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# Protecting the Rights of Minors in Civil Procedure in the Digital Environment: Legal Challenges under Vietnamese Law

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VŨ THỊ NGỌC\*

## ABSTRACT

*The rapid development of digital technologies and online platforms has created many opportunities for minors in learning, communication, and comprehensive development, while also increasing the risks of infringement upon their rights and lawful interests. In this context, civil procedure plays an important judicial role in ensuring the protection of minors' rights when disputes or acts of infringement arise in the digital environment. However, the rapid development of digital technologies has posed many new challenges to Vietnamese civil procedural law, while the current provisions are mainly built on the basis of traditional civil relations and have not kept pace with the specific characteristics of the digital environment. On the basis of analytical, synthetic, and comparative legal methods and research into the provisions of Vietnamese law in relation to international standards on human rights and children's rights, this article analyses the legal challenges in protecting minors' rights through civil procedure. The research results show that current law still contains gaps regarding minors' right to initiate lawsuits against acts of infringement in the digital environment, the representation mechanism where the legal representative has a conflict of interest with the minor, as well as the application of the principle that the Court may not refuse to resolve a civil case on the ground that there is no legal provision to apply to disputes arising from digital technology. On that basis, the article proposes solutions to improve civil procedural law in order to enhance the effectiveness of protecting minors' rights in the digital environment, thereby contributing to the implementation of international standards on children's rights and improving judicial protection in Vietnam.*

**Keywords:** minors' rights, civil procedure law, digital environment, best interests of the child, access to justice, Vietnam

## I. INTRODUCTION

### A. Context and rationale for the study

The rapid development of digital technology, artificial intelligence, social media, and online platforms has brought profound changes to social life, especially for minors. This is a group

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that increasingly accesses and uses the digital environment. The digital environment not only expands opportunities for learning, communication, and comprehensive development, but also increases the risks of infringement upon the rights and lawful interests of minors. In practice, violations of rights relating to image, personal data, privacy, honour, and dignity, and the commercial exploitation of children's images on digital platforms are becoming increasingly common, with complex characteristics and wide-ranging impacts. These acts are characterised by their rapid spread, their ability to easily cross national borders, and the long-term consequences they may cause for the physical, mental, and moral development of minors.

In this context, civil procedure plays an important role as a mechanism for protecting the rights and lawful interests of minors when civil rights are infringed in the digital environment. Through the right to request the Court to protect lawful rights and interests, and the right to initiate lawsuits, civil procedural law creates conditions for minors or their lawful representatives to bring civil claims before the Court to resolve disputes arising in the digital environment in order to protect the rights and lawful interests of minors. However, Vietnamese civil procedural law still contains certain legal gaps in regulating this relationship.

Researching the mechanism for protecting minors' rights through civil procedure is significant not only for ensuring the implementation of human rights and children's rights under the 2013 Constitution and Vietnamese law, but also for contributing to the fulfilment of Vietnam's international commitments under the United Nations Convention on the Rights of the Child and international standards on child protection in the digital environment. In the context of national digital transformation and the process of building and perfecting the socialist rule-of-law state, the development of a civil procedural mechanism adapted to the specific characteristics of the digital environment is important for improving the effectiveness of protecting minors' rights, ensuring access to justice, and strengthening the effectiveness of judicial protection.

## **B. Research gap**

International studies have mainly focused on personal data protection, privacy, online safety, the responsibilities of digital platforms, or child protection mechanisms under the United Nations Convention on the Rights of the Child. In Vietnam, however, research on minors' rights in the digital environment has largely approached the issue from the perspective of protecting minors from online risks. There is still a lack of systematic studies on the relationship between protecting minors' rights in the digital environment and civil procedure as a judicial protection mechanism. In particular, issues such as the right to bring a lawsuit against infringements in the digital environment, representation mechanisms when conflicts of interest arise between a

minor and parents over the commercial exploitation of the child's image or personal information, and the application of civil procedural law to new disputes created by digital technology have not been adequately studied. This article seeks to address that legal gap by assessing the legal challenges of Vietnamese civil procedure law from the perspective of children's rights and international standards, while also proposing directions for reform to improve judicial protection for minors in the digital environment.

### **C. Research objectives, questions, and methods**

This article aims to analyse the legal challenges in protecting minors' rights through civil procedure in the context of digital development; assess the extent to which Vietnamese civil procedure law responds to disputes arising from digital technology; and propose legal reforms to strengthen judicial protection in line with international standards on children's rights. To achieve these objectives, the article addresses three research questions:

- First, what new requirements does the digital environment place on the protection of minors' rights through civil procedure?
- Second, what limitations remain in current Vietnamese civil procedure law in resolving disputes involving minors in the digital environment?
- Third, in what direction should the law be improved to ensure an effective judicial protection mechanism consistent with international standards?

The article combines analytical, synthetic, comparative legal, documentary research, and legal commentary methods to evaluate Vietnamese legal provisions in relation to international law and the experience of several countries, thereby offering reform proposals grounded in both theory and practice.

## **II. THEORETICAL AND LEGAL FOUNDATIONS FOR PROTECTING MINORS' RIGHTS IN THE DIGITAL ENVIRONMENT UNDER CIVIL PROCEDURE LAW**

### **A. Minors' rights and the need for judicial protection**

Minors are a special category of subjects under international human rights law because they remain limited in physical capacity, psychological development, and ability to protect their own rights. They therefore require special protection from the family, the State, and society. Minors' rights are not a separate system of rights, but rather the concretisation of human rights in a form suited to children's developmental characteristics. At the international level, the 1989 United Nations Convention on the Rights of the Child (CRC) affirms that all children are entitled to the full range of civil, political, economic, social, and cultural rights without discrimination,

while also requiring States Parties to adopt legislative, administrative, and judicial measures to ensure those rights are realised.<sup>1</sup> The rights-based approach established by the CRC has shifted the focus from viewing children as objects of protection to recognising them as independent subjects of human rights, entitled to have their rights respected, protected, and fulfilled by the State and relevant actors.

One of the foundational principles of international child rights law is the principle of the best interests of the child. Article 3 of the CRC provides that in all decisions concerning children, the best interests of the child shall be a primary consideration.<sup>2</sup> According to General Comment No. 14 (2013) of the Committee on the Rights of the Child, this principle is both a substantive right of the child, a rule of interpretation, and a mandatory procedural rule in the formulation, application, and enforcement of law.<sup>3</sup> This means that every decision by legislative, executive, and especially judicial bodies must fully assess its impact on minors' rights and interests, rather than relying solely on the interests of parents or other parties.

In the context of digital transformation, the scope of this principle has been further expanded through General Comment No. 25 (2021) of the Committee on the Rights of the Child on children's rights in the digital environment.<sup>4</sup> This document emphasises States' obligations to build effective legal systems and judicial mechanisms to protect children from risks arising in digital environments, including violations of personal data and privacy, commercial exploitation of images, online violence, and other forms of technology-facilitated abuse. This shows that protecting minors' rights in the digital environment is not limited to issuing rules on cyberspace governance, but also requires effective judicial mechanisms so children can seek remedies when their rights are violated.

From the perspective of the rule of law, protecting the rights of minors is not only a political and social responsibility but also a legal obligation arising from international treaties and domestic law. Article 4 of the CRC requires States Parties to take all appropriate legislative, administrative, and judicial measures to ensure the realisation of children's rights.<sup>5</sup> In Vietnam, this obligation has been incorporated into domestic law through the 2013 Constitution, the 2016 Law on Children, and the 2015 Civil Procedure Code. Among these, judicial protection plays a particularly important role because it is the final means by which minors can ask the court to

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<sup>1</sup> Convention on the Rights of the Child arts. 2, 4, Nov. 20, 1989, 1577 U.N.T.S. 3.

<sup>2</sup> *Id.* art. 3(1).

<sup>3</sup> Comm. on the Rights of the Child, General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (art. 3, para. 1), U.N. Doc. CRC/C/GC/14 (2013).

<sup>4</sup> Comm. on the Rights of the Child, General Comment No. 25 (2021): Children's Rights in Relation to the Digital Environment, ¶¶ 8–15, 107–114, U.N. Doc. CRC/C/GC/25 (Mar. 2, 2021).

<sup>5</sup> Convention on the Rights of the Child, *supra* note 1, art. 4.

protect their lawful rights and interests when those rights are violated. In the context of disputes arising from the digital environment becoming increasingly diverse and complex, improving civil procedure mechanisms not only helps enhance the effectiveness of domestic law enforcement but also ensures that Vietnam fully fulfils its international obligations to protect children's rights.

### **B. The theoretical basis for the mechanism of protecting the lawful rights and interests of minors in the digital environment through civil procedure**

In a rule-of-law state, the recognition of human rights is only meaningful in practice when individuals have an effective legal mechanism to request the competent authority to protect their lawful rights and interests when they are infringed. For that reason, the right to request the court to protect one's lawful rights and interests, the right of access to justice, and the right to judicial protection form the foundation of the rights-protection mechanism in a rule-of-law state.<sup>6</sup>

The right to request the court to protect lawful rights and interests is a direct expression of the right of access to justice and is recognised in many international human rights instruments. Article 8 of the 1948 Universal Declaration of Human Rights establishes everyone's right to an effective remedy before competent courts for acts violating the fundamental rights granted by law.<sup>7</sup> Article 2 and Article 14 of the 1966 International Covenant on Civil and Political Rights (ICCPR) require States Parties to ensure access to competent judicial bodies and the right to a fair trial.<sup>8</sup> For minors, the 1989 Convention on the Rights of the Child not only recognises fundamental rights but also places an obligation on States to establish legislative, administrative, and judicial mechanisms to ensure those rights are effectively implemented. In the digital environment, General Comment No. 25 (2021) further affirms that children must have access to effective complaint, redress, and judicial protection mechanisms when their rights are violated online.<sup>9</sup>

In Vietnam, the right to request the court to protect lawful rights and interests is guaranteed by the 2013 Constitution and specified in the 2015 Civil Procedure Code as one of the fundamental principles of civil procedure. This right not only gives individuals the ability to file a lawsuit and ask the court to resolve disputes, but also ensures the restoration of lawful rights and interests when they are infringed through legally effective judgments. For minors, the civil procedure mechanism has special significance because the exercise of this right is often linked

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<sup>6</sup> Universal Declaration of Human Rights art. 8, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948); International Covenant on Civil and Political Rights arts. 2, 14, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>7</sup> Universal Declaration of Human Rights, *supra* note 6, art. 8.

<sup>8</sup> International Covenant on Civil and Political Rights, *supra* note 6, arts. 2, 14.

<sup>9</sup> Convention on the Rights of the Child, *supra* note 1, arts. 3–4.

to representation and protective measures that address limitations in procedural capacity. It is the tool that turns rights recognised in law into rights that can be enforced in practice.

In the context of digital transformation, the role of civil procedure is expanding because many violations of minors' rights arising in the digital environment are not handled through administrative or criminal sanctions, but mainly concern civil relations such as rights to image, personal data, privacy, honour, dignity, or compensation for non-contractual damage. In such cases, civil procedure becomes a direct judicial protection mechanism, enabling minors or their legal representatives to ask the court to stop the violation, restore rights, and award compensation. At the same time, this mechanism helps realise the right of access to justice and the State's obligation to protect children's rights under international standards. However, the emergence of new disputes in the digital environment also requires continued improvement of civil procedure law to ensure that the protection mechanism for minors' rights is implemented fully, promptly, and effectively.

### **C. Rights of minors in the digital environment**

The digital environment is a space formed by information technology infrastructure, the Internet, and digital platforms, where users can communicate, study, work, entertain themselves, and carry out online transactions. For minors, the digital environment not only expands opportunities to access knowledge and develop skills, but also increases the risk of infringement of their lawful rights and interests because they are vulnerable and have limited ability to protect themselves.<sup>10</sup>

In the digital environment, minors may have many basic rights infringed upon, such as the right to one's image, the right to private life and personal data, and the right to the commercial exploitation of the image and digital products of minors.<sup>11</sup>

The cross-border characteristics, anonymity, and speed of information dissemination on the Internet cause infringing acts to have a wide scope of impact, making it difficult to identify the violating subject and causing prolonged consequences for the development of minors.

Those characteristics raise the requirement to perfect appropriate protection mechanisms; through the path of civil proceedings, minors will have their civil rights protected in the digital environment in a way that ensures effective access to justice for minors in civil disputes arising from the digital environment. In addition to ensuring the right to initiate a lawsuit and the right

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<sup>10</sup> Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 2–6.

<sup>11</sup> OECD, Recommendation of the Council on Children in the Digital Environment (May 23, 2021); Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 67–89.

to request the Court to protect rights, civil procedural law needs appropriate mechanisms regarding representation, the collection and evaluation of electronic evidence, the protection of personal information of minors, as well as the flexible application of regulations to new legal relations created by digital technology.

#### **D. Legal basis in international law and Vietnamese law on the protection of minors' rights in the digital environment**

The Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, and the Convention on the Rights of the Child of 1989 are the most important international legal instruments, establishing the obligations of States to ensure children's rights through legislative, administrative, and judicial measures. In particular, General Comment No. 25 (2021) has concretised the obligations of States in protecting children's rights in the digital environment, including ensuring access to justice and effective remedy mechanisms when rights are violated.<sup>12</sup>

In Vietnam, these standards are internalised through the 2013 Constitution, the 2015 Civil Code, the 2015 Civil Procedure Code, the 2016 Law on Children, the 2018 Law on Cybersecurity, and new regulations on personal data protection. These documents create a legal basis for the protection of the rights and legitimate interests of minors, and at the same time serve as grounds for courts to resolve civil disputes arising in the digital environment. However, in the face of rapid technological development, some provisions of civil procedural law have not yet kept pace with practical requirements, especially those related to the right to initiate lawsuits, representation mechanisms, and the resolution of new disputes in the digital space.

### **III. LEGAL GAPS IN THE PROTECTION OF MINORS' RIGHTS IN VIETNAMESE CIVIL PROCEEDINGS**

#### **A. On the scope of the right to initiate lawsuits by minors**

The scope of the right to initiate lawsuits by minors under current Vietnamese civil procedural law is mainly determined on the basis of civil procedural capacity. Because they do not have full civil procedural capacity like adults, the participation in proceedings by minors depends on their age and the scope of transactions that the law permits them to establish and perform by themselves. According to the 2015 Civil Procedure Code, persons from 15 years of age to under 18 years of age are allowed to participate in proceedings by themselves in respect of disputes arising from labour relations or from civil transactions which, according to the provisions of the

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<sup>12</sup> Convention on the Rights of the Child, *supra* note 1, arts. 3–4; Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 107–114.



Civil Code, they have the right to establish and perform by themselves; at the same time, they are entitled to protect their legitimate rights and interests related to their own property in cases prescribed by law.<sup>13</sup>

However, the current regulations were mainly built on the basis of traditional civil relations and have not fully anticipated disputes arising in the digital environment. In practice, the legitimate rights and interests of minors are increasingly infringed upon through the unauthorised use of images, personal data, and private life information, or commercial exploitation on social media platforms, advertising activities, livestreaming, and digital content creation. In many cases, minors are the direct victims but do not fall within the scope of cases permitted by law to initiate lawsuits by themselves to request the Court to protect their legitimate rights and interests.

Therefore, it is necessary to study the expansion of the scope of the right to request the Court to protect the rights and legitimate interests of minors in relation to civil disputes arising from the digital environment, especially in cases where their personal rights and personal data rights are infringed upon.

## **B. On the representation mechanism for minors in civil proceedings**

In the context of digital transformation, one of the major challenges to the representation mechanism in civil proceedings is the situation of conflict of interest between minors and their parents when the parents themselves are the subject committing acts that infringe upon the legitimate rights and interests of their children in the digital environment. Practice shows that, along with the development of social media platforms, many parents use their children's images, personal data, and private life information to build personal brands, promote products, or generate profits from digital content creation activities. In many cases, such exploitation goes beyond the purpose of care and education and may affect the privacy rights, rights to one's image, honour, dignity, and best interests of the minor.<sup>14</sup>

According to the provisions of Vietnamese law, parents are the legal representatives of their minor children and perform procedural rights to protect the legitimate rights and interests of their children.<sup>15</sup> This mechanism is built on the assumption that the representative always acts in the best interests of the person represented.<sup>16</sup> However, this assumption is no longer

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<sup>13</sup> Civil Procedure Code No. 92/2015/QH13, arts. 69, 70, 73 (Viet.); Civil Code No. 91/2015/QH13, arts. 20–21 (Viet.).

<sup>14</sup> MINISTRY OF JUSTICE, *Protecting Children's Image Rights in the Digital Environment: Emerging Legal Issues* (2024) (Viet.); Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 67–89.

<sup>15</sup> Civil Code No. 91/2015/QH13, arts. 134, 136 (Viet.); Civil Procedure Code No. 92/2015/QH13, arts. 69, 85 (Viet.).

<sup>16</sup> ĐINH TRUNG TÙNG (ED.) & NGUYỄN THANH TÚ ET AL., *SCIENTIFIC COMMENTARY ON THE 2015 CIVIL CODE* 214–220 (Justice Publ'g House 2021).

appropriate in cases where parents are at the same time the direct subjects exploiting or allowing the exploitation of their children's images and personal data for commercial purposes. In such cases, the representative becomes the subject with opposing interests to the person represented, giving rise to conflicts of interest and affecting the objectivity of the protection of minors' rights. Although the 2015 Civil Procedure Code has provided for representatives in proceedings, it has not yet established a separate mechanism to handle disputes arising from the digital environment when the legal representative is the defendant. Meanwhile, General Comment No. 25 (2021) of the Committee on the Rights of the Child requires States to ensure that children have access to effective complaint and judicial protection mechanisms, even when the infringing acts originate from parents or caregivers.<sup>17</sup> Therefore, Vietnamese law needs to study the establishment of an independent representation mechanism or a special procedural mechanism to ensure minors' right to access to justice in disputes arising from the digital environment.<sup>18</sup>

### **C. On the application of the principle that courts shall not refuse to resolve civil cases on the grounds of the absence of applicable legal provisions**

The principle that courts shall not refuse to resolve civil cases on the grounds of the absence of applicable legal provisions is one of the important guarantees of the right to access to justice in Vietnamese civil proceedings. According to Article 4 of the 2015 Civil Procedure Code, when there is no direct legal regulation, the Court may apply customs, analogous law, the basic principles of civil law, precedents, and equity to resolve civil cases.<sup>19</sup> This principle reflects the characteristics of civil law, since property and personal relations always develop along with changes in economic, social, and technological life, while the law cannot fully anticipate all arising situations.

However, the application of this principle to disputes involving minors in the digital environment still faces many difficulties. Although the 2015 Civil Code has recognised the right to one's image and the right to private life and personal secrecy, these provisions are mainly built on the basis of traditional civil relations.<sup>20</sup> Many new issues, such as requests to remove content on digital platforms, determining civil liability for acts of commercial exploitation of minors' images, the right to control personal data, or the liability of parents when directly infringing upon their children's rights, have not yet had specific regulations. In these cases, the

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<sup>17</sup> Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 107–114.

<sup>18</sup> Yohannes Eneyew Ayalew, Valerie Verdoodt & Eva Lievens, *General Comment No. 25 on Children's Rights in Relation to the Digital Environment: Implications for Children's Right to Privacy and Data Protection in Africa*, 24 HUMAN RIGHTS LAW REVIEW no. 3 (2024), n°018.

<sup>19</sup> Civil Procedure Code No. 92/2015/QH13, art. 4 (Viet.); GIÁO TRÌNH LUẬT TỔ TỤNG DÂN SỰ VIỆT NAM 52–58 (Hanoi Law Univ. 2024).

<sup>20</sup> Civil Code No. 91/2015/QH13, arts. 32, 38 (Viet.); ĐÌNH TRUNG TỤNG ET AL., *supra* note 16, at 164–182.

Court must apply Article 4 of the Civil Procedure Code to ensure the right to judicial protection, but the lack of clear legal criteria and uniform application guidelines may lead to different interpretations and resolutions among courts.

The requirement to flexibly apply traditional procedural principles to disputes arising from digital technology is also consistent with the development trend of international law. At the same time, General Comment No. 25 (2021) of the Committee on the Rights of the Child emphasises the obligations of States in establishing effective judicial mechanisms to protect children's privacy, personal data, and other rights in the digital environment.<sup>21</sup> Therefore, in addition to applying Article 4 of the Civil Procedure Code, Vietnamese law needs to continue to improve the provisions on resolving civil disputes arising from the digital environment in order to ensure that the protection of minors' rights is carried out in a uniform and effective manner.

#### **IV. IMPROVING VIETNAMESE CIVIL PROCEDURAL LAW ON THE MECHANISM FOR PROTECTING MINORS' RIGHTS IN THE DIGITAL ENVIRONMENT**

##### **A. Improving Vietnamese civil procedural law on the scope of the right to initiate lawsuits by minors**

Civil procedural law needs to be amended in the direction of expanding the scope of the right to request the Court to protect the rights and legitimate interests of minors in relation to disputes arising in the digital environment. In addition to the cases already recognised in the 2015 Civil Procedure Code, it is necessary to supplement a mechanism allowing minors, depending on their level of maturity and the nature of the infringed rights, to directly request the Court to protect personal rights such as the right to one's image, the right to private life, the right to personal data, and other rights arising in the digital environment. The expansion of the scope of the right to initiate lawsuits not only ensures minors' right to access to justice but is also consistent with the principle of the best interests of the child and the obligations of the State under the Convention on the Rights of the Child.<sup>22</sup>

##### **B. Improving the representation mechanism for minors when disputes arise with parents regarding minors' rights in the digital environment**

The law needs to supplement a special representation mechanism in cases where parents or legal representatives are at the same time the subject committing acts that infringe upon the rights and legitimate interests of minors in the digital environment. In these cases, the Court should

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<sup>21</sup> Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 107–114.

<sup>22</sup> Convention on the Rights of the Child, *supra* note 1, arts. 3, 12.

be granted authority to appoint an independent representative or a procedural guardian in order to ensure objectivity in the process of resolving the case. At the same time, it is necessary to strengthen the role of child protection agencies and organisations with functions of protecting children's rights in providing support and participating in proceedings to ensure that all decisions place the best interests of the minor first. This recommendation is consistent with the requirements of General Comment No. 25 (2021) on ensuring effective access to justice mechanisms for children in the digital environment.<sup>23</sup>

### **C. Improving regulations on the principle that courts shall not refuse to resolve civil cases on the grounds of the absence of applicable legal provisions**

For new disputes arising from the digital environment, specific guidelines on the application of Article 4 of the 2015 Civil Procedure Code are needed in order to ensure uniform resolution in judicial practice. In addition to continuing to apply customs, analogous law, the basic principles of civil law, precedents, and equity, the competent authority should issue guiding documents for disputes related to images, personal data, privacy rights, and commercial exploitation activities involving minors in the digital environment. This will contribute to enhancing the predictability of the law and ensuring the right to access to justice in the context of rapidly developing digital technology.<sup>24</sup>

### **D. Drawing on international experience to improve the effectiveness of protecting minors' rights**

The laws of France, the United States, and China show that the protection of minors' rights in the digital environment needs to be carried out simultaneously through expanding the right to access to justice, improving the representation mechanism, and developing procedural regulations suitable for disputes arising from digital technology.

First, regarding the scope of the right to initiate lawsuits, French law does not limit the protection of minors' rights to traditional civil relations but allows courts to apply judicial measures to protect children's personal rights, privacy rights, and rights to their image when infringed upon in the digital environment. Judicial practice also shows that requests to remove content, terminate infringing acts, and compensate for damages can all be resolved through civil procedures. This experience suggests that Vietnam should expand the scope of the right to

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<sup>23</sup> Comm. on the Rights of the Child, General Comment No. 25 (2021), *supra* note 4, ¶¶ 107–114.

<sup>24</sup> Civil Procedure Code No. 92/2015/QH13, art. 4 (Viet.).

request the Court to protect the rights and legitimate interests of minors in disputes concerning images, personal data, and privacy rights in the digital environment.<sup>25</sup>

Second, regarding the representation mechanism, both France and the United States recognise that parents are not always the appropriate subjects to represent their children when there is a conflict of interest between the two parties. In these cases, the Court may appoint an independent representative or a procedural guardian to ensure that all decisions are directed towards the best interests of the child. This is an important experience for Vietnam to study in order to supplement a mechanism to replace the legal representative when parents are at the same time the subjects being sued for acts of exploiting their children's images or personal data in the digital environment.<sup>26</sup>

Third, regarding new disputes arising from digital technology, the United States and China have gradually improved regulations on the protection of children's personal data, the responsibility of digital platforms, and the obligation to provide information for procedural activities. In addition to strengthening the responsibility of digital service providers, these countries have also developed fast-track mechanisms for requests to remove infringing content and to protect electronic evidence. These experiences serve as a reference basis for Vietnam to improve the application of Article 4 of the 2015 Civil Procedure Code as well as to supplement regulations on the coordination responsibility of digital platforms in resolving disputes involving minors.<sup>27</sup>

## V. CONCLUSION

The strong development of digital technology has created many opportunities for minors in learning, communication, and personal development, while also increasing the risks of infringing upon the rights and legitimate interests of this group of subjects. Disputes related to the right to one's image, personal data, private life, and commercial exploitation activities in the digital environment are posing new requirements for the protection mechanism through civil proceedings.

Through the analysis of theoretical basis, international law, Vietnamese law, and application practice, the article has pointed out three basic legal gaps: the scope of the right to request the Court to protect the rights and legitimate interests of minors is still limited; the representation mechanism in cases of conflict of interest between parents and minors has not been fully

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<sup>25</sup> Code Civil [C. civ.] arts. 9, 371-1 (Fr.); Law No. 2024-120 of Feb. 19, 2024, Securing and Regulating the Digital Space (Fr.).

<sup>26</sup> Code Civil [C. civ.] arts. 383–388 (Fr.); Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (2017) (U.S.) (selected state enactments).

<sup>27</sup> Children's Online Privacy Protection Act of 1998, 15 U.S.C. §§ 6501–6506 (U.S.); Personal Information Protection Law (2021) (China); Law on the Protection of Minors (rev. 2020) (China).

regulated; and difficulties remain in applying civil procedural law to new disputes arising from the digital environment. On that basis, the article proposes recommendations to improve Vietnamese civil procedural law, while drawing on the experience of some countries to enhance the effectiveness of protecting minors' rights.

The improvement of the protection mechanism through civil proceedings not only contributes to ensuring minors' right to access to justice but also promotes the process of perfecting the rule-of-law state, meeting the requirements of digital transformation and fulfilling Vietnam's international commitments on protecting children's rights in the context of rapidly developing digital technology.

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