


ЮРИДИЧЕСКИЕ НАУКИ



<http://doi.org/10.5281/zenodo.4782949>
УДК 347.63

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Guaranteeing of children's rights in family culture in Vietnam

Abstract. Approaching theoretical issues and reflecting on the reality of human rights, citizenship in general and children's rights in particular is a topic of great interest in legal science in our country today. Children's rights are placed in many spaces of different living environments and for the family institution it is a specific, important and decisive living environment. Children's rights to be protected are the basis for nurturing, preserving and promoting good and core values of family culture. On the contrary, cultural and ethical values are preserved and developed as the foundation for children to be protected, cared for and nurtured in a good living environment. In this article, the author uses the theory of guarantee of rights to generalize some content about the dialectical relationship between ensure children's rights and preserve and promote core values of Vietnamese family culture.

Key words: Ensuring human rights, children, family culture, Vietnam, Children's rights

People are always the center of all special attention, the driving force and the condition of a developed culture. In all countries, children are always considered as the future preschool of the country, the subject that needs to be cared for and given special priorities, and facilitated for comprehensive physical, mind, soul and morality development. Children's developing social environment first of all needs to emphasize the family institution - where every child's life values fully exist in modern society. The family is really a miniature society of children. There are many core values in the family culture, in which creating a safe living environment, traditions, standards, respecting and upholding masculinity values are always considered as basic values.

Family culture needs to be put in the context of the concept of "sustainable development". Because, sustainable development is a long-term development that meets the requirements of today's generation without causing harmful possibilities to future generations in meeting their own needs and in choosing their threshold of life. Sustainable development is described as a profound transformation, in which the core element is the awareness, responsibility, and attitudes of today's generation towards the next generation (children are the objects that need protection and special care).

In addition, it can be affirmed that, ensuring children's rights in terms of human rights and citizens' rights against the risk of abuse from other entities, especially those with close relationships. Being close to chil-

dren is an important solution to preserve and promote the good cultural values of Vietnamese families.

1. Some characteristics of ensuring children's rights in the Vietnamese family cultural institution

First, ensuring children's rights against the risks of abuse in the family's living environment is a double guarantee with a full legal basis.

Ensuring children's rights is about protecting the human rights of the youngest and most vulnerable in society. This has been proven by the policy of protecting, caring for and educating children as a line and policy throughout the leadership of the Communist Party of Vietnam. The 1959 Constitution, the second fundamental law, was born, at a time when the Vietnamese revolutionary government had just undergone a great turning point, gaining independence in the North and turning the North into a transition period to socialism. This is a testament to the consistency of our Party's lines and policies in the view of ensuring children's rights. By 1960, implementing Directive No. 197 of the Central Secretariat, the entire people had a movement to care for and protect teenagers and children that took place in many localities throughout the country. In 1975, gaining independence in the South and reunifying the country. Our country is entering a transitional period towards socialism. Still consistent with the ideology of people and children, our Party has added new conditions to care for and educate children. In 1979, the Party's policies and guidelines on children were concretized in the "Ordinance on Protection, Care and Education of Children". This ordinance can be considered as one of the first legal foundations for the protection, care and education of children. Until the second half of the 1980s, our Party and State carried out the process of State renewal in many aspects. Child rights protection is also an important part of this innovation. The Party's renewal policy on work for children has been carried out in both depth and breadth. The Party's line on child care and education is concretized in the law. Still con-

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Stemming from practical requirements, the 2013 Constitution was revised, in which the provisions on children's rights were clearer and more specific. Clause 1, Article 37 of the 2013 Constitution provides: "... children have the right to be cared for and nurtured for their physical, intellectual, spiritual and moral development... the right to respect and protect their life, body, dignity and honor of family, the State and society respect and protect life, body, dignity and honor; take measures to prevent accidents for children. The children's honor will be handled promptly and strictly according to the provisions of law..." [1, Chapter 2].

When children are protected in the family environment, it is not only meaningful in terms of ensuring human rights are recognized by law and have an enforcement mechanism, but also more meaningful than protecting core values about the culture, moral standards and fine traditions of Vietnamese families. Basic human rights have been established by law by groups of basic rights such

as: political rights, democratic freedoms, economic rights... But associated with the subject, especially children, the idea in terms of moral rights, moral rights are more important. When children are living in a cultured family environment, ethical values are preserved, it means that their personal rights are being best protected.

Secondly, ensuring children's rights in the family's living environment often faces many difficulties, is affected by many factors and has specific characteristics.

Children need to feel safe at home, in school and in their community. However, violent discipline is still prevalent in education in Vietnamese families, with 68.4% of children aged 1-14 reporting having been abused by their parents or family caregiver [4]. In many families, violence is used as a means to establish male hierarchy and reinforce masculinity. Such behavior is influenced by financial ability, parental education and other issues such as alcohol, beer or drug abuse.

As violent discipline remains a socially accepted norm, children are especially vulnerable when they have a limited understanding of their rights and do not speak up and seek help in the event of abuse from the family environment. All children have the right to be protected from violence, regardless of its nature or severity, and all forms of abuse can harm children, reduce self-esteem, respect dignity and hinder children's development. Abuse and violence from the family environment by the child's own relatives is a really harmful violation, especially in terms of mental health, which will have a lasting effect on the memory, marriage and marriage, multiply the child's wing. With the culture of the Vietnamese family, important to the family hierarchy, there is still a customary view of patriarchy, respecting men and disrespecting women,

Third, ensuring children's rights in the family's living environment will contribute to creating a friendly and open living environment for children, and a good foundation before approaching new social environments.

In all circumstances, we must create a friendly, open environment for children. In

investigative activities, it is no exception: Taking the victim's testimony is a method of investigation according to criminal procedures that in any sexual assault case the police force also uses. This measure is carried out by recording the victim's testimonies according to the criminal procedure order about the development of the case's content and relevant details that the investigation needs to clarify. This is one of the most important and important investigative measures in the investigation of sexual abuse crimes. However, due to the characteristics of sex crimes, especially child sex crimes, most of them do not have specific traces left on the scene like other types of crimes. Therefore, the evidence to prove this type of crime is often based on testimonies. In fact, the results of taking testimonies of victims in many DV crimes have a decisive role in the resolution of the case. Through taking the victim's testimony, the investigation agency quickly obtained direct information about the content of the crime incident; criminal methods and tricks; time, place, tools, means of committing the crime, and especially importantly, the subject of the crime,... The effectiveness of this measure depends on many factors, including the characteristics of the victim. Therefore, creating a friendly and open environment will neutralize the characteristics of child victims.

Fourthly, it is often difficult to overcome the physical and mental consequences for children if they are not well protected in the family environment.

The physical and emotional harm to children abused in the home environment is very heavy and very difficult to overcome. These insurmountable consequences are reflected in the following three aspects:

Firstly, physically, abused children not only carry literal and figurative scars on their bodies for life, but also suffer consequences that are not directly related to the flesh wound. The most common physical consequences of children are developmental delays, such as in motor skills, social abilities, cognitive abilities, language expression, etc. focused on self-protection and is no longer

enough to develop skills appropriate for their current age.

Secondly, mentally, after being violated, children do not trust themselves, their family members and their surroundings. This leads to a mentality of only doing what you see will be rewarded, losing the ability to share your feelings with others, wanting to take advantage and control others, doubting or distrusting your surroundings. Moreover, children lack self-esteem because they assume that their violation is their fault, because they are not good. This often leads to very young children with autism, seeing themselves and everyone else as bad, lacking in sympathy and often distrustful, and being passive and defensive. Children are often sad, depressed, and blame themselves, that they are to blame for what their parents have treated them.

Thirdly, in terms of behavior, the abused child will act passively, avoid all possibilities of confrontation, completely obey the words of the adults in the family, and deal with and choose an attitude that is too careful in everything, always showing a need for protection to avoid any trouble and trying to please adults. Such children tend to be very sensitive to the criticisms and rejections of others. Children often lack naturalness, initiative, do not make eye contact with their surroundings, seem too shy, are not curious about their surroundings. Besides, children never want to attract attention. It is also possible that the child becomes very aggressive and erupts in outward behavior with limited or no self-control. Specifically, many children, after being abused, become negative, aggressive and extremely naughty.

2. Meaning of ensuring children's rights associated with family institutions in modern society in Vietnam

Firstly, ensuring children's rights against abuse is inevitable because children are always the ones who suffer the most.

According to statistics, currently, more than 60% of poor children live in rural and mountainous areas, up to 60% of children are identified as poor. The educational disparity is quite obvious. For example, about 92% of ur-

ban children attend kindergarten, while this figure in rural areas is only 51%. [see 2]. Many children fall into unusual physical or mental situations, unable to fulfill basic rights and integrate into their families and communities. The phenomenon of missing children is quite common in our country.

Many children leave the family, earn their own living, do not have a stable place of residence, the family almost no longer has responsibility and care for their children for many different reasons. Meanwhile, the basic rights of children must be the same, regardless of whether they are born and raised in any family situation, economic or social condition or region or region. Children do not discriminate in terms of gender, legal nature; regardless of the ethnicity, creed, religion, class, social status, political opinion of parents or guardians, their children are protected, cared for and educated, and enjoy the rights under provisions of the law in the best conditions that society and family afford.

In the life of the family, it is not only acts of direct abuse on children that cause consequences for the child but also other conflicts and conflicts arising in the family's relationships, especially between Parents will seriously affect the spirit, the right to be cared for, nurtured, and the affection of adults for children. When children have to witness acts of domestic violence, have to live with the unhappy life of their parents, their children's filial piety to grandparents, etc. harm children's rights with serious consequences.

Secondly, protecting children's rights in the family's living environment will contribute to the fight against crime against children.

Child protection is the responsibility of the whole society, ensuring the comprehensive development of children, the future young generation of the nation, and the successors to the cause of national construction and defense. Article 65 of the 2013 Constitution clearly states: "Children are protected, cared for and educated by their families, the state and society". Over the past time, Vietnam has carried out many practical activities with various measures to protect, care for and educate children. However, a worrying situa-

tion still exists is that sexual abuse against children is still complicated and tends to increase. The situation of child abuse crimes, especially child sexual abuse has many complicated developments, tends to increase, and the age of children being abused is getting smaller and smaller; the methods and tricks of the crime are increasingly diversified, causing particularly serious consequences.

Thirdly, protecting children's rights in the family's living environment contributes to protecting the environment, peaceful life and good cultural values in the community.

The main cause of child abuse is the negative side of the market economy, the explosion of social networks, the non-selective introduction of foreign cultures, the degradation, and the degradation of morals and ways of life of a section of people in society. In addition, parents, relatives, and caregivers lack understanding of children's psychology and physiology, are not fully aware of the risks of child abuse, and lack interest and sharing about sex with children, making them lack knowledge and skills to avoid intrusions from the outside. Many parents forbid children, not allowing their children to approach issues that they consider "adult" without analyzing and explaining to children what should and should not be; do not teach children what parts of the body are not allowed to be touched by others, including loved ones, causing children to lack prevention skills, self-defense and resistance to abuse. Many parents are still afraid, even afraid of affecting the honor, so they do not report the violated behavior towards their children.

In recent years, along with the number of cases of sexual abuse against children, especially children in mountainous areas, has increased. At the same time, with the identification of sexual abuse cases that have very serious consequences, the victim is not only physically hurt but also always lives in fear and obsession; at the same time, victims, especially young girls, find it difficult to reintegrate into the community, living in isolation in a separate world. Therefore, in order to contribute to the prevention of sexual abuse, along with the adjudication of crimes against

children, there need to be many important and feasible solutions, but in which it is necessary to emphasize the decisive role of the family environment.

Fourthly, protecting children's rights in the family's living environment helps children to eliminate guilt and develop normally.

The International Organizations have affirmed: "States Parties shall take all appropriate measures to promote the physical, psychological recovery and social reintegration of children who have been victims of any crime, any form of neglect, exploitation or insult, torture or any other cruel, inhuman or degrading treatment or punishment, or of armed conflict. Such recovery and reintegration must take place in an environment that fosters the health, self-esteem and dignity of the child" [3, Article 39].

In fact, when children are victims in cases of infringing upon their personal values, they do not feel guilty and have normal development, it is very difficult because of the heavy consequences of the infringement. Most of the children have a very heavy mentality after being violated, especially children who are in puberty. Therefore, it is required to have close coordination between families, schools, hospitals, agencies, organizations and local authorities where victims reside to encourage, provide medical examination and treatment, and create the most favorable conditions for them to integrate into the community, to be cared for and given a lot of love from their families.

3. Current situation of child abuse and responsibilities of family institutions in Vietnam today

In Vietnam, building and developing a system of institutions to protect children's rights is considered by the Party and State as one of the top priorities. The guarantee of children's rights is both a goal and a driving force for the country's sustainable development future. Currently, the law on children's rights in Vietnam has been developed quite comprehensively and fully. However, reality has shown that the implementation of the law

on protection of children's rights is still limited and inadequate.

According to statistics of the Ministry of Labor, War Invalids and Social Affairs Association, in the 2019 report, from January 1, 2015 to June 30, 2019, the whole country had 8,442 cases of child abuse detected and handled, with 8,709 children being abused. Of which, sexual abuse accounted for 75.4% of the total number of child abuse cases. The number of children working illegally is up to 790,518 cases, 156,932 children are abandoned and neglected and nearly 13,500 15-year-old children get married. Subjects of child abuse are very diverse, with different qualifications, ages, occupations, many of whom have relationships with children. Through monitoring in some localities, it has been shown that child abusers who are close relatives, relatives and people who know children tend to increase, accounting for more than 90%.

Not only facing the problem of abuse and violence in real life, children today also face many risks and challenges with evils on social networks. In the context that the world and Vietnam are entering the era of widespread digital transformation, children have become digital citizens very early, living in the online environment for many hours a day, completely changing the way they learn, make friends, communicate compared to previous generations. According to a recent report by the United Nations Children's Fund (UNICEF), many students are now learning and interacting more online. Spending more time on virtual platforms can make children more vulnerable to sexual exploitation, seduction and deception, exposure to harmful, violent content, etc.

In some localities, the resources, roles and responsibilities of families, schools and grassroots communities have not been aroused and brought into full play in the protection and care of children; Communication and advocacy for all people to well implement legal documents on child protection is still limited and not widespread. For example, in Hanoi, from 2015 to the end of June 2019,

there were 365 cases of child abuse with 313 children being abused, of which 199 cases of sexual abuse (accounting for 54.5%) with 220 children. I was abused. From 2015 to 2018, child abuse tends to increase. According to the Ministry of Labor - Invalids and Social Affairs, the investment of resources for child protection and care is interested by cities, districts, towns; the budget investment for this work in the total budget expenditure of the city is high and towards the next year higher than the previous year.

According to experts, in order to prevent and combat child abuse, the family has a particularly important position, because the family is the first living environment, where the child's personality is formed, nurtured and educated people as well as the most peaceful place for each person. Therefore, each family, family members, especially parents must first understand their own roles and responsibilities in preventing and combating abuse of their children and grandchildren.

4. Some solutions to ensure children's rights to contribute to preserving and promoting core values in Vietnamese family culture

Thus, it can be seen that the legal basis for children's rights in Vietnamese law has been fully guaranteed. However, the implementation of those regulations in life has not achieved the desired results. In recent years, violence buying, selling, kidnapping, exchanging and appropriating children; depriving children of the right to life; sexual abuse, violence, abuse and exploitation of children; using, enticing, instigating, inciting, taking advantage of, enticing, seducing, forcing children to commit illegal acts, etc. is quite common. There have been very sad incidents that have happened. It is worth mentioning that these behaviors took place for a long time, seriously affecting the psychological and physiological life as well as the intellectual and personality development of children, causing confusion in public opinion. Especially in recent days, information about the incident of a teacher of an ethnic boarding school in Phu Tho sexually abusing many male students has made public opinion extremely an-

gry. Although the case is still under investigation, there is no final conclusion.

The problem is how to make the provisions of the law on children's rights be implemented in life, ensure to limit, prevent and repel violations of the law on children's rights, ensure that children are developed comprehensively in terms of physical, intellectual and aesthetic. The author believes that, in the coming time, we need to focus on some basic solutions as follows:

Firstly, need to master awareness child protection is a strategic, central task for sustainable development; is the responsibility of the whole political system and of the whole community, in which the family is the decisive institution.

Continue to improve laws and policies to protect children's rights from prevention, support to intervention, prevention and handling of violations and responsibilities of agencies, organizations, families and individuals to ensure for children to be safe, timely intervention when there is a risk or has been, is being abused. Competent state agencies and relevant socio-political organizations should strengthen supervision of the implementation of the law on protection of children's rights; supervise the allocation of human resources and budget to carry out this work at the grassroots level.

Families that are directly fathers and mothers need to clearly identify the risks of "pitfalls" that children are facing both in real life and in the online environment. Recently, a series of policies and regulations have been introduced violations of the law on child care and protection, child abuse prevention and control, etc. have been promulgated by all levels from central to local levels, most notably the implementation of the Law on Children in 2016. However, a recent quick survey by the Vietnam Association for the Protection of Children's Rights shows that, in rural areas, more than 40% of adults do not know about the Law on Children and do not know that children have rights. What does the Law on Children refer to, the vast majority of rural children today do not know what rights they have. Research results of the Institute of Sus-

tainable Development Management also show that the number of children abusing children who are relatives and acquaintances of children tends to increase, accounting for about 90%.

Therefore, all actors need to be fully aware, have a deeper understanding of children's rights, and effective mechanisms to ensure children's rights in general and in the social environment and family-school in particular. It is the responsibility and duty of all of us to children.

Secondly, strengthen the work communication, education, social mobilization to enforce children's rights; integrate the implementation of children's rights in programs, plans and projects.

First of all, in localities, it is necessary to consolidate and improve the capacity of staff in charge of child protection, care and education. To effectively implement human rights education in the community in general and in the school system in particular. It is necessary to have forms and contents of human rights education suitable for each citizen. In particular, focus on propagating and disseminating to all people about the responsibility of the community for the protection of children's rights. Socio-political organizations, social organizations and authorities need to have a deep approach to the family to strengthen propaganda and law dissemination to parents, parents and relatives of children about responsibilities and obligations towards children. Law propaganda and dissemination need to be carried out regularly and continuously with many different forms and methods, suitable to each audience, each propaganda content, popularization, closeness and reality with the people.

Besides, it is also necessary to strengthen human rights education activities in schools. Although there are some content on human rights in the civic education curriculum at all levels, these contents are few and vague. The form of teaching and learning these contents in schools has not yet brought high efficiency. We believe that, when children are fully aware of their rights, they will

be able to protect themselves and dare to fight against acts of abuse of children's rights.

On September 5, 2017, the Prime Minister has approved the scheme to put human rights content into the educational program in the national education system. The project's objective is to propagate, disseminate and educate human rights in order to create a change in the awareness of learners, teachers and educational administrators about the importance and sense of self-protection of own rights, respect for the dignity, rights and freedoms of others; sense of responsibility and obligations of citizens towards the state and society, contributing to the comprehensive development of Vietnamese people to meet the requirements of integration and sustainable development of the country. The development and implementation of the Project is extremely necessary. However, this project has only been piloted in a very small number of schools in a few localities in the period of 2017 - 2020. By 2025, 100% of educational institutions in the education system The new nation organizes human rights education for learners.

Thirdly, need to make sure to help children with the best conditions from society

Ensuring child support includes supporting children who are at risk or who have been or are being abused to be safe, take care of, create conditions for recovery and prevent future injuries. Measures to support children need to be implemented in a diverse and flexible way, including: medical care, psychotherapy; supervise and ensure the safety of children; arrange carers; educating children on self-harm prevention skills; educating relatives and families on how to support and care for abused children; etc.

In addition, authorities at all levels and organizations and individuals need a mechanism to detect and promptly and strictly handle violations of children's rights. In addition to legal sanctions, it is necessary to closely cooperate with the media and public opinion to have a satisfactory attitude and behavior towards violations of children's rights.

Fourthly, it is necessary to preserve the good traditional values in Vietnamese family culture - the dialectical relationship with the protection of children's rights.

Regarding the good traditional values of the family that need to be preserved and promoted in the building of the Vietnamese family today, some people consider family rituals or family ordination as the key, others emphasize the two words filial piety - Well, there are also people who emphasize the word *love*... But in general, those traditional cultural values clearly show the Vietnamese national cultural elements that have been built up over thousands of years of history.

Blessings simply understood as rituals according to custom in the family. These rituals are classified and performed regularly and repetitively according to the time of year of each family. The rituals in the family, from ancient times, are usually performed according to the oral teachings, which were passed on to the next generations. Therefore, in each traditional family with respect to decency, they often teach the later generations' good cultural traditions right at the beginning of life. Reality has proven that only those who have absorbed a disciplined family education tradition and respect family etiquette can be honorable and disciplined, State laws as well as fulfilling the responsibilities assigned by the society.

Broadly speaking, the rites do not only exist within each family, in each member's relationship; but the ceremony also has a wide influence on all social exchanges, most recently in every relationship between villages and communities. When each individual is absorbed in the cultural value of the ritual, they will form their own way of treating others properly. Because, people living in community not only live separately, but need the help of others and vice versa. People living in a family with good morals and ethics cannot have thoughtless behaviors, can't act, eat, speak, and be rude to people around. On the contrary, those who are not educated and trained in a family with a dignified background, in life, in speech and speech, will often see in them crudeness, abrupt. Therefore,

it is the ritual that increases the effectiveness of the homeschooling system, determining the dignity of each person in the relationship of social relationships. Therefore, in building a modern Vietnamese family, it is necessary to be aware of each close relationship between family and society, between routines in each family and the building of human-to-human relationships in the community towards the same good and human values.

In the traditional Vietnamese family, besides the ceremony, people also emphasize the two words filial piety - *de*. In the philosophical category, when emphasizing the moral element in family culture, the author - the great cultural writer Vu Khieu also especially emphasized this factor. According to him, in each of these three relationships (father and son, husband and wife, brother), each relationship between father and son, brother is represented by the two words filial piety and filial piety, which has been highly respected and placed in a solemn position, becoming the core in every social relationship, including 5 relationships (five wheels) namely: king and son, father and son, husband and wife, brothers, friends and other relationships such as teacher students, adults, guests, etc. Confucianism poses the question: "If you have filial piety, you will have other virtues. Hieu, De is the root that a gentleman must grasp, because the root is well established, and morality is born from it [see 5, p. 140-142].

Conclusion

Children are the happiness of each family, the future of the country. Protecting children's rights is the responsibility of the whole society. Concretizing the provisions of the 2013 Constitution on human rights, other legal documents of Vietnam have promptly supplemented and amended to complete the provisions on children's rights. However, in order for children's rights to be respected and strictly implemented, the Party, State and the whole political system need to clearly and consistently realize that the protection of children's rights is one of the most important aspects of children's rights is the country's top important tasks. It is necessary to raise the awareness of the whole community as well as

the awareness of children themselves about children's rights and necessary measures to combat acts of abuse of children's rights; completing sanctions and promptly and strictly handling those who abuse children's rights.

Completing the legal system together with raising the understanding and sense of responsibility of the political system and the

entire community, children's rights will be better implemented and protected, contributing to the development civilization and prosperity of the country in the future. That will be an important motivation to preserve and promote the good cultural values of Vietnamese families in modern society.

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Поступила в редакцию 19.05.2021.

Принята к публикации 21.05.2021.

Для цитирования:

Nguyen Van Dai Guaranteeing of children's rights in family culture in Vietnam // Гуманитарный научный вестник. 2021. №5. С. 189-198 URL:<http://naukavestnik.ru/doc/2021/05/Nguyen.pdf>