

CHILD RIGHTS AND CHILD JUSTICE IN THE LEGAL AND JUDICIAL REFORM

POLICY DIALOGUE: EU JULE POLICY BRIEF NO. 6

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FOR ALL

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- Ministry of Justice
- European Union
- UNICEF

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SIGNIFICANCE

Since 2005, Viet Nam has embarked on comprehensive reforms of the legal and judicial systems following the vision and objectives outlined in the two Politburo's Resolutions, the Legal System Development Strategy (Resolution 48 on LSDS), and the Judicial Reform Strategy (Resolution 49). During this process, important progress has been made in creating critical elements of the child justice system in Viet Nam.

To further support the efforts, the Justice and Legal Empowerment Programme in Viet Nam (EU JULE) aims at strengthening the capacity of Viet Nam's legal and judicial system for increased access to justice of vulnerable groups, including children. In light of the ongoing review of the Legal and Judicial Reform Strategies, the Ministry of Justice (MOJ), European Union Delegation and UNICEF jointly organized the Policy Dialogue on "Child Rights and Child Justice in the Legal and Judicial Reforms" to take stock of achievements and chart the way forward for realizing children's rights and access to justice in the coming period.



HIGHLIGHTS

The Policy Dialogue gathered more than 130 participants from relevant ministries and agencies such as MOJ, MPS, MOLISA, SPC, SPP, VLA, international organizations, development partners, NGOs, law faculty scholars, and press agencies. The event served as an excellent platform for MOJ and UNICEF to launch the Child Justice Situation Analysis Report 2019 - a significant step forward in strengthening the evidence-base for child justice in Viet Nam.

In the past years, Viet Nam has made remarkable progress in the reform of legal and institutional framework in terms of child justice. The Law on People's Court Organization creates the legal foundation for Viet Nam's first-ever specialized child justice institution. Family and Juvenile Courts have been established in 36 cities and provinces. Child sensitive procedures and limits to pretrial detention of children were also introduced in the Penal Procedure Code. The Penal Code 2015 (amended in 2017) broadened the alternatives to detention for minors. However, gaps in the legal and justice system still exist, which need to be identified and addressed.

Let us not forget that the proclamation of a new law is merely a starting point. Law implementation and enforcement are essential to ensure real change in the lives of boys and girls.



*Ms. Lesley Miller
Deputy Representative
UNICEF Viet Nam*





- The definition of the age of the child remains a major bottleneck in guaranteeing equitable and effective access to justice for all children, especially boys and girls aged 16-17 years who are the most susceptible to violence and exploitation.
- The lack of a coordinating agency for child justice prevents a holistic approach in promoting targeted reforms, whereas the limited capacity building platforms for professionals in justice sector perpetuate inconsistent approaches in investigating and adjudicating children's cases.
- Limited community – based services for diversion, alternatives to detention and child – victim support services.
- The shortage of social service workforce in the justice system, coupled with the lack of specialist child justice professionals, threatens the modest efforts in establishing community-based services for diversion, alternatives to detention, and child victim support services.
- Evidence-based policymaking and planning are challenged by the lack of a comprehensive data collection and management system on MICWL.



SHORT-TERM RECOMMENDATIONS

- **Amend** the **age of children** under the Law on Children to 18, in line with the Constitution of Viet Nam and the Convention on the Rights of the Child.
- **Revise** the **Penal Code** to ensure that all forms of violence against children under 18, especially the full range of sexual offenses, are penalized.
- **Assign** child justice **focal point/officer** in all communes and develop relevant short-term training programmes for them.
- **Develop** a **proposal on the role** of social workers in justice system.
- **Improve** the **cross-sectoral coordination on child justice** by defining the coordination mechanism and the mandate and responsibilities of each involved agency.
- **Create** and institutionalize **capacity-building platforms for professionals** handling children's cases.
- **Accelerate** the **roll-out of Family and Juvenile Courts**, especially at district level.
- **Create specialized investigators for minors.**
- **Diversify** and enhance the quality of **community-based rehabilitation programs** for MICWL.

The establishment of Family and Juvenile Court - as a specialist court for children - marked an important milestone in the judicial reform process. However, much work remains to be done towards building a comprehensive child justice system.

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*Ms. Dang Hoang Oanh
Vice Minister of Justice*



MEDIUM-TERM RECOMMENDATIONS

- **Develop** a **strategy or master plan on child justice** to provide a coherent, long-term approach for coordinated response applicable to the child justice system - from prevention, handling, education, and rehabilitation, to community reintegration of MICWL.
- **Assign** a **lead agency for child justice** responsible for coordinating and promoting consistent law reform, close intersectional cooperation and collaboration, and overall child justice monitoring.
- **Develop** and approve a **comprehensive child justice law** stipulating the principles and procedures for handling cases of minors in conflict with law and child victims of crimes.
- **Create** an **enabling legal environment regulating the status of social workers** in the child justice system and designate a **Government agency** responsible for social workers in the justice system.
- **Develop** an **integrated child justice database** to enable robust data collection, analysis, and management at all levels.



*Mr. Tom Corrie
EU Deputy Head of
Development Cooperation*

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We would highly recommend strengthened mainstreaming of child rights and child justice in the renewal legal and judicial reforms.

FOUR DISTINGUISHED LEADERS

- Ms. Dang Hoang Oanh, Vice Minister of Justice
- Mr. Tom Corrie, EU Deputy Head of Development Cooperation
- Ms. Lesley Miller, Deputy Representative, UNICEF Viet Nam
- Ms. Nguyen Thuy Hien, Deputy Chief Justice, Supreme People's Court



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