

HO CHI MINH NATIONAL ACADEMY OF POLITICS

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**IMPROVING THE LAW ON THE RIGHTS
OF THE ELDERLY IN VIETNAM**

**SUMMARY OF THE DOCTORAL THESIS
MAJOR: THEORY AND HISTORY OF STATE LAW
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INTRODUCTION

1. The necessity of the thesis

According to the law of nature, when people reach a certain age, they will age, their health and ability to work will decline, their income will be limited, and the cost of medical examination and treatment will increase. Without savings or support from the State, the community and relatives, some elderly people may face many difficulties in life. In addition, many elderly people may be isolated, and “socially excluded” - that is, they lose the ability to access jobs, income, or opportunities to participate equally in political, social and community activities.

Currently, in Vietnam and around the world, the process of population ageing is taking place. According to Cowgill and Holmes, the milestone for assessing the status of “population ageing” in a country is when the number of people aged 65 and over accounts for 7% to 9.9% of the total population, in which the proportion of 10%-19.9% is called the “aged” population, 20%-29.9% is called the “super aged” population and 30% or more is called the “super aged” population. Based on those standards, Vietnam will officially enter the process of population ageing from 2026 and the ageing population period is expected to last for 28 years (2026-2054), corresponding to the proportion of the population aged 65 and over accounting for 10.2% to 19.9%; followed by a period of super aged population structure (2055-2069) corresponding to the proportion of the population aged 65 and over accounting for 20% to less than 29.9%. It is forecasted that the number of elderly people in Vietnam will reach 17.28 million people (accounting for 16.5% of the total population) in 2029; 22.29 million people (accounting for 20.21% of the total population) in 2038; 28.61 million people (accounting for 24.88% of the total population) in 2049 and 31.69 million people, accounting for 27.11% of the total population in 2069”. This has posed, is posing and will pose many challenges to the state's social security policy, requiring research to perfect policies and laws on the elderly, including policies and regulations on the rights of the elderly.

At the international level, although the rights of older persons have not been collected in a separate convention, they have been directly or indirectly recognized and protected by many international human rights documents, specifically: The 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, the 1966 International Covenant on Civil and Political Rights, the 1965 Convention on the Elimination of All Forms of Racial Discrimination, the 1991 Vienna International Plan of Action on Older Persons, the 1992 Declaration on Older Persons, the 2002 Madrid Political Declaration and Action Program on Older Persons, etc. In Vietnam, the political report at the 13th National Party Congress stated: “Promoting the wisdom, life experience, work and study of older persons in society, community and family. Continue to build a model family of “exemplary grandparents and parents, filial children and grandchildren, harmonious husband and wife, and united

and loving siblings”. Respect, protect and care for the elderly. Sponsor and help the elderly who are in difficulty, lonely and have no place to rely on. Based on that, the rights of the elderly have also been recognized in the 2013 Constitution, the 2009 Law on the Elderly, the 2019 Labor Code, the 2008 Law on Health Insurance (amended and supplemented in 2014), the 2014 Law on Social Insurance,... Nevertheless, in reality, the current legal system of Vietnam has not yet resolved newly arising issues related to the rights of the elderly, especially in the context of Vietnam moving towards a period of rapid population ageing. Due to the shortcomings and limitations of the legal system, many challenges are being posed in ensuring several rights of the elderly, such as the right to care, the right to health care, the right to re-employment, the right to live independently and integrate into the community, the property right, the right to personal security, the right to work, the right to an adequate standard of living, the right to social security, the right to health, the right to participate in cultural and social life,... which, in general, are concentrated in 3 groups of rights: The group of rights related to social security; the group of rights related to income security and anti-discrimination; the group of rights related to the anti-abuse of the elderly,... In the coming years, when the population ageing process increases rapidly, the challenges in ensuring the rights of the elderly in Vietnam will become increasingly greater if the legal system on this issue is slow to complete.

Recently, there have been some studies on the elderly in general, on the rights of the elderly in particular, conducted in Vietnam, but there has been no comprehensive, in-depth study on perfecting the Vietnamese legal system on the rights of the elderly. In that context, the researcher decided to choose the issue ***“Improving the law on the rights of the elderly in Vietnam”*** as the topic for the doctoral thesis in the field of theory and history of state and law, with the hope of contributing to solving the challenges mentioned above, thereby ensuring increasingly better rights the elderly in Vietnam, follow international standards and practices.

2. Purpose and research task of the thesis

2.1. Research purposes

The purpose of the thesis is to analyze and clarify the theoretical basis and evaluate the current legal status of the rights of the elderly in Vietnam, thereby proposing and demonstrating viewpoints and solutions to improve the law on the rights of the elderly in Vietnam in the coming time.

2.2. Research task

To achieve the above research objectives, the thesis identifies the following main research tasks:

Firstly, overview the research situation related to the topic, point out the thesis contents that can be inherited and identify issues that need to be further researched in the thesis.

Secondly, analyze and clarify theoretical issues related to the topic, including the concept of the elderly, the rights of the elderly, the content of the rights of the elderly,

the content of the law on the rights of the elderly, the requirements, measures and criteria for determining the level of perfection of the law on the rights of the elderly in Vietnam.

Thirdly, study the international legal framework and the laws of some countries in the world on the rights of the elderly, thereby drawing out the requirements that Vietnam needs to comply with and the values that can be referred to for Vietnam in perfecting the law on this issue.

Fourthly, summarize the process of formation and development of the law on the rights of the elderly in Vietnam from 1945 to the present, analyze and evaluate the current status of the law on the rights of the elderly in Vietnam to point out the advantages, limitations that need to be overcome and the causes of those advantages and limitations; analyze the requirements for ensuring the rights of the elderly, especially from the ageing population in Vietnam.

Fifthly, based on the theoretical issues and the current situation that have been clarified, build a system of scientific viewpoints. And solutions to perfect the law on the rights of the elderly in Vietnam in the coming time.

3. Research subject and research scope of the thesis

3.1. Research subject

The research object of the thesis is the theoretical, legal and practical issues of perfecting the law on the rights of the elderly in the current Vietnam.

3.2. Research scope

Regarding space: The thesis focuses on studying the law on the rights of the elderly in Vietnam. International law and the laws of some countries on the rights of the elderly are also mentioned and analyzed in the thesis, but only at a general level, to compare and contrast with Vietnamese law.

Regarding the content: The thesis focuses on studying the current legal framework of Vietnam on the rights of the elderly, with a focus on the 2009 Law on the Elderly and several codes and laws related to the rights of this group of subjects such as the Constitution, Social Insurance Law, Health Insurance Law, Employment Law, Marriage and Family Law, Civil Code, Civil Procedure Code, Labor Code, Law on Legal Aid, etc. Although the legal framework on the rights of the elderly in Vietnam from before 2009 to 1945 is also mentioned and analyzed, it is only at a general level, to refer to the current legal framework.

In addition, the thesis focuses on analyzing and proposing solutions to improve the law on 3 main groups of rights of the elderly, including the group of rights related to social security; the group of rights related to income security and anti-discrimination; the group of rights related to anti-abuse and violence against the elderly. Other rights of the elderly are also mentioned but only at a general level, to show an overview of the Vietnamese legal framework on the rights of the elderly.

Regarding time: The thesis studies the legal framework on the rights of the elderly throughout the period from the country's independence (1945) to the present, however, the focus is on the period from 2009 (the time of the Law on the Elderly) to the present.

4. Theoretical basis and research methodology

4.1. Theoretical basis

The thesis is based on the theoretical foundation of Marxism-Leninism, Ho Chi Minh's thought and the Communist Party's viewpoint on the Vietnamese State on state, law, human rights, and civil rights. The thesis uses the dialectical materialist methodology of Marxism-Leninism as the basis for analysis. In addition, the author also applies several theories related to the topic to orient the approach to clarify the research issues, specifically including John Rawls's "Justice as Fairness" theory, the "human rights-based approach" (HRBA) theory initiated by the United Nations.

4.2. Research methodology

The thesis combines the following research methods to solve the proposed research tasks: Statistical method, analytic method, comparative law method, expert consultation method, and synthesis method.

5. New points of the thesis

This is the first research work at the level of a doctoral thesis in law specializing in the theory and history of state and law to comprehensively and systematically survey the rights of the elderly in Vietnamese law. The new contributions of the thesis are shown in the following contents:

6. Theoretical and practical significance

6.1. Theoretical significance

The thesis contributes to strengthening the scientific theoretical basis for the improvement of the law on the rights of the elderly in Vietnam today. The arguments and proposals in the thesis contribute to clarifying many theoretical and practical issues in the law regarding the rights of the elderly that have not been resolved before or have not been resolved fully and thoroughly.

6.2. Practical significance

The thesis is a valuable reference document for state agencies, social organizations, and international organizations in perfecting and, to a certain extent, organizing the implementation of laws on the rights of the elderly in Vietnam in the coming time. In addition, the thesis is also a useful reference document for research and teaching on human rights in general and the rights of the elderly in particular at law training institutions and training in some other social sciences in Vietnam.

7. Structure of the thesis

In addition to the introduction, conclusion, and list of references, the thesis consists of 4 chapters and 13 sections.

Chapter 1

OVERVIEW OF RESEARCH SITUATION RELATED TO THE TOPIC

1.1. THE RESEARCH SITUATION RELATED TO THE THESIS TOPIC

1.1.1. Domestic research projects

1.1.1.1. *The group of research works on the elderly and population ageing*

Typical research works on this topic include: Be Quynh Nga's research paper, *“Living strategies of the elderly in the face of current changes in rural families”*, 2015; Summary Report of the United Nations Population Fund and the International Organization for Support of the Elderly on *“Aging in the 21st century - achievements and challenges”*, 2011; Report of the United Nations Population Fund (UNFPA) on *“Population ageing and the elderly in Vietnam - Current situation, forecasts and some policy recommendations”*, 2011; Topic of Le Thi Hong Phuc, *“Building a free consultation center for the elderly”* (case study at Dieu Phap pagoda, ward 13, Binh Thanh district, Ho Chi Minh city), 2013; Bui Nghia's PhD thesis, *“Current policies for the elderly in Vietnam”*, 2018; General Statistics Office's report *“Vietnam's Population Forecast 2014-2019”*, 2019; United Nations Population Fund's report *“Towards a comprehensive national policy to adapt to population ageing in Vietnam”*, 2019; Nguyen Bich Thuan's PhD thesis, *“Financial security for the pension system of some European countries and lessons for Vietnam”*, 2021...

1.1.1.2. *The group of research works on the rights of the elderly*

Typical research works on this topic include: Report of the International Labor Organization, United Nations Population Fund, *“Income security for the elderly in Vietnam: Social pensions - Summary policy”*, 2014; Master's thesis of Nguyen Thi Bich Ngoc, *“Protecting and promoting the rights of the elderly in the world and Vietnam”*, 2015; Monograph by Nguyen Thi Que Anh, Vu Cong Giao, Ngo Minh Huong, La Khanh Tung, *“Rights of the elderly”*, 2018; Research paper by Vu Cong Giao *“Some theoretical, legal and practical issues on the rights of the elderly”*, 2018; Master's thesis of Nguyen Thi Bang, *“Ensuring social security rights of the elderly in Hanoi”*, 2019...

1.1.1.3. *The group of legal research works on the rights of the elderly*

Typical research works on this topic include: Nguyen Trong Ha's doctoral thesis, *“Social Protection: Theories and Evidence in Vietnam”*, 2009; Do Thi Dung's research paper, *“Inadequacies in regulations on social protection for the elderly in Vietnam and recommendations for amendments”*, 2009; Do Thi Dung's research topic, *“Social security law for the elderly in Vietnam - Current situation and directions for improvement”*, 2011; Phung Thi Van Anh's master's thesis, *“Law on the elderly and the issue of protecting the elderly in Vietnam today”*, 2014; Dang Nhu Loi's research paper, *“Reforming the Social Insurance Law to Expand Pension Insurance for the Elderly”*, 2014; Master's thesis of Than Quang Thai, *“Labor of the elderly according to the law in our country today”*, 2016; Research topic of Ngo Thi Huong, *“Law on the elderly and protection of the elderly in Vietnamese families today”*, 2016; Master's thesis of Nguyen Thanh Ha, *“Law on the rights of the elderly in Vietnam today”*, 2017; Master's thesis of

Tran Phuong Nga, “*Law on social security for the elderly and practical implementation in Hanoi city*”, 2019; Doctoral thesis of Pham Thi Thi, “*Improving the law on retirement regime in Vietnam*”, 2021; Doctoral thesis of Tran Duc Thang, “*Elderly workers according to the law in Vietnam today*”, 2023;

1.1.2. Foreign research works

1.1.2.1. The group of research works on the elderly, population ageing and the rights of the elderly

Typical research works on this topic include: Todd D. Nelson's book “*Ageism: stereotyping and prejudice against older persons*” (Ageism: stereotypes and prejudices against older persons), 2002; Diego Rodríguez-Pinzón and Claudia Martin's book “*The International Human Rights Status of Elderly Persons*” (The International Status of the Rights of Older Persons), 2003; World Health Organization (WHO) publication: “*Older Persons in Emergencies: An Active Ageing Perspective (Nonserial Publication)*” (Older persons in emergencies: A positive ageing perspective), 2009; A. Helal W.C. Mann, “*Promoting Independence for Older Persons with Disabilities*,” 2009; Marthe Fredvang and Simon Biggs, “*The rights of older persons: Protection and gaps under human rights law*” 2012; Britta Baer, “*The Right to Health of Older People*,” 2016; Bridget Lewis, “Kelly Purser, Kirsty Mackie, “*Human Right for Older Person*,” 2020

1.1.2.2. The group of legal research works on the elderly and the rights of the elderly

The book by James W, Richard Graves, Carol Mccrory, and Wayne Moore titled “*Journal of International Aging: Law & Policy, 1995*” (Documents on population ageing, law and policy) 1995; The article by HSU and Locknie titled “*The Law and the Elderly in Singapore: “The Law on Income and Maintenance for the Elderly*”, 2003; The book by the Asian Development Bank (ADB), titled: “*Social Protection for Older Person - Social Pensions in Asia*” (Social Security for the Elderly - Social Pensions in Asia), published in 2012; Article by Sara Tonolo titled “*International Human Rights Law and the Protection of the Elderly in Europe*” (International Human Rights Law and the Protection of the Elderly in Europe), 2018;...

1.2. THE GENERAL ASSESSMENT AND ISSUES TO BE FURTHER STUDIED IN THE THESIS

1.2.1. General assessment of the research situation related to the thesis topic

From the overview of the research situation related to the topic, it can be seen that the protection of the rights of the elderly as well as the law on this issue. These are topics that have attracted the attention of many domestic and foreign researchers. Domestic and foreign research works have studied the elderly in quite detail and to a certain extent the rights of the elderly, however, research on the law and the improvement of the law on the rights of the elderly is still quite limited, only focusing on a few areas such as social security, health and employment, income insurance, and social protection for the elderly, while the law on the rights of the elderly in Vietnam has also been studied at the master's level, however, these studies are still quite sketchy. Research works on the theory and

practice of law on the rights of the elderly in Vietnam still lack generality and comprehensiveness. These are the gaps for this thesis and other research works law on the rights of the elderly can be implemented in Vietnam shortly.

1.2.2. Specific issues continue to be studied in the thesis

1.2.2.1. Theoretical

Based on inheriting and correcting existing viewpoints and supplementing some missing aspects, the thesis will build a complete theoretical framework for perfecting the law on the rights of the elderly.

1.2.2.2. In terms of practice

Based on inheriting domestic research, the thesis will update, supplement, and perfect the structure and content of the analysis to provide a comprehensive a clear picture of the current status of the Vietnamese legal system on the rights of the elderly.

1.2.2.3. Regarding directions and solutions

Domestic studies have suggested several legal provisions that need to be amended and supplemented to better ensure the rights of the elderly in Vietnam. However, in general, the suggested ideas still lack comprehensiveness, and systematization, and do not have enough supporting arguments and evidence, so their reliability and persuasiveness are limited. Therefore, based on inheriting existing studies and the research results of the thesis in Chapters 1, 2 and 3, the thesis will propose a system of viewpoints and comprehensive solutions, based on theoretical foundations, and authentic practices, on perfecting the legal system on the rights of the elderly, especially based on the analysis and forecast of the population ageing process in Vietnam in the coming years.

1.3. SCIENTIFIC HYPOTHESIS AND RESEARCH QUESTIONS

1.3.1. Scientific hypothesis

From the overall analysis of the research situation related to the topic, the author determines the scientific hypothesis of the thesis as:

Vietnamese law on the rights of the elderly has developed continuously since 1945, especially since innovation (1986). However, the Vietnamese legal framework in this area still has many limitations, failing to meet the requirements for the rights of the elderly in the current period of population ageing. To ensure the rights of the elderly following the standards of international human rights law and meet the urgent requirements in the context of increasingly rapid population ageing, Vietnam needs to continue to improve the law on this issue by focusing on several important rights of the elderly such as the right to reemployment; the right to insurance and social protection; the right to care and support; the right to medical care; the right to live independently and integrate into the community,... In addition, it is also necessary to strengthen the legal framework on the obligations and responsibilities to respect, protect, and ensure the rights of the elderly by several entities such as the state, community, children and relatives in the family.

1.3.2. Research questions

Through an overview of the research situation related to the topic and scientific hypothesis, PhD candidate identifies the research questions that need to be answered in the thesis:

- How are the rights of the elderly guaranteed in Vietnam's current law?
- How does the context of population ageing affect the improvement of the law on the rights of the elderly in Vietnam?
- What factors affect the improvement of the law on the rights of the elderly in Vietnam?
- How to improve Vietnam's current law on ensuring the rights of the elderly?

Conclusion of chapter 1

The rights of the elderly and the law on the rights of the elderly are a relatively new issue in our country today. Vietnamese law on ensuring the rights of the elderly has not been fully studied. Domestic research works related to the topic mainly study the elderly, population ageing and some general policies for the elderly, there are only a few scientific works on ensuring the rights of the elderly and the law on ensuring the rights of the elderly. Based on the evaluation of the results achieved from previous research works, this chapter of the thesis has pointed out new contents, and issues that have not been mentioned or have been mentioned but are still lacking, and unclear, thereby determining the direction and goals for continuing to research the topic.

Chapter 2

THEORETICAL BASIS FOR PERFECTING THE LAW ON THE RIGHTS OF THE ELDERLY

2.1. THE CONCEPT AND CONTENT OF THE RIGHTS OF THE ELDERLY

2.1.1. The concept and characteristics of "elderly people"

* *The concept of elderly:* “Elderly people are a group of people who have reached a certain age according to national law, usually 60 years old or older or 65 years old or older. Elderly people are one of the vulnerable social groups, needing special attention, protection, and care from their families, the State and the whole society”.

* *Characteristics of the elderly:* Firstly, the elderly are associated with declining health; Secondly, the elderly are limited or lose their ability to work, while many are not able to ensure their finances, becoming poor and dependent on relatives and/or the community and society; Thirdly, many elderly people in the world often face abuse, mistreatment and violence; Fourthly, the number of elderly women tends to be higher than that of elderly men, mainly because women often have a longer life expectancy than men.

2.1.2. The concept of “older person rights”

Older person rights are the needs and inherent interests of vulnerable social groups due to old age; including universal rights that all members of the human community enjoy and specific rights that states and society need to ensure specifically or

prioritize ensuring for older people so that they can live happily and have the opportunity to continue to contribute to their families and society.

2.1.3. The connotation of “the rights of the elderly”

2.1.3.1. The group of rights related to social security

The right to social security is a fundamental right of the elderly, applied based on standards, and legal regulations, to prevent, limit and overcome health and income risks for the elderly. The connotation of the right to social security of the elderly often includes: The right to pension insurance, the right to medical care, and the right to social assistance (including social relief, social assistance and incentives).

2.1.3.2. The group of rights related to income security and the right to equality and anti-discrimination in employment

Rights related to income security are a group of rights that ensure that the elderly live a stable and safe life through policies and laws that promote employment, protect existing assets and subsidies from children and grandchildren in the family, and the property ownership of the elderly. The content of the group of rights related to income security includes: The right to be cared for, and supported by relatives in the family; the right to work and the right to own the property of the elderly.

Elderly people have the right to income security and the right to equality in employment, which is understood as not being discriminated against in terms of employment opportunities, not being excluded or restricted, being harmed, or being hindered from recognizing, or enjoying. And exercising the right to work solely because of their specific factors such as age.

2.1.3.3. The group of rights to be protected from elder abuse

Elderly people have the right to be protected from abuse, neglect, and harm to their physical and mental health, in the form of physical violence, emotional and verbal abuse; neglect, abandonment, sexual abuse or financial exploitation by relatives or any other subject.

2.2. THE CONCEPT, CHARACTERISTICS, ROLE, CONTENT OF LAW ON THE RIGHTS OF THE ELDERLY

2.2.1. The concept of “law on the rights of the elderly”, “perfecting the law on the rights of the elderly”

2.2.1.1. The concept of “law on the rights of the elderly”

Law on the rights of the elderly is a system of rules of conduct issued by competent state agencies to recognize, protect and ensure universal and specific rights for the elderly group, which are guaranteed to be implemented by the state and have the effect of binding the obligation of compliance with all subjects in society.

2.2.1.2. The concept of “perfecting the law on the rights of the elderly”

Improving the law on the rights of the elderly is a regular activity aimed at detecting overlaps, contradictions, and shortcomings of the legal system to promptly eliminate and amend regulations and legal documents that are no longer appropriate, and at the same time supplement new regulations and legal documents to meet practical

requirements, taking into account the factor of “population ageing”, to promote and protect the rights of the elderly.

2.2.2. Characteristics of the law on the rights of the elderly

Firstly, the rights of the elderly are stipulated in many legal documents at different levels. *Secondly*, the law on the rights of the elderly focuses on regulating social relations related to the rights of the elderly. *Thirdly*, the law on the rights of the elderly focuses on promoting equality in the opportunities to enjoy the rights of this social group. *Fourthly*, the law on the rights of the elderly establishes several separate regulations, especially for the elderly. *Fifthly*, the law on the rights of the elderly recognizes and protects several specific rights.

2.2.3. The role of law on the rights of the elderly

Firstly, the law is a tool, a means to recognize and protect the rights of the elderly. *Secondly*, the law is the basis for binding the responsibilities of the family, the state and society in supporting, caring for and promoting the role of the elderly. *Thirdly*, the law is a tool for the state to inspect, monitor and supervise the respect and implementation and is the legal basis for handling violations of the rights of the elderly in practice. *Fourthly*, the law on the rights of the elderly reflects social values, humanity, and humanity of man to man, ensuring social stability.

2.2.4. The contents of the law on the rights of the elderly

2.2.4.1. The group of regulations on the rights of the elderly

At the national level, the laws of countries, including Vietnam, usually have general regulations on the rights of the elderly and stipulate several prohibited acts to protect the rights and interests of the elderly.

2.2.4.2. The group of regulations on subjects with obligations and responsibilities to respect, protect and ensure the rights of the elderly

According to international human rights law and the laws of many countries, including Vietnam, there are many subjects with obligations and responsibilities to respect, protect and ensure the rights of the elderly, including The State, family, individual and community. Among these subjects, the elderly's family has the main responsibility to care for and support their parents and grandparents; agencies, organizations and communities within the scope of their duties and authorities are responsible for caring for and protecting the legitimate rights and interests of the elderly.

2.2.4.3. The group of regulations on ways to protect the rights of the elderly

According to international human rights law and the laws of many countries, including Vietnam, the elderly can protect their rights and interests by understanding the law, or through mechanisms that can be criminal, administrative, civil, or informal judicial mechanisms.

2.3. CRITERIA FOR ASSESSING THE LEVEL OF PERFECTION OF NATIONAL LAWS ON THE RIGHTS OF THE ELDERLY

2.3.1. Comprehensiveness, unity, and synchronization.

2.3.2. Scientific, specific, clear, appropriate, and feasible.

2.3.3. Compatibility with international law

2.4. FACTORS AFFECTING THE LEVEL OF PERFECTION OF THE LAW ON THE RIGHTS OF THE ELDERLY

2.4.1. Level of awareness of society in general and lawmakers in particular

2.4.2. International trends and access to international legal experience on the rights of the elderly in some countries in the world

2.4.3. Factors of financial resources, level of economic and social development in Vietnam

2.5. INTERNATIONAL LEGAL EXPERIENCE AND LAWS OF SOME COUNTRIES ON THE RIGHTS OF THE ELDERLY - REFERENCE VALUE FOR VIETNAM

2.5.1. International law on the rights of older persons

(i) *International conventions and recommendations relevant to the rights of older persons:* Universal Declaration of Human Rights (UDHR, 1948), International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), International Covenant on Civil and Political Rights (ICCPR, 1966), General Comment No. 6 on the Economic, Social and Cultural Rights of Older Persons adopted by the Committee on Economic, Social and Cultural Rights (CESCR) in 1995; General Comment No. 19 of the Committee on Economic, Social, Cultural Rights, which contains content on Article 9 of the ICESCR, directly refers to the right to social security of older persons; General Recommendation No. 27 on Older Women and Their Human Rights, adopted by the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2010; Resolution 46/91, entitled “*United Nations Principles for Older Persons*”, adopted by the General Assembly of the United Nations on 16 December 1991;

(ii) *Other international instruments relevant to the rights of older persons:* Resolution 46/91, entitled “*United Nations Principles for Older Persons*”, adopted by the United Nations General Assembly on 16 December 1991; Vienna International Plan of Action on Ageing (1983) And the Second World Conference on Ageing, which adopted the Madrid International Plan of Action on Ageing (2002)

(iii) *Discussion on the development of a separate convention on the rights of older persons.* The development of the convention has received widespread support from many countries, non-governmental organizations and the United Nations High Commissioner for Human Rights. However, there are still some controversial issues, in particular the view that existing national, and regional legal provisions and international human rights standards are sufficient to protect the rights of older persons.

2.5.2. Laws of some countries on the rights of the elderly

In the world, Korea, Japan, Finland, Singapore, and China are the first countries to enter the period of population ageing. This situation forces these countries to make legal adjustments to ensure and promote the rights of the elderly as well as to have solutions for using the elderly labour force. Therefore, studying the legal systems of Korea, Japan, Finland, and Singapore is very useful in drawing experiences for Vietnam in the process of perfecting the law on the rights of the elderly.

China: China has enacted several laws to ensure the rights of the elderly against the impact of population ageing, such as the 1982 Constitution (amended and supplemented in 2018); Law of the People's Republic of China on the Protection of the Rights and Interests of the Elderly 1996 (amended and supplemented in 2015), Welfare Law for the Elderly 1991, Social Insurance Law of China 2010.

Korea: Korea has enacted several laws to ensure the rights of the elderly against the impact of population ageing, typically as follows: Constitution of Korea 1988, National Health Act 2021, Long-term Care Insurance Act for the Elderly 2020, Employment Promotion Act for the Elderly 2008 (amended and supplemented in 2020).

Japan: Japan's legal system also has many documents and regulations to protect the rights of the elderly against the impact of population ageing, typically: The Japanese Constitution, effective since 1947; The Law on Prevention of Elder Abuse in 2005, effective in 2006; Welfare Act for the Elderly 1963 (amended 5 times, most recently in 2013); Long-term Care Insurance Act 1997 (amended 7 times, most recently in 2013); Act Concerning the Guarantee of Medical Care for the Elderly 1982 (amended 2020); Act on the Stabilization of Employment for the Elderly 1971 (amended 2000, 2020).

2.5.3. Reference values in perfecting the law on the rights of the elderly in Vietnam

2.5.3.1. Requirements for perfecting Vietnamese law in the context of international law for the rights of the elderly

Vietnam should also study and apply those recommendations. The United Nations to perfect its legal system on the rights of the elderly. This is because ageing is an inevitable process, which has been and is taking place rapidly in our country, and at the same time, will increase Vietnam's reputation in the international arena - which is very necessary for the era of globalization and our country's international integration process.

2.5.3.2. Reference values for perfecting Vietnamese law in the context of the law of some countries on the rights of the elderly

Firstly, the thinking in building policies and laws related to the elderly; Secondly, long-term care insurance for the elderly depending on each stage of population ageing; Thirdly, on re-employment for the elderly; Fourthly, in the form of long-term care at home; Fifth, on preventing abuse and mistreatment of the elderly; Sixthly, in the business of nursing home services; Seventhly, in the care of parents; Eighthly, on the promulgation of a specialized law on protecting the rights of the elderly.

Conclusion of Chapter 2

In this chapter, the researcher has built a theoretical framework for perfecting the law on the rights of the elderly, which includes basic concepts, contents and criteria for assessing the level of perfection of the law on the rights of the elderly, along with identifying the international legal framework and the laws of some countries on the rights of the elderly and the requirements as well as the experiences that Vietnam can refer to in perfecting the law on the rights of the elderly.

Chapter 3
THE DEVELOPMENT PROCESS
AND CURRENT STATUS OF THE LAW ON THE RIGHTS OF THE
ELDERLY IN THE CURRENT VIETNAM

3.1. THE DEVELOPMENT PROCESS OF LAW ON THE RIGHTS OF THE ELDERLY IN VIETNAM FROM 1945 TO THE PRESENT

3.1.1. Law on the rights of the elderly from 1946 until 1986

3.1.1.1. Law on the rights of the elderly from 1946 until 1959

3.1.1.2. Law on the rights of the elderly from 1959 until 1986

3.1.2. Law on the rights of the Elderly from 1986 until the present

3.1.2.1. Law on the rights of the elderly from 1986 until 1992

3.1.2.2. Law on the rights of the elderly from 1992 until 2013

3.1.2.3. Law on the rights of the Elderly from 2013 until the present

In summary, in the period 1946 - 1986, the law on the rights of the elderly was oriented towards the content of “priority” nature for the elderly and was expressed in many legal documents in many fields (politics, marriage and family, social assistance, relief, preferential treatment for people with revolutionary contributions), however, in this period, the law began to recognize the three pillars that form the right to enjoy social security (retirement, social allowance, health care), the right to be protected from violations of the law by criminal law, the right to be nurtured, supported, and provided for by children and grandchildren in the family; the right to equality, not to be discriminated against. During the period from 1986 to the present, the law in this period has developed comprehensively. In terms of content, approaching international law on human rights in general and the rights of the elderly in particular. The highlight of this period is the Law on the Elderly 2009 - a specialized document on the elderly that came into effect and on that basis, a series of laws, statutes and other legal documents were born, creating a unified and synchronous system of legal norms on the rights of this social group, clearly forming a system of rights groups for the elderly and having developed comprehensively up to now with a rights-based approach to the elderly or in other words, the elderly today have become active subjects enjoying rights instead of the position of passive recipients of care according to the previous law-making perspective.

3.2. LEGAL STATUS ON BASIC RIGHTS OF THE ELDERLY IN THE CURRENT VIETNAM

3.2.1. The current legal framework on basic rights of the elderly in Vietnam

3.2.1.1. The current legal regulations on groups of rights related to social security issues

Firstly, regulations on the right to the retirement of the elderly

According to current law, the elderly are entitled to retirement when participating in one of three types of social insurance, which are compulsory social insurance, voluntary social insurance, and supplementary pension insurance. The conditions for enjoying retirement benefits are that the minimum period of participation in social insurance is 20 years and the retirement age is reached.

Secondly, regulations on the right to health care for the elderly

* The right to physical health care for the elderly. This right is of particular importance, helping the elderly easily access health care services, especially when they are sick, ill and fall into poverty. Article 12 of the Law on the Elderly 2009, Circular No. 35/2011/TT-BYT dated October 15, 2011, of the Ministry of Health on the implementation of health care for the elderly, the Law on Health Insurance 2008 (amended and supplemented in 2014) and Article 3 of Decree 146/2018/ND-CP (amended in Decree 131/2021/ND-CP and Decree 75/2023/ND-CP) stipulate health care at medical examination and treatment facilities and in the community, regulations on nursing care at home for the elderly, regulations on conditions for granting operating licenses to home health care service facilities, and subjects eligible to participate in and enjoy health insurance.

* *The right to mental health care for the elderly.* According to current law, the State creates maximum conditions for the elderly to participate in cultural, and physical education, sports, entertainment and tourism activities. The construction or renovation of apartment buildings and other public works must be suitable to the characteristics and needs of the elderly. When participating in public transport, the elderly are assisted, arranged with convenient seating, and receive discounts on tickets and service fees when using several other public services according to Government regulations.

Thirdly, regulations on the rights to social subsidies, relief and incentives for the elderly

According to current law, the elderly only need to meet the conditions prescribed by law to be entitled to social subsidies without having to pay any fees according to Article 17 of the Law on the Elderly 2009 and Article 5 of Decree 20/2021/ND-CP specifically stipulates the subjects entitled to social subsidies. Regarding the regime, depending on each case, the elderly will be paid a monthly subsidy when living with their family, to ensure a minimum standard of living (regular social assistance regime in the community), and an emergency social assistance regime. In addition, there are other assistance regimes that the elderly are entitled to under current law, namely: Care and nurturing in the community; care and nurturing of the elderly at social assistance facilities and social housing; Social incentives

3.2.1.2. The current legal provisions on the group of rights related to equality, anti-discrimination and income security of the elderly

Firstly, The current legal provisions on the rights to equality and anti-discrimination of the elderly. The content of this right is stipulated very specifically and in detail in Article 16 of the 2013 Constitution: “Everyone is equal before the law. No one is discriminated against in political, civil, economic, cultural, and social life”. The 2006 Law on Gender Equality also recognizes that men and women are not discriminated against in all fields of politics, economics, labor, education - training, family, health, culture, physical education, sports, science and technology. On that basis, the 2009 Law on the Elderly stipulates that discrimination against the elderly is one of

seven prohibited acts in all social relations in which the elderly participate as well as in the exercise of all rights of the elderly, especially the right to health care, the right to social allowances, the right to employment, and the right to criminal justice.

Secondly, regulations of current law on groups of rights related to income security of the elderly. Regarding property ownership, according to Clause 2, Article 9 of the Law on the Elderly, acts of infringing upon or preventing the elderly from exercising their property ownership rights and other legitimate rights are prohibited. Although the 2015 Civil Code does not have specific regulations, the regulations on guardianship, representation, invalid civil transactions, inheritance, etc. it has created a legal basis to protect the property ownership rights of the elderly: First, regulations on guardianship; Secondly, regulations on invalid civil transactions; Third, regulations on representation; Fourth, regulations on inheritance by will; Fifth, regulations on the right to support, support, and care from relatives in the family.

Thirdly, the provisions of current law on the group of working rights of the elderly. The law also stipulates that elderly workers, due to health limitations, have the right to negotiate with the employer on shortening daily working hours or applying for a part-time working regime. In particular, the law stipulates that employers are not allowed to employ elderly workers in heavy, toxic, dangerous or especially heavy, toxic, dangerous jobs that hurt their health, except in cases where safe working conditions are ensured and are responsible for taking care of the health of elderly workers at the workplace (Article 148, Article 149 of the 2019 Labor Code). In addition, a group of workers who have reached retirement age but are healthy, qualified, and have the need to contribute, the law has provided for this issue through Clause 4, Article 169 of the 2019 Labor Code and Decree No. 50/2022/ND-CP dated August 2, 2022 on Regulations on retirement at a higher age for civil servants in public service units; Decree No. 135/2020/ND-CP dated November 18, 2020 regulating retirement age.

3.2.1.3. The current legal provisions on the right to protection from elder abuse current

Laws have provisions to protect the elderly from abuse, typically as follows: Right to legal aid; Prohibition of elder abuse; Protection of the elderly in criminal law.

3.2.1.4. Provisions of current law on the responsibilities of families, the State and society in protecting and ensuring the rights of the elderly

Regarding the responsibility of families: Article 5 of the Law on the Elderly 2009 stipulates that the family of the elderly has the primary responsibility in taking care of the elderly

Regarding the responsibility of the State: The current law stipulates that agencies and organizations within the scope of their tasks and authorities are responsible for caring for and protecting the legitimate rights and interests of the elderly

Regarding the responsibility of society: The current law has provisions for the care of the elderly in the community and the organization and operation of the Association of the Elderly.

3.2.1.5. Provisions of current law on ways to protect the rights of the elderly

The current law stipulates various methods to protect the rights of the elderly. The first method is self-protection of rights. The second method is to protect rights through an intermediary entity, the Association of the Elderly, or through lawyers, legal aid workers...

3.2.2. Advantages of the law on the rights of the elderly in Vietnam and the reasons

3.2.2.1. Advantages of the law on the rights of the elderly in Vietnam

Firstly, the rights of the elderly are protected by a system of documents, and legal regulations covering many different areas related to the lives of the elderly; *Secondly*, the subjects entitled to the rights of the elderly are flexibly expanded by the law; *Thirdly*, the law on the rights of the elderly aims to protect the rights of the elderly comprehensively and universally; *Fourthly*, the law on the rights of the elderly aims to diversify the enjoyment regimes to meet the needs of the elderly in general and the elderly in the “dual” vulnerable group; the law on the rights of the elderly demonstrates a profound humanitarian and humane spirit; *Sixthly*, the law on the rights of the elderly has created a legal mechanism to protect the rights of the elderly.

3.2.2.2. Reasons for the advantages

Firstly, the party and the state of Vietnam are concerned about the issue of human rights, and the beneficiaries of human rights are the elderly. *Secondly*, it comes from the fine traditions of the Vietnamese people. The achievements of the law on the rights of the elderly originate from the fine traditions of the Vietnamese people “When drinking water, remember its source”, “Respect the elderly, cherish longevity”, “The healthy leaves cover the torn leaves”, “Love others as you love yourself” and absorb the progressive ideas of humanity such as “gender equality, anti-discrimination”, protect “dual” vulnerable groups, protection and guarantee of human rights in general. *Thirdly*, the protection and guarantee of human rights in general and the rights of the elderly in particular is one of the necessary conditions for countries, including Vietnam, to participate in the international integration process fully. *Fourthly*, the process of amending and supplementing the law on the rights of the elderly is implemented closely, in detail, promptly, and scientifically combined with the annual summary of the implementation of the law on the elderly.

3.2.3. Limitations of the law on the rights of the elderly in Vietnam and the causes

3.2.3.1. Limitations of the law on the rights of the elderly in Vietnam

**** Regarding retirement rights***

- Lack of a roadmap to increase the retirement age after 2035, especially associated with the population ageing period (2049), the very ageing population period (2069).

- Lack of current legal regulations on periodic pension adjustment according to market prices

- Some current legal regulations do not demonstrate fairness and equality in enjoyment opportunities between the two subjects participating in compulsory social insurance and voluntary social insurance

- Legal regulations on retirement in the form of participation in compulsory social insurance for cases of reduced working capacity limit many cases of not being able to enjoy retirement rights in practice

- Legal regulations on social insurance funds are unreasonable, leading to the risk of social insurance fund bankruptcy in the context of population ageing.

- Some legal regulations lack feasibility and flexible mechanisms to ensure retirement rights for the elderly

- * *Regarding the right to health care*

- Lack of legal regulations on storing patient health care data, managing patient records on information technology applications

- Some legal regulations lack specificity. Article 55 of the 2009 Law on Medical Examination and Treatment stipulates that diagnosis, prescription of treatment methods and prescription of drugs must be based on the results of clinical examination, paraclinical examination, combined with medical history factors... The 2023 Law on Medical Examination and Treatment, replacing the 2009 Law on Medical Examination and Treatment, has removed this provision but also does not stipulate whether elderly patients with chronic diseases, including those who cannot walk (paralyzed), must come for examination before being given medicine. Due to the lack of specific regulations, there are cases where elderly patients still have to rely on their children and grandchildren to carry stretchers and push wheelchairs to the hospital.

- Lack of legal regulations for elderly people who need long-term care such as stroke, dementia, meningitis, etc.

- Lack of legal regulations on elderly care facilities:

- * *On the right to social assistance, subsidies, and incentives*

- Regulations on the standard level of monthly subsidies for the elderly are still low and unreasonable.

- Current legal regulations on the right to equality and anti-discrimination are still flawed. The 2009 Law on the Elderly does not yet prohibit acts of discrimination based on age, while the 2019 Labor Code has added this content in Clause 8, Article 3 with the content: “Discrimination in labour is an act of discrimination, exclusion or priority based on race, skin colour national origin or social origin, ethnicity, gender, age... that has an impact on equality of employment or career opportunities”.

- * *On the employment rights of the elderly*

- The regulations on the age of continuing to work after retirement in the current Labor Code are not reasonable

- Lack of legal regulations related to the issue of population ageing

- Legal regulations on increasing the retirement age are not enough to encourage business owners to employ elderly workers

- Regulations on labour contracts, working hours, and rest time of elderly workers are still inadequate

- Regulations on protecting and taking care of the health of workers at the workplace are still "declarative" and unfeasible

- * *On the right to support and care*

- Lack of regulations to recognize the rights and obligations of daughters-in-law and sons-in-law towards their parents-in-law and parents-in-law when they do not live together

- Lack of effective regulations to ensure that the elderly are supported by their children.

- Lack of legal regulations in cases where the elderly need to be paid when taking care of their grandchildren

- Sanctions for administrative violations applied when there are acts of violating the rights of the elderly are not strict enough, not strong enough to deter, prevent and combat acts of violating the rights of the elderly in marriage and family relations.

- * *On the right to property*

- Regulations on guardianship of the elderly are not reasonable

- Lack of regulations allowing the elderly to request their children and grandchildren to return property that has been transferred ownership, property is given because the children and grandchildren do not fulfil their support obligations.

- * *On the right to be protected from abuse, violence, and exploitation*

- Lack of regulations on abuse, violence, and exploitation and classification of abuse, violence, and exploitation of the elderly

- Lack of criminal law provisions to punish the act of "taking advantage of the care and support of the elderly for personal gain" (Clause 4, Article 9, Law on the Elderly 2009).

- * *On the right to legal aid*

- Lack of provisions on the right to legal aid in the 2009 Law on the Elderly

- The 2017 Law on Legal Aid lacks provisions for free legal aid for the elderly who are women in particularly difficult circumstances, with unstable or low incomes.

3.2.3.2. Causes of limitations

There are many reasons leading to limitations in the law on the rights of the elderly, of which the following basic reasons can be mentioned:

Firstly, due to the lack of appropriate awareness of society in general and lawmakers about the elderly and the rights of the elderly;

Secondly, due to the mechanism for building and perfecting the law on the rights of the elderly, there are still many shortcomings;

Thirdly, the capacity, qualifications and legislative skills are not high; *Fourth*, the barriers of traditional culture;

Fifthly, lack of resources, budget, and necessary facilities; *Sixth*, awareness and consciousness of the elderly about their rights are still limited.

Chapter 4
REQUIREMENTS AND VIEWPOINTS,
SOLUTIONS TO IMPROVING THE LAW ON THE RIGHTS
OF THE ELDERLY IN THE CURRENT VIETNAM

4.1. REQUIREMENTS FOR PERFECTING THE LAW ON THE RIGHTS OF THE ELDERLY IN THE CURRENT VIETNAM

4.1.1. Requirements posed by the ageing population in Vietnam

4.1.2. Requirements posed by international integration and implementation of Vietnam's international commitments on human rights

4.2. VIEWPOINTS ON PERFECTING THE LAW ON THE RIGHTS OF THE ELDERLY IN VIETNAM

4.2.1. Perfecting the law on the rights of the elderly in Vietnam must be based on the Party's guidelines and policies on human rights in general

4.2.2. Perfecting the law on the rights of the elderly in Vietnam must ensure the comprehensiveness, unity, and synchronization of the entire legal system

4.2.3. Perfecting the law on the rights of the elderly in Vietnam must ensure a scientific, specific, clear, appropriate, and feasible nature with the conditions and circumstances of Vietnam

4.2.4. Perfecting the law on the rights of the elderly in Vietnam must ensure compatibility with international human rights treaties to which Vietnam has participated

4.2.5. Perfecting the law on the rights of the elderly in Vietnam is closely linked to the principle of a rights-based approach

4.3. THE SOLUTIONS TO IMPROVE THE LAW ON THE RIGHTS OF THE ELDERLY IN VIETNAM

4.3.1. The group of solutions to improve the law on the content of the rights of the elderly

4.3.1.1. Amending and supplementing the current law on the rights of the elderly

* Supplementing several legal provisions to promote the right to anti-discrimination, the right to employment, the right to legal aid, and the right to safety from abuse against the elderly in the Law on the Elderly 2009

* Supplementing several legal provisions to promote the group of rights related to equality, anti-discrimination and income security of the elderly

(i) Supplementing some legal provisions to promote the employment rights of the elderly

Firstly, supplementing legal provisions on the mechanism for assessing the capacity of cadres.

Secondly, amending legal provisions on the list of jobs, occupations that are arduous, toxic, dangerous or especially arduous, toxic, dangerous and hurt the health of elderly workers

Thirdly, supplementing some legal provisions on the content and form of labour contracts with elderly workers associated with some specific characteristics of the nature of work and vulnerable factors when participating in the labour market

Fourthly, supplementing legal provisions on protecting and caring for the health of elderly workers at the workplace in the 2019 Labor Code with the following content: “Employers are responsible for caring for the health of elderly workers at the workplace according to the provisions of this Code and the Law on Occupational Safety and Hygiene 2015”.

Fifthly, add regulations to the 2019 Labor Code with the content “It is not allowed to arrange for elderly workers to work night shifts without the consent of the elderly workers”, “It is not allowed to use elderly workers to work overtime without the consent of the elderly workers” to protect the health - the most important right of elderly workers.

Sixthly, study and amend regulations on the age of being considered an elderly worker for men and women to be equal, without the gap as in current law

(ii) Supplementing several legal provisions to protect and promote the rights of the elderly to be cared for, looked after, and supported by their children and grandchildren

Firstly, supplementing legal provisions with the content that in cases where the elderly need to pay a salary when looking after their grandchildren, the children and grandchildren must pay a monthly salary according to the agreement to the grandparents, depending on the economic conditions at that time of the children and grandchildren.

Secondly, supplementing provisions on the rights and obligations of daughters-in-law and sons-in-law to love, care for, and look after their parents-in-law and parents-in-law, at the same time, parents-in-law and parents-in-law also have the right and obligation to love and respect their daughters-in-law and sons-in-law.

(iii) Supplementing legal provisions to protect the property rights of the elderly

Firstly, supplementing legal provisions on the order, priority and standards of guardians for the elderly who have lost civil act capacity, in the case where the spouse of the elderly has died or lost civil act capacity.

Secondly, supplementing legal provisions in the case where grandparents and parents transfer ownership of property or donate property to their children and grandchildren, they have the right to request the return of the transferred property, or donated property if they do not fulfil the obligation to support, care for and provide for their parents and grandparents.

* Supplementing legal provisions to protect the group of rights related to social security issues of the elderly

- In addition to several crimes prescribed related to violations of the rights of the elderly as stated in Chapter 3 of the 2015 Penal Code (amended and supplemented in 2017), it is necessary to supplement the crime related to the act of “taking advantage of the care and support of the elderly for personal gain” with a specific prison sentence to create a deterrent effect on violations.

- Supplementing legal provisions on periodic pension adjustment according to changes in the contribution salary level to the system of automatically adjusting pensions instead of according to the price based on the contribution salary level. Because, adjusting pensions according to prices has practical significance in protecting the real value of pensions sustainably, protecting the rights of the elderly practically.

- Add regulations on business owners and people working under flexible regimes to the group of subjects participating in compulsory social insurance in the Law on Social Insurance 2014, to achieve the goal of universal coverage in the spirit of Resolution 28-NQ/TW dated May 23, 2018.

- Amend and supplement the provisions of the Law on Social Insurance 2014 related to the minimum pension level for subjects who are non-professional cadres with the content that the minimum pension level of non-professional cadres at the commune level must be equal to the basic salary level according to current law provisions, at the same time, add other short-term insurance regimes for this group of subjects such as maternity regime, sick leave regime... in addition to the two regimes currently prescribed by law, which are the retirement regime and death benefit regime. In addition, the regulation on the minimum contribution level of non-professional workers at the commune level is amended to be 22% of the basic salary instead of the fixed contribution level of non-professional workers at the commune level to be 22% of the basic salary (including the contributions of employees and employers). These are to implement the goal of “building a social insurance policy that ensures fairness and no discrimination between participating groups” in Resolution 28-NQ/TW dated May 23, 2018.

- Amending the provisions of the Law on Social Insurance 2014 on cases of reduced working capacity and having met the criteria for reduced working capacity or no longer being able to work to enjoy social insurance regimes but at that time participating in social insurance for less than 20 years, they must reserve until reaching retirement age to receive a pension. The direction of the amendment is to list some special cases such as people with reduced working capacity or no longer being able to work are the main labourers in the family or this subject belonging to poor households, near-poor households or lonely elderly people with no support who can receive a pension although they have not paid social insurance for 20 years, it is possible to stipulate that the minimum social insurance payment is 15 years.

- Develop a roadmap to increase the retirement age to ensure gender equality following international treaties that Vietnam has signed, especially CEDAW, and to meet the requirements of population ageing in which the number of elderly women is larger than the number of elderly men. It is possible to gradually adjust the legal retirement age difference between men and women from 5 years to 2 years and, in the future, move towards regulating the retirement age of men and women to be the same.

- Supplement regulations on minimum and maximum contribution levels when employees and employers participate in the supplementary pension program to have the

minimum financial resources to maintain the fund's operations, while at the same time, limiting the increase in the gap between rich and poor.

- Improving legal regulations on tax incentives for employers and employees participating in voluntary supplementary pension programs by separating the exempted expenses from the contributions. On that basis, the parties participating in the supplementary pension program will see the specific tax incentives, which will also be a source of motivation for this group of subjects to decide whether to participate in the voluntary supplementary pension insurance program or not.

- Add regulations to the 2023 Law on Medical Examination and Treatment for cases where elderly patients with chronic diseases are monthly, unable to walk (paralyzed), they can be given a prescription every 3-6 months depending on their health status.

- Supplementing regulations on the classification of social assistance facilities for the elderly into Decree 103/2017/ND-CP regulating the establishment, organization, operation, dissolution and management of social assistance facilities to improve the quality and enjoyment of rights for the elderly. Encourage the establishment of social assistance facilities for the elderly such as Special nursing homes for people with severe disabilities, types of diseases requiring long-term care, low-cost nursing homes, and nursing homes for the elderly with full services, both in the private and public sectors, in which, the public sector targets those in need of social protection, the private sector targets all groups of the elderly with diverse services suitable for different financial levels to maximally protect the rights and interests of the elderly.

- Supplementing regulations on adjusting the monthly allowance level for the elderly group following changes in the cost of living index and the minimum living standards of the elderly in each region, urban, rural or ethnic minority. Currently, Decree No. 20/2021/ND-CP regulating social assistance policies for social protection beneficiaries dated March 15, 2021, social assistance policies for social protection beneficiaries lack this provision.

- Supplementing Point a, Article 5 of Decree 20/2021/ND-CP to specifically stipulate the beneficiaries of social allowances taking into account gender factors with the following content: a) Elderly people in poor households, without people with the obligation and right to support them or having people with the obligation and right to support them but this person is receiving monthly social allowances; elderly women who are near-poor, have no one with the obligation and right to support them or have someone with the obligation and right to support them but this person is receiving social benefits; elderly women who are near-poor, have no income, are unemployed and have serious chronic diseases.

- * Supplementing legal provisions to protect the right to be protected from all forms of elder abuse

- Abolishing the provision on fines for relatives who commit acts of violence against the elderly in Decree No. 144/2021/ND-CP of the Government issued on December 31, 2021 on administrative sanctions for violations in the field of security,

order, and social safety; prevention and control of social evils because it has no deterrent or educational significance. Instead, supplementing provisions on the responsibilities of organizations (Commune-level People's Committees, Association of the Elderly, Women's Union) within their scope of responsibility, they are obliged to visit regularly, have a mechanism for surprise and periodic inspections to check the situation of the elderly in society and families, thereby preventing, supporting and intervening to best ensure the legitimate rights and interests of the elderly who are abused and abused. Some additional sanctions may include sending a notice of violation to the agency where the person committing the violent or abusive act is working; posting a notice of violation on bulletin boards in the neighbourhoods where the person committing the violent or abusive act is residing; forcing the violator to perform public service duties (forcing them to do elderly care work, possibly at places such as Nursing Homes and geriatric Hospitals) for a certain period.

4.3.1.2. Develop a Decree specifying and guiding the implementation of the provisions prohibiting age discrimination in employment and promoting employment for the elderly during the population ageing period in the 2019 Labor Code

4.3.1.3. Develop a Decree on maintaining child support for parents

4.3.1.4. Add provisions on long-term care insurance for the elderly to the 2014 Social Insurance Law, towards developing a Law on long-term care insurance for the elderly during the “very elderly” population period

4.3.2. The group of solutions to improving the law on the mechanism to ensure the implementation of the rights of the elderly

4.3.2.1. Promoting propaganda and education to raise awareness, and building a culture of respecting and protecting the rights of the elderly for agencies, organizations, individuals and the elderly

4.3.2.2. Improving the law to improve the effectiveness of the activities of the subjects responsible for protecting and ensuring the rights of the elderly

4.3.2.3. Change the thinking of the whole society, researchers, and policymakers about the role, position of the elderly and the rights of the elderly in the context of population ageing

4.3.2.4. International cooperation in developing laws on the rights of the elderly

4.3.2.5. Strengthening inspection, supervision, complaints, denunciations and handling of violations in protecting and promoting the rights of the elderly

4.3.2.6. Mobilizing resources to build a pension system, social allowances, and a health care system that is adequate to meet the needs of the elderly in the face of population ageing

4.3.2.7. Strengthening health care, building and expanding elderly care services with the active and proactive participation of all social sectors and improving national capacity in caring for the elderly

4.3.2.8. Implementing practical measures to ensure that the elderly have jobs when needed

4.3.2.9. Reforming administrative procedures in a convenient, quick and centred manner

4.3.2.10. Piloting a long-term care insurance system for the elderly

4.3.2.11. Infrastructure development should also aim to ensure that the elderly are provided with a friendly environment that allows them to have a full life.

4.3.2.12. Solutions to promote the rights of the elderly against loneliness, isolation, and “social exclusion”

Conclusion of Chapter 4

In this chapter, the researcher analyzed the requirements for perfecting the law on the rights of the elderly and presented viewpoints on perfecting the law on the rights of the elderly in Vietnam. On that basis, the researcher proposed a comprehensive system of solutions to perfect both the institutional and legal institutions on the rights of the elderly in the current Vietnam.

CONCLUSION

1. The rights of the elderly are the inherent needs and interests of vulnerable social groups due to old age; including universal rights that all members of the human community enjoy and specific rights that states and societies need to ensure specifically or prioritize ensuring the elderly so that they can live happily and have the opportunity to continue contributing to their families and society. Improving the law on the rights of the elderly is a regular activity aimed at detecting overlaps, contradictions, and shortcomings of legal phenomena to promptly eliminate regulations and legal documents that are no longer suitable, and at the same time amend and supplement new regulations and legal documents that are suitable to reality, taking into account the factor of “population ageing” to promote and protect the rights of the elderly.

2. The period from innovation (1986) to the present is a period of remarkable development of the legal system on the rights of the elderly in Vietnam, of which the promulgation of a specialized law on the elderly (Law on the Elderly 2009) is proof and several related codes, laws, and sub-law documents.

3. Referring to the system of groups of rights of the elderly, in general, the law on the rights of the elderly has and is moving towards universal protection of the rights of the elderly, diversifying the enjoyment regimes to meet the needs of groups of the elderly, including the elderly in the “dual” vulnerable group. However, the law on the rights of the elderly in Vietnam still has some limitations in all the groups of content mentioned, especially the groups of content related to social security issues; income security and anti-abuse of the elderly.

4. To address the shortcomings and limitations of current laws on the rights of the elderly in Vietnam, it is necessary to simultaneously apply several solutions, which, in addition to solutions to overcome the limitations in the laws on social security, income security and anti-abuse of the elderly, it is also necessary to strengthen regulations on the responsibilities of families, the State and society and mechanisms for monitoring, reporting and handling violations of the rights of the elderly.

LIST OF PUBLISHED WORKS OF THE AUTHOR RELATED TO THE THESIS

1. Nguyen Phuong Nhung (2020), “Challenges in ensuring the rights of the elderly”, *Vietnam Journal of Human Rights Law*, No. 03.
2. Nguyen Phuong Nhung (2020), “Implementing the law on the rights of the elderly”, *Political Theory Journal*, Issue No. 10.
3. Nguyen Phuong Nhung (2020), “Digital technology and the rights of the elderly: A case study in Vietnam”, Proceedings of the International Conference “*Good Governance and Anti-corruption: Opportunities and Challenges in the Era of Digital Technology*” on October 27-28.
4. Nguyen Phuong Nhung (2021), “Singapore’s law on the guarantee of the rights of the elderly: practical experience of Vietnam”, *Vietnam Journal of Human Rights Law*, Institute of Human Rights - Ho Chi Minh National Academy of Politics
5. Nguyen Phuong Nhung (2022), “Finnish law on the rights of the elderly - experience for Vietnam”, *Vietnam Journal of Human Rights Law*, No. 03.
6. Nguyen Phuong Nhung (2022), “Korean Law on the Rights of the Elderly and Experience for Vietnam”, *Political Theory Journal*.
7. Truong Ho Hai & Nguyen Phuong Nhung (2023), “Japanese Law on Ensuring the Rights of the Elderly Against the Impact of Population Aging and Some Suggestions for Vietnam”, *Jurisprudence Journal*, No. 08.
8. Nguyen Phuong Nhung (2023), “Income Security for Older Employees with Disabilities under the Impact of Population Ageing in Vietnam today”, in the book: Ensuring the rights of persons with disabilities in the sustainable development of Vietnam and other countries of the world, *Social sciences publishing house*.
9. Nguyen Phuong Nhung (2023), “Population aging and the rights of the elderly” in the book: Some modern human rights issues, *Social Sciences Publishing house*.
10. Nguyen Phuong Nhung (2023), “Laws of some countries on the rights of the elderly and reference values for Vietnam”, *Journal of Social sciences and Human resources*, Academy of Social Sciences.