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Protect children's rights from cyberviolence under the Vietnamese law

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Abstract

The rapid development of the internet and social networks brings many benefits and supports information and communication. However, the explosion of information technology, in addition to its positive aspects, has raised many issues related to the current network environment. In the era of strong development of the internet and artificial intelligence today, cyber violence is occurring in a complicated manner on a global scale. Because children are vulnerable to fraud, exploitation, and even abuse through internet platforms, protecting children from violence in cyberspace is always a matter of concern for many countries, including Vietnam, one of the countries with the most internet users in the world. This research introduces the age of children in international legal documents and under Vietnamese law and at the same time presents the concept and forms of violence in cyberspace today. This article also analyzes the current legal framework in Vietnam, from the responsibility to protect children's rights in cyberspace to handling acts of violence against children in cyberspace, thereby proposing some related recommendations.

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1. Introduction

According to statistics in early 2025 on Statista, a platform specializing in providing data on market and consumer statistics, Vietnam is one of the countries with the most internet users in the world, with 79.8 million internet users in this country, ranking 13th in the world [1]. In accordance with the Ministry of Information and Communications in Vietnam, 87% of children in the country aged 12-17 access the internet every day, and they are facing numerous risks in cyberspace today [2]. According to the World Health Organization (WHO), about 70-80% of children aged 10-15 enjoy playing online video games, of which 10-15% show signs of addiction to video games [3]. The United Nations Children's Fund (UNICEF) reports that one in five young people says they are victims of online bullying. In addition, statistics show that more than 3 million accounts have been registered on the 10 most harmful child sexual abuse websites [4]. In Asia, Vietnam has nearly 80% of the population using the internet [5]. In accordance with a report by UNICEF, 83% of Vietnamese children aged 12-13 use

the internet. This number increases to 93% for children aged 14-15. According to a survey by the Ministry of Labor, War Invalids and Social Affairs in Vietnam, children use social networks for 5-7 hours/day [6]. As reported by the National Emergency Hotline in Vietnam on child protection 111, in 2022, nearly 420 calls were received about child protection in the online environment and 18 reports of channels or video clips with content harmful to children. Data in the first 5 months of 2023 showed that there were 128 calls and three notifications [4]. Notably, according to a report by ECPAT, Interpol, and UNICEF, in 2022 alone, Vietnam had more than 400 reports of child abuse online, of which 1% of Vietnamese children were lured into sending photos and videos of sensitive parts when using the Internet and had their information shared without their consent [7]. Most recently, the underage daughter of a famous actor and television presenter in Vietnam was attacked on social media [8]. Notably, in Vietnam, in 2015, a 15-year-old female student in Dong Nai had her sex clip posted online by her boyfriend, and within just 2 days, hundreds of thousands of people viewed and shared it. Two days later, the female student committed suicide by drinking weed killer [9]. However, only 36% of Vietnamese children, mostly aged 16-17, are taught about online safety [6]. Cyberviolence has been causing serious consequences, affecting the spirit, health, and even lives of children.

Children who are victims of cyber violence often have reduced self-confidence and lose faith in life. After experiencing mental shock, the victims are always in a state of fear, stress, and mental insecurity. Some children even become self-hating and have thoughts of self-harm. Due to severe emotional impacts, children who are victims of cyber violence often show changes in behavior, become lonelier, and withdraw from social relationships. This situation can create significant cracks in relationships with friends, family, and relatives, thereby causing the children's spirit to increasingly collapse. Children growing up in an environment full of cyber violence can lead to a decline in the quality of their studies as well as a deviation in their outlook on life. Ultimately, the psychological trauma caused by cyber violence will become an obsession that haunts the children's soul throughout their journey to adulthood. Cyber violence not only affects the individual children who are attacked but also has a great impact on society in general. As cyber violence becomes more and more common, it will promote criminal behavior and directly affect social order and security. Children are the most vulnerable subjects. If they are not alert enough and do not receive timely support from adults, they can even fall into and get involved in criminal behavior [10]. Therefore, protecting children from cyber violence is very necessary not only for Vietnam but also for other countries in the world.

2. Methodology

The first method applied in this article is a descriptive statutory approach through legal research of international documents and Vietnamese law in order to present the age of children. In addition, the comparative method is adopted throughout this study to compare the age of children in the official international and national legal documents in Vietnam. Moreover, the analysis of regulations in the legal framework related to protecting children's rights from cyber violence in Vietnam, including civil law, administrative law, criminal law... is also applied in this research. The main sources of law used for description, analysis, and comparison are as follows.

Firstly, for the legal international documents, there are the Declaration of the Rights of the Child in 1924, the Declaration of the Rights of the Child in 1959 and the United Nations Convention on the Rights of the Child in 1989.

Secondly, a system of Vietnamese legal documents including the Civil Code in 2015, the Penal Code in 2015, amended and supplemented in 2017, the Law on Children in 2016, the Law on Cyber Security in 2018, the Law on Information Technology in 2006 and related legal documents in Vietnam.

Therefore, the article aims to propose some recommendations to improve the current Vietnamese legal regulations on protecting children's rights from cyberviolence.

3. Results and Discussion

3.1. Age of Children in the International Legal Documents and Under the Vietnamese Law

The Declaration of the Rights of the Child, also known as the Geneva Declaration of the Rights of the Child, is the first international legal document promoting children's rights, drafted by Eglantyne Jebb and adopted by the League of Nations in 1924. This Declaration states that humanity must give children the best and sets out five articles on children's rights as follows.

"1. The child must be given the means requisite for its normal development, both materially and spiritually.

2. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored.

3. The child must be the first to receive relief in times of distress.

4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.

5. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow me [11].

In 1959, the United Nations General Assembly adopted the Declaration of the Rights of the Child. This Declaration set forth more progressive principles with the motto that humanity must give children the best it has. The Declaration of the Rights of the Child lays down ten principles as follows:

"1. The right to equality, without distinction on account of race, religion or national origin.

2. The right to special protection for the child's physical, mental and social development.

3. The right to a name and a nationality.

4. The right to adequate nutrition, housing and medical services.

5. The right to special education and treatment when a child is physically or mentally handicapped.

6. The right to understanding and love by parents and society.

7. *The right to recreational activities and free education.*

8. *The right to be among the first to receive relief in all circumstances.*

9. *The right to protection against all forms of neglect, cruelty and exploitation.*

10. *The right to be brought up in a spirit of understanding, tolerance, friendship among peoples, and universal brotherhood.*" [12].

In 1989, world leaders made a historic commitment to the children of the world by adopting the United Nations Convention on the Rights of the Child. This Convention has been ratified by most countries in the world [13]. This is a Convention that combines all human rights, from civil, political, economic, social and cultural rights of children into a single document. On February 20, 1990, Vietnam was the first country in Asia and the second country in the world to ratify the UNCRC [14]. In Europe, most member countries such as England, France, Germany, Italy,... signed and ratified the Convention in the early 1990s [15]. Although the United States signed the Convention in 1990, the United States is the only member state of the United Nations that has not ratified it after Somalia ratified it in 2015 [13]. According to Article 1 of the UNCRC, "*a child means every human being below the age of eighteen years*". The majority is set at age eighteen, unless domestic law, it is attained earlier [16]. In Europe, most member countries, including France (Article 388 of the French Civil Code) [17], Germany, Belgium, Italy, consider minors to be people under 18 years old [18].

In Vietnam, from the first Civil Code [19] until now, the age considered the boundary between minors and adults is 18 years old. Specifically, Article 20 of the 2015 Civil Code stipulates that an adult is a person aged eighteen years or older and has full civil act capacity. According to Article 21 of the 2015 Civil Code, a minor is a person under eighteen years of age. A person who does not yet reach full six years of age must have his/her civil transactions established and performed by his/her at-law representative. A person who is aged between six full years and under fifteen full years must have the consent of his/her at-law representative when establishing and performing civil transactions, except for transactions to meet his/her daily-life needs suitable to his/her age. A person who is aged between full fifteen years and under eighteen years may establish and perform civil transactions by himself/herself, except for transactions related to immovable property or movable property subject to registration, and other civil transactions that are required by law to have the consent of his/her at-law representative [20].

In addition, in Vietnam, according to Clause 2 of Article 39 of the Law on HIV/AIDS prevention and control in 2006, amended and supplemented in 2000, the State provides free anti-HIV drugs for children under 6 years old infected with HIV [21]. According to Point h of Clause 3 of Article 12 of the Law on Health Insurance in 2008, amended and supplemented in 2014 and 2024, the subjects participating in health insurance paid by the State budget include children under 6 years old [22]. The Law on the Road in 2024 has many provisions related to children. For example, the Clauses 3 and 5 of the Article 59 of the Law on Road in 2024 stipulate that drivers and service staff on passenger transport vehicles must not cause difficulties for passengers who are children; have civilized and polite attitudes, words and behaviors; guide passengers to sit in the right place, and arrange priority seats for children. Article 70 of the Law on Roads in 2024 also has specific provisions for the transportation of preschool children [23]. However, this Law does not mention the age considered as a child. Regarding the age of criminal responsibility, the Penal Code in 2015, amended and supplemented in 2017, stipulates that people aged 16 and over are criminally responsible for all crimes, and people aged 14 to under 16 are criminally responsible for very serious crimes and especially serious crimes [24]. In addition, based on Article 1 of the Law on Children in 2016, amended and supplemented in 2018, children in Vietnam are under 16 years old [25].

In conclusion, Vietnam has a legal framework with many official legal documents specifically for children. However, although mentioning children, Vietnam does not introduce a unified definition of age for children. It can be seen that although regulations on the age of children vary from country to country, however, 16 years old is the milestone that countries in Europe, especially under the provisions of GDPR [26], and Vietnam takes it in the Law on Children in 2016 as the standard when defining children. This is fully consistent with the United Nations Convention on the Rights of the Child, which Member States, including Vietnam, have ratified.

3.2. Conception and Forms of Violence in Cyberspace

In Vietnam, according to the Clause 4 of the Article 3 of the Code of Conduct on Child Protection in the Online Environment issued together with Decision n^o 88/QĐ-BTTTT dated January 21, 2025 of the Ministry of Information and Communications, child abuse in cyberspace is an act that causes physical, emotional, psychological, honor and dignity harm to children carried out in cyberspace in the following forms: posting children's private life secrets and personal secrets in violation of the law; sending and providing harmful content to children; bullying; violence; sexual exploitation, sexual abuse, fraud, trafficking, and other forms of harm [27]. From this definition, it can be understood that cyberbullying is the use of electronic means and communications to harm, harass, insult or threaten others through messaging platforms or impersonating others and sending malicious messages to others or through fake accounts engaging in sexual harassment or bullying using artificial intelligence-generated tools on the internet [15]. This is a behavior that can occur on social media, email, text messages, forums, blogs and many other online platforms. Cyberbullying can include sharing sensitive personal information, posting inappropriate images or videos, writing satirical, threatening articles or verbal attacks with the goal of hurting others. Cyberbullying can seriously affect the psychology, spirit and even health of the person being bullied. Cyberbullying can take the following forms [10].

Firstly, online harassment is the most common form of cyberbullying. It involves sending messages, comments, or sharing images that are harassing, threatening, or insulting. Harassers may even stalk others on social media, post private information, or impersonate others. These actions not only cause stress and anxiety to the victim but also negatively impact the victim's self-esteem and personal development.

Secondly, cyberbullying often occurs on social media. Not only does it use social media to spread false information, defame or insult others, bullies can also investigate their personal lives, post defamatory images or videos and even use technology to track the location and activities of their victims. These actions can seriously affect the mood and spirit of the bullied person.

Thirdly, another form of cyberbullying is propaganda of violence. This is the creation or sharing of content that incites violence or encourages violent behavior. These actions can lead to an increase in actual violent behavior and create an unsafe online environment.

Finally, privacy abuse is the posting or sharing of personal information about another person without their permission. Malicious individuals will intentionally track, collect information and use it to commit fraud or threaten their victims. These actions can cause deep distrust and affect the social and emotional well-being of the person being bullied [10].

3.3. Legal Framework on Protecting Children's Rights from Cyberviolence in Vietnam

The analysis of the current legal framework in Vietnam from the responsibility to handling acts of violence against children in cyberspace is necessary to propose some related recommendations in order to protect children's rights from cyberviolence in Vietnam.

3.3.1. Responsibility to Protect Children's Rights from Cyberviolence in Vietnam

Vietnam is one of many countries in the world that has made great efforts to protect children from violence in cyberspace. In fact, Vietnam has issued numerous legal documents on this issue. Some documents of the National Assembly include the Law on Children in 2016, the Law on Cyber Security in 2018, the Law on Information Technology in 2006, and several related legal documents that contain regulations on the responsibility to protect children's rights from cyber violence in the online environment.

According to Clause 1 of Article 29 of the Law on Cyber Security in 2018, "*children have the right to protection, access to information, entertainment, personal privacy, private life and other rights when participating in cyberspace*" [28]. The Clauses 2 to 5 of the Article 29 of the Law on Cyber Security in 2018 also stipulate the responsibility to protect children in cyberspace of information system owners, enterprises providing services on telecommunications networks, the internet, value-added services in cyberspace; agencies, organizations, individuals participating in activities in cyberspace; agencies, organizations, parents, teachers, child caretakers and other relevant individuals; specialized forces for protecting cyber security and competent authorities. In addition, Article 73 of the Law on Information Technology in 2006 also stipulates the responsibilities of the State, society, schools, families and service providers in protecting children using information technology products and services [29].

Based on the Article 54 of the Law on Children in 2016, "*relevant agencies and organizations are responsible for propagating, educating and protecting children when participating in the online environment in all forms; parents, teachers and caregivers are responsible for educating knowledge and guiding skills so that children know how to protect themselves when participating in the online environment*"; "*agencies, organizations and individuals managing, providing information and communication products and services and organizing activities in the online environment must take measures to ensure the safety and privacy of children according to the provisions of law*" [25]. The Decree n° 56/2017/ND-CP dated May 9, 2017 of the Government detailing a number of articles of the Law on Children has devoted Chapter IV from the Article 33 to the Article 37 in order to clarify this issue, stating five responsibilities for protecting children in cyberspace, including: Protecting children's private information and personal secrets; communicating, educating, and improving capacity for protecting children in the cyber environment; ensuring children's safety in exchanging and providing information in the cyber environment. In addition, the Decree n° 56/2017/ND-CP also stipulates measures to protect children's private information in the cyber environment and measures to support and intervene in children who are abused in the cyber environment in the Articles 36 and 37 of this Decree [30].

Moreover, according to the Article 4 of the Code of Conduct on Child Protection in the Online Environment issued together with the Decision 88/QĐ-BTTTT dated January 21, 2025 of the Ministry of Information and Communications in Vietnam, the general rules of conduct are applied to all groups of subjects.

"1. Comply with Vietnamese laws on child protection in the online environment; respect the rights and legitimate interests of children; always work for the best interests of children.

2. Behave in a healthy, positive manner, in accordance with Vietnamese culture, customs and age of children in the online environment.

3. Do not use children's images and personal information without the consent of the child, parents and caregivers as prescribed by law.

4. Do not use children's images and personal information for purposes that may affect the safety and healthy development of children.

5. Actively coordinate with agencies, community and social organizations to protect children in the online environment"[27].

Moreover, the Clause 6 of the Article 4 of the Code of Conduct on Child Protection in the Online Environment issued together with According to Decision 88/QĐ-BTTTT dated January 21, 2025 of the Ministry of Information and Communications, it is also stipulated that when suspecting or detecting acts of child abuse, risks to children on the Internet environment, or harmful content to children, it is necessary to promptly report and denounce to the following addresses:

"a) National hotline for child protection (number 111).

b) The nearest police agency.

c) *Network for responding to and protecting children online (VN-COP) (<https://vn-cop.vn/bao-cao-xam-pham>; email: bvte@vncert.vn)* [27].

In addition to the general rules of conduct, Decision 88/QĐ-BTTTT dated January 21, 2025 of the Ministry of Information and Communications promulgating the Code of Conduct on child protection in the online environment also stipulates the rules of conduct for children; rules of conduct for parents, caregivers and teachers; rules of conduct for users in the online environment; rules of conduct for media organizations, businesses and content creators in the online environment and rules of conduct for internet service providers and platform providers from the Articles 5 to 9 of this Code of Conduct. Besides, on June 1, 2021, the Prime Minister signed Decision n° 830/QĐ-TTg approving the Program on protection of and support for children to interact in a healthy and creative manner in the cyber environment in the 2021-2025 period [31] and the Decision n° 311/QĐ-TTg dated March 5, 2022 approving the Program on educating revolutionary ideals, ethics, and cultural lifestyles for youth, adolescents, and children in cyberspace for the period 2022-2030 [27].

3.3.2. Cyberviolence Handling to Protect Children's Rights in Vietnam

The current Vietnamese legal system addresses acts of violence against children in cyberspace, ranging from civil liability to administrative and, ultimately, criminal liability. According to civil law in Vietnam, any individual who commits acts of infringement on the health, life, honor, or dignity of another person and causes damage must compensate (Clause 1 of Article 584 of the 2015 Civil Code) [20]. Child sexual abuse is a crime that violates the law and seriously affects the spirit, health, and even life of the child victim. Therefore, the perpetrator of this crime, regardless of who he or she is, must still have the obligation to compensate the victim. Depending on the level of damage to the spirit, health, and life of children who are victims of cyberbullying, the determination of damage varies. The level of compensation for damage, in principle, is agreed upon by the parties. If there is no agreement, the maximum amount prescribed by law will be applied. However, since the victim of cyberbullying in this case is a child, it is impossible to negotiate compensation on their own. In fact, children do not have the right to full civil capacity according to Article 21 of the 2015 Civil Code. Therefore, the agreement on the level of compensation for damage caused by acts of cyberviolence against children must first involve a legal representative, and these individuals must not be the ones who committed the acts of cyberviolence against children. In fact, if the legal representative of a child commits an act of cyber violence against the child being represented or supervised, in this case, the law stipulates that these individuals will not be allowed to continue to exercise their rights of representation.

In addition to regulating civil liability for acts of cyberviolence against children, Vietnam also promulgates regulations on administrative sanctions in areas related to cyberviolence against children. Vietnam has a Law on Handling of Administrative Violations in 2012, amended and supplemented in 2020 and 2024 [32]. However, administrative sanctions for acts of amended against children are specified in some decrees. For example, Decree n° 130/2021/ND-CP dated December 30, 2021, of the Government regulating sanctions for administrative violations in the field of social assistance and children's affairs in Clauses 1 and 2 of Article 36 stipulates that.

"1. A fine of VND 10,000,000 to VND 20,000,000 shall be imposed for one of the following violations when conducting business or providing services on the Internet.

a) Providing and sharing information and services that are harmful to children, fake, harmful, pornographic, violent, inciting suicide, distorting, threatening, insulting the honor and dignity, and infringing on the legitimate rights and interests of children.

b) Failure to warn or remove information or services that are harmful to children, fake, harmful, pornographic, violent, inciting suicide, distorting, threatening, insulting the honor and dignity, or infringing upon the rights and legitimate interests of children.

c) Not using measures and tools to ensure the safety of children's private information; not sending warning messages of risks when children provide or change their private information.

d) Failure to comply with requests to delete or remove children's personal information when requested by the children's parents, caregivers, guardians, or competent child protection agencies, organizations, or individuals.

d) Not organizing the reception of information, assessment and classification according to the level of safety for children sent by agencies, organizations, individuals and children.

e) Not publishing a list of information networks, services, and online products according to their level of safety for children.

g) Failure to detect and remove images, documents, and information that are inappropriate for children and affect their healthy development.

h) Failure to provide instructions on the use of information technology services and equipment to protect children.

i) There are no measures to protect children who access information and use services.

2. A fine of VND 20,000,000 to VND 30,000,000 shall be imposed on an enterprise providing online electronic game services that does not have tools to control time and protect children from abuse and addiction to electronic games. In case an enterprise providing online electronic game services fails to apply measures and solutions to limit the playing time of GI electronic games for children, it shall be subject to administrative sanctions according to the provisions of the Government's Decree on administrative sanctions in the fields of post, telecommunications, radio frequencies, information technology and electronic transactions" [33].

Moreover, the Decree no 119/2020/ND-CP dated [34] Decree n° 119/2020/ND-CP dated October 7, 2020 of the Government stipulating administrative sanctions for administrative violations in journalistic and publishing activities, as amended and supplemented by Decree no 14/2022/ND-CP amending and supplementing the Decree no 119/2020/ND-CP dated [35] also stipulates fines from VND 20,000,000 to VND 40,000,000 for the acts of *"posting or broadcasting*

information affecting the normal physical and mental development of children”; “posting or broadcasting information and programs for children that do not ensure the content ratio, timing and duration in the press”; “failure to comply with mandatory requirements when posting or broadcasting news, articles and programs related to children in the press”; “failure to comply or improperly comply with regulations on warnings about content inappropriate for children in the press” (Article 8). A fine of VND 3,000,000 to VND 5,000,000 shall be imposed for the act of “using images of children for illustration in publications without the consent of parents or guardians according to current regulations for children under 7 years old or without the consent of children and parents or guardians according to current regulations for children 7 years old and older for each publication title” (Article 25).

Vietnamese law also severely punishes child abuse in cyberspace. Specifically, crimes in the form of mental violence against children or violations of children’s private life and personal secrets such as the Article 155 on the crime of humiliating others, the Article 156 on the crime of slander, the Article 159 on the crime of violating the confidentiality or safety of mail, telephone, telegram or other forms of private information exchange of others, the Article 174 on the crime of fraud and appropriation of property, the Article 290 on the crime of using computer networks, telecommunications networks, electronic means to commit acts of appropriation of property, etc. Along with the criminalization of violent acts against children in cyberspace, Vietnamese law has also introduced measures such as prescribe separate penalties for violent acts against children in the direction of increasing criminal responsibility (Clause 1 of the Article 52 of the Penal Code in 2015, amended and supplemented in 2017) or specify the aggravated penalty framework or crime determination criteria (Clause 1 of the Article 144; Clause 1 of the Article 145 of the Penal Code in 2015, amended and supplemented in 2017) [24]. This shows that the Penal Code in 2015, amended and supplemented in 2017, has strict regulations on acts of violence against children in the online environment.

Therefore, it can be seen that Vietnam has paid attention to the issue of protecting children in cyberspace for many years with a fairly complete legal system at different levels. However, with the continuous development of technology and the internet, the Vietnamese legal system must be regularly updated and adjusted to meet reality to ensure that children use a safe and healthy online environment. This aims to protect children’s rights from cyber violence in Vietnam.

4. Conclusion

The 2016 Law on Children, the 2018 Law on Cyber Security, the 2006 Law on Information Technology and other relevant legal documents in Vietnam currently have provisions on the responsibility to protect children from acts of violence in the online environment. However, these regulations are not consistent with each other regarding the age of children in Vietnam. Therefore, it is necessary to unify the age of children in relevant legal documents in Vietnam, including legal documents on child protection in cyberspace. On the contrary, Article 1 of the 2016 Law on Children in Vietnam should exclude cases where other legal documents of this country may prescribe a lower age for children than that of the 2016 Law on Children.

In addition, the 2016 Law on Children, the 2018 Law on Cyber Security, the 2006 Law on Information Technology and related legal documents on protecting children from cyber violence seem to have not been widely disseminated in the community. However, up to now, the awareness and understanding of the community in general and parents in particular on this issue are still limited, leading to subjectivity and negligence in protecting their children from dangers from the online environment. Parents still consider the internet as a “nanny” for their children, entrusting their phones and televisions to their children for many hours a day in exchange for their free time [36]. In fact, more and more children are addicted to games, smartphones [37] and social networks [38]. Adults also use social networks according to their needs and interests, seeing social networks as a place to express love for children, the trend of showing off children on social networks, unintentionally revealing images and personal information of children, leading to many risks for children, including the risk of child violence in the online environment [39]. Therefore, Vietnam needs to strengthen the propaganda and dissemination of legal knowledge on protecting children from violent behavior in the online environment to the community.

The online environment is always moving, developing, and changing unpredictably. Therefore, solutions and legal regulations must always be preventive and prioritize prevention and containment rather than dealing with consequences. At the same time, implementing measures must not reduce children's opportunities to learn and explore the internet environment while still ensuring two basic rights of children, which are freedom of speech and privacy. Children are always the subjects that need to be cared for and protected the most in society. Providing a comprehensive safe environment is the best way to protect them.

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