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Gender Equality in Education – Comparative Perspective between International Law and the Legal System, its Practice in Vietnam

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ABSTRACT

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Gender equality in education is mentioned in Vietnam's Constitution 2013 and other specialized laws on gender and education, including Law on Gender Equality 2006, Law on Vocational Education 2014, Law on amendments to the Law on Higher Education 2018, and Law on Education of Vietnam 2019. The article analyzes and comments on these provisions in comparison with the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. Thus, the article will show the similarities and differences of these regulations on gender equality in education between international documents and treaties to which Vietnam is a member and Vietnam legal system, practices of the exercise of gender equality in Vietnam; and suggests some solutions to amend, supplement and complete the Vietnamese legal system for limiting and eventually eliminating gender inequality in education.

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Introduction

Gender equality in education is the fundamental foundation for achieving the goal named “eliminating all forms of discrimination against women” that all progressive countries have been determined to implement. Education is the shortest, fastest, and most sustainable way to achieve substantive gender equality in society. In the modern international legal system, the United Nations Charter and the Universal Declaration of Human Rights (UDHR) is the foundation of legal and political ideology for all nations and people around the world to protect human rights. Since then, human rights have been developed and recognized in many key international treaties, typically the International Covenant on Civil and Political Rights (ICCPR)², the International Covenant on Economic, Social and Cultural Rights (ICESCR)³, the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)⁴ and the Convention on the Rights of the Child (CRC)⁵. These conventions provided comprehensive regulations on human rights generally and gender equality in education particularly.

As a member state of the United Nations from September 20, 1977, and the aforementioned international treaties, Vietnam has gradually built up and completed its legal system under international human rights standards. In particular, gender equality in education has been stated principally in Vietnam’s Constitution 2013 and concretized in many laws on gender, children, and education. However, there are still some limitations on awareness of gender equality as well as gender equality in education in Vietnam that lead to inconsistency of application of the law, even contrary to Vietnam’s Constitution 2013 and international treaties in which Vietnam is a member. Due to the above legal and social situation, international and Vietnamese legal basis for gender equality in education, practices on gender equality in education as well as some solutions to amend, supplement and complete the Vietnamese legal system for ensuring the effective implementation of the right to education in Vietnam shall be studied and clarified in this article.

² Vietnam became a member of this Convention in 1982.

³ Vietnam became a member of this Convention in 1982.

⁴ Vietnam became a member of this Convention in 1982.

⁵ Vietnam was the first country in Asia and the second country in the world in ratifying this Convention on February 20, 1990.

Literature Review

At the world level, there have been many research works of individuals and organizations on human rights and gender equality in education so far. Wilson (2003), in "Human Rights: Promoting gender equality in and through education," stated that education can act as a multiplier for the opportunity to realize other human rights, particularly the right to equality between the sexes. To increasing equality, we need to address the right to education by addressing rights in education and through education. "The Right to Education in a Globalized World" written by Lindahl (2006) explored the fundamental issues related to education as a human right, particularly in the context of rapid globalization. There is no consistent definition of what amounts, qualities, forms, and content of education meet the minimum requirements to fulfill that right. In 2012, UNESCO published a publication named "World Atlas of gender equality in education." In this product, four factors that underlie and shape educational policies and practices in all countries were shown, including the impact of population growth on demand for education, the relationship between levels of national wealth and investment in education, the extent to which national governments are committed to their state education systems, and how such commitment takes on a legal basis in the form of compulsory education policies. These studies and many others have clarified many aspects of human rights, gender, sex, gender equality, and gender equality in education.

In Vietnam, since the ratification of ICESCR, CEDAW, and CRC, research on human rights has been carried out systematically. However, the studies in Vietnam are basic research on human rights in general and the rights of specific groups of people, such as women, children, people with disabilities, and migrant workers. In 2011, the Research center for human and citizen's rights under the School of Law, Vietnam National University, published a monograph named "International law on Human Rights – A basic foundation." In this book, the understanding and history of international human rights law are mentioned. Moreover, some fundamental human rights and freedoms under international law and the mechanism to protect and promote human rights under international law also were clarified. Following this research, the Research center for human and citizen's rights under the School of Law, Vietnam

National University also introduced another book named "International law on the rights of vulnerable groups". This work has given us an overview of group rights under international law, rights of vulnerable groups under international law, and an international mechanism to oversee the exercise of those rights. "CEDAW and Law: A Gendered and Rights-Based Review of Vietnamese Legal Documents through the Lens of CEDAW" is the product of UNIFEM in 2009. It clarified the compliance of the legal framework with gender equality standards and rights. There are many works, but there is no research in Vietnam that compares gender equality in education in international law with Vietnamese law. Especially, there are no in-depth studies on the limitations and shortcomings of the practice of gender equality in education in Vietnam. Therefore, this article is the first research project in Vietnam on gender equality in education.

Methodology

To do this article, the author has researched practical laws, including international treaties and Vietnamese laws on human rights in general and gender equality in education in particular, with four steps:

Firstly, to study the provisions on human rights in general and the right to education and gender equality in education, in particular in international treaties to which Vietnam is a member. This is a basis for a comparison between the Vietnamese legal system and some international legal documents, including the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child.

Secondly, to study the provisions on the right to education and gender equality on education in the Vietnamese legal system, including Vietnam's Constitution 2013 and other specialized laws on gender and education, namely Law on Gender Equality 2006, Law on Vocational Education 2014, Law on amendments to the Law on Higher Education 2018, and Law on Education of Vietnam 2019 as well as some guiding documents such as Charter on

Middle School, High School, Combined Secondary School 2011 and Charter of Primary School 2010 (amended and supplemented in 2013). These regulations have been analyzed and commented.

Thirdly, to use the method of comparative jurisprudence to identify the similarities and differences between the Vietnamese legal system and international treaties to which Vietnam is a member. These findings will be a rationale for giving solutions to amend, supplement and complete the Vietnamese legal system on human rights in general and human rights in the education field in particular.

Fourthly, to research the practical application of international treaties and Vietnamese laws on gender equality in education by state agencies and educational institutions to assess the level of compliance and implementation of these provisions. On that basis, the author recommends that the Government and other competent authorities need overcome shortcomings and limitations to enforce gender equality in education effectively and substantially in Vietnam. This research step was carried out by the author collaborating with a group of legal and educational experts by field studies in three regions of Vietnam, including northern provinces, central provinces, and southern ones in 2019-2020.⁶

Definition of Gender Equality and Gender Equality in Education

Gender equality and gender equality in education have been considered education goals and policies of many countries in the world, including Vietnam, for decades. However, what are gender equality and gender equality in education? This question has raised a few issues needing theoretical and legal explanations, including the definition of gender; the

⁶ These studies were conducted within the framework of science and technology tasks using the state budget approved by the Vietnamese Ministry of Education and Training in 2017. Registration number: 2021-52-544/KQNC; the name of task: "Research on scientific arguments amending and supplementing the Law on Education"; task code: KHGD/16-20.DA.001 under "Research and develop educational science program to meet the requirements of fundamental and comprehensive innovation of Vietnamese Education"; task level: national; implementing agency: Ho Chi Minh City University of Law, Vietnam; management agency: the Ministry of Education and Training of Vietnam.

difference between gender and sex; the understanding of gender equality in education by answering some questions such as does gender equality mean the equality in numbers of boys and girls at different schooling stages? Does gender equality relate to gender relations and social practices in schools, and how to make them more equitable? Or is it a combination of all these factors? This section will clarify these basic elements of gender equality in education.

According to the author, to study gender equality in education, it is necessary first to clarify the term "gender equality" and "gender." In terms of language, "gender equality" is compounded by two words, "equality" and "gender." "Equality," in English, French, and Vietnamese, means the same, equal, and no distinction. Meanwhile, "gender" refers to the role of and relationship between men and women, boys and girls in society. Gender relations are the legal and social delineation of social roles between men and women, relating to many institutional and social issues of each country. It is not a specific relationship between a man and a woman in any particular way. Therefore, "gender" does not mean "sex" (Tim, 2018). "Sex" is often used to refer to the biological difference between males and females. This difference is innate, homogeneous, and unchangeable. Otherwise, "gender" is a concept of anthropological origin, referring to the roles, responsibilities, and rights that society prescribes for men and women. It is acquired through the process of social integration, depending on political, economic, and social conditions, and especially, it could change.

Gender roles are also different from roles of sex which are biological characteristics. This difference is influenced by historical, religious, economic, cultural, and ethnic factors. Gender roles do not exist from the time human is born, but it is a product of education and could be improved gradually in the process of physical and intellectual maturity. Therefore, gender roles are the convergence of socially educated behaviors, the desire of traits and competencies that society considers belonging to women or men (boys or girls) in a particular society or culture. This is the relationship between men and women to answer the questions: who should do this task, who will make a decision, who can access resources and benefits. People usually are under much pressure to comply with these social notions. Gender identity and gender relations are important aspects of a culture, as they determine the way of life in the home, school, and society.

In Vietnam, according to Article 5.3 of Law on Gender Equality 2006, gender equality means that men and women have equal positions and roles. They are facilitated and allowed to develop their capacities for the development of the community, family and enjoy the fruits of that development in an equal way. They also have equal status in society, have the same conditions to promote their abilities and fulfill their legitimate aspirations. Moreover, they are equal in enjoying the rights and opportunities to learn, improve knowledge and education, participating in, contributing, and enjoying the resources and achievements of social development, participating in and deciding all affairs of the family and society.

In the framework of the United Nations, gender equality is understood that men and women should receive equal treatment in all aspects of socio-economic life and human rights such as education, medicine economy, culture, marriage, family, employment, welfare policies, ... This is a strategy pursued by the United Nations in the design, implementation, monitoring, and evaluation of policies and programs so that the ultimate goal is for men and women to be legally equal (ECOSOC, 1997). In the World Education Forum held on 26-28 April 2000, 164 governments around the world are committed to achieving education for all. Accordingly, Article 7 (v) of the Dakar Framework for Action, Education for All: Meeting our Collective Commitments, which was adopted in this Forum stated that all member countries committed to eliminating gender disparities in primary and secondary education by 2005 and achieving gender equality in education by 2015, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality (World Education Forum, 2020). Regarding gender equality, Wilson (2003) noted that the consideration of gender equality in education should be understood as the right to education (including the right to access and participate in education), the right in education (including the environment, processes, and outcomes of gender-aware education), and the right through education (when outcomes of education significantly link education equality with broader processes of gender equality) (Wilson, 2003). Thus, the result of gender equality in the field of education is that all individuals are equal in terms of age for learning and training; the choice of career and learning major; the access to and enjoyment of policies on education, training, professional fostering; the

opportunities of the participation in teaching and educational management; the access to education programs with gender equality contents; and learning in a safe and equitable educational environment.

Gender equality in education, from the author's view, is one of the most powerful, fastest, most effective, and sustainable factors in achieving gender equality. Education is the process of forming and developing a personality under the influence of all external activities carried out consciously by people in schools, at homes, and in society. Significantly, the school's activities play an important role. The impact of educational programs, the behavior among individuals in the schools to the awareness of learners is huge. Learning at schools and educational institutions will create a great influence on awareness of gender equality; thereby it will govern the gender equality behavior of the educated people under the impacts of teachers and educators. Thus, gender equality in the field of education means that all individuals have equal opportunities and are given equal access to educational levels and programs. The contents of an education program need to meet the requirement related to gender equality; education workers must be sensitive in gender, and the educational environment should be friendly, safe, and equal to achieve the goal of gender equality.

The implementation of gender equality in the field of education will bring some of the following significant meanings:

Firstly, it positively affects the quality of human resources.

If countries want to achieve prosperous and sustainable development, they must meet the requirement for developed human resources with high quality. In achieving this one as well as ensure gender equality in education, training plays a particularly important role. Boys and girls are born with the same natural abilities, but due to gender stereotypes, boys are more likely to be biased, so they receive more education and training. This leads to a situation where boys with a lower potential than girls receive more education. As a result, the quality of human social resources will be lower than normal levels, and it will inhibit economic growth potential. Therefore, when the level of gender inequality in education decreases and the awareness level of girls and women in the family is raised, investment in education for children

will improve. This is directly demonstrated through the parent's upbringing, the parent's ability to persuade or make decisions to invest more in their children's education, whether it's a boy or a girl. Moreover, when the awareness level of parents is higher, the care and nutrition decisions for their children are better. All these things will contribute to the increase of quality of human resources, and the labor productivity of the whole society will be enhanced.

Secondly, it eliminates gender stereotypes in society.

When boys and girls are equally provided with the same conditions and opportunities for learning and training, gender stereotypes are eliminated. Gender stereotyping is society's biased perception of what women and men are capable of and the activities they can do, their social status depending on gender. For example, men are said to be strong, independent, decisive, creative, capable of leadership, lacking in meticulousness; meanwhile, women are dependent, passive, flexible, and detailed. Because of those gender stereotypes, there is still a current perception that there are occupations that are suitable for men and others are matching with women. According to UNESCO data, only about 35 percent of the total number of female students choose to study in the fields of science, technology, engineering, and mathematics; nine percent of these students study technology, information, and communication (UNESCO, 2017). Gender stereotypes have had a negative impact on the personal development of women and men. The theoretical as well as practical studies have proven that men and women are only socially different. The perception of leadership or occupations in the fields of science, technology that are not appropriate for women has resulted in a rigorous assessment of or not recognition of a woman's ability to manage, research, or create. Alternatively, the notion that men are not suitable for jobs needing ingenuity, flexibility, and meticulousness has pushed men out of jobs in fields of education, art, service. Therefore, when education workers, learners, and training programs aim to ensure gender equality, girls and boys will have the opportunity to study in all levels of study and majors that many people previously thought were only suitable for a certain gender. Female and male students can study and choose their jobs according to their abilities and interests without being influenced by gender issues. This will change perceptions about gender roles, division of labor by gender and eliminate gender stereotypes.

Thirdly, it empowers women and girls.

Improving educational level and social understanding is the basic condition for women to participate in the high-quality labor market, increase their income, thereby enhancing their position in accessing and controlling economic resources. When women are autonomous and economically independent, they will have the ability to make decisions and also have a voice in their family and community. Furthermore, if girls and women are fully equipped with knowledge and skills, they will have the qualifications and conditions to be appointed to leadership positions, can join the political system. Quality education with ensuring gender equality provides knowledge for learners, trains high-quality human resources to meet the requirements of the market, and provides them with the qualities, ethics, human life skills, including the understanding of gender equality. Gender equality education in schools, especially in high schools, will have a great impact on the development of student's personalities, the formation of progressive gender conceptions from elementary school, thus creates a foundation for gender-responsive and gender-sensitive action in the mature stage. Men respect and recognize the individual capacity of women, dismiss all stereotypes and stigma against women in the family and society. It can be said that gender equality in the education sector is decisive to achieve gender equality in other areas of social life.

International Law and Vietnamese Law on Gender Equality and Gender Equality in Education

International Law

The United Nations Charter and the Universal Declaration of Human Rights

Although the United Nations Charter does not specifically provide for gender equality in education, in general, the spirit of gender equality is still noted in Article 1 on the purposes of the United Nations. Accordingly, one of the purposes of the United Nations is: "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all without

distinction as to race, sex, language, or religion" (U.N. Charter art. 3, para. 1). Thus, United Nations and other member states must work together to resolve common issues of the international community, including the problems of an economic, social, cultural, humanitarian character, and in respecting and protecting human rights, without distinction as to race, gender, language or religion. The political and legal ideology on human rights in the United Nations Charter has been considered as the basic international legal foundation for United Nations and other intergovernmental organizations to publish international documents as well as international treaties to protect human rights⁷, including gender equality as well as gender equality in education since 1945.

Based on the ideological background of human rights recognized in the United Charter⁸, member states have pledged themselves to achieve, in cooperation with the United Nations, the respect and observance of human rights and fundamental freedoms worldwide, including gender equality in access to and enjoyment of the right to education. For these purposes, UDHR affirmed:

⁷ For example Europe has The European Convention for the Protection of Human Rights and Fundamental Freedoms; Organization of American States has American Declaration of the Rights and Duties of Man 1948, American Convention on Human Rights 1929; Organization of African Unity has The African Charter on Human and Peoples' Rights 1981; Arab countries have The Cairo Declaration on Human Rights in Islam 1990, The Arab Charter on Human Rights 1994; In Southeast Asia, 1988 Declaration of the Advancement of Women in the ASEAN Region, Gender-responsive Implementation of ASEAN Community Vision 2025 and the Sustainable Development Goals 2017.

⁸ which is identified in the Preamble of UDHR, including:

- (i) recognition of the inherent dignity and inalienable rights of all members of the human family;
- (ii) condemnation of human rights abuses and the advent of a world in which human beings shall enjoy the freedom of speech and belief and freedom from fear and misery;
- (iii) if people are not to be compelled to have the resource, as a last resort, to rebellion against tyranny and oppression, that the rule of law should protect human rights
- (iv) promotion of the development of friendly relations between nations;
- (v) reaffirmation of people faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom;
- (vi) promotion of universal respect for and observance of human rights and fundamental freedoms by teaching and education.

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available, and higher education shall be equally accessible to all on the basis of merit. Education shall be directed to the full development of the human personality and to be strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Parents have a prior right to choose the kind of education that shall be given to their children.” (UDHR art. 6)

As such, the content and spirit of equality in access to and enjoyment of the right to education have been specifically recognized in UDHR. Accordingly, everyone has the right to an equal education without discrimination on origin, gender identity, personal characteristics, social class, ethnicity, and religion.

International Covenant on Economic, Social and Cultural Rights

ICESCR has been approved by the United Nations General Assembly to concretize the political and legal ideology of the United Nations Charter and UDHR. Accordingly, ICESCR has recognized the fundamental principles of the United Nations Charter; the inherent dignity and the equal and inalienable rights of all members of the human family that is the foundation of freedom, justice, and peace in the world; these rights derive from the inherent dignity of the human person; the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights. Besides, following the obligation of states under the United Nations Charter, states shall promote universal respect for and observance of, human rights and freedoms; realize that the individual, having duties to other

individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in this Covenant (ICESCR The Preamble).

ICESCR, to achieve such purposes, provided for the economic, social, and cultural rights of the person, including the right to education. Specifically, Article 13 of ICESCR stated that the state parties to this Covenant recognize the right of everyone to education. Education shall be directed to the full development of the human personality and the sense of its dignity and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance, and friendship among all nations and all racial, ethnic, or religious groups, and further the activities of the United Nations for the maintenance of peace.

The states parties to ICESCR recognize that intending to achieve the full realization of the right to education:

- (i) Primary education shall be compulsory and available free to all;
- (ii) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every sufficient means, in particular by the progressive introduction of free education;
- (iii) Higher education shall be made equally accessible to all, on the basis of capacity, by every sufficient means, in particular by the progressive introduction of free education;
- (iv) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (v) The development of a system of schools at all levels shall be actively pursued, an adequate scholarship system shall be established, and the

material conditions for teaching staff shall be continuously improved. (ICESCR art. 13, para. 2)

Convention on the Elimination of All Forms of Discrimination against Women

Humanity's fight for the elimination of all forms of discrimination against women has been marked with the introduction of CEDAW⁹. This Convention is considered the most important and comprehensive international treaty on equal rights between women and men. It was built on the United Nations' goals and UDHR's purposes, to ensure human dignity, fundamental rights as well as equal rights between women and men. Moreover, CEDAW is recognized as a universal declaration of human rights for women.

Regarding the content, states parties not only condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, but also pledge the observance and exercise to guarantee equality between women and men in the enjoyment of human rights and fundamental freedoms, including the right to education. More specifically, Article 10 of CEDAW states that state parties shall take all appropriate measures to eliminate discrimination against women to ensure to them equal rights with men in the field of education. Accordingly, states shall ensure the following elements:

- (i) The same conditions for career and vocational guidance, for access to studies and the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;

⁹ CEDAW came into force on September 3, 1981.

- (ii) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality;
- (iii) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programs and the adaptation of teaching methods;
- (iv) The same opportunities to benefit from scholarships and other study grants;
- (v) The same opportunities for access to programs of continuing education, including adult and functional literacy programs, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (vi) The reduction of drop-out rates of female students and the organization of programs for girls and women who have left school prematurely;
- (vii) The same opportunities to participate actively in sports and physical education;
- (viii) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Convention on the Rights of the Child

CRC has been issued to protect the future of human beings, concretizing continuously the political and legal ideology of international documents on the rights of the child such as the United Nations Charter, UDHR, Declaration of the Rights of the Child adopted by the General Assembly of the United Nations on November 20, 1959, ICESCR, Declaration on the Protection of Women and Children in Emergency and Armed Conflict adopted by the United Nations on December 14, 1974, and The Beijing Rules adopted by General Assembly of the United Nations on November 29, 1985. This Convention not only recognizes the human rights of children in general

but also provides the right of children to education in Article 28, 29. Accordingly, Article 28 states that states parties recognize the right of the child to education, and to achieve this right progressively, they shall conduct the following activities:

- (i) Make primary school compulsory and available free to all;
- (ii) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (iii) Make higher education accessible to all based on capacity by every appropriate means;
- (iv) Make educational and vocational information and guidance available and accessible to all children;
- (v) Take measures to encourage regular attendance at schools and the reduction of drop-out rates;

Simultaneously, under Article 29, states parties agree that the education of the child shall serve:

- (i) The development of the child's personality, talents, and mental and physical abilities to maximize their potential;
- (ii) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (iii) The development of respect for the child's parents, his or her own cultural identity, language, and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (iv) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among

all peoples, ethnic, national, and religious groups and persons of indigenous origin;

(v) The development of respect for the natural environment.

Vietnamese Law

As a member state of the United Nations and basic international treaties on human rights, including ICESCR, CEDAW, CRC, Vietnam has transformed the contents of these international treaties into Vietnam's Constitution 2013, laws and sub-law documents on gender, education to ensure gender equality in education, namely: Law on Gender Equality of Vietnam 2006, Law on Children of Vietnam 2016, Law on Education of Vietnam 2019, Law on amendments to the Law on Higher Education 2018, Law on Vocational Education 2014, Charter on Middle school, High school, Combined secondary school 2011 (the Circular, promulgating middle school, high school, combined secondary school's charter, 2011), Charter of primary school 2010 (amended and supplemented in 2013) (the Circular on the Charter of Primary School, 2010).

Vietnam's Constitution 2013, Law on Gender Equality of Vietnam 2006, Law on Children of Vietnam 2016

Under Article 26 of the fundamental act of the Vietnamese legal system, Vietnam's Constitution 2013 stated Article 26 that male and female citizens have equal rights in all fields. The State shall adopt policies to guarantee the right to and opportunities for gender equality (paragraph 1). Furthermore, the State, society, and family shall create the conditions for women to develop themselves comprehensively and advance their role in society (paragraph 2). Especially, this Constitution affirms that gender discrimination is prohibited (paragraph 3). After that, Article 39 of Vietnam's Constitution 2013 states that citizens have the right, as well as the obligation, to study. In the Vietnamese legal system, regulations on gender equality, including equality on the right to education recognized in the Constitution have the highest legal validity. Thus, all other legal documents contrary to the Constitution are unconstitutional and invalid.

Law on Gender Equality 2006 is the act providing for gender equality in Vietnamese society in all fields of social life. According to Article 4 of this Law, the gender equality goals are to eliminate gender discrimination, to create equal opportunities for men and women in socio-economic development and human resources development to each substantial equality between man and women, and to establish and enhance cooperation and mutual assistance between man and woman in all fields of social and family life. To achieve these goals, acts strictly prohibited are issued in Article 10, including acts impeding man and woman from exercising gender equality, gender discrimination in all forms, gender-based violence, and other strictly prohibited acts.

Regarding education, Article 14 stipulates that men and women are equal in terms of age for schooling, training, and fostering courses, in choosing professions and occupations for learning and training, in accessing and benefiting from the policies on education, training, fostering of professional knowledge and skills.

Being a specialized act on child protection, Law on Children of Vietnam 2016 has set a number of provisions for gender equality in general and gender equality in accessing and enjoying the right of children to education. Accordingly, under Article 5 on Rules for ensuring the exercise of children's rights and responsibilities, discrimination against children is not allowed (paragraph 2). Furthermore, Article 6, paragraph 8 states that discrimination against children on the grounds of their personalities, family background, sex, race, nationality, belief, or religion is prohibited. Moreover, under Article 16, children have the right to education, study so that they can have a comprehensive development and promote their ability in the best way (paragraph 1), and children are granted equal opportunities for study and education, and developing their talent, creation, and invention (paragraph 2).

All regulations on gender equality of Law on Gender Equality 2006 and Law on Children 2016 are fully compatible with the Constitution and international treaties on human rights to which Vietnam is a member, especially ICESCR, CRC.

Law on Education of Vietnam 2019, Law on amendments to the Law on Higher Education 2018, and other documents in education

In order to concretize the principle of equality, without discrimination on gender in the enjoyment of the right to education, Article 4, paragraph 3 of Law on Education 2019 states that an open education system shall be developed, and a learning society shall be built to create opportunities for everyone to access to education and in learning at all levels as well as in all forms, and in pursuing lifetime learning. Educational programs must meet gender equality goals and international integration requirements. Furthermore, under Article 13, the right to education is the right, as well as the obligation, for citizens. All citizens, regardless of their ethnicity, religion, belief, sex, personal characters, family background, social status, economic circumstances, are equal in learning opportunities. The State applies social justice in education, creates a safe educational environment, ensures inclusive education, creates conditions for learners to promote their potentials and talents. In addition, according to Article 15, an inclusive education shall not only ensure the right to education equally, educational quality by the demands, characteristics, and abilities of learners, but also respect for the diversity of learners without discrimination. Article 83 of this Law affirms that learners are respected and have equality of educational and learning opportunities, developed their talents and potentials, creativity, and inventions, provided with full information about their learning and training.

Gender equality on the right to education is also recognized in Law on amendments to the Law on Higher Education 2018. Accordingly, gender equality in higher education needs to be implemented. Furthermore, under Article 60 of this Law, learners are equitably respected and treated without discrimination on gender, ethnicity, religion, and origin.

In addition, gender equality on the right to education is recognized in the Law on Vocational education 2014. Accordingly, gender equality in vocational education needs to be established (Article 6, paragraph 7) and learners are respected and treated equally, regardless of sex, ethnic group, religions, background (Article 60).

Charter on Middle school, High school, combined secondary school 2014 also states students enjoy equally the comprehensive education (Article 39, paragraph 1) and be respected and protected, be treated equally (Article 39, paragraph 2). Under Article 42, Charter of primary school 2010, students are protected, cared for, respected, and treated equally.

With respect to the aforementioned legal foundation, although there are differences in words and expressions, it could be affirmed that Vietnam's Constitution as well as the Vietnamese legal system, especially the system of legal documents on gender, education, all recognize the equality of Vietnamese citizens in the enjoyment of the right to education, regardless of discrimination on gender and other personal characters. These undeniable evidences show the statement that recognized in Vietnamese's Constitution, which is "The Socialist Republic of Vietnam shall abide the Charter of the United Nations and treaties to which the Socialist Republic of Vietnam is a contracting party".

Practices of Gender Equality in Education in Vietnam

In recent years, the implementation of the Constitution as well as laws on gender, education and national strategies, programs, and action plan to exercise the right to education in Vietnam have achieved many achievements that are highly appreciated by the international community. Since 2010 so far, Vietnam still prioritizes maintaining 20 percent of total state expenditure on education. Compared with other countries, the ratio of budget expenditure on education to the GDP of Vietnam is much higher than many countries in the region and over the world (Hong, 2019). Vietnamese government always ensure the best conditions for the training of human resources used in the field of education through financial support for pedagogical students and implementation of many preferential policies in education, such as the exemption and reduction of tuition fees, the cost support for poor pupils and students, the support in educational development for children of ethnic minorities, remote and isolated areas as well as the disabilities. The exemption and reduction of tuition fees, the granting of

scholarships, academic loans, and social assistance for pupils and students under the lists of beneficiaries according to state policy and poor and near-poor households are assessed as effective solutions to create learning opportunities for these pupils and students. Specialized high schools, colleges, vocational schools, and professional training centers in the fields of agriculture, economic management, finance, education, health have been established in provinces and regions with many ethnic minorities in Vietnam. Furthermore, the Government also develops the system of semi-boarding ethnic minority schools, completes the universalization of primary education at the right age, carries out the quality universalization of secondary education in regions with extremely difficult socio-economic conditions. The teaching in ethnic minority languages is also implemented in 20 provinces with seven ethnic languages (United Nations Population Fund & the Ministry of Labour, Invalids and Social Affairs, 2020).

With great efforts to improve policies and create an equal environment for women, Vietnam has achieved many achievements on gender equality, eliminating gender gaps, including those in the education sector, namely, gender equality in the enjoyment of the right of all citizens to education. According to the results of the 2019 Census on population, approximately 91.7 percent of the population in high school age are currently attending school. This proportion of women is higher than that of men, namely 92.5 percent and 90.8 percent, respectively. By 2019, the literacy rate of Vietnamese women is 94.6 percent, meanwhile by 2020, this rate shall reach 98 percent. Over the past 20 years, the female literacy rate has increased by 7.7 percent, so the gap in literacy rate between men and women has narrowed significantly. The sex ratio is 99.1 males over 100 females, of which 96.5 males over 100 females in urban areas and 100.5 males over 100 females in rural areas (General Statistics Office of Vietnam, 2019).

Vietnam's efforts to ensure gender equality have been recognized internationally. Accordingly, according to the 2018 United Nations rankings on the gender inequality index, Vietnam ranked 68th out of 162 countries ranked on gender

equality. Furthermore, according to the World Economic Forum's global gender gap index published in 2020, Vietnam ranked 87th out of 153 countries ranked on gender equality (World Economic Forum, 2019).¹⁰

However, the achievements of society in general and the education sector in particular of Vietnam are facing many serious challenges by the Covid-19 pandemic. More than a year since the WHO declared Covid-19 as a global pandemic on March 11, 2020, the world has suffered significantly serious losses in terms of human life and health, economy, and society. In which education is one of the fields most heavily affected. According to WHO statistics, as of April 20, 2021, there were 223 countries and territories affected by Covid-19, with 141,754,944 people infected and 3,025,835 deaths (World Health Organization, 2021). According to UNCTAD statistics, Covid-19 has reduced the world's GDP by 4.3 percent in 2020 (United Nations Conference on Trade and Development, 2020). Vietnam has also experienced three outbreaks of Covid-19, namely March 2020, July 2020, and January 2021 with 2,801 people infected and 35 people died (Ministry of Health, 2021). Vietnam's GDP growth rate in 2020 only reached 2.91% that is the lowest level in the past 10 years (General Statistics Office of Vietnam, 2021), leading to serious threats to unemployment, public debt, malnutrition, and food security. Covid-19 especially has reversed progress in combating poverty, in health and education with which women and girls are the most affected.

The economic impact of the Covid-19 pandemic also resulted in the inability of many poor families in Vietnam to arrange for girls to go to school because they had to stay at home to work or do housework. A study in Vietnam also showed that 75% of girls do housework to support their families compared with 60% of boys (UNICEF, 2020). In the general context of the world and the region, Vietnam has been and is expected to face many difficulties and challenges in all areas of social life in the coming time. Facing this situation, the Government of Vietnam has taken drastic action to cope with and prevent and fight against the Covid-19 epidemic by various measures such as

¹⁰ A decrease compared to 2018 (77 out of 149); to 2017 (69 out of 144) and to 2016 (65 out of 144).

social distancing; 5K method including masks, disinfection, distance, no gatherings, and medical declaration; immigration management; supporting unemployed workers; tax reduction, extension and exemption for businesses and household businesses affected by the epidemic; Covid-19 vaccination. All these methods aim to maintain a stable society and economic development in a new normal state. In the education sector, for the first time, the Government of Vietnam allows this sector to be proactive in terms of time and how to organize online teaching activities across the country with the slogan "a pause from school, not a pause on the study." Moreover, the Government also reduced tuition fees and provided financial support for students, mobilize enterprises not to fire workers so that parents do not lose income sources to care for their children, strengthened internet infrastructure for remote and economically disadvantaged areas, provided subsidies for people facing difficulties due to the Covid-19 epidemic. With such flexibility, the education sector has completed the programs and plans of the school year 2019-2020 and 2020-2021.

However, the Covid-19 epidemic has affected and created many challenges for Vietnam's education sector, including (i) the lack of internet technology and infrastructure leading to the lack of education continuity, especially provinces and localities in the border, islands, remote areas, economically disadvantaged areas; (ii) the deterioration of the education quality; (iii) the increase of studying cost as parents have to invest in computers and audio, visual and oral auxiliary equipment for online learning of their children, as well as cost for Internet installing, smartphones, smart TVs; (iv) the shortening of learning programs and changes in national exams.¹¹; (v) the closing of schools leading to parents having to take time off from work or work from home to combine working and child care, thus working productivity decreased; (vi) the bankruptcy of private schools and education centers, which put thousands of people

¹¹ In 2020 Vietnam closed schools and education centers twice in April and July, and once in 2021 on February and March; High school Graduation Examination had to be divided in 2 rounds instead of 1 according to Law on Education; The Ministry of Education and Training also adjusted learning programs and shortened learning duration of nationwide students twice.

into unemployment, millions of students and children's education were interrupted; (vii) the increase in the risk of gender violence; (viii) the state of depression and aggression in children; (ix) the situation of being forced to leave school of children, especially girls, due to economic difficulties, sexual abuse, early marriage. Although gender awareness in Vietnam has changed fundamentally, with the position and role of women and men being equal, and both acknowledged and protected by law, the notion of "male chauvinism" remains a significant obstacle in the process of implementing gender equality in education in Vietnam, especially in some under-developed economic areas and societies in West Northern, Tay Nguyen, West Southern areas, and areas of ethnic minorities. Therefore, when the economy and society fell into crisis because of Covid-19 epidemic, parents lost their jobs or got their income cut down, so if they have to choose between a son or a daughter to continue school, a son is often the favoured option. The reason for that is, according to traditional norm of Vietnam's society, son is the one "to heritage ancestors' legacy", and daughter belongs to another family once she gets married. With that in mind, it is obvious for parents to invest in sons' education, rather than daughters.

The reality of today society forced Vietnam's education sector to have effective measures in order to ensure the right to education and equality in the education of children, girl pupils and students in all levels of study from kindergarten, primary school, middle school, high school to university and vocational training institutions.

Besides the results that were, through research and actual survey, the author found that the implementation of gender equality in access to and enjoyment of the right to education in Vietnam still has some following limitations:

(i) *Limitations of the legal system on gender and education*

Law on Gender equality 2006 provides for equal access to education in terms of age and to vocational education and training. This provision is consistent with Article 10 of CEDAW, but it does not cover all the scope mentioned in Article 10. Accordingly, under Article 10, states parties are

requested to respect gender equality and eliminate discrimination against women in all aspects of education, including the removal of discriminatory stereotypes from educational programs, equal access to scholarships as well as to education in rural areas and during pregnancy. Under the concluding observations of the Committee on Elimination of Discrimination against women 2015 noted with concern that: (i) there was a lack of monitoring and insufficient resources for the education sector; (ii) discriminatory gender biases and stereotypes remained perpetuated in education materials; (iii) girls were segregated in traditional fields of study; and (iv) girls belonging to ethnic minorities had limited access to all levels of education ¹².

There is a lack of special measures to ensure substantial gender equality in the right to education. Specifically, those laws and regulations do not prescribe special measures to support women and girls in education. There are no special solutions to address inequality for girls in economically disadvantaged rural areas, mountainous areas, as well as remote and isolated areas, in which many poor families cannot afford or do not want to invest in education for girls. Article 85 of Law on Education 2019 mentions special assistance to different groups but does not identify girls in extremely difficult areas as a support-needed group.¹³ Furthermore, the Law on amendments to the Law on Higher Education 2018 does not stipulate special measures to reduce gender gaps and promote gender equality in higher education. In addition, issues on gender equality have not been listed in Law on Education 2019 as a priority in building programs for high school and training courses for teachers.

¹² Paragraph 26, The Recommended Conclusion of CEDAW of 7th and 8th combined report of Viet Nam, 29/07/2015 CEDAW/C/VNM/CO/7-8.

¹³ Article 85 of Law on Education stipulating scholarships, social allowances, waiving, cutting tuition fees, supporting tuition fee and living fees for learners.

Fundamental laws and regulations on education, including Law on Education 2019, Law on amendments to the Law on Higher Education 2018, Law on Vocational Education 2014, all provide for ensuring gender equality regardless of discrimination but use gender-neutral language. Accordingly, there are no direct provisions to clarify the difference between women and men, such as: "learning is the right, as well as the obligation, for citizens", "everyone is equal," "create conditions for each person to access to education." Moreover, the laws mentioned above and regulations have gender-neutral provisions that indirectly ensure gender equality in different forms and levels of education in different regions and areas. However, these provisions are not detailed and clear enough on gender equality, the right to education of women and girls. The principles of gender equality have not been fully ensured in regulations on teachers, teacher training, program creation, students, student assessment, management of education institutions, assessment of education quality, state management of education, finance, and budget in education. For example, Article 8 of Law on Education 2019 covers gender equality goals in education programs, but Article 31 on programs for high school does not specifically stipulate gender education for children. Similarly, there is no provision on gender equality and anti-discrimination on gender in regulations on higher education.

Furthermore, the aforementioned laws and regulations do not define specific responsibilities for gender equality in the education sector of state authorities, including the Government, Ministry of Education and Training, Ministry of Labour, Invalids and Social Affairs, and other local authorities. For example, there is no provision on the specific responsibility of issuing sub-laws on gender equality in Law on Education 2019. In fact, this Law and other laws on education do not have regulations reflecting the gender differences, but some sub-laws such as circulars of the Ministry of Public Security and legal

documents of schools, institutes issued by the Ministry of Defense, the Supreme People's Court and the Supreme People's Procuracy, set out provisions covering gender discrimination.

For example, according to the 2020 Regulation on enrolment benchmarks for military university and college training in military institutes and schools, in these institutions with enrolment mechanisms for both men and women, the admission scores for women are higher than those for men. Regarding the applied groups, the admission scores for women are higher than those for men.

Accordingly, in Military Technology Academy, for the applied groups including block A00¹⁴ and A01¹⁵, the admission score for women in the North was 28.15 over 30 and for men in the North was 26.50 over 30; however, those figures for women and men in the South were 27.50 and 25 over 30, respectively.

In the Institute of Logistics, for the applied groups including block A00 and A01, the admission score for women in the North was 28.15 over 30 and for men in the North was 26.45 over 30; however, those figures for women and men in the South were 27.10 and 25.10 over 30, respectively.

In the Institute of Medical Military, for the applied groups including A00 and B00¹⁶, in the North, women must get 28.65 over 30 and men must get 26.50 over 30 to become freshmen of this school. Meanwhile, in the South, the scores for women and men were 28.30 and 25.50 over 30, respectively.¹⁷

In 2020, the Vietnam Court Academy announced the admission scores basing on the results of the National High school Graduation Exam. Accordingly,

¹⁴ Block A00 includes: Mathematics, Physics, Chemistry

¹⁵ Block A01 includes: Mathematics, Physics, English

¹⁶ Block B00 includes Mathematics, Chemistry and Biology

¹⁷ More information at: http://www.mod.gov.vn/wps/wcm/connect/cc037c55-ae63-43b3-95e7-489db8387165/QD36TSQS.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=cc037c55-ae63-43b3-95e7-489db8387165

for the block C00¹⁸, the scores for women and men in the North were 27.25 and 26.25 over 30. However, in the South, these figures are 25.5 and 24.5 over 30, respectively.¹⁹

Under the provisions of the Ministry of Public Security, the quota of women in schools of this sector accounts for 10 percent for three majors, namely security, police, and fire protection, and 15 percent for four majors including politics, engineering, logistics, and languages on the total training quotas of each major and school.²⁰

In People's Police Academy in 2020, for police majors with block A01, the admission score for men was 23.09 over 30 and for women was 27.16 over 30; with block C03²¹, those figures for men and women were 18.88 and 27.73 over 30, respectively; with block D01, men must get 19.61, and women must get 27.36 over 30.²²

In People's Security Academy in 2020, for security majors with block D01, the admission score for men was 21.78 over 30, and for women was 28.18 over 30.²³

In 2020, in Vietnam Procuracy University, for law major with block C00, men in the North must get 27.50 over 30; meanwhile, men in the South just needed to get 25.75 over 30. For women, the scores in the North and the South were 29.67 and 27.75 over 30, respectively.²⁴

¹⁸ Block C00 includes: Literature, History, Geography

¹⁹ More information at: <http://hvta.toaan.gov.vn/portal/pls/portal/docs/10735428.PDF>

²⁰ Article 3, Circular No 15/2016/TT-BCA on 16/03/2016, The Circular on Regulations on Admission to People's Public security schools

²¹ Block C03 includes: Mathematics, Literature, History

²² More information at: <http://hvcnd.edu.vn/thong-bao/thong-bao-chung/thong-bao-diem-trung-tuyen-dai-hoc-he-chinh-quy-nam-2020-6510>

²³ More information at: <https://hvann.edu.vn/TrangChu/Catagory/BaiViet/tabid/102/id/3487/Default.aspx>

²⁴ More information at: <https://tuyensinhso.vn/school/dai-hoc-kiem-sat-ha-noi.html>

Furthermore, there are still many provisions in the current laws and regulations that are incompatible with Vietnam's Constitution 2013 and international treaties to which Vietnam is a member party. For example, there is no provision on damages to be compensated for violating the right of citizens to education in Law on State compensation 2017. Moreover, Law on Education 2019 only stipulates the universalization of preschool education for five-year-old children, primary and low secondary school, but there is no provision of the priority for the development of education in island areas. Similarly, there is a lack of regulations on the priority for the development of education in island areas in Law on amendments to the Law on Higher Education 2018. Besides, specific sanctions for higher education institutions violating gender equality in the enjoyment of the students' right to education and access to job opportunities in schools and institutes of the Ministry of Public Security, the Ministry of Defense, the Supreme People's Court, and the Supreme People's Procuracy listed above have not been mentioned.

(ii) *Gender inequality in access to the right to education*

The proportion of girls in primary and lower secondary schools is lower than that of boys, especially in poor rural areas and ethnic minority areas in which learning opportunities for girls and women are limited. Gender discrimination, practically, still exists much for girls in rural, mountainous, and remote areas, in which poor families cannot afford to support their children to continue attending school. They tend to leave their girls at home and do not allow them to study. The percentage of girls going to school in those areas is quite low, only from 10 to 15 percent in some places (United Nations Population Fund, 2020). This is a serious issue that reflects gender inequality and discrimination on the right to education. Meanwhile, in higher education, although the number of female students outnumbers male students, there are gaps between the number of female and male students in different majors due

to gender stereotypes. Male students often study engineering, machine engineering, construction, and service, while female students choose social sciences, education, arts, and humanities (United Nations, 2017). Women participating in vocational training institutions are directed to participate in industries that are traditionally dominated by women in low-paying jobs such as textiles and haircuts (United Nations, 2017). Gender stereotypes in educational materials in Vietnam still exist. Especially in the northern mountainous provinces, the proportion of girls going to school is lower than that of boys due to the long-existed norm of favouring boys over girls (United Nations Population Fund, 2020).

In the education program of high schools, colleges, universities, curriculum on human rights and specific rights are sketchy and inappropriate for education levels and ages (United Nations, 2013).²⁵ Some people do not fully understand the provisions of the legal system to exercise their rights fully and effectively. These limitations are due to the lack of good physical resources, a specialized agency to promote and protect human rights, a scientific and comprehensive training program accreditation mechanism as well as the strict regulations in handling denunciations and violations of the right of citizens to education.

Conclusion

In order to effectively implement national laws and international treaties on human rights to which Vietnam is a member in accordance with the commitment to “comply with the United Nations Charter and international treaties to which Vietnam is a member” that is recorded in Vietnam’s Constitution 2013 as well as Law on international treaties 2016 including

²⁵ United Nations. (2013), *National report submitted in accordance with paragraph 5 of Annex to Human Rights Council resolution 16/21*. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/185/15/PDF/G1318515.pdf?OpenElement>

a commitment to the right to education and gender equality in education, the author suggests four following solutions:

- (i) The Ministry of Education and Training needs to preside over, and cooperate with related government bodies such as the Committee of Culture, Education, Youth, Adolescents and Children, the Committee of Social Matters of the Parliament to organize and implement the propaganda and dissemination of international law provisions, especially in ICESCR, CEDAW, CRC and legal documents in the Vietnamese legal system namely Vietnam's Constitution 2013, Law on Gender equality 2006 and other legal documents on education with a focus on gender equality on the right to education nationwide. The objective of this plan is to provide a legal basis, the actual situation in the exercise of gender equality generally and gender equality in the education sector, particularly in Vietnam. Thereby, it might raise the level and awareness of authorities, organizations, ministries, sectors, localities, especially the education sector and citizens about the importance and their obligation in enforcement to limit and eliminate gradually all forms of gender discrimination in the field of education, especially the right to education. Internationally, thoroughly conducting these activities is affirmative evidence that Vietnam has always seriously, responsibly and effectively implemented international commitments in general and commitments related to the right to education and gender equality recognized in the international treaties to which Vietnam is a member, as well as in the Declaration and Action Programs of the region and the world on education to which Vietnam has acceded. Because, unlike political agreements, human rights are the legal standards that states are committed to through the ratification of international treaties. This ratification process constitutes the fulfillment of international legal obligations, not mere promises. Although the two international political processes, the formulation and enforcement of international law, differ conceptually, their implementation is complementary. They are acknowledging that states' political commitments

cannot be segregated from obligations. That is, countries that have ratified CRC and CEDAW have clear obligations to gradually realize the right to education and gender equality in and through education (Wilson, 2003).

(ii) The authorities, including the Ministry of Education and Training, the Ministry of Public Security, the Ministry of Defense, the Supreme People's Court, and the Supreme People's Procuracy, need to review the system of sub-law documents, applicable legal documents to deregulate or recommend the deregulation of documents that its contents cover gender discrimination in the field of education contrary to Vietnam's Constitution, law and regulations on education, gender, and other legal documents in order to ensure the constitutionality, legality and consistency of the Vietnamese legal system in accordance with international treaties on human rights in which Vietnam is a member party.

From the author's point of view, the Ministry of Education and Training firstly needs to propose to the Ministry of Public Security to amend Circular No.15/2016/TT-BCA dated March 16, 2016 on Regulations on Admission to People's Public security schools. Accordingly, Article 3 of this Circular on the quota of women in schools of this sector accounting for 10 percent for three majors, namely security, police, and fire protection and 15 percent for four majors including politics, engineering, logistics, and languages on the total training quotas of each major and school should be deregulated. Furthermore, the Ministry of Education and Training should propose to the Ministry of Public Security, the Ministry of Defense, the Supreme People's Court, and the Supreme People's Procuracy to request schools and institutes under these ministries and authorities to be equal in the selection of students. There should be equality between men and women, between regions. The regulations of the aforementioned authorities are contrary to Vietnam's Constitution, laws on gender, education, and international legal documents, including UDHR, ICESCR, CEDAW. These regulations cover discrimination on gender in the enjoyment of the right to education and access to occupations, job

opportunities of female pupils, and students in society. The Ministry of Public Security, the Ministry of Defense, the Supreme People's Court, and the Supreme People's Procuracy, from the author's point of view, must be exemplary and pioneering in the protection and promotion of human rights generally and the right of citizens to education as well as the right to access to career opportunities particularly.

(iii) Law on Education 2019 should be amended and supplemented to promptly unplug legal loopholes and continuously improve the provisions of the current legal system on gender equality in access to and enjoyment of the right to education, in order to make Law on Education a genuine legal framework for all education, training, human resources training activities towards a modern and humane orientation. Accordingly, it is essential to amend the following articles:

- Add the word “gender” to Article 7, paragraph 1 on the requirements for educational content and methods; Article 24, paragraph 1 on the requirements for content and methods of kindergarten education; Article 30, paragraph 1 on the requirements for content and methods of high school education, to protect the right to equality, regardless of gender in the content and teaching methods of all levels;
- Add the provision “ensure non-discrimination on gender” to Article 31 on education program in high schools to ensure gender equality in the high school program education on a national scale;
- Add the object “children, especially girls of ethnic minorities” who are eligible for special supports, be entitled to gain scholarships and social benefits to Article 85, to create the best conditions for children, especially girls of ethnic minorities, in the enjoyment of the right to education.
- Add the responsibility “examining, reviewing and handling or recommending the handling of schools and educational institutions engaging in gender-discriminatory behaviors” to Article 105, paragraph 2 on state management

authorities on education, to create a legal basis for the inspection, handling, and recommendation on the handling of schools and educational institutions engaging in gender-discriminatory behaviors.

The amendments and supplements to these abovementioned regulations are legal basis to make sure schools, education institutions, teachers, education managers comply with and practice in order to ensure gender equality in education.

(iv) Law on Gender Equality of Vietnam 2006 should be amended and supplemented.

Accordingly, it is essential to amend Article 14 of this Law:

- Add the provision “on the basis of ensuring gender equality in the right to education and employment” to Article 14, paragraph 5, subparagraph a²⁶ in order to determine the responsibilities of training institutions which “set the proportion of participating in learning and training for men and women” to restrict women from accessing and the enjoyment of the right to education, learning and training. In fact, The Ministry of Public Security, the Ministry of Defense, Vietnam Court Academy, Vietnam Procuracy University announce the ratio of men and women in enrollment towards limiting women in learning and training. Accordingly, in some training majors, the number of women wishing to learn is much higher than that of men, but the enrollment quota is equal to or lower than that of men.
- Add subparagraph c to Article 14, paragraph 5, namely “c) Eliminate gender stereotype in content, curriculum and teaching methods at all levels and types of training”, in order to eliminate gender thoughts, prejudices, and stereotypes on sexism in society.

In our opinion, these proposed amendments and supplements are crucial and help create a legal basis for authorities, and authorized individuals to handle violations

²⁶ Article 14, paragraph 5 of Law on Gender Equality states that: “5. Measures to promote gender equality in education and training sector include: a) setting the ratio of men and women participating in education and training; b) female workers in rural areas are supported with vocational training according to the law”.

relating to discrimination, stereotypes in terms of genders, as well as raise the position and role of women and girls in the family, school and the society.

(v) Some solutions to apply under the circumstance of the Covid- 19 pandemic to ensure the right to education and gender equality in education. The author proposes the Government synchronously launch the following solutions:

- Building Bill of Law on Financial Support for people who are affected by Covid-19²⁷ epidemic, including enterprises, employees, poor households, beneficiaries of social policies, people of ethnic minorities, people from economically disadvantaged areas so that they can maintain daily lives and afford to maintain their children's education;
- Prolonging policies of exemption, reduction, and delay for annual taxes until Covid-19 epidemic ends, and exempting any taxes arise in 2021 for schools and education institutions either state-owned or private, so that these institutions can maintain their operations, avoid the risk of bankruptcy affecting learning progress of children, pupils, and students;
- They are extending tax and tax for land due dates. This extension includes adding some groups of objects qualified for an extension of tax and tax for land if relating to sectors of education and training, health and social services.
- Supporting, exempting social, medical, unemployment insurances for all teachers, lecturers, employees, managerial employees at education institutions in and out of the public sector already paying in 2020 and 2021 to help ease financial difficulties for education institutions as well as teachers and education managing employees;

²⁷ On 09/04/2020, the Government of Vietnam issued Resolution No.42/NQ-CP about measures to support citizens affected by Covid-19. The objects of support include employees; employers with financial difficulties; household businesses; people who contributed to the country's revolution under monthly social compensation; people under monthly social support; poor households; near- poor households according to national standards.

- Establishing credit funds, providing loans with favourable rate of 0 percent for those which are education institutions out of the public sector, to maintain their business, pay for operations and pay salary for employees;
- Supporting finance for sanitary activities relating to prevention, sanitization of education institutions to reduce cost arising from preventing and fighting against Covid-19 epidemic;
- Providing additional funds to support Departments of Education and Training in order to design shared digital, online learning materials;
- Promptly investing, building internet infrastructure for remote areas, mountainous areas, island areas, economically-socially disadvantaged areas so pupils and students can continue to study, in case of the fourth outbreak in Viet Nam;
- Directing Information and Communication sector to broadcast free of charge lessons verified by the Ministry of Education and Training on national and local television; exempt data roaming fee for pupils, students and teachers learning and teaching remote training program of Education and Training sector;
- They are exempting fee for training and education managing for 43.000 schools nationwide, as well as the fee for host renting, broadband used for remote training in universities and education institutions so the Education sector can continue teaching remotely, via Internet, television during the time of preventing and fighting against Covid-19 pandemic, with the slogan "a pause from school, not a pause on the study."

The author believes that synchronous and effective implementation of the above solutions will contribute to limiting and eliminating gender discrimination generally and gender discrimination in the education sector, particularly in Vietnam. Thereby, it shall enhance Vietnam's image and reputation in the international arena, especially in the field of compliance and enforcement of international treaties on human rights to which Vietnam is a member party in accordance with one of the

fundamental principles of international law named Pacta Sunt Servanda that is recognized in Vietnam's Constitution 2013 through the provision "The Socialist Republic of Vietnam shall abide by the United Nations Charter and treaties to which the Socialist Republic of Vietnam is a contracting party."

References

Dinh, D. (2020, October 5). *Trường Đại học Kiểm sát Hà Nội công bố điểm chuẩn: Cao nhất 29.67 điểm* [Vietnam Procuracy University, Hanoi announced the successful score: The highest score is 29.67]. Kiem sat Online. <https://kiemsat.vn/truong-dai-hoc-kiem-sat-ha-noi-cong-bo-diem-chuan-cao-nhat-29-67-diem-58192.html> (in Vietnamese)

General Statistics Office of Vietnam. (2021, January 14). *Vietnam economy in 2020 the growth of a year with full of bravery*. <https://www.gso.gov.vn/en/data-and-statistics/2021/01/viet-nam-economy-in-2020-the-growth-of-a-year-with-full-of-bravery/>

Hong, N. (2019, January 2). *Đầu tư giáo dục hiệu quả ở một số quốc gia châu Á* [Effective education investment in some Asian countries]. Mat tran. <http://tapchimattran.vn/the-gioi/dau-tu-giao-duc%20-hieu-qua-o-mot-so-quoc%20-gia-%20chau-a-19685.html> (in Vietnamese).

International Covenant on Economic, Social and Cultural Rights, 1966, art. 13, para. 2.
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

International Covenant on Economic, Social and Cultural Rights, 1966, art. 13, para. 1.
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

International Covenant on Economic, Social and Cultural Rights, 1966, The Preamble.
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

Khanh, N. (2020, October 5). *Điểm chuẩn các trường Học viện An ninh, Học viện Cảnh sát nhân dân năm 2020* [Benchmark of People's Security Academy, People's Security Academy in 2020]. VTV Electronic Newspaper. <https://vtv.vn/giao-duc/diem-chuan-cac-truong-hoc-vien-an-ninh-hoc-vien-canh-sat-nhan-dan-nam-2020-20201005152251565.htm> (in Vietnamese).

Lindahl, R. (2006). The right to education in a globalized world. *Journal of Studies in International Education*, 10(1), 5-26. <https://doi.org/10.1177/1028315305283308>

Ministry of Defense. (2020, October 4). *Quy định Điểm chuẩn tuyển sinh đào tạo đại học, cao đẳng quân sự vào các học viện, trường trong Quân đội năm 2020* [Regulation on enrolment benchmarks for military university and college training in military institutes and schools in 2020]. http://www.mod.gov.vn/wps/wcm/connect/cc037c55-ae63-43b3-95e7-489db8387165/QD36TSQS.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=cc037c55-ae63-43b3-95e7-489db8387165 (in Vietnamese).

Newman, T. (2021, May 11). *Sex and gender: What is the difference?*. MedicalNewsToday. <https://www.medicalnewstoday.com/articles/232363>

People's Police Academy. (2020, October 5). *Thông báo điểm trúng tuyển đại học hệ chính quy năm 2020* [Notice of the admission scores of the bachelor's degree in full-time form of training in 2020]. <http://hvcsnd.edu.vn/thong-bao/thong-bao-chung/thong-bao-diem-trung-tuyen-dai-hoc-he-chinh-quy-nam-2020-6510>. (in Vietnamese).

The Ministry of Foreign Affairs of Vietnam. (2018). *Báo cáo Quốc gia về thực hiện Quyền con người ở Việt Nam theo cơ chế rà soát định kỳ phổ quát chu kỳ III* [National report on the implementation of human rights in Vietnam under the Third Universal Periodic Inspection (UPR) mechanism]. https://issuu.com/mofavietnam/docs/vie_b_o_c_o_upr_chu_k_iii_c_a_vi_ (in Vietnamese).

The National Assembly of The Socialist Republic Of Vietnam. (2006). *The law on gender equality*.http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=76089&p_count=96243&p_classification=05&p_classcount=3262

The National Assembly of The Socialist Republic of Vietnam. (2019). *Luật Giáo dục (No. 43/2019/QH14), Art. 85* [Law on Education (No. 43/2019/QH14), Art. 85].
<https://thuvienphapluat.vn/van-ban/Giao-duc/Luat-giao-duc-2019-367665.aspx> .

Tổng cục Thống kê [General Statistics Office of Vietnam]. (2019, December 19). *Thông cáo báo chí kết quả Tổng điều tra dân số và nhà ở năm 2019* [Press release on the Result of General Investigation on Population and Housing 2019].
<http://tongdieutradanso.vn/thong-cao-bao-chi-ketqua-tong-dieu-tra-dan-so-va-nha-o-nam-2019.html> (in Vietnamese).

U.N. Charter art. 3, para. 1. <https://www.un.org/en/about-us/un-charter>

United Nations Children's Fund. (2020). *UNICEF Education COVID-19 response: Issue brief: COVID-19 and girls' education in East Asia and Pacific*.
[https://www.unicef.org/eap/media/7146/file/Issue_Brief%3A_Issue_Brief%3A_COVID\)-19](https://www.unicef.org/eap/media/7146/file/Issue_Brief%3A_Issue_Brief%3A_COVID)-19)

United Nations Conference on Trade and Development. (2020). *The impact of the COVID -19 pandemic on trade and development: Transitioning to a new normal*.
https://unctad.org/system/files/official-document/osg2020d1_en.pdf

United Nations Development Fund for Women. (2009). *CEDAW and the Law: A gendered and rights-based review of Vietnamese legal documents through the lens of CEDAW*.
<https://ngocentre.org.vn/cedaw-and-law-gendered-and-rights-based-review-vietnamese-legal-documents-through-lens-cedaw>

United Nations Economic and Social Council. (1997, July 18). *UN Economic and Social Council Resolution 1997/2: Agreed Conclusions*. <https://www.refworld.org/docid/4652c9fc2.html>

United Nations Educational, Scientific and Cultural Organization. (2012). *World atlas of gender equality in education*. <https://www.macfound.org/media/files/unesco-world-atlas-gender-education.pdf>

United Nations Educational, Scientific and Cultural Organization. (2017). *Girls' and women's education in science, technology, engineering and mathematics (STEM)*.
<https://en.unesco.org/stemed>

United Nations Population Fund & Ministry of Labour, Invalids and Social Affairs. (2020). *Review of 10 years of implementing the Law on gender equality*.
https://vietnam.unfpa.org/sites/default/files/pub-pdf/ge_eng.pdf

United Nations. (2017). *Vietnam gender briefing kit 2016*. <https://asiapacific.unwomen.org-/media/field%20office%20eseasia/docs/publications/2017/04/gender%20briefing%20kit-en-s.pdf?la=en&vs=4211>

Universal Declaration of Human Rights. (1948), art. 6. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Vietnam Court Academy. (2020, October 4). Thông báo Điểm trúng tuyển theo hình thức xét điểm thi tốt nghiệp THPT năm 2020 và việc xác nhận nhập học vào Học viện Tòa án [Notice of the admission scores basing on the results of the National High school Graduation Exam in 2020 and the confirmation of admission to the Vietnam Court Academy]. <http://hvta.toaan.gov.vn/portal/pls/portal/docs/10735428.PDF> (in Vietnamese).

Vietnam Ministry of Education and Training. (2010). *Thông tư Ban hành Điều lệ trường tiểu học* [The Circular No.41/2010/TT-BGDĐT dated December 30, 2010 on the Charter of Primary School]. <http://vbpl.vn/bogiaoducdaotao/Pages/vbpqluocdo.aspx?ItemID=41954> (in Vietnamese).

Vietnam Ministry of Education and Training. (2011). *Thông tư Ban hành Điều lệ trường trung học cơ sở, trường trung học phổ thông và trường phổ thông có nhiều cấp học* [The Circular No.12/2011/TT-BGDDT dated March 28, 2011, promulgating middle school, high school, combined secondary school's charter].

http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class_id=1&page=1&mode=detail&document_id=99977 (in Vietnamese).

Vietnam Ministry of Education and Training. (2012). *Thông tư sửa đổi, bổ sung Điều 40; Bổ sung Điều 40a của Thông tư số 41/2010/TT-BGDDT ngày 30 tháng 12 năm 2010 của Bộ trưởng Bộ Giáo dục và đào tạo ban hành Điều lệ trường tiểu học* [The Circular No.50/2012/TT-BGDDT dated December 18, 2012 on amendment and supplementation of Article 40 as well as supplementation of Article 40a according to the Circular No.41/2010/TT-BGDDT]. http://vanban.chinhphu.vn/portal/page/portal/chinhphu/hethongvanban?class_id=1&mode=detail&document_id=165790 (in Vietnamese).

Vietnam Ministry of Health. (2021). *Bản tin Covid-19* [Covid-19 News].
<https://ncov.moh.gov.vn/en/web/guest/trang-chu> (in Vietnamese).

Vietnam Ministry of Public Security. (2016). *Thông tư Quy định về tuyển sinh vào các trường Công an nhân dân* [The Circular No.15/2016/TT-BCA on Regulations on Admission to People's Public security schools],
<http://bocongan.gov.vn/vanban/Pages/qppl.aspx?ItemID=2239>

Wilson, D. (2003). *Human rights: Promoting gender equality in and through education: Background paper prepared for the education for all global monitoring report 2003/4: Gender and education for all: The leap to equality*. <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.614.5078&rep=rep1&type=pdf>

World Economic Forum. (2019). *Global gender gap report 2020: Insight report*.
https://www3.weforum.org/docs/WEF_GGGR_2020.pdf

Huu Phuoc Ngo/*Gender Equality in Education – Comparative Perspective between International Law and the Legal System, its Practice in Vietnam*

World Education Forum. (2020). *The Dakar framework for action: Education for all: Meeting our collective commitments.* https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Dakar_Framework_for_Action_2000_en.pdf?fbclid=IwAR2l7-_iTQNrZzW6YN2B33nizoe2uj4OsCeOGxgyLR41rmJaxNu846fsKFI

World Health Organization. (2021). WHO Coronavirus (COVID-19) Dashboard.

<https://covid19.who.int/>