negotiation and advocacy strategies may be the most effective way to influence State policies and programs in the best interest of their constituencies—very much like in China: “There exists in China something real, interesting and important that deserves to be called “civil society,” but that it has distinct Chinese characteristics, and that these should be taken seriously rather than simply dismissed as amounting to something not authentically civil.”<sup>173</sup>

## Law Enforcement

While some channels for monitoring children’s rights exist in Viet Nam, citizens have limited opportunities to take legal action to claim fulfilment of their rights by Government authorities.<sup>174</sup>

It was noted earlier that many different state actors are generating laws and regulations for children in Viet Nam, and that child-related laws and regulations are scattered throughout many documents. The whole legal apparatus for children is difficult to oversee, and there are numerous examples of incoherence, overlap and contradiction between documents. There is no system in place to resolve contradictions and disputes between documents and interpretations by different institutions. Legal interpretation, in fact, is a difficult task in Viet Nam because many laws are formulated in a very general way and contain many ambiguous terms, such as “interest of the State,” “legitimate rights and interests of citizens and organisations,” and “national unity,” or concepts related to the rights of ethnic minorities such as “fine traditions and natural cultural identity” or “civilised lifestyle.”

Current legislation on children seldom defines implementation standards that would enable citizens to evaluate the performance of duty-bearers. It is therefore difficult to determine legally whether or not a particular duty-bearer has fulfilled his or her duty. If standards are defined at all, it is through regulations issued by ministries, which lack legal status.

Legal responsibility for children’s rights in many child-related laws often rests on several collective bodies and is expressed in very general terms. For example “the State” or several state institutions and mass organisations are said to be jointly responsible for implementing certain legal provisions. This lack of definition of clear responsibilities and accountabilities of specific institutions makes it difficult for citizens to hold duty-bearers accountable for their actions in relation to children’s rights.

But even if a citizen were to try to claim his or her rights through the courts, the authority of judges in Viet Nam is very limited. The justice system does not have the power to decide whether a government agency has applied a law correctly. The role of judges is to interpret the laws in view of party decisions, party policy and government policies. This means that the judge is not a neutral *primus inter pares* between rights-holders and duty-bearers, but rather part of the State/Party apparatus. Judges thus tend to defend collective policies against individual claims. This function leaves judges some autonomy and authority of decisions in private and criminal law, but little space in cases where citizens claim lack of fulfilment or violation of children’s rights by State institutions. Judges are important to ensure the best interest of the child during divorce and in custody or inheritance cases, but are less independent when it comes to claims against any decision taken by public authorities. Their “neutrality” might be further reduced in a case in which a civic association or NGO questions decisions by government authorities through the court system. The lack of well-trained lawyers diminishes still further citizens’ slim possibilities to enforce their legal claims.

## Complaints

Although Vietnamese citizens have very limited opportunities for enforcing their rights and legal claims through the justice system, they can make administrative complaints to the authorities—and hope they will be taken into account. In fact, there are indications of a growing number of letters of appeal and complaints over land disputes and inheritance in Viet Nam, showing that Vietnamese citizens have become more conscious of their rights and that the rights they most care about most are economic rights. Nevertheless recent studies on child rights monitoring and handling of complaints suggest that non-judicial complaints about authorities are still treated with caution by ministries and inspection units. The evaluation by the local ombuds-project of UNICEF-Viet Nam and the CPFC showed that “access to adequate information for parents and children, inefficiency in service provision, mechanisms to supervise the quality of services, determining if there is an error of inappropriate action by any member of the public administration relating to the rights of the child” were completely absent from this project.<sup>175</sup>

## Committee on the Rights of the Child

As has been explained above, current mechanisms of monitoring and accountability are largely focused on compliance of public actors with Party policies and guidelines. Their ultimate function is not to advocate for people's rights. Hence, if the Party and State actors make decisions in the national interest that may jeopardise the rights of individual citizens, there are no strong actors in Viet Nam to monitor and protect those rights. Even if today's policies and performance of State and Government actors are striving toward respect for children's and women's rights within the *doi moi* process, this situation could easily change if the general political climate changes in the future. This vulnerability of respect for human rights makes international monitoring important.

The most important international body to monitor States' compliance with child rights is the Committee on the Rights of the Child, which issued its first concluding observations on Viet Nam in 1993. The Committee's concerns and recommendations at that time focused mainly on two issues: the situation of ethnic minority children and the need for reforms in juvenile justice.<sup>176</sup> Ten years later, the Committee reviewed the situation of children's rights in Viet Nam again. In January 2003, the second Report of the Government of Viet Nam on CRC implementation was reviewed. The report covered the years 1993–97 and included an update on the situation between 1998 and 2002. This time, the Committee's concluding observations and recommendations were much broader in scope and far more detailed than in 1993. They reinforced earlier observations and recommendations on ethnic minority children, reforms of the legal system and juvenile justice and voiced concern over growing social gaps within the process of economic reform. There was a new current of HRBAP thinking in many of the recommendations; for example, pressing for more transparency and better monitoring of children's rights in Viet Nam. The Committee called for the establishment of "independent and effective mechanisms to monitor the promotion and protection of children's rights" in Viet Nam and reminded the Government of the "important role civil society plays as a partner in implementing the provisions of the Convention." Furthermore, particular attention was given to the growing problems of child protection. The Committee suggested the development of a comprehensive family policy, including the establishment of a "professionalized system of social workers within communities to provide counselling and assistance."

The Committee directly supported the introduction of the human rights approach to programming in Viet Nam: "The Committee is concerned that, despite the activities of the State Party, children, and the public at large, as well as all groups of professionals working with and for children are not sufficiently aware of, or adequately comprehend, the Convention and the rights-based approach enshrined therein."<sup>177</sup>

## 8. THE HUMAN RIGHTS-BASED APPROACH TO PROGRAMMING IN THE COUNTRY PROGRAMME OF COOPERATION BETWEEN THE GOVERNMENT OF VIET NAM AND UNICEF

### Strategies for the Introduction of a HRBAP in Historical Perspective

The introduction of a HRBAP in UNICEF-supported programmes for Vietnamese women and children involved a very long, gradual process. Like all grants received from international organisations, the Government considers the funds received from UNICEF as Government funds and includes them formally in the Government budget. Hence, the use of these funds is a matter of intensive negotiation and all programme activities are subject to approval by Government counterparts. This leaves limited space for the introduction of programmatic innovations. Flexibility for change in structures or strategies of the UNICEF Country Programme is also relatively low. This means that UNICEF-Viet Nam cannot introduce a HRBAP unilaterally. It has to seek understanding, acceptance and finally approval from the Government. However once any change in programmes is agreed upon between UNICEF and the Government, then the Government fully adopts this agreement and takes its implementation seriously. This is why the introduction of the HRBAP in Viet Nam has been a slow but steady process.

#### *Ample political capita – but heavy dependence*

The high dependence of UNICEF programme managers on acceptance by the Government did not mean that UNICEF was not in a position to negotiate change. The organisation has a very good reputation in Viet Nam. UNICEF is one of the few international organisations with a continuous presence in Viet Nam since the end of the war in 1975, when co-operation began. At that time, Viet Nam was devastated by the war. Children and adolescents were starving and infant mortality was as high as 100 infant deaths per 1,000 live births.<sup>178</sup> UNICEF's programmes in Viet Nam were mainly emergency operations that sought to satisfy children's most basic survival needs, and many current Government officials or their family members received emergency support at that time. UNICEF also remained in the country during the international embargo following Viet Nam's decision to invade Cambodia to fight back attacks by the Pol Pot Regime. The consequent cessation of development aid from most Western countries, as well as China, added to a deep economic crisis in the country. Under these extremely difficult economic and political conditions UNICEF and the Government of Viet Nam signed on February 12, 1979 a "Basic Agreement"

that would formally initiate development cooperation for children and women. Such historical background has contributed to UNICEF's high social and political capital in Viet Nam.

Nevertheless, the first decade of UNICEF's cooperation in Viet Nam was characterised by very tight controls and restrictions. UNICEF was not free to hire its own personnel; staff working in UNICEF Viet Nam was assigned by the Government. However, the *doi moi* process beginning in 1986 permitted more open relations, and since 1991 the fourth Country Programme (1991–95) has enjoyed an atmosphere of fewer controls. UNICEF's staff were allowed to travel in the country, to monitor project implementation and to dialogue with sub-national counterparts. UNICEF could also participate more actively in national policy dialogue, and there was increasing acceptance of critical advice.

#### *Strategies for a HRBAP*

UNICEF representatives have used the "symbolic" capital that UNICEF had accumulated over the years in a careful manner. They expanded the "rights elements" of Country Programmes gradually, within the possibilities of the *doi moi* process—even before the UNICEF guidelines on HRBAP were issued. Parallel to the expansion of service delivery in Viet Nam, UNICEF assistance was increasingly directed towards building the capacity of counterparts and empowering communities. Mid-Term Reviews and Situation Analyses were used to develop a common understanding on the Convention on the Rights of the Child between UNICEF and the Government.

This process can be seen when looking at the history of UNICEF's Situation Analysis. During 1986–7, UNICEF introduced a gentle criticism of the lack of appropriate data for planning and monitoring: "This document gave a slightly patchy picture since the bases for data analysis were often not equivalent with international norms making comparisons difficult, and qualitative analysis was limited."<sup>179</sup> The second situation analysis undertaken by UNICEF and the Government of Viet Nam in 1994 dealt very carefully with the issue of children's rights, without explicitly mentioning the word. Although it devoted relatively limited space to the issue, it did describe the process of the First Report to the Committee on the Rights of the Child, as well as its concluding observations. It also addressed issues such as privatisation of health care services and user fees, but barely touched on such issues as participation and communication or policy and legal issues.<sup>180</sup> The third Situation Analysis, in preparation for the current Country Programme (2001–05), had a "neutral" title—"Children and Women: Situation Analysis 2000"—but the executive summary was called "An Overview of Viet Nam's Progress in Realising the Rights of Children and Women" and a description of the process of implementing the Convention led the text. This focus made the third analysis significantly different from previous ones. Issues such as legal reform, monitoring, and budget allocations were addressed and the term "rights" of children and adolescents was used frequently. Also, issues such as participation received greater attention. The analysis devoted considerable space to the impact of economic reforms on children. It recommended that the new Country Programme "balance its investments between service delivery, capacity building and empowerment

to maximise impact” and “emphasise community involvement at each level.”<sup>181</sup> Furthermore there was mention of “human rights work among UN agencies,” and the need to “build additional capacities to monitor the implementation of the CRC and CEDAW” and “to promote children’s participation.”<sup>182</sup>

#### *Master Plans of Operations: Gradual Introduction of Rights-based Elements*

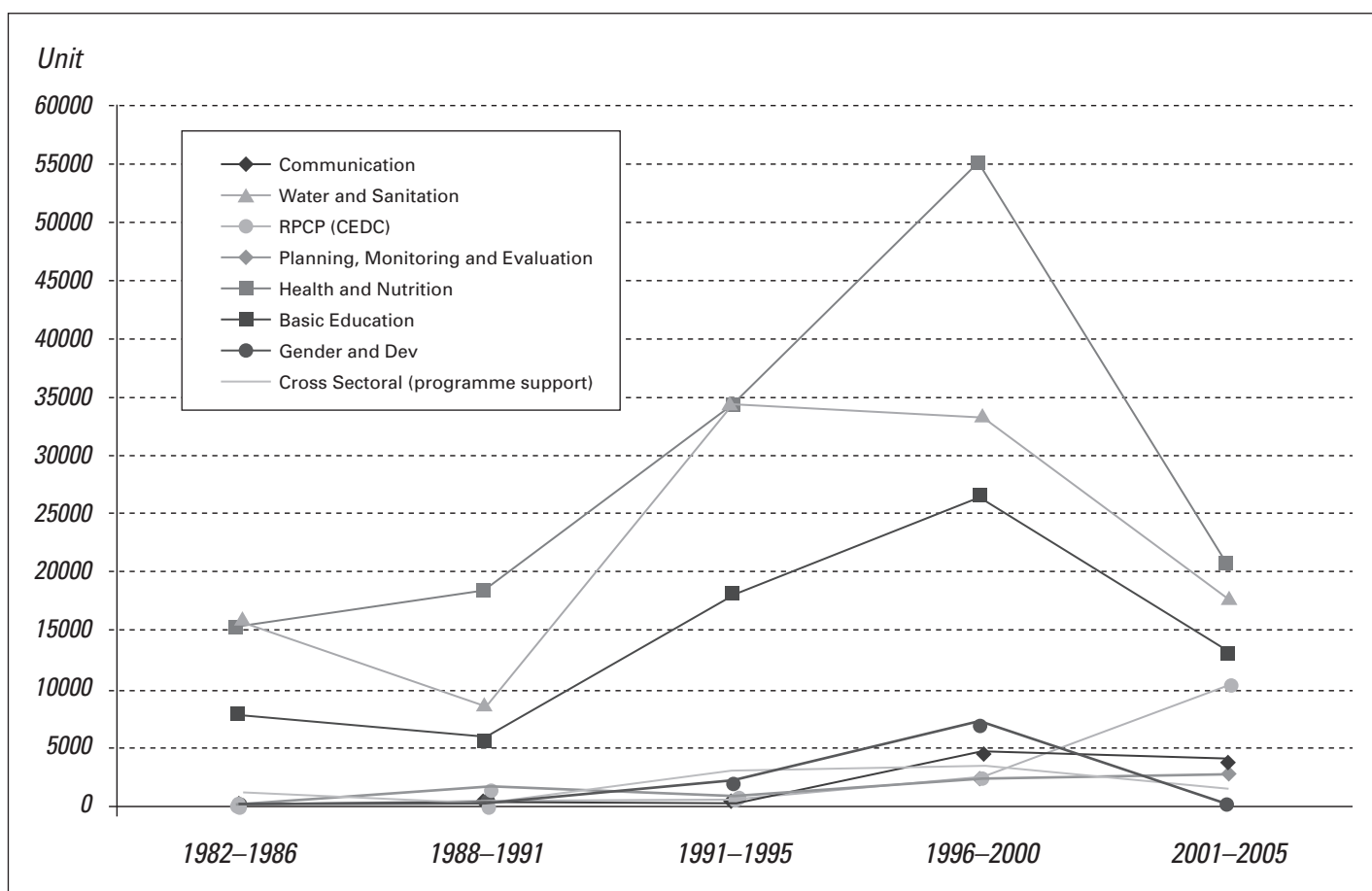
Another important issue of “rights-oriented” reform of the Country Programme can be seen in Master Plans of Operations (MPO—UNICEF’s 5-year Programme Agreement with the Government). Since 1981 MPOs had introduced small-scale activities and projects that would later become important elements for the development of a HRBAP in Viet Nam. Examples of such “rights elements” include: participation of communities, women and children, behaviour-change communication, rights promotion and child protection, as well as child-friendly education and planning/monitoring/evaluation.

The analysis of budget plans for UNICEF’s Master Plans of Operations demonstrates this slow but steady trend: budgets

for programme areas with the strongest “ingredients” for a HRBAP, such as Child Protection, Communication, Planning, Monitoring and Evaluation started with a very low financial pillow, each with shares below 1% of the total Country Programme budget. But shares have steadily increased over time and in the current period nearly 25 percent of the total budget is allocated to these programme areas. (figure 14). The financial figures do not show that over time, programme areas such as education, water and sanitation, health and nutrition—which are traditionally needs-based and close to top-down sectoral programmes for basic social service—have opened spaces for rights-based programming, particularly through policy advocacy, behaviour-change communication, child and community participation and better integration and coordination through inter-sectoral task forces.

Originally, all UNICEF programmes in Viet Nam were vertical social services programmes. Since 1980 UNICEF-supported programmes and projects have sought to meet the basic needs of Vietnamese children in health, nutrition, rural water supply and sanitation, early childhood care, and preschool and primary education. But in 1988 important new programme areas, such

**Figure 14: Sectoral Trends in Country Programme Cycles**



as support for women in development in close collaboration with the Women's Union, emerged. This was the first time that the concept of women's rights found its way into the UNICEF Country Programme, although Viet Nam signed CEDAW in 1982. The programme design for this new area, as well as for community-based health care, emphasised community participation. But in practice very little happened. An evaluation report from 1989 mentioned that: "Community participation [in basic health care] continues to be too poorly stimulated" and suggested strongly "deverticalising" health programmes such as the Expanded Programme on Immunization, Control of Diarrhoeal Disease, and Acute Respiratory Infections. Participation in other programmes was not evaluated.<sup>183</sup> Communication was also introduced as a programme feature, but not surprisingly for those years, the basic idea consisted of top-down propaganda activities "to promote and obtain political will and public commitment to the programme goals and thereby to achieve popular participation in the programme and the support of political and administrative organs..."<sup>184</sup>

The national and international springtime for children's rights influenced UNICEF's fourth Country Programme of 1991–95, which was the starting point for a stronger shift towards rights-based programming: "Viet Nam has also entered into a new era of openness, adjustment and liberalisation of national policies. It has thus been an opportune time for UNICEF to re-orient some policies and strategies in the new programming cycle."<sup>185</sup> There were three major innovations as a result of this "liberalisation": (1) The Convention on the Rights of the Child became an official point of reference for implementation of the Country Programme;<sup>186</sup> (2) women's participation was placed high on the agenda of the Country Programme,<sup>187</sup> and (3) issues of child protection were introduced. It is within the latter programmatic field that the terms "child rights" and "advocacy" are first mentioned in an official UNICEF programme document. One of the main objectives of the programme for children in especially difficult circumstances (CEDC) was "to improve advocacy, mobilisation and public awareness on children's rights ...". The CEDC Programme already addressed a wide range of issues that would later gain increasing attention from the citizens and Government of Viet Nam: street children, children in conflict with the law, situation of ethnic minority children, child labour and HIV/AIDS. Although the project was largely needs-based, it marked an important first step towards a rights-based view of children, as it initiated a process of learning and thinking about the best way to protect children from rights violations. Community participation and social mobilisation were established as strategies for implementation; thus the Country Programme gave more weight to empowering rights-holders. Another important innovation was the establishment of separate programmes for Social Sector Planning, Co-ordination, Monitoring and Evaluation as well as for Communication and Social Mobilisation.

The fifth UNICEF Country Programme (1996–2000) represented another important step forward. It was linked directly to the CRC. Although the MPO does not address "child rights" directly, it was obviously written with the intention of streamlining new thinking about children's rights. The main goal was "to promote the survival, development, protection and participation

of children and women within the framework of the CRC and with an emphasis on those most in need to realise their full human potential"—which is a direct reference to two key principles of the CRC. Also, the strategies for the new MPO contained a number of related concepts and ideas, including empowerment and collaboration with NGOs. The inclusion of sentences reading, for example: "Elements of empowerment [sic!] will be included in all projects and programmes in the form of Information, Education, Communication activities directed to all families;"<sup>188</sup> and "The work of NGOs, particularly domestic, will be enhanced when doing so will contribute to the achievement of programme and project objectives and to their sustainability and replication. Efforts will be made to mobilise appropriate private sector organisations to contribute to the achievement of project objectives."<sup>189</sup> These statements are symptomatic of the effort to incorporate the new possibilities that *doi moi* had opened for children's and women's rights into the UNICEF programme.

Although the Convention on the Rights of the Child was introduced as the guideline for the Country Programme, goals and strategies remained mostly needs-based and concentrated on basic social services. It should be noted here that the UNICEF Executive Directive on HRBAP from 1998 was issued at a mid-programme point for the Viet Nam Country Programme, and hence could not be immediately incorporated.

On the basis of growing national and international acceptance of the term "child rights," the sixth Country Programme of Cooperation between Viet Nam and UNICEF (2001–05) was titled "A Programme to Advance Child Rights in Viet Nam." As this title had to be agreed between UNICEF and the Government, it is an important indicator of the acceptance of the term child rights, as well as for a more systematic and planned introduction of a HRBAP into the design of the Country Programme.<sup>190</sup> The MPO defined as its main goal: "The primary programme goal will be to contribute to a national effort aimed at reducing under-five and maternal mortality and enhancing the well-being of the most disadvantaged children and women by furthering their rights as set forth in the Convention of the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)." (p.6) Nevertheless, objectives, strategies and structures of this MPO still echoed the needs-based goals and indicators of the National Plan of Action for Children.

### New Counterparts

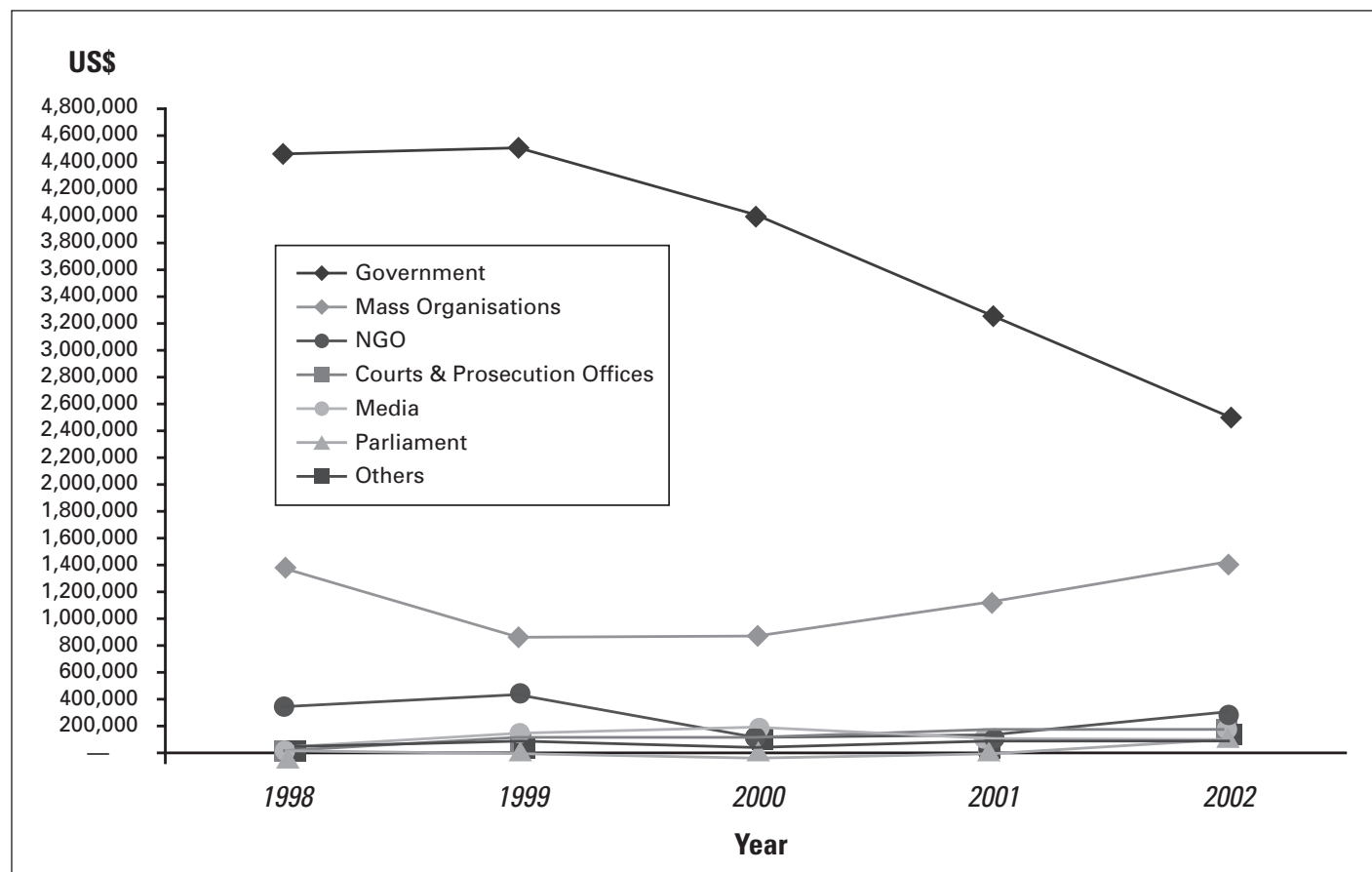
Parallel to the introduction of rights-based elements into Situation Analyses and Master Plans of Operations, the spectrum of counterparts was carefully widened from traditional government partners to mass organisations such as the Women's Union and Youth Union, towards party structures, such as the Ho Chi Minh Political Academy, or towards the National Assembly, and most recently to local NGOs such as the Thao Dan Street Children's Programme and the religious sector (Buddhist Association). (figure 15)

This gradual expansion of partnerships is an important means to broaden spaces for a HRBAP. For example, the new partnership with the Women's Union has, since 1988, played a very important role in the process of strengthening a HRBAP. The Women's Union acted as supporter of UNICEF's advocacy on child rights and women's rights, thus avoiding excessive scrutiny by opponents of *doi moi*.<sup>191</sup> In 1993 UNICEF started to work closely with the CEM (Committee for Ethnic Minority and Mountainous Area Affairs) with the aim of implementing an ethnic minority development project, a measure that was probably linked to increasing Government concern over the situation of ethnic minorities. New strategic spaces for rights-based programming opened in 1998, when UNICEF initiated collaboration for training on child rights, women's rights and

human rights with the Ho Chi Minh Political Academy. The Academy acts as a think-tank and strategic research arm of the Communist Party and builds the intellectual capacity of cadres working in the State system. It is the main institution for education of the leadership of the country. This collaboration indicated that the Communist Party had come to recognise child rights as part of their regular working agenda, no longer as a sensitive issue. A number of training manuals and support documents on child rights were developed, including references to the general history of human rights and basic human rights theories, concepts and principles as background for the understanding of child rights. This was the first time ever that human rights were introduced into the formal curriculum and literature of a Vietnamese University.

The list of new partners of the UNICEF-supported Country Programme has grown significantly since the end of the 1990s and eventually encompassed the National Assembly Council for Ethnic Minorities, the National Assembly Commission for Culture, Education, Youth and Children, the Department of Criminal and Administrative Laws in the Ministry of Justice, the Department of Criminal Police, Ministry of Public Security and the Viet Nam Youth Association. This represents a significant expansion of the Country Programme into the area of children's and women's civil and political rights.

**Figure 15: UNICEF cash disbursement by type of recipients**





### *Role of International Decisions and Documents*

Another decisive factor for the introduction of rights-based elements into the Country Programme and into the country office has been the enabling environment for HRBAP within UNICEF globally. This environment was created by the UNICEF Mission Statement of 1994 and the 1998 Executive Directive, as well as by the Programme Policy and Procedure Manual (PPP Manual—formerly book D). Although these documents did not have an immediate impact at the country level in terms of staff acceptance of a child rights approach to programming, they strengthened the understanding of Country Programme managers who recognised the advantages of a HRBAP and wanted to introduce it. These UNICEF policy documents backed senior management of the Country Office in negotiations with Government counterparts during the gradual introduction of “rights-based” elements into Master Plans of Operations.

Despite the global push towards a HRBAP, staff acceptance and support for a HRBAP at the country level has been a challenge. There are several reasons for the slow adoption of the new paradigm for programming in the Viet Nam Country Office. One is systemic: the focus of the UNICEF Country Programme on project implementation makes the understanding of HRBAP difficult for staff that have worked for years in classical, vertical service delivery. Naturally, the mindset of such project staff is determined by sectoral goals and project inputs, not by strategic planning, legal, political, social and cultural processes, inter-sectoral collaboration or monitoring of violation of child rights. But the international discussion of these concepts in Executive Board decisions and UNICEF Headquarters documents and directives has contributed to increased awareness on the part of national staff that the application of a HRBAP is a corporate requirement.

### *HRBAP training in UNICEF*

UNICEF-Viet Nam’s staff received training on children’s rights very early on. In 1996, a training manual on child rights was developed at UNICEF Headquarter in New York and UNICEF-Viet Nam was among the first Country Offices where the manual was tested. In 1998 the first training on child rights for UNICEF-Viet Nam’s staff took place.<sup>192</sup> This initial training was followed up by a half-day orientation seminar for staff and a multi-step training for senior national staff, given by the Center for Human Rights. These trainings focused on child rights principles rather than how to incorporate a human rights approach into all areas and processes of programming. Staff from UNICEF-Viet Nam also joined a special training in Bangkok on child rights in the same year.<sup>193</sup> In 2002, another one-day staff training on the human rights approach to programming was conducted, with support from a master trainer from UNICEF Pakistan. However, all through these training courses the understanding of staff remained at an abstract level and the concrete implications of child rights and human rights for programming were not clear. Therefore, staff did not perceive the strong relevance of the CRC to its day-to-day project work. In addition, project staff feared difficulties in their relationships with Government counterparts if UNICEF placed too much emphasis on child rights, women’s rights and human rights.

Given the slow acceptance of a HRBAP by many Country Programme staff, Representatives and Senior Programme Officers (SPOs) became the most important agents of change for acceptance of child rights and a HRBAP within the UNICEF Country Programme. Their determination was decisive for the introduction of the new approach.

### *Partnerships for HRBAP*

While the relative weight of programme spaces for rights-based programming is slowly increasing within the UNICEF Country Programme, UNICEF’s power to influence Government policies and other donors towards a rights-based approach is declining. For many years the United Nations, Sweden and Finland were the only international agencies present in Viet Nam, which means that UNICEF’s position among the international aid community was relatively strong. But this situation has changed significantly over the last 5–10 years. In January 1994, the U.S. trade embargo against Viet Nam was lifted, and in 1995 Viet Nam and the United States opened liaison offices in their respective capitals. With the end of the embargo massive ODA started to flow into the country and the local presence of international agencies and financial institutions grew significantly. Today, all major donors, many UN agencies and the Bretton Woods Institutions are all present in Viet Nam. During the Consultative Group Meeting in December 2002, donor agencies pledged US\$2.5 billion in ODA funds for Viet Nam. UNICEF’s forecast for the same year was US\$13 million. In other words, UNICEF’s share of total ODA was 0.52%. Thus the international aid environment in Viet Nam has become very competitive, and UNICEF’s importance for Viet Nam in financial terms has decreased. This makes partnership management a key strategy for the further introduction of a HRBAP in Viet Nam.

## **Examples of Rights-based Programme Activities**

The complicated and at times very tense dialectic between the universal validity of rights and local traditions is a well-known feature of human rights discussions. This natural tension increases even more when human rights paradigms are applied not only to the legal sphere, but also in development programming. Programming based on human rights principles is difficult because there are no specific activities that emerge logically from human rights principles. For example, there are many different ways that programmes can respond to the principle of universality of rights. Thus the choices made for certain rights-based strategies, projects and activities under a HRBAP may seem arbitrary.<sup>194</sup>

So far, the process of practical application of a HRBAP in Viet Nam has been slow but steady. Looking back at the historical development of UNICEF’s Country Programmes of Co-operation in Viet Nam, it is the current (seventh) UNICEF Programme (2001–05) that has the necessary political space and technical support to seriously look into the implications of the principles and provisions of the Convention on the Rights of the Child for programme design and implementation. Also, this Country Programme is the first to be adopted since UNICEF officially

adopted the HRBAP in 1998. Nevertheless an historic review of UNICEF Country Programmes in Viet Nam shows that elements and activities for a rights-based approach to programming were already present in earlier programmes, although these activities were limited and existed in relative isolation from traditional support to social service delivery. They represented random elements within a needs-based programme architecture rather than pillars of a strategic HRBAP. A number of activities and challenges to supporting the human rights principles of universality, indivisibility, participation and accountability are described below.

### *Universality*

An analysis of the social and historical conditions for realisation of child rights in Viet Nam has underlined the urgent task of strengthening the position of children as subjects of rights within the legal system and in everyday life. Viet Nam still has to take on an ambitious agenda of law reform for children and women in order to adapt its legal system to international standards.

UNICEF initiated co-operation in the area of law-making in 1996 with a variety of partners and studies.<sup>195</sup> In 1998 UNICEF supported the first workshop on child rights with members of the National Assembly, and since then has concentrated its assistance largely on training cadres and government staff on children's and women's rights. UNICEF initiated a series of "master trainer" trainings on child rights and women's rights, in partnership with the Research Center for Human Rights of the Ho Chi Minh Political Academy, for all provincial training schools of the Academy. Since then, these master trainers have built up a national network that meets annually to discuss challenges and successes in moving the child rights issue forward in academic teaching. UNICEF also supported the introduction of child rights and women's rights as part of the curriculum for future leaders of Viet Nam's public administration. Another focus of training on children's rights has been judges, lawyers and prosecutors, in partnership with the Training School for Judges and Courts of the Ministry of Justice, as well as training within the Department of Ministry of Public Security for police, prison staff and border guards. It should be noted that UNICEF provided only limited international technical assistance in law-making, which is probably due to a combination of language barriers and political sensitivities.

As discussed previously, Viet Nam's the juvenile justice system has improved in recent years, but does not yet meet international standards. UNICEF's work in the area of juvenile justice started in 1996 and consisted mainly of translation, dissemination and training on international legal instruments for juvenile justice, such as the CRC, UN Minimum Rules for the Administration of Juvenile Justice, etc. In addition, technical advice was provided to ensure international standards for children within the reform of the Criminal Court (1999) and the Criminal Procedure Code (2000). In recent years co-operation expanded to training of professional staff, including legislators, police, judges, prosecutors, jail managers and caretakers in child rights, child psychologists and social workers. UNICEF is the only organisation in Viet Nam allowed to work in prisons. It should expand its role in this area, in order to improve human rights standards and carry out some (limited) monitoring of the

situation of adolescents, young people and pregnant women and mothers who live in prisons with their young children.

For many years UNICEF-Viet Nam advocated for the establishment of a juvenile court, and in 2002 the Polit Bureau of the Communist Party finally called upon the Government to look into the possibility of creating a special court for families and juveniles.<sup>196</sup> As a follow-up to that decision, in 2003 UNICEF supported technical workshops for judges, government staff in the CPFC, ministries of Justice and Public Security, and other stakeholders to discuss this proposal and a broader inter-sectoral Plan of Action for Juvenile Justice. This Plan should take into account basic concepts such as mediation (to deal with juvenile offences outside the formal court system), restorative justice (reconciliation between victim and offender), and alternatives to imprisonment and include a special focus on rehabilitation and reintegration of juvenile offenders. Currently there is no system of social workers to take care of children once they are released from reform school or prison.

While UNICEF-Viet Nam has provided impressive technical assistance and advocacy in law-making and training on "rights," this support has come almost exclusively from one small-scale rights promotion project. Progress in HRBAP will require increased support to law reform and wider legal expertise within the Country Programme. Future progress in children's rights in the legal and juvenile justice spheres will probably not be very rapid because the top priority of the Vietnamese Government in relationship to legal reform is the economic sector. A main objective in this context is undoubtedly accession to the World Trade Organisation, which will require review, revision or introduction of hundreds of laws and regulations. This task currently ties up most of the capacity of the Ministry of Justice and other relevant bodies, leaving little space for other legal reforms, including those related to children and adolescents. Apart from overburdened ministries, there may also still exist general caution about reforming laws that strengthen the status of the citizen vis-a-vis the State—as explained above—even if the citizen is a child. The Government considers co-operation in the field of juvenile justice sensitive, so project implementation within the UNICEF Country Programme will probably remain slow and sometimes complicated. In the long run it will be hard for Viet Nam's leadership to justify a modernisation of its business laws while neglecting the legal framework for children and youth. In addition, Viet Nam traditionally has been a strong international advocate for the Convention on the Rights of the Child. Serious commitment to further adapt its legal system to international standards set forth by the CRC and other International treaties can therefore be expected.

### *Non-discrimination*

Viet Nam has achieved astonishing results in the fulfilment of children's rights, with the exception of ethnic minority children. This progress is probably grounded in the fact that non-discrimination and equity are principles that form an intimate part of socialist ideology. But progress in equity is currently at risk from State strategies for mobilising funds through user fees and privatisation of social services. Thus analysis of the challenges to non-discriminatory fulfilment of children's rights makes it

necessary to look much more closely into issues such as social sector financing or reform of social safety nets. New social systems need to be put in place to ensure that children of poor families maintain the same minimum level of health care and education as children from better-off families. In other words, existing social safety nets and sector financing concepts need to be urgently reformed to reduce inequalities among the population. However, the current Country Programme is only randomly addressing strategic challenges to equity and non-discrimination. There is very little involvement in national policies and law-making on social sector financing or ethnic minorities, although there are isolated positive examples, such as support for a national think-tank on health sector reform and support for policy development for Ethnic Minorities.

An interesting example of rights-based programming in support of the principle of non-discrimination can be seen in the area of child protection. Viet Nam's rapid process of urbanisation and industrialisation has increased the risk of exploitation and abuse for many children. Growing problems of child protection are new and widely visible in the case of street children and child labourers, and less visible in the case of sexually exploited children or children infected or affected by HIV/AIDS. How can development programs for such children address their situation with a rights-based approach? The answer is: through support for the introduction of national systems of social work and counselling, in combination with the promotion of non-institutional forms of child care. These solutions are enshrined in the CRC and have been recommended several times by the Committee on the Rights of the Child. The building-up of a national system for child protection that does not primarily rely on orphanages or other types of institutions is an important step towards non-discriminatory fulfilment of rights for children who suffer massive violations of their rights. Institutionalisation should always be the last resort for care of a child.

A national system of child protection and non-institutional care needs professional social workers and counsellors for families and children. Social work services are important elements of the practical, every-day protection of child rights. Professional counsellors and social workers are also important supporters, defenders and advocates for children when adult family members fail to provide love and care. However such professions are new in Viet Nam. The development of curricula, training and payment of social workers and counsellors takes time and requires financial investments. Above all, the formation of a national system for child protection requires a shift in conceptual thinking and ideology—changes that are not easy to achieve. Generally speaking, it is difficult for socialist states to accept the need for professional “social engineers” because this implies the recognition of structural social problems. In the past such problems have often been presented as typical to capitalist states but only temporary for socialist countries. According to official opinion, such problems should not require professional attention as they should gradually disappear as part of the process of constructing a socialist society. Another “problematic” aspect of national child protection systems in a socialist society is that non-governmental organisations are often very important service providers. But only a few NGOs operate in Viet Nam, as mentioned earlier. In addition, there may be concern among some political leaders that

sociology, psychology and related sciences that are key disciplines for the academic training of professional social workers could foster dissident thinking—as occurred in China, where sociology was declared counter-revolutionary and consequently forbidden from 1949 until 1978 and still tightly supervised by the State until today.<sup>197</sup>

Despite this difficult environment, UNICEF, Redda Barnen and the Department of Social work of Stockholm University supported a process of technical learning and advocacy around the issue of alternative care during the 1990s, which led to a breakthrough in 2002. After participating in both Stockholm Conferences on institutional and alternative care in the 1990s and in 2002, the Government of Viet Nam decided to review its policy of institutional care and substitute it with alternative models of community-based care for children without primary caregivers. UNICEF-Viet Nam had supported the participation of a high-level Government delegation in Stockholm 2002 that later recommended this policy change. UNICEF also supported the follow-up process of disseminating the conference findings and several national policy review meetings.

The process of developing a new policy for child-care included three regional consultation workshops in 2003, involving nearly 300 practitioners. Inputs were received from 61 provincial departments, social protection centres (government orphanages), and several line ministries. Workshop discussions revealed that every province had some form of alternative care, but the effectiveness of the models varied greatly between provinces and regions and depended heavily on the commitment of local authorities. The workshops encouraged practitioners and policy-makers to analyse strengths and weaknesses of both institutional and alternative forms of care in terms of staff capacity, financial resources, and community participation. Participants made recommendations to the Government to amend or develop regulations and policy to shift from institutional towards alternative care. Realising that such a shift will require time for policy development, solutions to human resource issues and community awareness, participants also stressed the need to evaluate the quality of care in residential institutions. It must be noted that this policy change was also prompted by rising numbers of children in need of care and insufficient state budgets to cover their needs through state-run institutions. But considerations about child rights and the best interest of the child will shape the content and direction of the new policies. From a rights perspective, the process so far has been heavily centred on duty-bearer perspectives—participation by parents, potential care-givers and children was very limited. Nevertheless future support will enable bottom-up exchange between Government staff and care-givers, and pilot models should and will include spaces for child participation. Thousands of children in institutions as well as many street children, disabled children, children infected or affected by HIV/AIDS will benefit from this policy shift in the coming years.

#### *Interrelatedness*

A programmatic consequence of a HRBAP related to the human rights principle of “interrelatedness” of rights is the adoption of holistic, cross-sectoral approaches to research, technical

assistance for policy development and programme implementation. Rights-based programmes are often multi-partner and multi-sectoral, with an emphasis on participation and a focus on socially or geographically marginalised groups. These characteristics make such programmes technically and politically complex and, therefore, quite difficult to manage. The transaction costs of such programmes can be high as they require intensive dialogue and meetings between many stakeholders with diverse interests. Monitoring visits at remote projects sites are time-consuming. All this means that rights-based project implementation is likely to be slower than that of vertical, sectoral projects. It is assumed that this disadvantage is set off by the greater ownership and impact that such projects have on beneficiaries. Having said that, initial experience indicates that in the short run, and given the high input in terms of time for management and co-ordination, the comparative strengths of such rights-based projects do not consist in going to scale. Streamlining lessons learned from integrated pilot projects into national policies usually becomes more important than the scaling up of these projects. Therefore, implementation of the principle of interrelatedness is closely tied to good process documentation, impact research and advocacy with political decision-makers at the national level.

The management challenges posed by integrated programmes also require internal office mechanisms to facilitate coordination of integrated project planning, monitoring, evaluation and reporting. Hence a number of inter-sectoral task forces have been operating in UNICEF-Viet Nam, in the areas of integrated early childhood development, HIV/AIDS, emergencies and injury prevention. These task forces have developed conceptual frameworks and programme designs and supported local authorities in cross-sectoral programme planning. During a number of integrated planning workshops, inter-sectoral plans for 2003 were developed to feed into sectoral PPAs.

An interesting example for rights-based technical assistance in integrated policy development from Viet Nam is family policy, an important issue in Viet Nam and by nature a cross-sectoral field. The rapid economic development that Viet Nam is going through has a profound impact on Vietnamese families as was described in detail above. This situation has sparked an intensive national discussion about changes in the role and composition of families. On one side are researchers and politicians who would like to preserve traditional family values and protect the family from the “dark sides” of the market economy. On the other side are intellectuals and reform forces that recognise that changes in production and social relations call for a “new family model:”

The traditional family attached importance to its interests more than individual interests, requiring filial piety and absolute obedience of children towards their parents and the veneration of ancestors. It turned to the past to try to preserve the cultural heritage. However, the modern family tends to look forward to the new, something in continuous change, making love the basis of conjugal unity. It stresses individual interests and happiness, highlighting the aspirations and the independence of individuals, equality and democracy in conjugal relations, and the necessity to take children’s opinion into consideration.<sup>198</sup>

The need for UNICEF to engage in this policy arena was highlighted during the Mid-Term Review of the Country Programme, as well as by the Committee on the Rights of the Child during its session on Viet Nam in 2003. Thus, UNICEF-Viet Nam supported the development of Viet Nam’s first national family strategy, covering 2004–10. The main goals are to promote new ways for families to live together and to foster equality between men and women, as well as to strengthen children’s rights in the family. A rights-based family policy does not attempt to restore past patriarchal family models, but rather highlights the need to support the rights of women and children within the family. As a result of national discussions carried out with technical assistance and advocacy by UNICEF Viet-Nam, the final version of the strategy contained direct references to the CRC and CEDAW as the basis for family policies and a family model based on mutual agreement, dialogue and respect of all family members. The strategy builds upon labour policies that enhance job creation and access to credit, especially for poor families, and includes a broad set of social support measures for families in difficult situations. Vietnamese discussions around family policies and strategies link family policies closely to national development strategies and plans.<sup>199</sup> The strategy is weak in some areas; issues such as intra-family violence and child abuse are scarcely mentioned, and the difficult balance between the rights of males, females and children within the family is not addressed explicitly. The implementation strategy for family policies is mostly top-down and the fact that the strategy contains the goal “90% families achieve cultural norms” reveals somehow the attempt to approach a new complex social phenomenon with the traditional methodologies of central planning. While the strategy promotes the idea of family counselling and family counselling centres, as well as family clubs and social workers, the introduction of a national profession of social work is not supported. The strategy only mentions the need for training courses for existing grassroots staff.

Despite such weaknesses, the strategy is an adequate reflection of current understandings of families in transition and contains many positive entry points for rights-based programmes. A crucial next step will be the preparation of the first national family survey. From a rights-perspective such a survey implies a need to move beyond traditional household surveys on family income and family structure. Instead, the survey should permit an assessment of the fulfilment of rights of children and women within the family as well as the role of public duty-bearers. The methodological challenge will be to capture intra-family relations from the point of view of all generations. So survey teams will need to approach grandmothers and grandfathers, mothers and fathers, sisters—not just the (male) head of household, as is usually the case. Such an approach will be quite costly and time-intensive and will require training of interviewers, especially for young and elderly people.

### *Participation and Empowerment*

The UNICEF Country Programme of Cooperation has fostered community participation for many years. Hence a great deal of valuable experience in participatory project implementation has been accumulated, although it has not been systematically analysed and documented. Community participation is a part of



many projects of the Country Programme but these projects operate separately, so that experiences, training materials and methodologies have not been consolidated.

Historically, UNICEF's Water and Sanitation Programme was one of the first to include elements of community participation into its project implementation, particularly since 1996. During that year, an agreement was reached with the Government to reduce supplies such as cement and iron bars for latrine construction, and instead invest more into awareness raising, behaviour-change communication and participation. Stimulating community participation also implied new counterparts. In 1997 the Water and Sanitation Programme initiated collaboration with mass organisations like the Viet Nam Women's Union, the Youth Union and the Young Pioneer's Council<sup>200</sup> and in 1998 special attention was given to the involvement of ethnic minorities in decision-making processes and water management.<sup>201</sup> In 1999 the first community-based WES project was completed in Vinh Long.<sup>202</sup> The Water and Sanitation Section continued to give weight to participation by supporting the participation of children at the World Water Forum in Kyoto/Japan and by conducting a study on "Situation of Gender and Women's Participation in Rural Water Supply and Sanitation in Viet Nam" to encourage women's participation in 2002.

In Education, UNICEF started to train teacher and parent associations at the local level in management, planning and monitoring skills in 2001. These activities were seen as means to increase effective community participation at school. Several participatory rural appraisals on early childhood care at the commune level were conducted. The 2001 Annual Report mentioned that community participation was "time-consuming but has enabled active community participation and ownership right from the beginning of the project."<sup>203</sup> Similar to the WES Programme, the Education Section expanded its counterparts and begun to work with mass organisations like the Women's Union and the Youth Union.<sup>204</sup>

Participation became a specific issue in Health and Nutrition only in 1999, when the first health study on community participation was conducted ("A study on community participation in health services at the commune level."). But in 2001 a series of activities and analyses on community participation and empowerment took place, especially in connection with the "health promotion project" and the plan to develop a behaviour-change campaign on key family practices for the care of young children.<sup>205</sup> The 2001 Annual Report stated:

Generally, community participation in primary health care has been limited to involvement in large-scale social mobilisation campaigns such as National Immunisation Days, or advocacy activities such as micronutrient days. Involving community members in the planning, monitoring and decision-making processes for routine health services provision is proving to be more problematic than expected, with the Ministry of Health finding it difficult to sustain community members' interest in, and support for, high quality grass-roots participation."<sup>206</sup>

UNICEF's co-operation in the area of child and youth participation began with the current Country Programme. In 2001, a Healthy Living Life Skills (HLLS) Project was created to directly address adolescent rights and needs in the context of HIV/AIDS prevention.<sup>207</sup> The project operates in 12 districts of eight provinces and is training government staff and mass organisations in HLLS-education, communication and participatory survey skills. In 2002 the project promoted adolescent participation through the first national forum of adolescents in Ho Chi Minh City with more than 1,000 adolescents who presented their ideas on several issues and discussed them with high-ranking government officials, including the minister of CPFC.

The Planning Section is supporting a small-scale project for capacity building in the participatory development of local plans of action for children. The lessons learned from this project confirmed a certain resistance within the local public administration to discuss their decisions, funds and programmes with communities, as was mentioned earlier in this case study. The capacity of local authorities for planning, monitoring and evaluation was uneven. Also, people were not motivated to participate in local planning discussion due to insufficient practical experience in participatory planning. In addition, spaces for local decisions were limited and subject to approval from district and provincial committees.

In 2001, the Government also started to consult with children on national policies. UNICEF supported two major processes featuring involvement by children: the review of the National Plan of Action for Children (NPA) 1991–2000 and the preparation of the next NPA 2001–2010. This was the first time that Vietnamese children from all parts of the country discussed child policies and programmes with the political leadership.<sup>208</sup> In the same year, UNICEF supported the "Say Yes Campaign" in preparation for the United Nations General Assembly Special Session on Children, which mobilised participation by 825,000 Vietnamese children. This trend continued in 2002, when about 100 children were invited to a press conference on The State of the World's Children 2002 on child participation. At that Conference, the children raised a number of questions to their political leaders and to UNICEF, such as who would guarantee follow-up on the implementation of "A World Fit for Children."

However it must be noted that the "Say Yes" campaign is not an indicator of true, meaningful participation but rather conformed to traditional mass mobilisation approaches in Viet Nam.<sup>209</sup> Child participation in most of the events mentioned above was mostly token or decorative. Participation of children and adolescents at school, in families and in communities needs to be encouraged much more than is presently the case. Stronger efforts need to be made to strengthen children's capacities to participate in decision-making in daily life.<sup>210</sup> However, given cultural reluctance towards child participation in Viet Nam, these are first steps to gain more social experience and political acceptance for the idea of child participation.

### *Accountability and Monitoring*

There are basically two types of monitoring and accountability: one relates to how the State implements the provisions of the Convention on the Rights of the Child, while the other relates to (rights-based) monitoring of (rights-based) project implementation. In programmatic terms, the first kind of monitoring and accountability can be strengthened through capacity building of national and local institutions that monitor compliance with child rights. The latter approach implies a different way of organising monitoring and evaluation within development programmes.

In Viet Nam, progress in monitoring State compliance with international human rights provisions will probably be slow and will only take place within existing State structures. For the time being, monitoring of children's rights is impossible without State institutions that are legally and politically entitled to work for child protection and children's rights. As has been noted before, there is a positive trend toward broadening monitoring functions at all levels of the State, and several public entities (CPFC, the State Inspectorate and mass organisations like the Women's Union) can act as national advocates for children's rights vis-à-vis other ministries and state bodies.

In 2001 the CPFC and UNICEF initiated an interesting local "Ombuds" pilot project consisting of six inter-sectoral commune networks ("steering committees") led by the CPFC's Inspection Unit. The networks were composed of representatives from the CPFC, the Fatherland Front, the local police, school teachers, the women's union, the association of war veterans and many others. They organised local surveys on the situation of child rights and addressed shortcomings. As a result all children in the six communes received birth certificates, and out-of-school children were reintegrated into classes. Hence, the Mid-Term Project evaluation recommended expansion of this successful model and improving it in two areas: child participation and handling of complaints on child rights violations.<sup>211</sup>

Another key partner for improved monitoring of public policies and citizens rights is the National Assembly. Its members at the provincial and district levels monitor the performance of Government administration at national and sub-national level. To date UNICEF-Viet Nam has only supported a few training workshops and study tours for the National Assembly, and needs to intensify capacity building for parliamentarians in monitoring and inspection. For example, UNICEF-Viet Nam has been collaborating with the National Assembly Council for Ethnic Minorities since the second half of the 1990s, mainly through trainings on child rights and women's rights. This Council has asked UNICEF to further support capacity building of their staff in policy development for ethnic minorities and monitoring of basic social services. The National Assembly also has a Committee for Culture, Education, Youth and Children that contacted UNICEF for closer collaboration and support of its new oversight role.

An important aspect of monitoring and accountability for child rights and women's rights in Viet Nam is partnership with other UN organisations, international human rights networks, international NGOs and civil society. The Committee on the Rights of the Child has explicitly recommended stronger support

for collaboration with NGOs in this context. Today, opportunities for Vietnamese NGOs to become advocates and monitors for child rights are extremely limited. Nevertheless UNICEF-Viet Nam should gradually expand its collaboration with NGOs and with professional associations and local volunteer initiatives, including capacity building. Furthermore, UNICEF and other UN agencies should jointly advocate for improvements of the legal framework for civil society involvement in public affairs.

Rights-based monitoring of development programs and projects has yet taken off in Viet Nam. Worldwide, this issue is still not well-developed. How can we "prove" that a HRBAP improves the situation of children and women? What types of rights-based approaches work best? These questions are difficult to answer as the concept of HRBAP is relatively new and rights-based activities and processes may take a decade to demonstrate results. Also, the returns and impact—for example from legal reform and policy formulation—are difficult to measure. Some authors have proposed to focus rights-based monitoring and evaluation on the impact of programmes on people's knowledge, attitudes and practices, as well as on public budgeting.<sup>212</sup> Initial discussions indicate that monitoring and evaluation of rights-based programmes will have to put strong emphasis on processes and qualitative results. Rights-based monitoring will also require participation by counterparts and beneficiaries in the design, implementation and interpretation of monitoring and evaluation studies.<sup>213</sup>



## 9. SOME GENERAL CONCLUSIONS

Viet Nam provides a good illustration of the successful application of child rights principles in a diverse cultural and political context. It is important to note that the present case study underlines the notion that human rights do not inevitably imply an exclusive implementation formula or corresponding political system. However the process of institutionalising human rights provisions in legal, political and cultural practices is complicated, and its pace depends very much on national windows of opportunity. The complexity of social change towards a rights-based culture and society requires careful analysis of the functioning of the national legal, political and cultural system in order to ensure that the HRBAP is connected to the internal evolution of the country. The general lesson learned from the Vietnamese experience is that a HRBAP requires a historical and political perspective on development programming. Methodologically speaking, HRBAP needs to be based on a situation analysis that enables historical and political understanding of national dynamics, as this case study has tried to illustrate.

Progress and limitations in the areas of children's rights have depended on the decisions of the Communist Party of Viet Nam to open its economy and society towards the global economy. Viet Nam's open door policy has fostered a political climate in which national Government staff became receptive to international ideas, know-how and contacts. This has contributed significantly to the current enabling environment for children's rights, in which internalising international concepts is regarded as a positive factor stimulating national development. In other words: progress in introducing children's rights and a rights-based approach to programming in Viet Nam has been closely linked to the political strength of reform forces within the Communist Party of Viet Nam and to its acceptance and professional understanding by government staff working for and with children.

The ratification and implementation process of the Convention on the Rights of the Child in Viet Nam was the other important enabling trend for implementation of a HRBAP in Viet Nam. Ratification was followed by a number of measures, including national and local plans of action and legal reforms. Nevertheless, it took a decade to achieve acceptance of rights-based language in official documents. The absorption and understanding of the new ideas and innovative concepts underpinning children's rights needed to be accompanied by a long process of rights promotion and training of government staff and the wider population to explain and popularise the concept in state and society. This process is still ongoing, and includes training workshops at the national, provincial and district levels and study tours and participation in international conferences. The process of political acceptance began in the beginning of the 1990s, spurred by advocacy by Committee for Protection and Care of Children (CPCC) soon after the ratification of the CRC, and culminated with the endorsement of "child rights" by the 9th National Congress of the Communist Party. It should not be forgotten that the CRC originally had especially strong support from socialist countries. Poland took the lead during the negotiations in the 1980s, and

the Convention's strong endorsement of social rights made it appealing to the former socialist bloc in the UN. Therefore the Convention was easily found to be politically acceptable by the Vietnamese Party and Government. The country's early ratification of the Convention and the membership and role of Vice Chair of the Government of Viet Nam on the UNICEF Executive Board at that time is proof of this. Also, practically all political leaders in Viet Nam grew up during the war and many suffered deprivations and violations of rights as children. Hence there was widespread support in the Party and Government for children as a matter of principle.

Hopefully this case study has contributed to a better understanding of the importance of institutionalising rights, apart from any moral obligation towards children that the political leadership of Viet Nam undoubtedly feels. Ratification of the Convention on the Rights of the Child transforms ethical attitudes about child rights into State obligations. Viet Nam, like all ratifying States in the world, has to harmonise its national laws, policies and practices with international human rights standards. This implies the need for huge reforms. The construction of laws is a key task in these reforms, not only as a technical issue of legislative formulation, but also as a consultative process within the society at large. And such consultative processes need to nurture the development of rights-based public policies. Without these two elements—law making and public policies for children—there can be no real development of rights. In this respect, human rights-based development concepts are less technocratic and less politically naïve than traditional economic or sectoral approaches to development. It is very obvious that the overarching goal of fostering legal and social change towards respect and fulfilment of human rights implies deep structural reforms of the State. A strategic conclusion from the Viet Nam case study is that in East Asia, perhaps more than in most other regions of the world, the construction of a rights-based programme has to be achieved in close concert with authorities. This was and is an indispensable element for the success or failure of a HRBAP in Viet Nam. HRBP can become acceptable within a political environment such as in Viet Nam only when it has evolved from a successful political dialogue at the very highest levels. The strategic elements of his process were described in the case study: i.e., strengthening the process in classical areas such as social and economic rights, while using appropriate political momentum to include more "sensitive" civil, political and cultural rights. This strategy also has the positive effect of building a frame of reference for individual rights without losing sight of collective interests in poverty reduction.

It is very interesting to note that the Communist Party of Viet Nam permitted rights-terminology at the same time that it was moving forward in the process of economic liberalisation. The ideas of "rights" and rule of law are gaining political momentum as economic reforms become increasingly successful. The need to attract foreign investment may be an important catalytic factor for the introduction of the rule of law in Viet Nam. This case study has pointed out that "rights" and citizenship are still largely economic categories in Viet Nam, although it is also important to highlight that development successes and improvements in the social rights of children in Viet Nam was intimately linked to consistency in economic policy, as well as political

stability and continuity. Further studies in HRBAP should deepen the analysis of how the potential for fulfilling children's and women's rights is ultimately related to macro-economic policies, as well as to good governance principles and practices.

The case study emphasised that women's rights, child rights and family relationships are closely interwoven, and thus must be addressed together within the historical and cultural process of realisation of human rights. In Viet Nam, one implication of this situation for rights-based programming is the need to advocate for the development of rights-based family policies that promote a family model in which women's and children's rights are respected. Discussions and experiences with child rights to date have contributed to the fact that acceptance of human rights within Viet Nam has grown considerably. In fact, children's rights have become an important door-opener for the democratisation of society. The process of acceptance of women's rights in Viet Nam has been more difficult. The CEDAW was ratified in 1982, eight years earlier than the CRC. But despite strong efforts by the Viet Nam Women's Union, its dissemination among government staff and the wider population and its integration into the national legal system took much longer and is still considerably weaker than in the case of children's rights. Cultural and political resistance against women's rights seems to be stronger than is the case for children's rights.

The introduction of children's rights in Viet Nam has been a slow but steady process. The historical analysis of Country Programme development in Viet Nam described the strategies that UNICEF adopted over the years to strengthen a child rights approach to programmes. Situation analyses and Master Plans of Operations promoted the principles and general underlying ideas of a rights approach to programming without using sensitive "rights" language. This enabled Government counterparts to gradually familiarise themselves with the new idea of "child rights" and accept a selected number of related project activities. These elements laid the foundation for UNICEF to become more explicit and systematic about HRBAP subsequently. Senior UNICEF management staff were the most important agents of change in this process. This means that training and selection criteria for senior programme managers in country offices can serve as important tools for disseminating new concepts and approaches in UNICEF.

UNICEF, as a UN-agency is understood and trusted by the Vietnamese Government as an entity advocating for child rights and improving the situation of children—not following any bilateral political agenda. This was an important factor facilitating the introduction of HRBAP in Viet Nam. This trust was based, in part, on UNICEF's continuous presence in Viet Nam, even during the western-led embargo of the 1980s. Overall, this experience demonstrates once more that the United Nations has a comparative advantage in promoting and supporting human rights in the world.

The process of introducing a HRBAP also involved broadening the network of counterparts linked to the UNICEF-supported Country Programme and to build the capacity and technical understanding of counterparts on child rights. UNICEF has strengthened the CPFC and the Women's Union as important

advocates for children's and women's rights. The leadership of the CPFC, in turn, has played a key role in broadening understanding and acceptance of child rights in State and society. It was a major achievement of the CPFC that child rights were accepted in official language and party documents. This success underlines the need for capacity building of national institutions for child rights.

The present case study also brought to light a number of challenges for the application of a rights-based approach to programming. The study pointed out that it took UNICEF Viet Nam a long time to explicitly introduce concepts such as "child rights" or "human rights-based approach to programming." Patience, persistence and appropriate strategies for the use of language were instrumental in this process. There has been both explicit and implicit use of rights language at different moments in history. It might be asked whether the explicit use of human rights terminology is in itself an important part of creating a culture of respect for human rights, and thus by avoiding it UN agencies are failing their mission—to promote human rights—around the world. The important lesson learned from the experience in Viet Nam is that there is no global recipe for applying rights-based terminology; "language-strategy" is driven by the country context.

The comments in this case study about the principle of indivisibility of rights raise a fundamental question about the UN's own accountability in relation to human rights. The United Nations and its institutions are founded on the basis of the Universal Declaration of Human Rights. The UN has a special role in relation to human rights: who if not the UN has the duty to promote human rights around the world? After all, the creation of the UN was a response to the horrors of the Second World War and the gross human rights violations committed by Nazis. The U.N. Charter places human rights at the core of the organisation: "We the Peoples of the United Nations, determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small..."

Non-compliance with the principle of indivisibility of rights should almost naturally provoke a strong reaction from the UN. However the United Nations is an intergovernmental body and its development programmes are defined as programmes of cooperation between governments and the UN. This is why UN-development staff frequently voice concerns about engaging in the defence of human rights, as it may provoke political rejection by Governments. Hence, professionals working in local development programmes commonly avoid addressing human rights violations to facilitate smooth programme implementation. This attitude is not necessarily an expression of bureaucratic cowardice. Public denunciations of human rights violations by a Government can fuel political polarisation and close existing policy and programme spaces for progress. So there is neither a global recipe nor general guidance for applying the "right" human rights strategy—decisions on how to use rights-based terminology are largely driven by specific national political contexts. But it is important to stress that respect for human rights is not simply a matter of internal politics. Therefore the UN loses overall credibility if it promotes

human rights globally but remains silent when problems occur at the country level.

A difficult issue in both political and conceptual terms is the rights of indigenous people. UNICEF-Viet Nam aims to strengthen national understanding of individual rights and the rule of law for all citizens of the country. But conceptually speaking it is difficult to harmonise this approach given the collective nature of indigenous rights. A strong position in favour of indigenous rights also raises arguments about some harmful traditions in indigenous communities that are incompatible with universal human rights standards. UNICEF-Viet Nam would need a well-grounded position on this ambivalent situation to push policy and law discussions further. But worldwide there is no organisational position on this subject. The lack of such a global position makes national advocacy on this issue difficult because the issue of indigenous rights is politically very sensitive in Viet Nam. While in Latin America indigenous groups have reached a high degree of organisation and indigenous rights are debated in public, Governments in East Asia tend to see the rights of indigenous populations as a matter of national security, and thus taboo.

It has been noted that despite some progress, UNICEF-Viet Nam's human rights-based approach to programming is at an early stage in terms of programme design and implementation. The future agenda for rights-based programming for children consists in better linking UNICEF's assistance to law making and public policy development. UNICEF will have to move away from small-scale service delivery projects towards research, technical assistance and communication for the creation of an enabling environment for child rights in State and society. Another trend will be to empower rights-holders to claim their rights; for example, through increasing assistance for juvenile justice and strengthening of child participation and ethnic minority rights. The Vietnamese State will require support in areas such as setting child-friendly standards for private and public social service providers and upgrading its capacity for monitoring and inspection. In this context, a new element to be addressed is the duty of non-state actors towards child rights. While this may be obvious in the case of NGOs working in the social field, there is also growing debate about corporate responsibilities to ensure minimum social standards in their enterprises, including the protection of children and adolescents from economic exploitation. A future challenge for the application of a rights-based approach to programming will be to engage more closely with Viet Nam's fast-growing business sector and initiate dialogue and action on child rights.

The latter point leads to a primary topic on the future agenda of rights-based programming in Viet Nam and probably in many other countries of the world: economic policies. Some NGOs have argued that the biggest global challenge for a HRBAP is to address the impact of neo-liberal policies promoted by some industrialised governments and by international finance institutions such as the World Bank and the IMF.<sup>214</sup> Such policies call for the liberalisation of social services, resulting in reduced involvement by the State in service provision. However, the role of the State in fulfilling duties towards rights-holders is crucial to the concept of human rights. This does not necessarily mean that the rights of citizens cannot be fulfilled by private services.

It may well be that private services are of better quality and coverage than state run services. However privatisation processes can erode the position of rights-holders if they are unable to pay fees to access basic services or if states do not supervise the quality of private services.

The process of privatisation that Viet Nam is going through poses major challenges to State's role in reducing discrimination and marginalisation among the population. While the Party and Government of Viet Nam still emphasise equity as one of their main political goals, the dynamics of the market economy, combined with a reduction of direct State participation in business affairs, tend to increase social and economic gaps. The Vietnamese State is cutting back subsidies, closing down unprofitable state-owned enterprises and pushing private and semi-private (social) service delivery. It is of some historical irony that Viet Nam's development strategy with pro-poor intentions and market economy objectives has significantly improved the material living conditions of the population, while at the same time generating processes of marginalisation. Are widening social gaps the price of achieving economic wealth? Viet Nam struggles with the social challenges of the liberalisation process and is striving towards a new role for the State: from social welfare provider to an institution that sets social and economic norms and monitors compliance with these standards. In such a situation, how can the State still ensure that privatised basic social services are affordable for all citizens and of good quality, and that service providers are following legal and technical quality standards? And what will be the role of UNICEF-Viet Nam in this context?

Because of their massive impact on children's lives macroeconomic policies and liberalisation processes demand more attention from UNICEF in Viet Nam and probably in many other countries as well.<sup>215</sup> Neither governments nor international financial institutions define their economic policies within a human rights framework, nor do they feel accountable to international human rights law. UNICEF's technical expertise and political influence in this area are weak.<sup>216</sup> One way to address this situation at the national level is through technical assistance in law reform, so that some minimal social norms and standards are set for children. For example, laws for free primary education or free health care for children can reduce their vulnerability when macro-economic policies produce negative social impacts for the poor. Another way to strengthen human rights in economics is to influence PRSP-processes and to introduce a HRBAP, insofar as possible, into PRSP papers and strategies ("PRSP with a human face").<sup>217</sup>

Ultimately, the economic side of a rights-based approach to programming can only be addressed effectively as part of a combined effort by UNICEF, the UNDP and other UN-agencies, since macroeconomic policies are often non-negotiable at the national level—neither with Governments nor with the IMF and World Bank. A global way to influence economic policies from a rights-based perspective is to engage with the World Bank and IMF in a critical dialogue about ethics in economics. UNICEF could also engage more with the MDG goal number eight, which deals with partnerships related to economic growth and depth: "Global trade rules will need to shift their primary

concern from the promotion of liberalization and market access to enabling, or at least not constraining, already existing policy spaces for human development."<sup>218</sup> And: "If the world is to attain the MDGs, an important condition will be that aid, trade and debt relief are driven by human development concerns."<sup>219</sup>

Finally, a general comment: not surprisingly, the operationalisation of a concept with such a complex historical and academic background as HRBAP faces major challenges. The task of translating ideas and concepts from international law and solidarity movements into national legal, social and economic policies and development programs will almost unavoidably be faced with numerous theoretical and practical uncertainties, contradictions and disruptions. This has been the case in Vietnam, as it is in every society of the world. But in the end, frictions and ambiguities are part of a very healthy and natural process as the old boundaries between rights and development are tumbling down and we move forward to develop a new paradigm for international co-operation. It is to be hoped that the present case study provokes interested readers to question classical dichotomies—subject vs. object of rights, duty-based vs. rights-based societies, Asian dictatorships vs. Western democracies, charity vs. solidarity or economic policies vs. human rights. In the long run, such dualistic portrayals of the world must be questioned as we explore new concepts like the human rights-based approach to programming.

## REFERENCES

<sup>1</sup>UNICEF, "Guidelines for Human Rights-based Programming Approach," New York, CF/EXD/1998-04; "Program Cooperation for Children and Women From a Human Rights Perspective," New York, E/ICEF/1999/11.

<sup>2</sup>*Ibid.* See also: UNICEF, "Programme Policy and Procedure Manual," New York, May 2003, 4–12

<sup>3</sup>The position of duty-bearer or rights-holder is not a fixed attachment to a person but a perspective on the role people assume in a legally defined relationship. As was pointed out rightly at UNICEF's first global consultation on HRBAP: "An individual is often both a claim-holder and duty-bearer, but for different rights. Human rights based programming requires recognition of and working with claim-holders at all levels of the society." UNICEF Global Consultation Human Rights-Based Approach to Programming, Dar es Salaam, Tanzania, 2002. Summary Report and Recommendations. UNICEF: New York, 2002.

<sup>4</sup>Urban Jonsson, *Human Rights Approach to Development Programming*, ESARO, Kenya 2003, p 9.

<sup>5</sup>*Ibid.*, 21.

<sup>6</sup>*Ibid.*, 23.

<sup>7</sup>UNICEF, "Guidelines for Human Rights-based Programming;" "Program Cooperation for Children and Women From a Human Rights Perspective," New York: E/ICEF/1999; Jonsson, *Human Rights Approach*.

<sup>8</sup>Case studies include: UNICEF ESARO, "Operationalisation for ESAR of UNICEF Global Guidelines for Human Rights Programming," Nairobi, 2001; UNICEF ROSA, "A Rights-Based Approach to Programming for Children," Kathmandu, 2001; UNICEF Pakistan, "Rights-Based Approach to Programming (RBAP)," Islamabad, 2000; UNICEF EAPRO, "Report on East Asia and Pacific Regional Training of Trainers," Bangkok, 1998; UNICEF TACRO, "Human Rights Programming in LAC," Quito, 2003; UNICEF Peru: "Review of a UNICEF Country Programme Based on Human Rights: The Case of Peru," 2002; UNICEF Ecuador, "Budgets and Rights," 2003; Rebeca Rios-Kohn, "Integrating the Human Rights-Based Approach in the Country Programme: UNICEF's Experience in Jordan," 2003; Kari Egge, "UNICEF Iran's Experiences In Respect Of Preparing for The Iraq War," Teheran 2003; Alison Raphael, "An Assessment of HRAP/CCD Application in HIV/AIDS Programmes," Nairobi 2003; Ruth Phiri, "The Transformation of the Quality of Life through Human Rights-Based Approach to Community-Based Integrated Management of Childhood Illnesses A Malawi HRAP C-CIMCI Case Study," Lilongwe May 2003; Rebeca Rios-Kohn, "Human Rights-Based Programming: The Mali Experience," Mali, 2003; Alison Raphael, "The Mosquito is the Enemy: Implementing CCD for Malaria in Mozambique," Maputo, 2003; UNICEF Eritrea, "Human Rights-Based Approach to Programming: The Case of Eritrea," 2003; Joan French, "Making the Right to Education Real: Burkina Faso," 2003; Charulata Prasada, "Operationalizing Rights-Based Programming," UNICEF Nepal, 2001; UNICEF, "Adolescent Participation in Programme Activities During Situations of Conflict and Post-Conflict," New York 2003.

<sup>9</sup>Jonsson, *Human Rights Approach*.

<sup>10</sup>UNICEF Global Consultation: Human Rights-Based Approach to Programming, Dar es Salaam, Tanzania, 2002; UNICEF: Notes of Proceedings Second UNICEF Global Consultation on Human Rights-Based Approach to Programming in UNICEF, Quito, 2003.



<sup>11</sup>UNICEF, Programme Guidance and Quality Assurance Section, "What Guidance is Needed. A Quick Field Survey on Core Programme Guidance," New York 2003.

<sup>12</sup>Caroline and Annalise Moser, "Moving Ahead with Human Rights. Assessment of the Operationalisation of the Human Rights Based Approach in UNICEF Programming," UNICEF: New York: 2003.

<sup>13</sup>Institute of Development Studies (IDS), "The Rise of Rights," Policy Briefing, 17.3.2003.

<sup>14</sup>Ele Fisher, and Alberto Acre, "Institutionalizing rights and local claim making," *Ontrac*, No 23, January 2003, 7; see also Paul J. Nelson and Ellen Dorsey, "At the nexus of Human Rights and Development: New Methods and Strategies of Global NGOs," *World Development* Vol. 31, No 12, 2014; Rodolfo Stavenhagen, "Needs, Rights and Social Development," United Nations Research Institute for Social Development, July 2003; Andre Frankovits, "Rules to Live by: A Human Rights Approach to Development," *Praxis* (The Fletcher School of Law and Diplomacy, Tufts University) Vol XVII 2002, 9–17.

<sup>15</sup>Institute of Development Studies (IDS), "The Rise of Rights," Policy Briefing, 17.3.2003. See also: Peter Uvin, "On high moral ground: The Incorporation of Human Rights by the Development Enterprise," *Praxis* (Fletcher School of Law and Diplomacy, Tufts University) Vol. XVII 2002, 19–26; and Hugo Slim, "Making Moral Low Ground: Rights as the Struggle for Justice and the Abolition of Development," *Praxis* XVII, 27–30.

<sup>16</sup>IDS, "The Rise of Rights." See also: Susan Appleyard, "A Rights-Based Approach to Development: What the policy documents of the UN, Development Cooperation and NGO agencies say," OHCHR Bangkok 2002 and Flore Nguyen, "Emerging Features of a Rights-Based Development Policy of UN, Development Cooperation and NGO Agencies," OHCHR: Bangkok 2002.

<sup>17</sup>Lage Bergström, "Lessons learned on Child Rights Training: Conclusions from Evaluation Reports," Save the Children, Sweden 2001; "Child Rights Programming: How to Apply Rights Based Approaches in Programming," Save the Children. Sweden 2002; Julian Y. Kramer, "Child Rights Programming – Experiences from Save the Children Norway," Oslo 2003.

<sup>18</sup>CIDA, "RBM and Children's Participation: A Guide to Incorporating Child Participation Results into CIDA Programmes," Canada 2002; Laure-Hélène Piron, "Learning from the UK Department for International Development's Rights-Based Approach to Development Assistance," ODI, London 2003; Phil Evans, "Integrating Human Rights into Development: Work in Progress in DFID," Quito 2003; SIDA, "Education, Democracy and Human Rights in Swedish Development Cooperation," Sweden, April 2001.

<sup>19</sup>On UNDP and rights-based programming see Nadia Hijab, "A Human-Rights Programme Review at UNDP," October 2002. For the World Bank stance on HRBAP see the excellent analysis by Gernot Brodnig, "The World Bank and Human Rights: Mission Impossible?" *Praxis*. XVII, 2002, 41–51.

<sup>20</sup>The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding among UN Agencies," Report from the Second Interagency Workshop on Implementing a Human Rights-based Approach in the Context of UN Reform. Stamford, USA, May 5–7, 2003.

<sup>21</sup>United Nations' General Assembly Resolution 55/2: United Nations Millennium Declaration. New York, September 2000

<sup>22</sup>One party, the Communist Party of Viet Nam, is the only political power in the State and Government of Viet Nam. The Party

has around two million members out of a total population of 78 million. Every five years around 1,000 party delegates meet at a National Congress to decide on basic guidelines for laws and policies in Viet Nam, including those for children and adolescents. Article 4 of the Constitution of the Socialist Republic of Viet Nam stipulates the role of the Communist Party of Viet Nam as follows: "The Communist Party of Viet Nam, the vanguard of the Vietnamese working class, the faithful representative of the rights and interests of the working class, the toiling people and the whole nation, acting upon the Marxist-Leninist doctrine and Ho Chi Minh's thought, is the force which leads the State and the society. All organisations of the Party operate within the framework of the Constitution and law." The Party is governed by the principle of democratic centralism. The supreme power is the National Congress, which meets every five years. The Assembly elects the 150 members of the Central Committee. The Central Committee elects the Politburo. The Politburo appoints the General Secretary. The highest position in the Party is the Party Chairman (which was held by Ho Chi Minh, but is not maintained today), followed by the General Secretary or First Secretary. Every Vietnamese citizen volunteering to join the Party who has all qualities that the Party requires will be admitted. However, new Party members have to undergo a period of probation, lasting for at least one year, before having the right to vote, elect and stand for election in the Party. From Guillermo Monroy, "Institutional Environment for a Human Rights-based Approach to Programming in Viet Nam," Hanoi/London: 2003 (First draft, 51).

<sup>23</sup>Communist Party of Viet Nam, 6th Party Congress documents, 1988.

<sup>24</sup>UNICEF-Viet Nam, Annual Report 2001, 2.

<sup>25</sup>Socialist Republic of Viet Nam, "National Report on the Implementation of the Convention on the Rights of the Child 1993–1998," Hanoi, 1999, 10.

<sup>26</sup>In 2002–03 the U.S. Congress proposed a "Viet Nam Human Rights Act" calling for trade sanctions against Viet Nam because of restricted religious freedom and a "repressive policy" against ethnic minority protests. The bill was not approved. At the same time many bilateral donors such as Sweden, Japan, Canada, Australia, Switzerland and New Zealand, as well as the European Union, are holding regular human rights dialogues with the Government.

<sup>27</sup>UNDAF 2000, p.7.

<sup>28</sup>*Ibid.*

<sup>29</sup>See, for example, the interesting discussions between Vietnamese intellectuals and politicians about the pros and cons of French influence in Neil L. Jameson, "Viet Nam during Colonialism," *Understanding Vietnam*, Berkley/ Los Angeles, London: University of California Press, 1993, 1.

<sup>30</sup>For detailed analysis see the excellent review of similarities and differences between child rights and women's rights by Savitri Goonesekere, "Women's and Children's Rights in a Human Rights Based Approach to Development," Second Global Consultation on HRBAP, Quito: 2003.

<sup>31</sup>Nguyen Van Huyen, *The Ancient Civilisation of Vietnam*. Hanoi: The Gioi Publishers, 1995, 39f.

<sup>32</sup>*Ibid.*, 26.

<sup>33</sup>*Ibid.*, 45

<sup>34</sup>*Idem.*

<sup>35</sup>See detailed explanation by Le Thi, *The role of the family in the formation of Vietnamese personality*. Hanoi: Gioi Publishers, 1999, p.35ff.

<sup>36</sup>United Nations in Vietnam, "Gender Briefing Kit," Hanoi, 2002.

<sup>37</sup>Jameson, *Understanding Vietnam*, 86.

<sup>38</sup>Nguyen Van Huyen: The Ancient Civilisation, 28 As only very limited historical and sociological research about families and intrafamily relationships in different regions and social strata has been conducted, a sociological and historical assessment of the evolution of families in Viet Nam before the 20th century faces serious limitations.

<sup>39</sup>United Nations in Vietnam, "Gender Briefing Kit", 22

<sup>40</sup>Le Thi, "The role of the family," 54.

<sup>41</sup>Tran Thi Lan Huong, "Understanding the informal sector in Hanoi," Master's thesis, National Economics University. Hanoi 1999.

<sup>42</sup>Adam McCarty, "Macroeconomic policies, households and children in Viet Nam," First draft report for UNICEF Mid-Term Review, Hanoi, July 2003.

<sup>43</sup>Nguyen Thi Van Anh & Le Khanh, "Children in domestic service in Hanoi," National Political Publishing House, 2000.

<sup>44</sup>United Nations, "Gender Briefing Kit," Hanoi, 2003.

<sup>45</sup>Viet Nam's overall social indicators show relatively small gender gaps. For example, female literacy rates have reached an impressive 94.3%. Disparities between girls and boys are greater in a number of ethnic minority groups, Maternal mortality rates are still very high, ranging from 411 deaths per 100,000 live births to 45/100,000; national average was 165/100,000 live births in 2002. The United Nations in Vietnam: Millenium Development Goals. Closing the Millenium Gaps. Hanoi 2003, 30ff.

<sup>46</sup>United Nations in Viet Nam, "Gender Briefing Kit," and "Millennium Development Goals," 18.

<sup>47</sup>UN, "Gender Briefing Kit," 34. See also a detailed analysis in Do Thi Binh, "The Economic Transformation and its Impact on Women in Rural Viet Nam," Viet Nam Social Sciences, 6 (02), 2002.

<sup>48</sup>UN, Gender Briefing Kit, 35.

<sup>49</sup>For more data see Nguyen Linh Khieu, "Fundamental investigation into Vietnamese families and women's role in the Family," in *Viet Nam Social Sciences*, 3 (95), 2003, 47–58.

<sup>50</sup>UN, Gender Briefing Kit.

<sup>51</sup>Monroy, "Institutional environment," 52.

<sup>52</sup>Socialist Republic of Viet Nam, "National Report on two years implementation of the United Nations Convention on the Rights of the Child." CPCC, Hanoi, 1992.

<sup>53</sup>Socialist Republic of Viet Nam, "Status and implementation of the Convention on the Rights of the Child in Viet Nam," Updated report on the implementation of the Convention on the Rights of the Child 1998–2002, Hanoi, 2002.

<sup>54</sup>UNICEF/CPFC, "A Report on the 2003 Situation Analysis of Juvenile Justice in Viet Nam," Hanoi, 2003, 15.

<sup>55</sup>Pierre Huard and Maurice Durand, *Viet Nam: Civilisation and Culture*. (Connaissance du Viet Nam), Ecole Francaise d'Extreme Orient, Hanoi: 1998 (3rd edition), 137.

<sup>56</sup>See Lee Eun-Jeung, "Valores asiáticos como ideal de civilización," in *Nueva Sociedad* No 155 1998, 111–126; Carolina G. Hernandez, "Qué tan diferentes son las civilizaciones? Una perspectiva asiática." in *Nueva Sociedad* No 155, 1998, 157–167.

<sup>57</sup>Huard and Durand, *Viet Nam: Civilisation and Culture*, 136.

<sup>58</sup>*Ibid.*, 147.

<sup>59</sup>David Lempert, *Assessment of Vietnamese National Laws and Policies related to Children and Women*, Hanoi, 2003 (Part I, Chapter I, article 2).

<sup>60</sup>Ludger Kuenhardt, *Die Universalitaet der Henschentechte*, Bundeszentrale für politische Bildung: Bonn 1991, 196.

<sup>61</sup>*Ibid.*, 117.

<sup>62</sup>Socialist Republic of Viet Nam, "National Report" 1992.

<sup>63</sup>See also the harsh critique of the concept of the "gardener state" in Tilman Schiel, *Moderner "Gartenstaat" und Menschenrechte. Suedostasien zwischen kulturellem Partikularismus und rationalisierendem Universalismus*. (Modern "Garden" State and Human Rights. Southeast Asia between cultural particularism and rational universalism.) In: *Peripherie* Nr. 73/73: Macht und Herrschaft. Frankfurt a.M. 1999, 6–28.

<sup>64</sup>Socialist Republic of Viet Nam, "National report on two years' implementation of the United Nations Convention on the Rights of the Child," CPCC, Hanoi, 1991, 2f.

<sup>65</sup>*Ibid.*, 2.

<sup>66</sup>*Ibid.*, 63.

<sup>67</sup>*Ibid.*, 6.

<sup>68</sup>*Ibid.*, 4.

<sup>69</sup>The latter shows some rights-based elements, such as the right of children to express their views.

<sup>70</sup>Communist Party of Viet Nam, 9<sup>th</sup> National Congress Documents, Hanoi, 2001, 50.

<sup>71</sup>Socialist Republic of Viet Nam, "Status and implementation of the Convention on the Rights of the Child in Viet Nam," Updated report on the implementation of the Convention on the Rights of the Child, 1998–2002, Hanoi, 2002.

<sup>72</sup>*Ibid.*

<sup>73</sup>*Ibid.*, 16.

<sup>74</sup>UNICEF/CPFC, "A Report on the 2003 Situation Analysis of Juvenile Justice in Viet Nam," Hanoi, 2003, 12.

<sup>75</sup>UNICEF/CPFC, "A Report on the 2003 Situation Analysis of Juvenile Justice in Viet Nam," Hanoi, 2003, 13.

<sup>76</sup>*Ibid.*, 32.

<sup>77</sup>Reina Michaelson, "Child Abuse in Viet Nam. Preliminary Report into the Concept, Nature and Extent of Child abuse in Viet Nam," UNICEF: Hanoi 2003, 15f.

<sup>78</sup>Reina Michaelson, "Child Abuse in Viet Nam: Concepts and Directions for Future Research," UNICEF: Hanoi 2002, 15f.

<sup>79</sup>*Ibid.*

<sup>80</sup>*Ibid.*, 22.

<sup>81</sup>The Ford Foundation has recently published an interesting overview on social protection in Asia, mostly about traditional needs-based approaches and welfare-schemes: Cook, Sarah; Kabeer, Naila; Suwannarat, Gary: *Social Protection in Asia*. The Ford Foundation: Taj Press 2003

<sup>82</sup>Mid-year Consultative Group Meeting, "Taking Stock. An Update on Viet Nam's Economic Developments and Reforms," Sapa: June 2003, 8f.

<sup>83</sup>The United Nations in Viet Nam, "Millennium Development Goals: Bringing the MDGs closer to the People," Hanoi, November 2002, 8.



- <sup>84</sup>National Center for Social Sciences and Humanities, *National Human Development Report 2001. Doi moi and human development in Viet Nam*, Hanoi, National Political Publishing House, 2001, 8.
- <sup>85</sup>World Bank, "Viet Nam: Delivering on its Promise," *World Development Report 2002*, Hanoi, 2003 59.
- <sup>86</sup>Poverty Task Force, *Reducing Vulnerability and Providing Social Protection. Strategies for Achieving the Viet Nam Development Goals*. Hanoi, 2002, 4.
- <sup>87</sup>United Nations Country Team, "IDT/MDG Progress," Hanoi, 2001, 13.
- <sup>88</sup>World Bank, *World Development Report*, ii.
- <sup>89</sup>CEMMA/UNICEF, "A qualitative assessment of the implementation of health care and education policies with respect to women and children of ethnic minorities," Summary Report 2002, 2f.
- <sup>90</sup>Viet Nam finances its social development mainly through national taxes. Total national revenue of the Vietnamese State in 2001 was US\$6.7 billion. According to Ministry of Finance data from the first half of 2002 the most important national sources of state revenue were corporate taxes (24%) and value added tax (22%). Individual income tax accounted only for 1.8% of state income (Ministry of Finance: Website. Hanoi 2003). In addition, the State received about US\$1.5 b. in overseas development aid in 2001. ODA disbursements for Viet Nam were composed of US\$0.134 b. in international grants and US\$1,366 b. in loans. Therefore, ODA accounts for 22% of public investments in Viet Nam. From 1993–2001 donors committed US\$19,940 b. to Viet Nam. About 84% (US\$12.35 b.) of this amount was loans, 16% was grants. Around 80% of the funds were used for infrastructure (power, transportation) and rural development, about 20% for water supply and drainage, social development, health, education, science and technology and the environment.
- <sup>91</sup>Oxfam-Great Britain, "Can I afford school today?" A report on the Financing of Basic Education in Viet Nam with a focus on Lao Cai, Tra Vinh and Ha Tinh Provinces. Hanoi: April 2002, 4.
- <sup>92</sup>Viet Nam Education Forum, "Renovation of Education Financing and Management in Viet Nam," Hanoi, February 2003.
- <sup>93</sup>See MTEF Project, "Reforming Education Finance and Management in Viet Nam," Hanoi, 2003; "School Formula Funding Methodologies," Hanoi 2002; and Oxfam, *The Financing of Basic Education*, Hanoi 2003.
- <sup>94</sup>Oxfam, *The Financing of Basic Education*.
- <sup>95</sup>World Bank et al, "Viet Nam. Growing Healthy: A review of Viet Nam's Health Sector," Hanoi, May 2001, 48,58.
- <sup>96</sup>United Nations in Viet Nam, "Health Care Financing for Viet Nam," Hanoi, June 2003, 5 and 7.
- <sup>97</sup>Viet Nam, Ministry of Health, Central Commission for Science and Education: "User fee, health insurance and utilisation of health services," Hanoi 2002, 31.
- <sup>98</sup>World Bank, *World Development Report 2003*, 60.
- <sup>99</sup>United Nations in Viet Nam, "Health Care Financing."
- <sup>100</sup>World Bank, *World Development Report 2003*, 61f.
- <sup>101</sup>*Idem*
- <sup>102</sup>World Bank, *World Development Report 2000: Attacking Poverty*, Hanoi, 1999.
- <sup>103</sup>See Christian Salazar Volkmann, Paper presented at national conference for injury prevention policy, Hanoi: 2002.
- <sup>104</sup>United Nations in Viet Nam, "Health Care Financing," 4f.
- <sup>105</sup>Additional input to questions from the CRC, UNICEF Viet Nam, 2002.
- <sup>106</sup>United Nations in Viet Nam, "Health Care Financing," 5,7.
- <sup>107</sup>World Health Organisation, "Health and Ethnic Minorities in Viet Nam," Hanoi, June 2003, 30.
- <sup>108</sup>*Ibid.*
- <sup>109</sup>The United Nations in Viet Nam, "Bringing MDGs Closer to the People," Hanoi, 2002 51.
- <sup>110</sup>*Ibid.*, 10.
- <sup>111</sup>CEM/UNICEF, "A qualitative assessment of the implementation of health care and education policies with respect to women and children of ethnic minorities," Summary Report 2002, 2f.
- <sup>112</sup>World Bank Development Report, 2003, 52.
- <sup>113</sup>United Nations in Viet Nam, "Bringing MDGs Closer" 16.
- <sup>114</sup>World Bank Development Report 2003, 54.
- <sup>115</sup>United Nations in Viet Nam, "Bringing MDGs Closer," 18.
- <sup>116</sup>Van Sit Hoang, "Bilingual Education for Ethnic Minorities in Viet Nam," Dissertation, Hanoi, 2001, chapter 1.
- <sup>117</sup>Inputs from education program into the Mid Term Review Report of UNICEF-Viet Nam.
- <sup>118</sup>Read more about the role of Protestantism and Catholicism within the history of colonial domination of Viet Nam in Nguyen Minh Quang, "Las religions in Viet Nam," The Gioi, Hanoi 2001.
- <sup>119</sup>Adam McCarty, "Macroeconomic Policies, Households and Children in Viet Nam," Mekong Economics/UNICEF Viet Nam: Hanoi 2003, 66.
- <sup>120</sup>Human Rights Watch, "Repression of Montagnards: Conflicts over Land and Religion in Viet Nam's Central Highlands, Washington, 2003; "Briefing Paper on Viet Nam," Washington. 2003. See also U.S. Department of State, "Viet Nam: Country Reports on Human Rights Practices," 31.3.2003 and 4.3.2002.
- <sup>121</sup>Oxford Analytical, "Viet Nam: Communist Party stronger than it seems," 14.7.2003. See also draft letter from Fund for Reconciliation and Development to U.S. Senators and Representatives regarding the "Viet Nam Human Rights Act" from 2003.
- <sup>122</sup>Detlef Palm, UNICEF New York, electronic message from 1.7.2004.
- <sup>123</sup>Jonsson, *Human Rights Approach*, 37.
- <sup>124</sup>Government of the Socialist Republic of Viet Nam – UNICEF Viet Nam, "Master Plan of Operations 1991–1995," 9.
- <sup>125</sup>Kristina Hedlund Thulin, "A human rights analysis of the Viet Nam Comprehensive Poverty Reduction and Growth Strategy (CPRGS)," Draft 2 030305. Swedish Embassy. Bangkok: 2003.
- <sup>126</sup>MOLISA, Decision No 2886/LDTBXH-BTXA. Hanoi: 22.8.2003.
- <sup>127</sup>HCMC's People's Committee Official Letter No. 1488/KH-UB.
- <sup>128</sup>Jamie Uhrig, "Ethical and human rights issues related to implementation of HIV/AIDS Prevention and Care Programs in Drug Users and Sex Worker Detention Centers in Viet Nam," Hanoi, September 2002,3.
- <sup>129</sup>*Ibid.*
- <sup>130</sup>Ministry of Finance Website, Hanoi, 2003.
- <sup>131</sup>UNICEF Viet Nam/MOLISA, "Overview of children infected and affected by HIV/AIDS in Viet Nam," Hanoi, 2002.

<sup>132</sup>"HIV/AIDS: Reducing the Threat to Viet Nam's Economic Growth and Poverty Reduction," Statement of the Community of Concerned Partners, Mid-Term CG Meeting, June 19–21, 2003, Sapa, Viet Nam.

<sup>133</sup>Henk van Beers, "Children's Participation. Experiences in capacity building and training," Save the Children Sweden, 2002; Roger A. Hart, "Child Participation," UNICEF/Earth Scan, London 1997.

<sup>134</sup>UNICEF, "Situation Analysis on Health Communication in Viet Nam," Hanoi 2002; Glen Laverack, "Effective IEC in Viet Nam," Hanoi, 2002.

<sup>135</sup>Article 2, Decree 67/1999/ND-CP. See: The Socialist Republic of Viet Nam: Status and implementation of the Convention on the Rights of the Child in Viet Nam. Updated report on the implementation of the Convention on the Rights of the Child 1998–2002. Hanoi, 2002, 51

<sup>136</sup>Monroy, Guillermo: Institutional framework for a human rights-based approach to programming in Viet Nam. Hanoi/London, 51 (first draft.)

<sup>137</sup>UNICEF Viet Nam: Annual Report 1998, 18

<sup>138</sup>Scott Fritzen, "The Foundation of Public Administration? Decentralisation and its discontents in Viet Nam," (first draft), Singapore 2003, 18f.

<sup>139</sup>UNICEF Viet Nam and Institute of Sociology, "Identifying methods and approaches in reaching the poorest households with WES support," Hanoi, December 2002, 36.

<sup>140</sup>Do Thi Binh, "The economic transformation and its impact on women in rural Viet Nam," *Viet Nam Social Sciences*, 6 (02), 2002, 65.

<sup>141</sup>Samantha Hung, "Making Rural Water & Sanitation Gender-Friendly. Getting Rural Water Supply & Sanitation (RWSS) Projects "Right" for Both Women and Men," UNICEF Viet Nam, 2002.

<sup>142</sup>Monroy, "Evaluation Report of UNICEF-CPFC Pilot Project on Local Ombuds-function for Children," Hanoi: 2003, 5 (2nd draft), 14.

<sup>143</sup>Michaelson, "Child Abuse in Viet Nam. Preliminary Report."

<sup>144</sup>*Ibid*, 26.

<sup>145</sup>*Ibid*., 25.

<sup>146</sup>*Ibid*, 24.

<sup>147</sup>Schiel, "Moderner "Gartenstaat."

<sup>148</sup>Communist Party of Viet Nam, 9th National Congress Documents. Hanoi, 2001, 24.

<sup>149</sup>David Lempert, "Assessment of Vietnamese National Laws and Policies related to Children and Women," Hanoi, 2003 (Part II. I.1.).

<sup>150</sup>*Ibid*, 15.

<sup>151</sup>*Ibid*, 5.

<sup>152</sup>*Ibid*, 25, 30.

<sup>153</sup>Lempert, "Assessment of Vietnamese National Laws."

<sup>154</sup>See NGO statements on access to information in juvenile justice in UNICEF/CPFC, "A Report on the 2003 Situation Analysis of Juvenile Justice in Viet Nam," Hanoi 2003.

<sup>155</sup>Monroy, Evaluation Report.

<sup>156</sup>See <http://vnlegal-infonet.vn> or <http://www.na.gov.vn>.

<sup>157</sup>"Viet Nam: Evolving National Assembly key to reform," *Oxford Analytica*. 9.10.2003.

<sup>158</sup>The Socialist Republic of Viet Nam, "Status and implementation of the Convention on the Rights of the Child in Viet Nam." Updated report on the implementation of the Convention on the Rights of the Child 1998–2002. Hanoi, 2002. , 23f.

<sup>159</sup>Lempert, "Assessment of Vietnamese National Laws," II, 51.

<sup>160</sup>Van Bang Le, "Cooperation between Viet Nam and international non-governmental organisations over the last 10 years (1993–2003)," Address at the International Conference on Viet Nam -INGO Cooperation. Hanoi Nov. 19–21, 2003.

<sup>161</sup>*Ibid*.

<sup>162</sup>Voice of Viet Nam News, "Deputy PM: Vietnamese government to facilitate NGO assistance," Hanoi 2003.

<sup>163</sup>David Payne, "Perspectives on INGOs' experience in poverty reduction in Viet Nam," Speech at the International Conference on Viet Nam-INGO Cooperation. Hanoi, Nov. 19–21, 2003.

<sup>164</sup>VUFO-NGO Resource Center, "Lessons learned from a decade of experience. A strategic analysis of INGO methods and activities in Viet Nam 1990–1999," Hanoi: January 2001.

<sup>165</sup>Ho Chi Minh City Child Discussion Group (CDG), Strategic Mapping Initiative, Saigon, 2003, 16f.

<sup>166</sup>*Ibid*., 4.

<sup>167</sup>*Ibid*., 18.

<sup>168</sup>Binh Vu Ngoc, "Local NGOs in Viet Nam," Hanoi, 2003.

<sup>169</sup>UNV, "Briefing on volunteer involvement in Ho Chi Minh City," Viet Nam, 2003.

<sup>170</sup>Ho Chi Minh City CDG.

<sup>171</sup>Patricia K. Tibbetts, "Project Evaluation: Thao Dan Street Children Programme," Saigon, 2002, 6.

<sup>172</sup>UNICEF, *State of the World's Children Report*, New York, 1996.

<sup>173</sup>Nick Young, "Does this cat catch mice? Human Rights and Civil Society in China," 1.

<sup>174</sup>This description of legal challenges is based on Lempert, "Assessment of Vietnamese National Laws..."

<sup>175</sup>Monroy, "Evaluation Report of UNICEF-CPFC", 20.

<sup>176</sup>Socialist Republic of Viet Nam, "National Report on two years implementation of the United Nations Convention on the Rights of the Child," CPCC, Hanoi, 1992.

<sup>177</sup>Committee on the Rights of the Child, "Concluding Observations on Viet Nam," CRC/C/15/Add.200 18.3. 2003.

<sup>178</sup>UNICEF-Viet Nam, "Women and Children: A Situation Analysis," Hanoi, 1994, 58.

<sup>179</sup>UNICEF-Viet Nam, "The Stand Alone Multi-Sectoral Program Proposal for Supplementary Funding." Hanoi, Nov. 1989, 3.

<sup>180</sup>UNICEF-Viet Nam, "Situation Analysis of Women and Children in Viet Nam," Hanoi, 1994.

<sup>181</sup>UNICEF-Viet Nam, "Government of Viet Nam: Situation Analysis of Children and Women," Hanoi, 2000, 98f.

<sup>182</sup>*Ibid*, 99.

<sup>183</sup>Socialist Republic of Viet Nam and the United Nations Children's Fund, "Mid Term Review 1988–1991," Hanoi, 16.11.1989, 13.

<sup>184</sup>*Ibid*, 8.

<sup>185</sup>*Ibid*, 4.

<sup>186</sup>The MPO states: "The commitment of the Vietnamese Government and society to the spirit of the Convention is obvious and has already directed all concerned Ministries and Departments..." The Country Programme was understood as a contribution to the implementation of the CRC: "...the strategies and activities planned are in pursuance of the objective of the UN Convention on the Rights of the Child and are designed to implement them."

<sup>187</sup>*Ibid.*, 6. The main objective of the country program related to women was to "promote women's participation in the decision making process and strengthen their organisations at grassroots level for better community based participation."

<sup>188</sup>MPO 1996–2000, 14.

<sup>189</sup>*Ibid.*

<sup>190</sup>MPO 2001–2005.

<sup>191</sup>Comment by former UNICEF Representative Stephen Woodhouse.

<sup>192</sup>UNICEF-Viet Nam, Annual Report 1997, 10.

<sup>193</sup>UNICEF-Viet Nam, Annual Report 1998, 7.

<sup>194</sup>See for example, Joachim Theis, "Rights-based Monitoring and Evaluation," Discussion Paper, April 2003, 3.

<sup>195</sup>For example: "Protection of Children's Rights in Vietnamese Law" (1997) and "Analysis of Vietnamese legislation vis-a-vis the CRC" (1998), "Legislation and policies on Ethnic Minorities" (2001) and a "Review of international human rights instruments on indigenous populations" (2001).

<sup>196</sup>See Politbureau Resolution 08/NQ-TW.

<sup>197</sup>Daniel Stoecklin, "Children in the Streets in Shanghai," in *NATs Working children and adolescents International Review* No. 3–4, June 1998, 39.

<sup>198</sup>Le Thi, "Role of the Family," and "Vietnamese Family Strategy: Scientific research and training tasks on Vietnamese Family in the context of the 21st century," Hanoi, 2003. For an example of more conservative views of the family, see Khanh Phan, "Strategy for the Vietnamese family. Focus on Education and Culture," Hanoi: 2003; Ngoc Phan, "The Culture of Vietnamese Families," *Viet Nam Social Sciences*, No 4 (90) 2002, p. 53–60.

<sup>199</sup>See for example, Cuc Phan Thi, "Investments from the State Budget in the Viet Nam Family Strategy," Hanoi: 2003; and Nguyen Van Thanh, "Basic Solutions to strengthen and improve family economic potentials," Hanoi: 2003.

<sup>200</sup>UNICEF-Viet Nam, Annual Report 1997, 15.

<sup>201</sup>UNICEF-Viet Nam, Annual Report 1998, 16.

<sup>202</sup>UNICEF-Viet Nam, Annual Report 1999, 16.

<sup>203</sup>UNICEF-Viet Nam, Annual Report 2001, 15.

<sup>204</sup>UNICEF-Viet Nam, Annual Report 2000, 15.

<sup>205</sup>UNICEF-Viet Nam, Annual Report 2001, 10.

<sup>206</sup>*Ibid.*, 1.

<sup>207</sup>Some forms of peer education were already being supported by UNICEF's HIV Project in 1998 through youth health clubs as well as through peer to peer training courses of the Red Cross. (UNICEF-Viet Nam: Annual Report 1997, 16; UNICEF-Viet Nam: Annual Report 1999, 21).

<sup>208</sup>UNICEF Viet Nam, Annual Report 2001, 1.

<sup>209</sup>On rights-based communication, see Urban Jonsson, "Human Rights Approach," 2003 and Neil Ford, Dan Odallo, and Rozanne Charlton, "Communication from a Human Rights Perspective: Responding to the HIV/AIDS Pandemic in Eastern and Southern Africa," Nairobi, Pretoria 2002.<sup>210</sup>A critical analysis of UNICEF's global experiences with child participation was presented by Detlef Palm, "From Events-based Participation to Institutionalisation of Participation," Quito: 2003.

<sup>211</sup>Monroy, "Evaluation Report of UNICEF-CPFC Pilot Project on Local Ombuds-function for Children," Hanoi: 2003, 5 (2nd draft).

<sup>212</sup>Jerry Adams, "Monitoring and Evaluation of Rights Based Approaches," *Ontrac*, No. 23, January 2003, 4.

<sup>213</sup>Urban Johnson and Richard Morgan, "Main Issues for Evaluative Work on the Use by UNICEF of a Human Rights-Based Approach to Its Programming and Cooperation," Quito September 2003; Lucien Back, "HRBAP and Evaluation," Quito, September 2003; Ted Freeman, "The Human Rights Rights-Based Approaches to Programming at UNICEF and Its Implications for Evaluation," UNICEF, New York; Joachim Theis: "Rights-Based Monitoring and Evaluation," Save the Children, February 2003.

<sup>214</sup>Paul J. Nelson and Ellen Dorsey, "At the Nexus of Human Rights and Development: New Methods and Strategies of Global NGOs," *World Development* 31:12, Elsevier, 2003, 2021.

<sup>215</sup>An interesting overview of economics and child rights has been published by Redda Barnen. See Stefan Devylder, "Macroeconomic Policies and Children's Rights," Save the Children, Sweden, 2000.

<sup>216</sup>However UNICEF has a tradition in this field that it could revive and rebuild addressing the impact of macroeconomic policies and liberalisation on children: see Giovanni Andrea Cornia, Richard Jolly, and Frances Stewart, *Adjustment with a Human Face*, Oxford University Press, 1987.

<sup>217</sup>See for example the following experiences and guidance documents: Yulia Pripalova Krieger, Human Rights and Poverty Reduction Strategy Paper (PRSP) in Bosnia and Herzegovina, UNICEF-Sarajevo. September 2003; UNDP, "Poverty Reduction and Human Rights," New York, March 2003; UNHCR, "Draft Guidelines on A Human Rights Approach to Poverty Reduction Strategies," Geneva, June 2002.

<sup>218</sup>Jan Vandemoortele, Kamal Malhotra, and Joseph Anthony Lim, "Is MDG 8 on track as a global deal for human development?" UNDP: New York, 2003.

<sup>219</sup>*Ibid.*, 14.

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