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Compatibility of Vietnamese Law with the International Convention on the Rights of the Child

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ABSTRACT

Children are a special object and are protected by countries worldwide and Vietnam by international legal documents from a very early age. The article has provided an overview of the provisions of the International Convention on the Rights of the Child and the legal documents of Vietnam. From there, it assesses the conformity of the provisions of Vietnamese law with international law. It proposes to continue to promote and ensure the strengthening of the provisions on children's rights in national law.

Keywords: *Compatibility, international conventions, children's rights, law.*

I. INTRODUCTION

Children are "immature" and "vulnerable". This group of subjects needs special attention from families, communities and society. Children's rights are all that children need to live and grow up in a healthy and safe way. Children's rights aim to ensure that children are not only passive recipients of the kindness of adults but also active participants in their own development. The issue of protecting and promoting children's rights has been the subject of attention from a very early stage of international organizations, especially the United Nations. Shortly after its establishment, the UN began identifying the importance of promoting and protecting children. The Declaration on the Rights of the Child, issued by the League of Nations on September 16, 1924, marked the milestone of being the first international document to protect children's rights. Vietnam aims to protect and promote children's rights at the national, regional and global levels. Vietnam has always attached great importance to the internalization of international law to ensure the harmony and compatibility between Vietnamese law and international instruments on the Rights of the Child that Vietnam has signed and ratified.

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II. GENERAL OVERVIEW OF THE 1989 INTERNATIONAL CONVENTION ON THE RIGHTS OF THE CHILD AND ITS PROVISIONS ON THE LAW ON CHILDREN'S RIGHTS

(A) Overview of the 1989 International Convention on the Rights of the Child

The issue of protecting and promoting children's rights has made many significant efforts from the beginning of the twentieth century to the present. Shortly after its establishment, the UN began identifying the importance of promoting and protecting children. The Declaration on the Rights of the Child, issued by the League of Nations on September 16, 1924, marked the milestone of being the first international document to protect children's rights. The content of the Declaration refers to the specific rights of children and the responsibilities of adults, including both physical and mental rights. Together with the 1948 UN Universal Declaration of Human Rights and the 1959 Declaration on the Rights of the Child, it contains instructive content as well as addresses specific and relatively comprehensive aspects of children's rights, such as the right to non-discrimination, ensuring the rights to enjoy the benefits of social security, being loved and cared for.... The international community has worked to develop specific, legally binding instruments for countries that deal with many aspects of children's rights. It was not until the 1989 International Convention on the Rights of the Child (officially adopted by the United Nations on November 20, 1989) – that a comprehensive international legal instrument on the promotion and protection of children's rights was born and entered into force on September 2, 1990. The Convention strongly complements the international legal framework on human rights in general and the Rights of the Child in particular.[5]. This convention has a relatively short waiting time, from the time it is signed to the entry into force of the convention is very short (9 months and 18 days) and is the treaty with the largest number of member states (197 countries) compared to all international treaties signed in the world [3]

It can be seen that the United Nations Convention on the Rights of the Child, or UNCRC, is the most complete declaration of children's rights ever made and the most widely ratified international treaty on human rights in history. The Convention has 54 articles that cover all aspects of a child's life and sets out the civil, political, economic, social and cultural rights that all children everywhere enjoy. It also explains how adults and the government must work together to ensure all children can enjoy all their rights.[5]

"Every child is born with rights, regardless of ethnicity, gender, religion, language, ability or any other condition."

The Convention on the Rights of the Child needs to be viewed holistically. Accordingly, all rights in the content of the Convention are linked to each other, and no right is more

important than another. In particular, in addition to the preamble, the content of the Convention consists of 3 parts with 54 articles. Especially in Part 1, in addition to the definitions and general principles of the protection of children's rights, the Convention also mentions protection measures for refugee children, children in areas of military conflict, exploited children and children belonging to ethnic minorities.

The Convention also has a number of agreements to add further special rights to children that are not mandatory for countries – these agreements are known as "**Mandatory Decrees**", including

- *Optional Protocol on the Participation of Children in Armed Conflict* [13] It requires governments to raise the minimum age for children to join the armed forces from the age of 15 and to ensure that members of the armed forces under the age of 18 do not engage directly in armed conflict.
- *Optional Protocol on the Trade, Prostitution and Child Pornography* [14] provides detailed requirements for governments to end the sexual abuse and exploitation of children. It also protects children from being trafficked for non-sexual purposes, such as other forms of forced labour, illegal adoption, and organ donation.
- *The Optional Protocol on a Communications Procedure* [12] This allows children to file complaints with the UN when their rights are violated and their national legal systems are unable to provide a solution.

The UN Convention on the Rights of the Child is also the most widely ratified human rights treaty in the world – it is even accepted by NGOs, such as the Sudanese People's Liberation Army (SPLA), an insurgent movement in South Sudan. All UN member states except the United States have ratified the Convention [5]

Vietnam is the first country in Asia and the second in the world to ratify the 1990 Convention on the Rights of the Child [1]. This move shows the Vietnamese government's readiness and desire to protect and promote children's rights at the national, regional and global levels.

(B) Overview of the provisions of Vietnamese law on children's rights

a. Recognition of children's rights in the Constitution of Vietnam

Children's rights are one of the basic rights that Vietnam has recognized since the first constitutions of the new Vietnamese state. In the 1946 constitution, the rights of the child are simply and truthfully recognized in Article 14: "*Elderly or disabled citizens who are unable to do their jobs are helped. Children are cared for in terms of education.*" And in Article 15 it is

stipulated: "*Elementary school is compulsory and free of tuition. In local elementary schools, ethnic minorities have the right to learn in their own language. Poor students are helped by the Government....*"[7]

The 1959 Constitution, Children's Rights are enshrined in Article 24 along with the rights of women, mothers and children: "*...The State shall protect the interests of mothers and children, ensure the development of maternity homes, childcare homes and kindergartens. The State protects marriage and family.*" Although promulgated in the context of the country's division into two regions, our State continues to inherit and develop regulations on the protection of maternal and child rights. Children's rights are indirectly protected through the State's regulations on "marriage and family protection". [2]

The 1980 Constitution continues to recognize the responsibility of the state and society to protect "mothers and children"³ is considered the peak of the State's protection of marriage and family. Therefore the regulations on children's rights are expanded. Article 64 records: "*Parents are obliged to raise their children to be useful citizens for society and the State does not recognize discrimination between children*", adding: "*The State and society shall attach importance to protecting, caring for and educating adolescents and children, gradually expanding the responsibility of raising children, ensuring their daily activities, learning and maturity.*"⁴[8]

In the 1992 Constitution (amended and supplemented in 2001), children's rights are emphasized in the fields of marriage and family protection, maternal and child health care, and education enhancement (Articles 40, 63, 64, 65, 67), especially in the 2001 amendment and supplementation. Article 59 on the right to study is supplemented with the following contents: "*The State and society shall create conditions for disabled children to receive appropriate cultural and vocational training.*" This shows the progress of our State, in the context of the country's economic development, the State has begun to strengthen and expand the guarantee of the rights of more disadvantaged subjects in society.[6]

Inheriting and developing the contents of the recognition of children's rights in previous Constitutions, the 2013 Constitution has made a general provision, establishing a mechanism to protect and ensure most social relations related to children's rights, which are approved by the State, the family and the whole society take care of and protect. Specifically: "*Children are protected, cared for and educated by the State, family and society; to be involved in children's*

³ See Article 47 of the Constitution of the Socialist Republic of Vietnam in 1980.

⁴ See Article 65 of the Constitution of the Socialist Republic of Vietnam in 1980

issues. *It is strictly forbidden to abuse, torture, abuse, neglect, abuse and exploitation of labor and other acts of violating children's rights*"[9]. Thus, it can be seen that the "prohibitive" regulation is a form of imperative regulation, which is mandatory, creating legal possibilities for the application of preventive measures as well as handling violations of bad manifestations that may infringe on children. This is also the basis for establishing regulations on children's rights in procedural activities.

In addition to the general provisions and emphasis on ensuring children's rights in Article 37, the 2013 Constitution also has specific and direct provisions on the fields in which children regularly participate, specifically: In the field of labour, Article 35 stipulates: *"It is strictly forbidden to discriminate, coerce labour, and employ workers under the minimum working age"*. This regulation is completely appropriate, or in other words, it is a concretization of the contents of the International Convention on the Use of Child Labor.[4]. In marriage and family relations, a happy marriage is a component of social stability and development, in which caring for and protecting children is a basic nucleus. Affirmation *"The State protects marriage and family, protects the rights of mothers and children,"* recorded in Article 36 of the 2013 Constitution. It can be said that the 2013 Constitution not only entails traditional basic values but also expresses them in a simple but highly generalized language technique. In the field of proceedings, the 2013 Constitution does not have a direct provision on children's rights related to procedural activities. However, by several provisions in the principles of operation of the Court, the most direct of which is the provision on the principle of public trial of the Court in Clause 3, Article 103 of the Constitution: *"The People's Court shall conduct a public trial. In special cases where it is necessary to keep state secrets, fine customs and customs of the nation, protect minors or keep private life secrets at the legitimate request of the involved parties, the People's Court may conduct a closed trial."* In fact, this regulation is still only arbitrary, depending on the will of the Court when deciding whether to try a case behind closed doors to protect minors or not? However, this is still a positive regulation, creating a legal foundation, a basis for legal documents, which are directly procedural documents, to provide specific norms to protect the rights and interests of minors, specifically in the process of participating in court proceedings.

b. Recognition of children's rights in the current system of legal documents

In addition to the 2013 constitution, Vietnam also concretizes the recognition and promotion of the enjoyment and protection of children's rights through various legal documents. These documents contain direct and indirect provisions on children's rights in many fields (criminal, education, health, labour, insurance, marriage and family, etc.). Specifically, such as:

* *The Children's Law 2016 and several other legal documents related to the contents recorded in the Children's Law.*

The Children's Law 2016 consists of 7 Chapters and 106 Articles, which stipulate 25 basic rights for children as follows:

Right to life: Article 12 of the Law on Children 2016 recognizes that "Children have the right to have their lives protected, to be guaranteed the best living and development conditions".

The birth right: This is one of the basic and important civil rights of human beings from birth, to be recognized as a member of society and a citizen of a State. The content of this right is specified in Article 13 of the Law on Children 2016 and Clause 1, Article 26 of the Civil Code 2015. Accordingly, every child at birth has the right to be born. The birth certificate is each individual's original civil status document and the basis for affirming that the child is born a citizen of that country. Legally, this is a mandatory basis and premise for individuals to enjoy and demand to enjoy their human rights and citizens' rights.

Right to citizenship: The Law on Nationality in 2008, amended and supplemented in 2014, stipulates that "In the Socialist Republic of Vietnam, every individual has the right to citizenship", which means that every child born in the territory of Vietnam has the right to citizenship. According to regulations, children's nationality mainly depends on their parents' nationality. Specifically, Articles 15, 16 and 17 of the 2008 Law on Nationality clearly state the cases in which children are determined to have Vietnamese nationality [11]

The right to health care: Article 14 of the Law on Children 2016 stipulates that "Children have the right to the best health care, priority access to and use of medical prevention and medical examination and treatment services" and Article 84 of the Law on Children 2016 also clearly stipulates the role, the responsibility of the Ministry of Health in ensuring that children have access to quality and fair health care services at medical examination and treatment establishments. Article 43 of the Law on Children 2016 stipulates the State's responsibility for promulgating and implementing policies on ensuring child health care, including counseling, protection and health care for pregnant women, policies to reduce child mortality rates, etc policies on vaccination, ensuring food safety, health insurance policies, etc. Children are a special subject in the issue of ensuring health care. The 2009 Law on Medical Examination and Treatment determines that children under 6 years old are prioritized for medical examination and treatment as a principle in the practice of medical examination and treatment (Article 3), and the State's policies should pay attention to allocating the budget for health care for children (Article 4). This shows our State's attention to the issue of ensuring children's health care.

The right to care and nurture: Article 15 of the Law on Children 2016 affirms that "Children have the right to be cared for and nurtured for comprehensive development". In addition, Article 42 of the Law on Children 2016 also stipulates that the State must have policies and measures to ensure the care and nurturing of children, especially children in special circumstances. Besides the family, educational institutions also play an important role in caring for and nurturing children. This responsibility is affirmed in Article 21 of the 2005 Education Law: "Preschool education institutions shall take care of, nurture and educate children from three months to six years old". In fact, schools play a huge role in children's development as well as caring for and nurturing children. Because most of the time, children in this age group are cared for in educational institutions.

The right to education, learning and gifted development: Article 16 of the Law on Children 2016 stipulates: "Children have the right and equality of opportunities to be educated and studied in order to develop comprehensively and bring out their best potential" this regulation shows that the State grants the right to study for children and ensures that all children are equal before the opportunity to enjoy the right to study despite different circumstances and living conditions.

The right to play and entertain: This content is specified in Article 17 of the Law on Children 2016 "Children have the right to play and entertain; equal opportunities to participate in activities [6], art, fitness, sports, and tourism are suitable for age".

The right to property: Article 20 of the Law on Children 2016 affirms: "Children have the right to own, inherit and other rights to property in accordance with the law". In order to specify the contents of Article 20, Clause 2, Article 101 of this Law, it is clearly stated: Fathers, mothers, guardians of children and family members are responsible for protecting the legitimate rights and interests of children; represent children in civil transactions in accordance with law; take responsibility in case of allowing children to carry out illegal civil transactions. Parents and guardians of children must preserve and manage children's property and hand it over to children in accordance with the law. In case a child causes damage to another person, the child's parents or guardians must pay compensation for damage caused by such child's acts in accordance with law. In addition, Article 76 of the Law on Marriage and Family 2014 also stipulates that "The private property of a child under the age of 15, the child loses the civil act capacity managed by the parents. Parents can authorize others to manage their children's own property." Children cannot manage and dispose of their own property, so the law stipulates that the responsibility belongs to parents and guardians in managing and disposing of children's private property.

The right to live with parents: Children are people who have not reached biological and psychosocial maturity to be considered adults and, therefore, immature to be able to live completely independently. Article 22 of the Children's Law stipulates: "Children have the right to live with their fathers, mother; protected, cared for and educated by both parents, except for cases of separation of parents as prescribed by law or in the best interests of children. When having to isolate their parents, children are assisted in maintaining contact with their parents and families unless it is not in the best interests of the child."

Right to protection: Children are very immature physically and mentally. They need the help of an adult to be safe. They are easily lured into illegal activities, easily exploited by labor and sexual abuse, easily abandoned... There are children who sometimes suddenly fall into extremely difficult situations that they cannot bear. These are risks that directly threaten the survival of children. Therefore, they need the help of relatives and the community to reduce the traumatic consequences and help children recover psychologically and physiologically, reintegrate into the community and develop normally.

Right to participate: This right is not separately stipulated in the CRC but is a prerequisite for children to exercise their other rights. The 2016 Children's Law devotes 1 chapter to regulating children's right to participate. Accordingly, children are allowed to participate in all issues related to children through forms such as Forums, conferences, seminars, seminars events; organizations representing children's voices and aspirations; activities of the Ho Chi Minh Youth Team, the Ho Chi Minh Youth Union; social organizations, socio-professional organizations working for children; activities of children's clubs, teams and groups established in accordance with the law: consultation, survey and collection of children's opinions; expressing opinions and aspirations directly or through mass media channels, social media and other forms. In order to ensure the participation of children, those around them, especially parents or guardians, caregivers, and teachers should promote children to exercise this right towards the good interests of children's development.

- *In the Labor Code 2019*, [2] the document devotes section 1 of Chapter XI to regulations on minor employees, such as: principles for employing minor employees, working hours, jobs and workplaces prohibited from employing minor employees,... This will be a legal basis for businesses and employers to base on ensuring legal rights and interests for employees, especially minor employees.
- *In the Law on Education 2019*, [10] the document stipulates: The State ensures the conditions for the universalization of preschool education for five-year-old children and

the universalization of lower secondary education throughout the country... Families and guardians shall have to create conditions for family members of the prescribed age to study for the universalization of education and the completion of compulsory education⁵.

- *In the 2015 Criminal Code (amended and supplemented in 2017)*[16]. The document has set aside laws and regulations on the penalty framework for acts of violence, abuse and crimes against children. The penalty framework for these crimes is very strict. In September 2019, the Council of Judges of the Supreme People's Court passed Resolution No. 06/2019/NQ-HDTP guiding the application of a number of provisions on Articles 141, 142, 143, 144, 145, 146, 147 of the Criminal Code and the trial of cases of sexual abuse of persons under 18 years old. The Resolution has created a stronger legal basis to fairly protect both girls and boys under the age of 18 from sexual abuse, removed many difficulties and obstacles in practice and stipulated many measures to make the trial process more friendly. more sensitive and better responsive to the special needs of minors, in the spirit of the Convention and good examples in the world.

III. ASSESSMENT OF THE CONFORMITY OF VIETNAMESE LAW WITH THE CONTENTS OF THE 1989 CONVENTION ON THE RIGHTS OF THE CHILD

Viet Nam was the first country in Asia and the second country in the world to ratify the UN Convention on the Rights of the Child on February 20, 1990. In Vietnam, children's rights have been constitutional from a very early age and are also stipulated in many laws and regulations, which focus on documents such as the Law on Marriage and Family in 2014 and the Law on Children in 2016, Labor Code 2019.

Before 1989, in the context of the world, there were many specific documents on children's rights such as the Declaration on the Rights of the Child adopted by the League of Nations in 1924; The Universal Declaration of Human Rights was adopted by the UN General Assembly in 1948, which recognizes the rights of children; The Declaration on the Rights of the Child adopted by the UN General Assembly in 1959 consists of 10 points; the 1974 Declaration on the Protection of Women and Children in Emergencies or Armed Conflict; The UN Minimum Standard Rules on the Application of Law to Minors in 1985... The above documents are referred to by the UN and other countries, including Vietnam, and thereby develop legal regulations suitable to the domestic situation. However, the above documents are either not legally binding or do not fully pay attention to the specific needs and rights of children.

Therefore, the regulations of countries around the world and Vietnam are also only recorded at a general level in the Constitutions of 1946, 1959 and 1980.

In 1989, the International Convention on the Rights of the Child was completed and adopted by the UN General Assembly on 20 November 1989. Vietnam was one of the first countries in the world to ratify the Convention on the Rights of the Child. This shows Vietnam's progress in building a system of legal documents according to international standards. Therefore, a series of legal documents have been promulgated by the National Assembly to ensure children's rights such as the Law on Child Protection, Care and Education in 1991 (amended and supplemented in 2004), Law on Universalization of Primary Education in 1991 or specifically in the Constitution in 1992, The issue of child care, education and protection is prominently mentioned in Articles 35, 40, 59 and 65. Over the past thirty years of accession to the Convention, Vietnam has made significant achievements and milestones in promoting and ensuring children's rights, especially in improving the legal system. The National Assembly of Vietnam passed the Law on Children in 2016, the Labor Code in 2019, and the Law on Marriage and Family in 2014,... The above legal documents have institutionalized the guidelines and policies of the Party and the State on the implementation of children's rights in the new situation; fully and comprehensively recognize children's rights; institutionalize Article 37 of the 2013 Constitution on the responsibility to protect, care for and educate children of the State, families and society.

It can be seen that in the Vietnamese legal system and international law, the conformity between these 2 document systems is shown throughout, specifically:

For the group of rights to survive, it is one of the most basic human rights groups. This group of rights includes the right to life and the right to healthcare, etc Concrete:

- *Right to life*: According to the convention, the right to life is the first right that children enjoy and must be protected. This content is specified in Article 19 of the 2013 Constitution and Article 12 of the 2016 Children's Law.
- *Children's right to care and nurture*: This is a very important right recognized in the 1989 International Convention on the Rights of the Child. Article 15 of the 2016 Law on Children stipulates that children have the right to be cared for and nurtured for physical, mental and moral development. To supplement this Article 42, 98 Children's Law 2016 has provisions related to this issue. Help the exercise of this right of children to be more guaranteed.
- *Children's right to live with their parents*: Article 22 of the 2016 Children's Law has

concretized Article 9 of the 1989 International Convention on the Rights of the Child with the content: children have the right to live with their parents, no one has the right to force children to separate their parents (except for cases for the benefit of children). In order for this right to be guaranteed in practice, Article 96 of the Law on Children 2016 has stipulated the responsibility to ensure that children live with their parents

- *The right to birth:* This is one of the important rights of children specified in Clause 1, Article 7 of the 1989 International Convention on the Rights of the Child. This right is specified in Article 13 of the Law on Children 2016. Accordingly, every child at birth has the right to be born, and the birth certificate is the original civil status document of each individual and the basis for affirming that the child born is a citizen of that country.
- *The right to adopt:* it can be said that this is one of the very important rights for children when they fall into a situation without a caregiver. International law attaches great importance to the issue of adoption. Article 21 of the Convention has detailed provisions on the obligations of States parties for children to have the best life after adoption. The Law on Adoption was born to prove that importance. The Law on Children also has provisions on the right to adopt children and the right to adopt children (Article 24)

For protected rights groups, including protecting children from discrimination, abuse or neglect. Protect unmarried children as well as in special situations. Concrete:

- *The right to non-discrimination and the best interests of children* are the two principles specified in Article 5 of the 2016 Law on Children, corresponding to Articles 2 and 3 of the Convention. In particular, the fundamental rights of children in the field of child protection, care and education specified in the 2016 Law on Children are highly compatible with the provisions of the 1989 International Convention on the Rights of the Child.
- *The rights of children in ethnic minority and indigenous communities* are very important provisions for children in ethnic minority areas, specified in Article 30 of the 1989 International Convention on the Rights of the Child. This regulation is also detailed in Article 18 of the 2016 Children's Law.
- *The right to respect and protect the life, body, dignity and honour of children:* Article 100 of the 2016 Law on Children has included the contents of Articles 16, 31, 34, 35 and 36 of the 1989 International Convention on the Rights of the Child into a regulation: children are entitled to a family, The State and society respect and protect life, body,

dignity and honour. Article 6 of the Law also prohibits acts of infringing on the above rights of children.

- *Rights of children in special circumstances*, such as helpless orphans, abandoned children, children with disabilities, children infected with HIV/AIDS, etc. The CRC has recognized children's rights in special circumstances in articles 19, 20, 21, 22, 23, 25. Specifically, these articles stipulate the rights of abused and distracted children, children who have lost their family environment, refugee children, and children with disabilities. Corresponding to the content of Articles 19, 29, 21 and 23 of the Convention, the Law on Children of Vietnam has many provisions for the protection, care and education of children in special circumstances. Specifically, from Article 47 to Article 53, the rights for groups of children: helpless orphans, abandoned children, children with disabilities, children who are victims of toxic chemicals, children infected with HIV/AIDS; children have to work hard, dangerously, come into contact with toxic substances, children have to work far from their families; wandering children; children who are sexually abused; children addicted to drugs; children violating the law...

For groups of rights to be developed: The development is generalized by the convention to include the following issues:

- *Children's right to health care:* Specified in Article 25 of the 1989 International Convention on the Rights of the Child and Articles 43 and 100 of the 2016 Law on Children and Decree 56/2017/ND-CP also specify and detail these rights. In addition, the Law on Health Insurance in 2008 (amended and supplemented in 2014) stipulates that children under 6 years old are subject to health insurance, and the state budget pays the monthly payment rate.
- *Children's right to learn:* the universalization of education for children and the education of children must be directed towards the good for them as well as society as stipulated in Articles 28 and 29 of the 1989 International Convention on the Rights of the Child and Articles 16 and 49 of the 2016 Law on the Child, Law on Education 2019. However, according to the provisions of international law, tuition fees are free for all children. Still, Vietnamese law only stipulates tuition fee exemption and reduction for cases of priority and poverty, near-poverty, etc. This is also a characteristic of Vietnamese law. Vietnam's economic conditions are not as highly developed as those of the EU and the US, etc, so the State cannot guarantee tuition fee exemption for all children.

- *The right to gifted development:* This children's right is specified in Articles 16 and 44 of the Law on Children 2016. Accordingly, discovering children's talents, creating opportunities for children to practice those talents, and meeting the requirements for optimal development of talents are great responsibilities that require the cooperation of the whole society.

For the group of rights to participate: This right includes the rights of children to express their opinions and views on all issues related to themselves. The 2016 Children's Law devotes 1 chapter to regulating children's participation rights. Specifically in the following aspects:

- *The right to access information and participate in social activities:* This right is recognized in Article 17 of the 1989 International Convention on the Rights of the Child and Article 33 of the 2016 Children's Law. Accordingly, children have the right to access adequate, timely and appropriate information; have the right to search for and obtain information in any form as prescribed by law and participate in social activities suitable to the age, maturity level, needs and capacity of children.
- *The right to freedom of association and peaceful assembly:* This right is recognized in Article 15 of the 1989 International Convention on the Rights of the Child and Article 34 of the 2016 Law on Children. Accordingly, children have the right to express their opinions and aspirations on issues related to children; to be free to assemble in accordance with the provisions of the law in accordance with the age, maturity and development of children; to be listened to, absorbed and responded to legitimate opinions and aspirations by agencies, organizations, educational institutions, families and individuals.

From the above analysis, it can be seen that the provisions of Vietnamese law on children's rights are very compatible with the provisions of the 1989 International Convention on the Rights of the Child. Most, if not all, children's rights in the 1989 International Convention on the Rights of the Child are internalized by Vietnam into the Law Children in 2016. This also shows Vietnam's international commitment when it ratified the International Convention on the Rights of the Child in 1989. However, the provisions of Vietnamese law are still incompatible with international conventions on the age of children. Vietnamese law stipulates that "*Children are under 16 years old*", but the convention stipulates that "*Children are under 18 years old*". This difference will make the provisions of Vietnamese law not synchronized with international law, from which there will be many difficulties in applying legal regulations.

In addition, the system of laws, policies and legal frameworks to protect and care for children is not really complete and synchronous. The sanctions for violations of children's rights are not strong enough. Some groups of special children have not been included in the Children's Law, such as children who are abused and violent, children who suffer from accidents and injuries, children affected by divorces, adoptions, migrant children, trafficked children, children living in poor households, etc. The lack of reliable figures related to children requires special protection.

Regarding the subjects of application in the 2016 Law on Children, the subjects of application of this Law are "*State agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations, economic organizations, non-business units, people's armed forces units, educational institutions, families and Vietnamese citizens; agencies, international organizations, foreign organizations operating in the territory of Vietnam, individuals who are foreigners residing in Vietnam*"⁶. This shows that children - subjects of rights - are excluded from the subject of application. In addition, this regulation also shows that this is a state management document on children and considers children as objects that need to be cared for and protected. This approach entails a lot of regulations on the rights and obligations of various state agencies and organizations related to children, and makes these agencies and organizations, even schools and families, administrative oversights on the implementation of children's rights.

In addition, there are still some limitations such as international law attaches great importance to the legal regime on children's civil status. Vietnam's civil law has not given proper importance to this issue. The right to adopt is a problem that still has many things to solve. stipulating the basic framework of civil law is concretized in the Adoption Law. But this right of children is being abused to cause many lucrative child trafficking that has taken place recently in practice. Lack of child-friendly justice processes. Although the State, sectors and levels have continuously made efforts to implement actions to protect, care for and educate children by developing policies, guidelines, action programs, projects, plans, establishment of organizational apparatus, etc. But so far, all of the above key stages still have many limitations.

IV. SOME PROPOSALS TO CONTINUE TO PROMOTE AND ENSURE THE STRENGTHENING OF PROVISIONS ON CHILDREN'S RIGHTS IN NATIONAL LAWS

Children's rights are stipulated not only in the Children's Law but also in many different legal

⁶ See Article 3, Children's Law 2016.

documents. Currently, children's rights are regulated in many documents, which is one of the reasons why the process of implementing children's rights is still difficult in practice and has not been effectively promoted. Stemming from the fact, the issue of needing to improve the legal system on children's rights is one of the important tasks that the competent authorities must carry out in the coming time. To improve the legal system on children's rights, we must solve the following problems:

First, it is necessary to add "*Children's Rights*" to the Constitution. Although Vietnam is one of the earliest countries to ratify the convention, up to this point, "*Children's rights*" have not been recognized in the Constitution as the State's obligation to respect, protect and ensure its implementation. Children's rights are human rights that are applied to people under 16 years old (according to Vietnamese law). However, Article 37 of the 2013 Constitution only stipulates that "*Abuse, torture, mistreatment, neglect, abuse, exploitation of labour and other acts that violate children's rights*" without mentioning other basic rights of children. Therefore, the addition of the provision "*The State respects and guarantees children's rights*" in the Constitution is reasonable and appropriate, showing the State's serious attitude toward respecting children's rights and a firm commitment to ensuring the implementation of children's rights in Vietnam.

Secondly, it is necessary to change the age of children in Viet Nam under 18 years old, instead of under 16 as it is now so that it is possible to "reform the legal system on child protection and justice for children aged 16 to under 18, in order to ensure that all children under 18 have access to services, comprehensively protect and be aware of their rights". This age change is in line with the general provisions of the 1989 International Convention on the Rights of the Child.

Thirdly, it is necessary to expand the target of children with special circumstances in legal documents in order to support all children regardless of their circumstances, such as children who are abused, violent, children who suffer from accidents and injuries, children affected by divorces, etc...adopted children, migrant children, trafficked, ...

Fourthly, it is necessary to approach the protection of children's privacy in particular, the protection of children's rights in general in accordance with its content and essence, namely: children's rights; children are comprehensive subjects of rights; at the same time, the State is the subject with obligations, all activities must be carried out to make children's privacy not infringed, all violations are appropriately handled; thereby building an appropriate legal system, so that if a violation occurs, the obligation is not effectively performed, the State will be the first and last subject to bear legal obligations for all related violations.

Fifth, it is necessary to improve the provisions of the law on civil status, adoption, and juvenile justice, aiming to build a more child-friendly and gender-sensitive justice system to ensure that all children who have access to the justice system will be better served and protected.

V. CONCLUSION

The 1989 International Convention on the Rights of the Child is one of the important legal documents to protect and guarantee children's rights. Since the convention's ratification, Vietnam has promulgated a system of legal documents to ensure and develop the rights of Vietnamese children. Vietnamese law has achieved significant compatibility with the International Convention on the Rights of the Child, as reflected in regulations and policies on child protection, care and education. According to a report by UNICEF, research in 1978 showed that 82% of national constitutions promulgated from 1788 to 1948 and 93% promulgated from 1949 to 1975 provide some form of protecting human rights. In the first decades of the 21st century, it is estimated that more than 20 constitutions worldwide protect and ensure children's rights based on the approach that the CRC promotes. Hence, Vietnam belongs to these 20 nations with content concerning children's rights in constitutions. However, there are still some regulations that are not really in line with international law and ensure their implementation in practice. Since then, Vietnam needs to improve domestic legal documents to ensure that the implementation of children's rights in Vietnam is becoming more and more substantive. This is reflected in Vietnam's strong commitment to protecting and promoting children's rights in areas such as education, health, social security, and participation in self-related issues.

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