

## Chapter 3

# *Child rights and duties. Laws on child protection in Vietnam*

**Objectives:** This chapter aims to help trainees understand and be able to apply:

1. The four main groups of child rights and some children's duties.
2. Laws on prevention of physical and emotional punishment (prevention, administratively sanction or examined for penal liability).



Suggested  
knowledge

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# Four main groups of children's rights. Children's duties

*The Convention on the Rights of the Child* is a legally binding international instrument issued by the United Nations, which came into effect on the 2nd of September 1990. Vietnam was the first country in Asia and the second in the world to ratify the Convention on the Rights of the Child.

The goal of the Convention is to enable overall child development. In this context, development is seen in a broad perspective including physical, mental, intellectual, ethic and social development.

Children are human beings who cannot care for or protect themselves nor satisfy their own needs so they need the care and protection of adults. Regulations on rights and responsibilities of care, protection and education for children to realise their full potential and become good citizens are incorporated in legal documents that must be enforced by all people.

Before exploring the different *groups of children's rights*, we need to understand the basic *principles*.

## The four basic principles of children's rights

- 1. Non-discrimination:** all children, irrespective of their gender, ethnicity or religion should be fairly treated without discrimination.
- 2. For the best interests of the child:** in all actions concerning children, the best interests of the child should be a primary consideration. Children's interests are not to be considered beneath adult's interests.
- 3. For child survival and development:** children's life, survival and development must be ensured in any context.
- 4. Respect the child:** children can express their ideas on any matter which concerns them and their views – for example, at home, in school and in the court - given due consideration in accordance with their age and maturity.

## Four groups of children's rights

- 1. Rights to survival:** Because children are immature both physically and emotionally and cannot survive on their own, the 'rights to survival' in the Convention not only include a guarantee to life but also a guarantee of nutrition and health care at the highest level. Rights in this group include the right to survival, the right to have birth registration and nationality, the right to live with parents and the right to be taken care of, among others.
- 2. Rights to development:** The convention mentions comprehensive child development - not only physical but also emotional, ethical and social. These rights include, among others, the right to study, the right to nutritious care and the right to develop their own aptitudes. All rights that have impacts on these aspects are classified as 'rights to development'. This classification can be divided into three sub-groups: (i) providing nutritious substances (for physical development), (ii) educating (for intellectual development) and (iii) providing conditions for playing, entertainment, culture and art.
- 3. Rights to protection:** The term 'child protection' is not limited to the prevention of physical and mental abuse; it includes the prevention and surmounting of disadvantageous conditions in children's lives. According to the Convention, these rights include, but are not limited to, the right to be protected from all kinds of abuse such as exploitation, violence, neglect, discrimination and the right to be protected in special difficulties such as family separation, war and disasters.
- 4. Rights to participation:** This group includes those rights that help children to express the points of views in issues influencing their life. There are three requirements in implementing these rights: (i) support children in accessing information; (ii) supporting children to communicate their ideas and points of views; and (iii) listening to children's voices.

It should be noted that the grouping of children's rights is a relative division. Each of these four groups is closely related, interactive and cannot be easily separated. Children's lives are a continuous process, not just a collection of separate events. As such, the aspects of children's lives mentioned in the four groups are closely related and influence each other. For example, the right to nationality is closely related to the right to survival and development, which are in turn related to the right to be cared for and to have access to education.

The specific regulations relating to the four groups of children's rights can be divided into ten smaller groups as mentioned in Vietnam's 2004 Law on Child Protection, Care and Education.

1. The right to have birth registered and acquire nationality (Article 11)
2. The right to be cared for and brought up (Article 12)
3. The right to live with parents (Article 13)
4. The right to be respected and have their life, body, dignity and honour protected (Article 14)
5. The right to health care (Article 15)
6. The right to study (Article 16)
7. The right to join recreational, entertainment, cultural, art, physical, sport and tourist activities (Article 17)
8. The right to develop aptitudes (Article 18)
9. The right to have assets (Article 19)
10. The right to access information, express opinions and participate in social activities (Article 20)

## *Children's duties*

Rights always go hand in hand with responsibilities and duties. Children's duties are things that children must do in accordance with their age. Children's duties are given in the Law on Protection, Care and Education for Children based on the five social pillars described by Uncle Ho for children to follow in order to comply with the ethics and cultural values of Vietnamese people.

### Some children's duties

1. To love, respect and be dutiful to grandparents and parents, to respect teachers, to be polite to adults, to love minors and unite with their friends, and to help the elderly, disabled people and people with difficulties, according to their capabilities.
2. To study diligently, to observe hygiene, to do physical exercise, to observe public order and traffic safety, to protect public properties, respect the properties of other people and to protect the environment.
3. To love labour and to help their families through jobs suitable to their health.
4. To be modest, honest and ethical, to respect the laws, to observe school rules, to live a civilised lifestyle and build cultured families, and to respect and preserve the national cultural identities.
5. To love their homeland, their country and fellow country folk; to have sense of building and defending the Fatherland of the Socialist Republic of Vietnam, as well as of international solidarity.

The Law on Protection, Care and Education for Children also stipulates things that children must not do (Article 22). This regulation does not aim at threatening or punishing children but rather at educating them to understand and avoid inappropriate and illegal behaviours and to be aware of their actions.

## Article 22: Things children must not do

1. Drop out of school or leave their families to lead a vagrant life.
2. Infringe upon the life, body, dignity, honour or assets of others or disturb the public order.
3. Gamble, use alcohol, cigarettes or other stimulants harmful to their health.
4. Exchange, share or use violence-provoking or culturally depraved products or play with toys or games harmful to their healthy development.

Point 2 of Article 22 stipulates that children must not “infringe upon the life, body, dignity, honour or assets of others”. That means children must not beat or scold their friends and other children. Some researchers found that children express that they do not want to be beaten or scolded by adults but when asked “what will you do if your younger siblings make mistakes”, they answer, “I will beat and scold them.” By fulfilling their duties, however, children also help to ensure the rights of other children.

The relationship between adults and children is a two-way relationship. On the one hand, adults, such as parents and teachers, have responsibilities to fulfil children’s rights. On the other hand, children also are responsible for fulfilling their duties towards adults, families, schools and society. Through exercising their duties, children can help to make the relationships between parents and children, and teachers and pupils closer and more friendly and cooperative. Building positive relationships will, in turn, help to reduce incidents of punishment against children.





# Activity: Understanding the four groups of children's rights

**Objective**

To understand the four groups of children's rights

**Target audience**

Parents, teachers, caregivers and people who are working with children

**Time**

45 minutes

**Method**

Group work

**Materials**

A0 flip chart, permanent markers and drawings on children's rights

## Process

**Step 1**  
*(5 minutes)*

Raise the following question for brainstorming: "According to you, what are children's rights?" Write some answers on the board. Work with participants to divide those rights into four groups (survival, development, protection, participation)

**Step 2**  
*(10 minutes)*

Divide participants into three or four groups. If trainers have the sets of drawings of children's rights, distribute them to each group. If only one set (82 drawings) is available, you can randomly divide this set into three or four parts and distribute to groups. Ask groups to discuss and put those drawings into the four groups of rights according to their understanding of those groups.

If you do not have the set of drawings, you may ask the group to discuss children's rights and write them down on an A0 sheet of paper, dividing them into the four groups.

**Step 3**  
*(25 minutes)*

Ask representatives of each group to present their working results, explain why they have categorised them as they have and what they think are the meanings of the drawings. Other participants can give comments and add to the results.

The trainer raises the following questions for all people to discuss:

- Are all the drawings put into the appropriate groups of rights?
- Is it more difficult to group some rights than the others? Which ones are more difficult to group? Why?
- Are some rights are more emphasised than the others? What ones? Why?
- Besides the rights given in the Convention, can you think of any further rights? What are they?
- According to you, what are the objectives of each group of rights?

**Conclusion**  
*(5 minutes)*

Conclude by recapping the basic information on the four principles and the four groups of rights given in Suggested Knowledge 1.

# Activity: *Some duties of children*

**Objective**

To understand some of the duties of children

**Target audience**

Parents, teachers, caregivers and people who are working with children

**Time**

20 minutes

**Method**

Group work

**Materials**

A0 flip chart, permanent markers

## Process

**Option 1:** Raise the following question for brainstorming “According to you, what duties do children have?” Write some answers on the board. Raise another question: “What are children not allowed to do?” Write some answers on the board.

### Step 1 (5 minutes)

**Option 2:** Raise the following question for brainstorming “When you were small, what duties did you have towards your family, school and community?” Write some answers on the board. Raise another question: “Now you are parents or teachers, what duties do you want your children to have?”

### Step 2 (10 minutes)

Divide participants into groups. Each group will discuss one question and give their answers. Then ask groups to share. You can discuss and ask the groups why they think that children should have certain duties. If time is limited or participants’ awareness is already quite good, you just need to brainstorm, quickly collecting their ideas and discussing in plenary.

### Conclusion (5 minutes)

Conclude by recapping the basic information on some children’s duties and what they are not allowed to do, given in *Suggested Knowledge 1*.



Suggested  
knowledge

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# Laws on child protection in Vietnam

## *Some preventive legal regulations*

### *Law on Education (2001)*

**Article 72** stipulates that teachers have to respect the dignity of the pupils, behave justly with pupils, and protect their legitimate rights and interests.

**Article 75** stipulates that teachers must not make any behaviour that outrages dignity or honour or infringes the body of the pupils.

**Article 108** stipulates that anyone taking one of the following acts shall, depending on the nature and extent of the violation, be subject to discipline, administrative sanction or examined for penal liabilities. If it causes damage he or she shall have to pay compensation as prescribed by law.

### *Revised law on Protection, Care and Education for Children (2004)*

**Article 7** prohibits acts of torturing, maltreating, affronting, or infringing upon the life, body, dignity or honour of others, or applying measures that offend or lower the honour or dignity of, or applying corporal punishments to, juvenile offenders.

**Article 14** stipulates *children's right to be respected and have their life, body, dignity and honour protected.*

### *Law on marriage and family (2006)*

**Article 34** stipulates that parents must not discriminate between, ill treat or persecute their children, or hurt their honour.

**Article 107** stipulates that those who ill-treat, persecute or hurt the honour and dignity of their grandfathers, grandmothers, fathers, mothers, spouses, children and other family members shall, depending on the nature and seriousness of their violations, be administratively sanctioned or examined for penal liability; if causing any damage, they must pay compensation.

## **Regulations on penal examination** (according to the Penal Code 2000)

**Article 104** stipulates that those who intentionally injure or cause harm to the health of other persons with an infirmity rate of between 11% and 30%, or under 11% but against children, pregnant women, old and weak or sick persons or other persons incapable of self-defence, shall be sentenced to non-custodial reform for up to three years or a prison term of between six months and three years.

**Article 151** stipulates that those who ill-treat or persecute their grandparents, parents, spouses, children, grandchildren or fosterers, causing serious consequences or those who have already been administratively sanctioned for such acts but repeat their violations, shall be subject to a warning and non-custodial reform for up to three years or a prison term of between three months and three years.

### **Article 298. Applying corporal punishments**

1. Those who apply corporal punishment in investigating, prosecuting, adjudicating and/or judgment-executing activities shall be sentenced to between six months and three years of imprisonment.
2. Committing the crime and causing serious consequences, the offenders shall be sentenced to between two years and seven years of imprisonment.
3. Committing the crime and causing very serious or particularly serious consequences, the offenders shall be sentenced to between five years and twelve years of imprisonment.
4. The offenders shall also be banned from holding certain posts for one to five years.

### **Article 100. Forced suicide**

1. Any person who cruelly treats, constantly intimidates, ill treats or humiliates a person dependent on him or her, inducing the latter to commit suicide, shall be sentenced to between two and seven years of imprisonment.
2. Any person who commits the crime of compelling more than one person to commit suicide shall be sentenced to between five and twelve years of imprisonment.

### **Article 103. Threatening to murder**

Those who threaten to kill other persons, in circumstances such as to make the latter believe that such threat shall be realised, shall be subject to non-custodial reform for up to two years or sentenced to between three months and three years of imprisonment.

### **Article 110. Treating other persons**

1. Those that cruelly treat persons dependent on them shall be subject to a warning and non-custodial reform for up to one year or imprisonment of between three months and two years.
2. Committing the crime against aged persons, children, pregnant women or disabled persons, the offenders shall be sentenced to between one year and three years of imprisonment.

**Article 121** stipulates that those who seriously infringe upon the dignity or honour of other persons shall be subject to a warning and non-custodial reform for up to two years or a prison term of between three months and two years.

***Regulations on administrative examination*** (According to the Decree 114/ND-CP in 2006 on administrative sanctions in the field of population, family and children)

- The prosecuted will be fined 500,000-1,000,000 (five hundred thousand to one million) Vietnam dong for physically or psychologically injuring a child.
- The prosecuted will be fined 3,000,000-5,000,000 (three million to five million) Vietnam dong for severely physically or psychologically injuring a child.

In addition, the prosecuted will have to compensate expenses relating to travel, carrying the child home and/or medical expenses.



# Activity: A trial for judging punishments meted out against children

**Objective**

To understand and apply legal regulations on administrative sanctions or examination for penal liability

**Target audience**

Parents, teachers, caregivers and people who are working with children

**Time**

30 minutes

**Method**

Group work

**Materials**

A0 flip chart, pens

## Process

### Step 1 (10 minutes)

Divide participants into two groups and give each group a situation of a case of punishment against children (Handout: Physical and emotional punishments against children), one for school and one for home. Groups discuss and conduct a trial to judge punishments meted out against children in each of the cases. Assign group members for the roles of the judge and relevant characters.

### Step 2 (15 minutes)

Each group briefly performs the trial. Make conclusions based on the legal regulations. If participants don't know the stipulations on administrative and criminal examination, the trainers can either present them before starting the group work or distribute this information to each group.

### Conclusion (5 minutes)

Conclude by recapping the information given in *Suggested Knowledge 2*.

# Handouts

## A Case Study of Punishment Against Children

***H, an 11-year-old girl, is living with her parents and two younger brothers who are seven and four years old. Everyday, her mother goes to work to earn money while her father just drinks alcohol, gambles and scolds his children. One day, after coming back from the market, H's mother asked her what happened to the four-year-old child, who had a livid mark on his face. H replied that he was being naughty and fell down and bumped his head on the bed. H's mother was so angry that she told H off and took her to the nearby railway where she told her lie down on the tracks. H tried to resist but could not, she was as small as a seven-year-old child. She cried a lot but the father just sat silently and provided no help. The neighbours were familiar with this situation and did not interfere. Fortunately, the North-South train stopped in time and did not crash into her.***



***At the office of the ward's People's Committee, the mother explained that she just wanted to threaten her because she was naughty and disobedient and because she didn't look after her brother so that he fell down and hurt himself. However, many scars caused by being beaten with a rod were found on H's body and the neighbours said that she was often beaten like that. Nevertheless, the police only drew up a report, admonished the mother and let them go home. They explained that this family had no money to pay a fine because the father had a chronic disease and could not work, so the family depended on the mother only.***

***(Taken from the Ho Chi Minh City Women's newspaper)***



# A Case Study of Punishment Against Children

**Tr, a 10 year-old girl, is in Grade 5 at a primary school in Dong Thap Province. She has been a good pupil from Grade 1 to Grade 5 and has been rewarded many times. In the current school year, she has been voted to be the vice monitor of the class, a role that requires her to be responsible for monitoring and supporting the learning performance of the whole class.**

**On 14 March, suspecting that Tr had stolen 47,800 dong from the class fund, the principal called her and another child to his office room and asked them where the money was. Both of them denied taking the money away. The principal asked a young pioneer teacher to take Tr to the commune to see the police for further investigation.**

**The police put Tr into an isolated room, without any guardian or caregiver, to get her statement and justification. Returning home after two hours in the police room, Tr burst into loud wails in her mother's arm and then fell into such a panic that she could not go to school. After six months of treatment, Tr had not yet recovered and was still unfit for schooling at the beginning of the school year 2007-2008. On 5 September 2007, her family was going to take her to Ho Chi Minh City for further treatment.**



**(Taken from Vietnam Net, 4 April 2007)**