MINISTRY OF EDUCATION AND TRAINING MINISTRY OF JUSTICE

HANOI LAW UNIVERSITY

NGUYEN THI HANH

ANALYZING THE PROTECTION OF CHILDREN'S RIGHTS IN THE MARRIAGE AND FAMILY LAWS OF VIETNAM

ABSTRACT OF PhD LAW DISSERTATION

Major : Civil Law and Civil Procedure Law

Code : 9 38 01 03

Hanoi, 2021

PREAMBLE

1. Urgency of the topic

Children are the happiness, the future of each family, the successors to the cause of construction and development, deciding the future of the country. With such an important role, children are still physically and intellectually immature, unable to develop and mature on their own, so they naturally need special protection and care from their parents and family.

Vietnam has joined the Convention on the Rights of the Child (November 20, 1989) and has a tradition in caring for and protecting children. In order to fulfill its international commitments, Vietnam has promulgated a legal system on children's rights and protection of children's rights, including the Law on Marriage and Family to protect family and family relations, including child protection – a special subject. The Law on Marriage and Family 2014 has demonstrated the protection of children's rights throughout all relationships. However, new problems have arisen, some regulations are not feasible, requiring research, solutions and measures to protect children's rights more comprehensively. In addition, the negative effects, the downside of the market economy as well as the process of economic integration and other difficulties have caused the increasing proportion of children falling into special circumstances, negatively affecting the protection of children in the family.

Facing with the above reality, the PhD student selected the topic: "Protecting children's rights under the Vietnamese Law on Marriage and Family" as a research topic to propose solutions to improve the law with theoretical and practical significance and practice.

2. Research aims and tasks

The aims of the thesis are to comprehensively and systematically study the theory of children's rights and the protection of children's rights in the law on marriage and family; analyze and evaluate the current situation

and practice of implementing the law on protection of children's rights in marriage and family relationships; propose solutions to improve the Law on Marriage and Family and improve the efficiency of the implementation of the Law on Marriage and Family 2014.

To achieve the above aims, the thesis sets out the following tasks:

First, analyze and clarify theoretical issues about children, children's rights and protection of children's rights according to the law on marriage and family; explain the role of the law on marriage and family in the protection of children's rights

Second, analyze and evaluate the provisions of the current Law on Marriage and Family on the protection of children's rights, pointing out the inadequacies and limitations of the law in protecting children's rights.

Third, propose solutions and recommendations to improve the law and improve the efficiency of law enforcement on marriage and family on the basis of the orientation to perfecting the law on marriage and family and practical applications of the law.

3. Object and scope of research

- Research object: The thesis studies the theoretical issues of protecting children's rights in the relationship between marriage and family; provisions of the Law on Marriage and Family 2014 and practical implementation of the Law on Marriage and Family in protecting children's rights.

- Scope of the study: The thesis studies the protection of children's rights under the Law on Marriage and Family 2014 in relation and comparison with other legal documents governing the protection of children's rights in marriage and family relationships.

In practice: The thesis studies the practical implementation of the Law on Marriage and Family 2014 on protection of children's rights from 2015 to 2020 in Vietnam. The thesis does not study the protection of children's rights in family relations with foreign elements.

4. Methodology and research methods

The topic is researched basing on the methodology of Marxism-Leninism with dialectical and historical materialism, associated with Ho Chi Minh's thought and the Party's viewpoints and attitudes to marriage and family in general and defense children's rights in marriage and family relations in particular.

Analytical methods are used throughout the thesis for theoretical analysis in Chapter 1 and Chapter 2 of the thesis. At the same time, analytical, systematic and logical methods, synthesis, comparison, proof, sociological research, sociological method of law... are used to evaluate the practical contents, applying the legal provisions on marriage and family in Chapter 3, Chapter 4 of the thesis.

5. Scientific and practical significance of the thesis

Scientific significance: The thesis has strengthened the theoretical basis of children's rights and protection of children's rights in the marriage and family relationship on the basis of human rights and the inevitability of the law of development. The thesis has discovered problems and inadequacies in the implementation of the Law on Marriage and Family and proposed solutions to improving the Law on Marriage and Family.

Practical significance: The research results of the thesis are a source of reference materials in teaching, research, and study guidance in subjects related to child rights protection, the Law on Marriage and Family. The solutions can be considered to adjust the problematic behavior of parents, and the State's policy making towards children.

6. Structure of the thesis

In addition to the introduction, list of references and conclusion, the thesis is structured into 04 chapters including:

Chapter 1. Overview of the research situation

Chapter 2. Some theoretical issues on protection of children's rights and protection of children's rights under the law on marriage and family

Chapter 3. Legal status and practical implementation of the marriage and family law on the protection of children's rights

Chapter 4. Orientation and solutions to perfect the marriage and family law on the protection of children's rights

Chapter 1. OVERVIEW OF RESEARCH SITUATION

1.1. Published scientific works related to the topic of the thesis

1.1.1. Domestic research projects

1.1.1.1. Theses, theses, scientific research topics

The PhD student has focused on researching 08 works, which are jurisprudence theses, dissertations and scientific research topics directly related to the topic of the thesis.

1.1.1.2. Books, articles in magazines

The PhD student has focused on researching 06 works including books and articles in magazines.

1.1.2. Research projects abroad

The PhD student has approached 03 foreign works as original documents and 05 works through other documents.

1.2. Evaluation of the research situation of the issues within the research scope of the thesis

1.2.1. Theoretical issues

1.2.1.1. Thesis related concepts

The concept of children's rights: In their works, most of the authors research and develop the concept of children, children's rights and protection of children's rights. However, in each project, these concepts are built individually and separately. The thesis will continue to perfect this concept on the basis of analyzing the nature and characteristics of children's rights.

The concept of protecting children's rights: In the works, the terms are relatively similar in terms and interpretations, but there is no basis for the formation and development of children's rights, as well as not mentioning that the child’s right is a child's human right. In this content, the thesis will continue to inherit the approach of the authors, and at the same time clarify the development of children's rights.

1.2.1.2. Children characteristics and protection of children's rights under the law on marriage and family

The works have not confirmed the impact of the family, the law on marriage and family on the development and shaping the personality of children and have not mentioned the physical, mental and cognitive characteristics of children as a natural social process, which is the basis of why it is important to protect children in the family environment. The thesis will clarify the content of children's characteristics and protect children's rights in the relationship between marriage and family

1.2.2. Content to protect children's rights groups under the Law on Marriage and Family 2014

The thesis approaches groups of children's basic rights to compare with the provisions of the Law on Marriage and Family in analyzing and evaluating the interdisciplinary expression in the law on protection of children's rights in the relationship between marriage and family.

1.2.2.1. Protecting groups of rights to life, birth and nationality, knowing the parents of children under the Law on Marriage and Family 2014

The works have not approached the children's right to life, the right to birth which is a basic right of children but children cannot do it themselves. Protecting the right to know one's parents, the Law on Marriage and Family 2014 stipulates the identification of parents for children. In fact, this right is restricted in the case of childbirth by assisted reproductive technology but has not been mentioned in the research works.

The violation of children's right to be cared for and nurtured by their parents mainly analyzes the causes and consequences of the acts, but has not yet analyzed how the Law on Marriage and Family 2014 needs to stipulate how to protect children against such acts of encroachment.

1.2.2.2. Group of children's rights to be protected under the Law on Marriage and Family 2014

The research group on domestic violence has studied acts that infringe on children's life, health and dignity. However, the content of sanctions for acts that infringe on this group of rights has not been systematically expressed.

1.2.2.3. Protecting children's right to develop under the Law on Marriage and Family 2014

Research works have not approached children's right to natural development, as well as factors affecting human development under the approach of biological sciences, philosophy, and sociology.... The thesis will clarify that child development is a process in which the development needs of physical, mental and social skills are accumulated, creating qualitative and quantitative changes.

1.2.2.4. Protection of children's right to participate under the Law on Marriage and Family 2014

At present, children's participation in families and schools is still heavily influenced by Asian cultural traditions. The works mentioning the protection of children's rights to participate and have opinions under the Law on Marriage and Family 2014, however, are still vague.

1.3. Research questions and research orientation of graduate students for the thesis

1.3.1. Questions, hypotheses and research directions related to theoretical issues

On the basis of the research situation and in order to solve the research objectives, the thesis raises theoretical questions such as: concept of children, children's rights and protection of children's rights. What is the protection of children's rights under the law on marriage and family and how is it different from the protection of children's rights?

Research hypothesis:

How would children be identified if not based on age? Children's rights are rooted in human rights but have prerogatives. Protection of children's rights is to protect children's human rights, to ensure that children's rights are fully realized, in accordance with each child's development stage at different levels.

Protecting children's rights under the Law on Marriage and Family is the fact that the provisions of the Law on Marriage and Family have shown the protection of children's basic rights. The protection of children's rights under the Law on Marriage and Family has different points compared to the protection of children's rights in other legal relations.

1.3.2. Questions, hypotheses and research directions related to the legal provisions on the protection of children's rights under the Law on Marriage and Family 2014

The research questions in this section focus on how the Law on Marriage and Family demonstrates the protection of children's basic rights through the provisions of the Law and practical implementation such as: conditions for marriage; handling illegal marriage annulment; obligations and rights of parents towards immature children… and handling measures when children's rights are violated.

- When men and women get married, they must comply with the regulations on marriage conditions to protect the rights of children.

- In case the father and mother of a child have registered their marriage but violate one of the marriage conditions, the marriage will be annulled,

but the common child will be considered and resolved as if a divorce was obtained.

- Rights and obligations between husband and wife, ensuring the performance of rights and obligations towards immature children.

- Regulations on the rights and obligations of parents and other family members towards children have a direct impact on protecting the rights of children in the family, and child protection when divorced is considered a special case.

- Acts of infringing upon the life, health and dignity of children by the child's father, mother or relatives

1.3.3. Questions, hypotheses and research directions related to the direction of perfecting the marriage and family law on the protection of children's rights

How to perfect the law on marriage and family in protecting children's rights? Suggestions and solutions to improve the current Law on Marriage and Family as well as improve the effectiveness of law enforcement in practice to protect children's rights?

Research hypothesis:

- Protection of children's rights according to the Law on Marriage and Family in general and the Law on Marriage and Family in particular should follow certain orientations.

- The recommendations focus on amending and supplementing the provisions of the Law on Marriage and Family 2014 on the rights and obligations of parents and children and measures to improve the effectiveness of law enforcement on marriage and family.

Chapter 2. SOME THEORY ISSUES ON PROTECTION OF CHILDREN'S RIGHTS AND PROTECTION OF CHILDREN'S RIGHTS UNDER THE MARRIAGE AND FAMILY LAW

2.1. Some theoretical issues on the protection of children's rights

2.1.1. Child concept

From the study and analysis of approaches to international laws and perspectives, it is possible that: Children who are people at a certain age in the early stages of human development, with imperfect physical characteristics and psychology need to be protected and adjusted by law by special legal regulations.

Children have the following characteristics:

Physically: A child is an entity that is not yet fully developed physically, will continue to change, to be mature naturally.

Psychologically and cognitively: Each child is a human being with immature mind and physiology, continuing to shape and develop at each age in accordance with the physical development process, under the great influence of the social environment.

2.1.2. The concept and characteristics of children's rights

Through the study of world history, many thinkers who care and fight for children's rights and it has been recorded that children's rights are human rights that are applied exclusively to children, and are natural privileges that children have, that are respected, recognized and guaranteed to be implemented on the basis of the law in accordance with the comprehensive physical, psycho-social development of children.

On a conceptual basis, children's rights have the following characteristics:

First, children's rights deriving from human rights are naturally associated with the development of children.

Second, children's rights are universal and specific.

Third, children's rights are legal and recognized and guaranteed by legal norms, which are determined by the level of economic and social development, national and regional cultural traditions.

Fourth, children's rights are not only exercised by children but also guaranteed by other actors.

2.1.3. The concept of child rights protection, levels, measures and subjects of child rights protection

2.1.3.1. The concept of protecting children's rights

Protection of children's rights is to ensure the safety and comprehensive development of children through a system of legal regulations and social policies promulgated or institutionalized by the State, thereby recognizing the rights of children, the obligation to respect and ensure the exercise of children's rights by other entities, as well as measures to prevent and handle acts of infringing upon children's rights.

Protection of children's rights within the scope of the thesis is reflected in the following three aspects:

First, Protecting children's rights by recognizing children's basic rights and at the same time identifying the obligation to respect those rights of other actors in society.

Second, Protecting children's rights in organizing law enforcement, creating conditions for implementation mechanisms, administrative procedures, and measures to ensure that children and caregivers can carry out favorable rights for children;

Third, Protection of children's rights is demonstrated through appropriate handling measures, penalties and sanctions prescribed by laws, sufficient to deter, prevent and prevent acts of infringing upon children's rights.

2.1.3.2. Levels of protection of children's rights

On the basis of the theory presented on the protection of children's rights and protection of children and provisions in Chapter IV of the Law on Children 2016, the levels of child rights protection are determined, including: prevention level; support level; intervention level.

2.1.3.3. Measures to protect children's rights

Protecting children's rights by a performance guarantee mechanism, according to which:

First, ensure the implementation of children's rights.

Second, ensure a mechanism to supervise the implementation of the law on children.

Third, secured by political, economic and social conditions

Fourth, protect children's rights by strictly handling violations.

2.1.3.4. Subjects protecting children's rights

First, Children and their family members

Second, Aagencies, organizations, schools

2.2. Some theoretical issues on the protection of children's rights under Vietnamese marriage and family law

2.2.1. The concept of protecting children's rights under the law on marriage and family

Protection of children's rights under the Law on Marriage and Family is a collection of legal provisions that recognize children's rights, obligations of family members and measures to handle violations of children's rights to ensure good implementation of children's rights for their all-round development.

2.2.2. Features of protection of children's rights under the law on marriage and family

First, the protection of children's rights under the Law on Marriage and Family is comprehensive, covering most of the rights of children.

Second, the protection of children's rights under the Law on Marriage and Family is mainly through stipulating the obligations of subjects who are relatives of children.

Third, the protection of children's rights under the Law on Marriage and Family is reflected directly or indirectly in the regulations.

Fourth, protecting children's rights under the Law on Marriage and Family is both legal and ethical.

Fifth, the protection of children's rights under the Law on Marriage and Family shows the core value of the family in protecting children.

2.2.3. The role of marriage and family law in protecting children's rights

First, the Law on Marriage and Family is a means of institutionalizing the views and guidelines of the Party and State on the protection of children's rights.

Second, the Law on Marriage and Family protects children's rights by stipulating the obligations and rights of subjects who exercise children's rights in the family.

Third, the Law on Marriage and Family recognizes children as a special subject in marriage and family relationships.

2.3. Factors affecting marriage and family law in protecting children's rights

2.3.1. Perspectives of the Party and State on child protection in the law on marriage and family

In order to establish a basis for the protection and promotion of human rights, our Party has determined ideas and guidelines on human rights. The Party builds orientations affecting children's development, the degree of recognition of children's rights in relation to the rights of other actors in society.

2.3.2. Cultural factors, customs and practices affecting marriage and family law

2.3.2.1. Cultural factors

2.3.2.2. Elements of customs and habits

Chapter 3. LEGAL STATUS AND PRACTICAL IMPLEMENTATION OF THE LAW OF MARRIAGE AND FAMILY ON PROTECTION OF CHILDREN'S RIGHTS

3.1. Regulations on marriage in the protection of children's rights and practice

3.1.1. Protecting children's rights in marriage conditions

Regarding age of marriage: According to Point a, Clause 1, Article 8 of the Law on Marriage and Family 2014, the legislator excludes marriage at a child age. Practical implementation of the law on the age of marriage shows that men and women get married when they are not yet of marriageable age. Consequences arising from children's incorrect perception of the age of marriage exist in the abortion rate among children accounting for a large proportion of about one-third of all abortions in Vietnam.

Regarding voluntary marriage: According to Point b, Clause 1, Article 8 of the Law on Marriage and Family 2014, when getting married, a man and a woman decide to get married by themselves. In fact, the phenomenon of children being forced into marriage occurs in ethnic minority areas due to the customs and practices of a residential community.

Regarding the civil act capacity of the married person: According to Point c, Clause 1, Article 8 of the Law on Marriage and Family 2014, the married person must not lose his/her civil act capacity. However, in practice, when there are people with clear signs of cognitive ability, suffering from obvious genetic diseases such as people with Down syndrome, it is necessary to consider specific guidance towards marriage restriction.

Regarding the ban on marriage between people with the same direct bloodline and other people with the same family name within three generations: According to the provisions at point d, clause 2, Article 5 of

the Law on Marriage and Family 2014, people with the same direct bloodline, people with surnames within three generations are prohibited from marrying each other. In fact, the situation of consanguineous marriage still exists, mainly in ethnic minority areas and areas with socio-economic difficulties.

3.1.2. Protecting children's rights in regulations on consequences of annulment of illegal marriage

The Law on Marriage and Family 2014 stipulates that when annulling an illegal marriage, the rights and obligations of each party towards their children shall be settled when a husband and wife divorce (Clause 2, Article 12). This regulation has protected the legitimate interests of children who are common children of couples illegally married.

3.2. Rights and obligations of husband and wife in the protection of children's rights and practice

3.2.1. Personal rights and obligations of husband and wife in protecting children's rights

The personal rights and obligations of husband and wife are equally regulated in all aspects of the family. Practice shows that the exercise of the equal rights of husband and wife in terms of moral rights still faces many difficulties directly related to the implementation of gender equality.

3.2.2. Property rights and obligations of husband and wife in protecting children's rights

Whether the couple's property is under the agreement or statutory regime, the husband and wife must comply with the principle of ensuring conditions to meet the essential needs of the family. Accordingly, some property rights of the husband and wife are limited to secure the lives of their immature children.

3.3. Obligations and rights of parents in the protection of children's rights and practice

3.3.1. Protecting children's rights in regulations on rights and obligations between parents and children

3.3.1.1. Parents have obligations and rights to love and respect children's bodies and dignity

Regulations on parents having the obligation to love their children (Clause 1, Article 69 of the Law on Marriage and Family 2014) are to "legalize" emotional relationships and at the same time protect children's right to develop. In fact, there are many cases where family members violate these rights of children.

3.3.1.2. Parents have the obligation to look after, care for and respect the child's right to live with their parents

Children's right to live with their father and mother and the right to be looked after and cared for by their parents are always closely related. This provision of the Law on Marriage and Family 2014 is compatible with the Law on Children 2016. However, in reality, not all children can live with their parents for many reasons such as: one parent or both parents working away from home, families sending their children to their loved ones to take care of them, children whose parents are divorced...

3.3.1.3. Parents have an obligation to respect children's opinions

The Law on Marriage and Family 2014 stipulates: Parents respect their children's opinions (Clause 1, Article 69). Children are allowed to express their opinions on matters related to themselves such as studying, entertainment... in accordance with children's abilities. However, in reality, it is not really appreciated by parents' perception of the idea of imposition and lack of respect for children, considering children as their property and the idea of "smarter eggs than ducks"; “Fish do not eat rotten fish”, resulting in children having less opportunity to express their opinions on issues related to them.

3.3.1.4. Parents must not discriminate against children

The 2014 Law on Marriage and Family stipulates that parents "must not discriminate against their children on the basis of gender or marital status of the parents", consistent with the principle of ensuring the implementation of children's rights and obligations as stipulated in the Law on Marriage and Family defined in Article 5 of the Law on Children 2016. In fact, in Vietnam, there is still a problem of gender imbalance at birth, which is causing great pressure to policy making for socio-economic development.

3.3.1.5. Parents are obligated to take care of or support children

According to Article 71 of the Law on Marriage and Family 2014, parents have equal obligations and rights to jointly raise their minor children (Clause 1). In cases where for some reason the parents do not live with their children or shirk their child rearing obligations, they must support the children. This provision aims to protect children's right to life as stipulated in the Law on Children 2016: Children have the right to have their lives protected, to have the best possible living and development conditions (Article 12), have the right to be cared for and nurtured for comprehensive development" (Article 15).

3.3.1.6. Parents have a duty of representation to protect children's legitimate rights and interests

The Law on Marriage and Family 2014 stipulates that parents are obliged to represent their minor children (Clause 3, Article 69). In fact, many parents have not fulfilled this obligation to the fullest extent when detecting violations of their children's sexual and physical inviolability.

3.3.1.7. Parents have the obligation to respect children's property rights

According to the Law on Marriage and Family 2014, children have the right to have their own property. However, in reality, children's right to have their own property has received little attention. Parents even have

acts of coercion and forcing their children to use their own property to fulfill their obligations.

3.3.2. Protecting children's rights in regulations on identification of father, mother and child

Determining the father and mother for a child is one of the most legitimate and complete bases for the exercise of children's rights, because when it is clear that a person is the child's father or mother, it is to identify the person who is obliged to perform the child's rights. Children's rights group.

3.3.3. Protecting children's rights in case of divorce of parents

Divorce does not change the rights and obligations of parents towards their children. However, the ways and conditions for raising, caring for and protecting children have changed, so the implementation of the parent's obligations and rights to the child after divorce is considered a special case. This is the reason this thesis analyzes this content separately.

3.3.3.1. Protecting children's rights in the regulations on determining the person directly raising the child and the rights and obligations of the person directly raising the child

When divorce, parents agree on who directly raises the child, obligations and rights of each party towards the child.

In case the child is full 07 years old or older, when deciding to hand over the child to which party to raise, the Court must consider the child's wishes.

In case the child is under 36 months old, it is assigned to the mother to directly raise him/her (Clause 3, Article 81 of the Law on Family Marriage 2014).

Limiting the right to divorce for husbands has demonstrated the protection of the right to protect children from pregnancy through protection of the rights of mothers.

3.3.3.2. Protecting children's rights in regulations on rights and obligations of persons who do not directly raise children

First, the obligation to respect the child's right to live with the parent who is the direct adopter.

Second,

child support obligations.

Third, the rights and obligations to visit children.

3.4. Obligations and rights of other family members in the protection of children's rights and practice

3.4.1. Obligations and rights of brothers and sisters with minor children

The obligations of brothers and sisters to children such as nurturing, caring and educating arise when the children's parents are unable to look after, nurture, care for and educate the children.

3.4.2. Obligations and rights of paternal grandparents and maternal grandparents towards minor grandchildren

Grandparents and maternal grandparents have the obligations and rights to love, look after, care for and educate their grandchildren, live exemplary lives and set good examples for their grandchildren Grandparents and maternal grandparents have the obligation to raise minor grandchildren living with them when they have no father, mother, brothers or sisters, or even though they are still alive, these people are not eligible to take care of them (Clause 1, Article 104 of the Law on Marriage and Family 2014).

3.4.3. Obligations and rights of minor aunts, uncles, uncles and nieces and nephews

In order to protect children's basic rights and create conditions for generations in the family to care for and help each other in order to preserve and promote the good traditions of Vietnamese families, the Law on Marriage and Family 2014 stipulates: aunts, uncles, aunts, uncles

and nephews have the rights and obligations to love, care for and help each other (Article 106 of the Law on Marriage and Family 2014).

3.5. Handling of violations of the marriage and family law on the protection of children's rights

3.5.1. Protection of children's rights in the provisions on grounds for restricting the rights of parents towards minor children

First, The parent has been convicted of one of the crimes of infringing upon the life, health, dignity and honor of the child with willful error or has committed a serious violation of the obligation to look after, care for and nurture the child.

Second, Father and mother destroy children's property.

Third, Father and mother have a depraved lifestyle.

Fourth, Parents instigate and force their children to do things that are against the law and against social morality.

3.5.2. Consequences of restricting the rights of parents towards minor children

First, Parents are not allowed to look after, care for and educate their children, manage their children's assets, or represent their children according to the law.

Second, The care, education of the child, the management of the child's property, and the legal representation of the child are guaranteed by other entities.

Chapter 4. ORIENTATIONS, SOLUTIONS TO COMPLETING THE LAW OF MARRIAGE AND FAMILY ON PROTECTION OF CHILDREN'S RIGHTS

4.1. Orientations to perfect the marriage and family law in protecting children's rights

4.1.1. Perfecting the law on marriage and family must aim at developing a sustainable Vietnamese family, which is a solid foundation for the protection of children's rights.

Institutionalizing the views of the Party, the Prime Minister issued the Strategy for Vietnam's Family Development to 2020 with a Vision to 2030 issued together with Decision No. 629/QD-TTg dated May 29, 2012 affirming the importance of the family.

4.1.2. Completing the law on marriage and family must ensure the human rights of children in accordance with the context of Vietnam

Child right protection is an important part of human right protection. The recognition of children's rights contained in national legal documents is a legal basis and an important condition for children to develop comprehensively in morality, intelligence, body and beauty.

4.1.3. Perfecting the law on marriage and family must be in line with the trend of international integration and exchange in protecting children's rights.

At present, children's rights are not only a national issue but a global one. Therefore, participating in integration needs to concretize the provisions of international law on children's rights.

First, Strengthen international cooperation in research and absorption of the experience of other countries in the implementation of legal provisions on the protection of children's rights in order to learn from experience and apply in Vietnam to suit the legal conditions, socio-economic conditions and specific characteristics of Vietnam.

Second, Continue to expand and promote international cooperation in law enforcement on child protection through relations with international organizations such as: UNICEF, ILO, WHO, Save the Children, Plan International, World Vision, Child Fund... to enlist support and exchange experience, technology, human and financial resources for child protection activities in Vietnam.

Third, Coordinating with countries with a large percentage of Vietnamese brides such as Korea, China, etc. to coordinate in solving child right issues in marriage and family relations with foreign elements to ensure children enjoy their full rights.

4.1.4. Completing the marriage law on the protection of children's rights must ensure consistency in the Vietnamese legal system

One of the important goals in building and perfecting the Vietnamese legal system to meet the requirements of the new situation is to ensure the uniformity and consistency in the provisions of the law. Currently, children's rights and protection of children's rights are recognized in many legal documents such as: Civil Code 2015; Law on Children 2016; Law on Marriage and Family 2014; Education Law 2019; Penal Code 2015, Labor Code 2019... The synchronization and unification of legal regulations play a decisive role in the effective application and implementation of the provisions of the law in practice.

4.1.5. Completing the marriage and family law on the protection of children's rights must aim at strictly handling acts of family members infringing on children's rights.

Facing the current legal situation, many legal provisions in the Law on Marriage and Family 2014 only recognize the rights of children and general obligations of subjects as family members, lack punishment when subjects violate the law. The breach of obligations leads to a lack of respect for the law. For acts of violating the law on children's rights causing serious consequences, acts of domestic violence need to develop and supplement legal provisions as a legal basis for serious and timely handling.

4.2. Solutions to improving marriage and family law in protecting children's rights

4.2.1. Solution to complete the Law on Marriage and Family 2014 on the group of regulations on the obligations and rights of parents to their children

4.2.1.1 Supplementing the Law on Marriage and Family to clarify the obligations of parents in respecting the right to a non-violent education for their children

Supplementing Clause 1, Article 72 as follows: "Parents have the obligation and right to educate their children, respecting their children's right to a non-violent education...". At the same time, it is reaffirmed in Clause 1, Article 104 when defining the obligations of paternal and maternal grandparents: “Grandparents and maternal grandparents have the right and obligation to look after, care for and educate their grandchildren, and to respect the right to be educated non-violently”

4.2.1.2. The Law on Marriage and Family needs to stipulate measures to limit parents' violations of their obligations to raise, care for and educate children.

The Law on Marriage and Family 2014 needs to stipulate that parents are forced to directly take care of and raise children accordingly, adding Article 71 as follows:

"1. Parents and guardians have equal obligations and rights, and jointly arrange as much time as possible to directly care for and raise their minor children and adult children who have lost their civil act capacity or are unable to work and have no assets to support themselves.”

From this regulation, it is required that the regulations of other branches of law be respected to arrange a minimum time of the year or during a working period to ensure that parents can directly take care of and educate their children at the young age. In particular fields of work, for a long time, it is possible to arrange a regime for the family to go on business trips or on duty on the basis of the interests of minor children.

4.2.2. Solution to complete the Law on Marriage and Family 2014 on the group of regulations on protecting children's rights when parents divorce

4.2.2.1. Proposal to amend regulations on rights and obligations of parents towards children when parents divorce

Amend Clause 2, Article 81, Law on Marriage and Family 2014 as follows:

The person directly raising the child, the rights and obligations of each party towards the child after the divorce which are agreed upon by the husband and wife or decided by the court must ensure the principle that it is for the benefit of the minor child and based on the interests of the minor child in all aspects; If the child is 07 years old or older, his/her wishes must be considered.

Point c, Clause 2, Article 84 is added as follows: “In case the person directly raising the child has acts of obstruction or other acts that make the person not directly raising the child unable to exercise the right to visit, care for and educate the child, " is the basis for changing custody rights.

Point d, Clause 2, Article 84 is added as follows: "In cases where all parties are fully qualified to directly look after, raise and educate their children, the settlement of the change of child custody rights shall be prioritized on the basis of child custody protection, ensuring the stability for the development of the child”.

4.2.2.2. The Law on Marriage and Family 2014 needs to stipulate the unanimity of the time to perform the support obligation

From the analysis, we recommend adding to Clause 2, Article 82 of the Law on Marriage and Family 2014 as follows:

“The time of support is determined as follows: Since the parent does not live with the child; from the date the Court issues the judgment or

decision on divorce; from the date the Court issues the decision to apply provisional urgent measures".

4.2.3. Solution to complete the Law on Marriage and Family 2014 on a group of provisions on common obligations and rights and obligations of other family members with the protection of children's rights

4.2.3.1. The Law on Marriage and Family 2014 should stipulate the minor's right to maintain relationships with other family members and limit the rights of other family members to minors.

First, supplement the provisions in Chapter VI of the Law on Marriage and Family as follows:

"Article 106a. The juvenile's right to maintain contact with other family members.

1. In all cases, minors have the right to keep a relationship with their grandfather, grandmother, brother, sister, aunt, uncle, uncle or aunt without anyone having the right to prevent them.

2. In case other family members take advantage of visiting the minor to commit acts that negatively affect the juvenile's development in all aspects, the father, mother, guardian of a minor has the right to ask the Court to limit the rights of that family member".

Second, supplement detailed instructions on acts of "serious violations" of the obligations of parents and acts of "dispersing property" of children to serve as a basis for determining measures to limit parents' rights to the child.

Third, provide specific guidance on the consequences of the current restriction of rights for minor children, which should specify what is "not allowing parents to look after, care for and educate their children". In the case of serious violations, or for many times, the provisions of "permanently restricting the rights of parents to their minor children" or "depriving the parents of all rights to their minor children" depending on

the seriousness of the violation are considered in terms of the seriousness of the parent's behavior on the basis of the interests of the child.

4.2.3.2. Supplementing detailed guidelines on the obligation to love, look after and care for minors

From the PhD student's personal opinion, it is necessary to clearly define:

“Love for minors is affection in the behavior of parents and other family members on the basis of knowledge and understanding of the maturation process to care for and educate children according to certain norms and values suitable to the cultural age, fine customs and traditions of the nation".

"Looking after is a responsible behavior of parents, grandparents and caregivers of children in observing and paying attention to all behaviors, activities and states of children, in order to prevent, limit, minimize risks that may cause negative effects to children's mental, physical, and living conditions.

“Child care is the practice of parents and other family members providing physical and mental nourishment for a child, ensuring that the child's needs for food, clothing and shelter are met at each stage of physical development of your child and respect and understand your child's emotional states at a certain moment".

4.3. Solutions to effectively improve the protection of children's rights in the family

4.3.1. Educating sense of morale, responsibility of parents and other family members to build a safe and happy family environment

The family is considered the "cradle", playing a particularly important role in the formation of children's personality, moral sense, and legal consciousness. Building a warm, happy and sustainable family environment so that children can be protected right in their own family. Parents and grandparents not only educate their children about morality

and family culture, but also need education to love labor, education for intellectual development, comprehensive physical education, and aesthetic education; Children are trained, criticized and prevented from rude and unfilial attitudes and gestures, practiced self-discipline in learning, thinking, punctuality, neatness, and life skills. ... They are helped toform their personality, soon become aware of their responsibilities towards everyone and everyone towards themselves in the family.

It is necessary to further enhance the responsibility of parents in protecting children's rights in general as well as in the protection, care and education of children. Parents need to improve their understanding, especially of children's rights. On that basis, it is the parents who are responsible for strictly and properly performing their obligations towards children. Raising awareness of parents about child rights protection is one of the core measures to solve the inner problems of children today.

4.3.2. The Ministry of Labor, War Invalids and Social Affairs assume the prime responsibility for, and coordinate with the Ministry of Justice, the Ministry of Culture, Sports and Tourism and other ministries in organizing the propagation of the law on child protection, care and education.

Measures to propagate the law need to be improved in quality as well as in form in order to improve understanding and compliance with the law. The object of propaganda should focus on children because only when they clearly understand their rights, interests and obligations, children will be the best defenders for themselves. It is necessary to focus on propaganda and dissemination of key laws in remote areas with many outdated customs so that people can better understand child marriage, consanguineous marriage, and child abduction as well as other outstanding issues today. Strengthen the guidance, explanation and regular inspection of legal aid activities for children, especially children

who violate the law, adopt children, avoid adoption for the purpose of sexual abuse and labor use.

In summary, it is identified that parents and other members of the family play an important and decisive role to a child's development environment under the Marriage and Family Laws of Vietnam. In order to support family members to protect children's rights, it is also necessary to have measures, policy, and social environment to keep children's natural environment safe for their comprehensive development.

CONCLUSION

Children are both beneficiaries of rights and exercisers of children's rights. In order to fulfill this role, in addition to legal institutional conditions, children cannot lack the support of their parents, family members. Therefore, the close relationship between father, mother and child, paternal grandparents, maternal grandparents, aunts, uncles, uncles and nieces and nephews, brothers and sisters, is always an important adjustment object in the relationship of marriage and family system as well as the law on marriage and family.

Children's rights are essentially children's human rights that are regulated and institutionalized to ensure the best implementation of children's rights. The protection of children's rights under the Law on Family Marriage has shown a relatively complete guarantee of children's rights through stipulating the obligations of family members. However, in practice, there are still some shortcomings that have not yet fully protected children. In addition, the status of family members' violations of children's rights still exists, affecting future generations, so the study and proposal of solutions and recommendations are meaningful for the protection of children's rights in Vietnam.

With the shortcomings of the law on marriage and family on the protection of children's rights, the thesis has analyzed and proposed

solutions to improving the Law on Marriage and Family in 2014 by proposing to amend and supplement the legal provisions directly. The thesis has proposed three solutions to ensure the conditions to improve the effectiveness of child right protection in the family.