CHILDREN’S DATA PROTECTION IN VIETNAM: LEGAL FRAMEWORK AND CHALLENGES

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ABSTRACT

Purpose: This study offers a comprehensive examination of the prevailing legal framework and explores the associated challenges encountered about parental literacy, children’s digital literacy, and the gap in the children-parent relationship to guarantee appropriate consent and its practical application in Vietnam.

Study methodology: Researching the State’s legal documents is very important; Decrees and circulars are also necessary legal documents used in the research process. In addition to the legal bases that are considered the basis for analysis and evaluation; Interdisciplinary and interdisciplinary research methods are used such as dialectical materialism methodology, analysis-synthesis, logic-history, induction - interpretation, etc.

Results and Discussion: Research results have shown that: The current framework for protecting children’s data in Vietnam has shortcomings that need to be corrected and supplemented accordingly; at the same time, challenges for implementing this legal framework to practice in Vietnam also need to be clarified to find solutions.

Recommendations: Safeguarding children’s data in the digital era is a paramount global concern, and Vietnam is not an exception to this imperative. Noteworthy efforts have been undertaken within the legal framework to protect children’s data in Vietnam. Nevertheless, several persistent challenges hinder the efficient realization of these legislative measures. Society and technology are increasingly developing, therefore, legal regulations need to be supplemented to help parents and society best protect children’s data in the digital age.

Keywords: children, data protection, law, digital literacy, challenges, Vietnam.

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CONSIDERAÇÕES MORAIS E HISTÓRICAS DA ÉTICA

RESUMO

Objetivo: Este estudo oferece uma análise abrangente do quadro jurídico vigente e explora os desafios associados encontrados em relação à alfabetização parental, à alfabetização digital das crianças e à diferença na relação entre as crianças e os pais, a fim de garantir o consentimento adequado e a sua aplicação prática no Vietname.

Metodologia de estudo: Pesquisar os documentos legais do Estado é muito importante; Decretos e circulares também são documentos legais necessários utilizados no processo de pesquisa. Além das bases legais que são consideradas a base para análise e avaliação; Métodos de pesquisa interdisciplinares e interdisciplinares são usados, como metodologia de materialismo dialético, análise-síntese, lógica-história, indução - interpretação, etc.

Resultados e discussão: os resultados da investigação mostraram que: o atual quadro para a proteção dos dados das crianças no Vietname tem deficiências que devem ser corrigidas e complementadas em conformidade; ao mesmo tempo, os desafios para a implementação deste quadro jurídico para a prática no Vietname também precisam de ser clarificados para se encontrarem soluções.

Recomendações: A proteção dos dados das crianças na era digital é uma preocupação global fundamental, e o Vietnã não é uma exceção a esse imperativo. No âmbito do quadro jurídico, foram envidados esforços notáveis para proteger os dados das crianças no Vietname. No entanto, vários desafios persistentes impedem a realização eficaz destas medidas legislativas. A sociedade e a tecnologia estão a desenvolver-se cada vez mais, pelo que é necessário complementar os regulamentos jurídicos para ajudar os pais e a sociedade a protegerem melhor os dados das crianças na era digital.

Palavras-chave: crianças, proteção de dados, direito, alfabetização digital, desafios, Vietnã.

1 INTRODUCTION

Children worldwide reside in the digital realm more extensively than ever before. Undoubtedly, the digital environment is a fundamental part of their daily lives. Almost every aspect of children’s lives has an online dimension, whether through their direct engagement with ICT or through the institutional management of contents or services that affect the conditions of children’s lives (Livingstone & Bulger, 2014)

Vietnam has also followed this trend, particularly during the COVID-19 pandemic, when many children have been learning remotely from their homes. According to the Ministry of Information and Communications (MIC), until 2023, Vietnam has 24.7 million children, who account for 25 percent of the population. Of the number, two-thirds can access internet connection devices (MIC, 2023). To be more detail, a survey between ECPAT, INTERPOL and UNICEF shows that in 2022, among 1416 children participating in the survey, 89% of Vietnamese children aged 12-17 years old have access to the Internet - meaning they have used the Internet within the last three months. This
number in the 12-13-year-old group is 82%, increasing to 93% in the group 14-15 years old and 97% in the group 16-17 years old.

The benefits of the internet to children cannot be denied. Being online, children are afforded opportunities for self-expression, learning and consolidating friendship (Graafland, 2018) to ensure that the Rights to Development and the Rights to Participation are enforced. Furthermore, the Internet can also benefit children being left behind, including those with disabilities, children belonging to ethnic minorities, and those residing in impoverished and remote regions (UNICEF, 2017). It can connect them to a realm of opportunities and equip them with the essential skills required for success in the digital era (UNICEF, 2017). However, as two sides of the same coin, children also face diverse risks when going online. The EU Kids Online network classified online risks to children in terms of content risks (which position the child as a recipient, generally of mass-produced content though increasingly also of user-generated content), contact risk (in which someone contacts the child, requiring them to participate in some way, if unwittingly or unwillingly), and conduct risks (where the child is an actor, generally as part of a peer to peer or networked interaction) (Livingstone et al., 2011).

In fact, there have been many recorded cases of Vietnamese children being abused online, where all three risks, as mentioned above, impacted them. According to the data from the Institute of Management for Sustainable Development (MSD) and Save the Children in Vietnam, in 2018, Vietnam had 706,435 cases of reporting on images and videos of child sexual abuse online, which was the second highest number in ASEAN, only after Indonesia (Pham, 2022). The report by ECPAT, Interpol and UNICEF in 2022 shows that 5% of Vietnamese children have received unwanted sexual images in the past year, almost via social networks such as Facebook and Zalo. Also, under this survey, five (0.5%) of the 994 internet-using children aged 12–17 years old in Vietnam declared that someone had shared sexual images of them without their permission. These images, mainly those shared online, can be widely circulated and viewed repeatedly worldwide, resulting in a continuous sense of shame and fear of being recognised. When these images or videos are recordings of severe sexual abuse, the trauma associated with those in-person experiences can also be repeatedly reactivated by the sharing of the content. Notably, 2 out of 1,000 children receive requests to send photos or videos of their private parts when they do not want to through social networks - most often through Facebook.
According to Expert Bui Duy Thanh, representative of World Vision Vietnam in 2023, one of the leading causes of these risks begins with the leak of personal information. Children […] are either intentionally providing or unconsciously ‘bleeding’ increasing amounts of their personal data online (Macenaite, 2017). Sometimes, parents and relatives, as noted by a Department of Information Security (MIC) representative, often freely and indiscriminately share their children’s information and images on social networks and forums, thereby exposing their children to potential adverse consequences.

Being aware of these risks, the Vietnamese government has promulgated a system of legal and guiding documents to implement measures to protect children in a digital environment. Although these regulations are distributed throughout various legal texts, they constitute a robust legal framework to safeguard children from data breaches. Nonetheless, the practical implementation of these regulations presents numerous challenges and bottlenecks that warrant resolution. A primary factor contributing to the difficulties in implementing these regulations is the recent enactment of the Personal Data Protection Decree, which just occurred in July 2023. The practical application of rules within the new Decree requires additional time for effective implementation. Moreover, various challenges, including issues associated with parental and children’s digital literacy, the influence of Confucianism on parent-child relationships, and limitations in the control and support mechanisms provided by the state and society, further impede the execution of these policies.

For these reasons, this article offers a comprehensive examination of the prevailing legal framework to protect children’s data using desk review research methods and an analysis of the associated challenges when applying this legal framework to practice in Vietnam. This paper will answer the following questions:

What is “children’s data protection” in general and “children” in Vietnam?

What is the current legal framework for protecting children’s data in Vietnam and the evolution of data privacy laws?

How are the challenges to the implementation of this legal framework for protecting children’s data in Vietnam to be practiced in Vietnam?

Answering the questions posed allows us to delve deeper into the research and point out some shortcomings as well as propose solutions to further improve the law on children’s data protection rights according to the framework of Vietnam’s law.
2 THEORETICAL FRAMEWORK

The vast data warehouse has many data types with different information and properties. Specific categories of data are subject to external legal provisions, industry standards, or contracts. Certain government regulations specify data elements by name, such as personal identification information, financially sensitive data, medically sensitive data, and educational records (International, 2017, pp. 266-268). This article focuses on the personal information of children.

Key jurisdictions such as the United States (US) and the European Union (EU) adopt distinct approaches to protecting children’s data. The US, notably, was at the forefront of addressing children’s privacy concerns during the rapid proliferation of the World Wide Web in the 1990s (Steeves, 2022). Steeves also mentioned that this period witnessed the emergence and robust growth of online platforms tailored for children, leading to the extensive collection of children’s data for commercial reasons. Thus, the United States classified this as a trade-related matter and responded by enacting the Children’s Online Privacy Protection Act (COPPA) in 1998 (Steeves, 2022). It is commercial legislation akin to other forms of consumer protection and as such, is administered by the Federal Trade Commission (FTC) (Steeves, 2022). Conversely, the EU regards safeguarding personal data as a fundamental right and maintains a robust protection framework for these rights. Besides the right to private life in Article 7, the Charter of Fundamental Rights of the European Union (2000, OJ C364/1) explicitly acknowledges personal data protection as a distinct and individual right in Article 8. Although there are differences in approach, the protection methods all give the authorisation to decide how to use children’s personal information to parents or guardians. While COPPA mandates the necessity of parental consent for collecting, utilising, and disseminating personal data concerning individuals under the age of 13, the General Data Protection Regulation (GDPR) prescribes the requirement for parental consent when processing personal data of individuals below the age of 16.

Recognizing the importance of children’s personal data protection, according to Nguyen Thi Mai Hoa, representative of the National Assembly Committee on Culture and Education, in recent years, the Vietnamese government has tried to complete the legal framework to ensure information security for children, as well as has action programs which specific actions and tasks for each ministry and agency. There is a general principle enshrined in all provisions for personal data protection contained in Vietnam’s legal
documents: personal data is protected, and other subjects can use personal data as long as the data subject permits them to process it; violators are subject to administrative and criminal penalties, and data subjects suffering from personal data intrusion are entitled to damages. Concerning safeguarding children’s personal data, Vietnam’s approach closely aligns with the principles of the GDPR, considering it a fundamental right of children, which is protected under the law. This stance is evident through provisions in the Constitution 2013, the Law on Children 2016, and the Law on Cybersecurity 2018, all of which will be explored in detail below.

3 MATERIAL AND METHODS

Protecting children in general and protecting children’s data, in particular, is one of the most important and urgent tasks in the context of an increasingly developing digital environment. Therefore, many legal documents; Government decrees; and Circulars of ministries and agencies have been issued to prevent children’s data abuse. Article 20 of Decree No. 13/2023/ND-CP dated April 17, 2023 of the Government on personal data protection. As follows:

Processing of children’s data is always carried out following the principle of protecting the rights and the best interests of children.

The processing of children’s data must have the child’s consent in cases where the child is 7 years of age or older and has the consent of the parent or guardian as prescribed, except in cases where regulations do not require the consent of the data subject. Personal data controllers, personal data processors, personal data controllers, and processors, third parties must verify the age of children before processing their data.

Stop processing children’s data, irreversibly delete or destroy children’s data in the event of: (i) Process data for improper purposes or have completed the purpose of processing personal data agreed to by the data subject, unless otherwise prescribed by law; (ii) The child’s father, mother, or guardian withdraws consent to process the child’s data unless otherwise provided by law; (iii) At the request of a competent authority when there is sufficient evidence to prove that the processing of personal data affects the legitimate rights and interests of children unless otherwise prescribed by law.

Thus, children aged 7 years or older must have their consent and also the consent of their father, mother, or guardian to process the child’s data. Unless otherwise specified, personal data will be processed without the consent of the data subject. Personal Data
Controllers, Personal Data Processors, Personal Data Controllers and Processors, and Third Parties must verify the age of children before processing their data.

The above regulations are an important basis for the authors to analyze the basic content; at the same time, point out issues that need further discussion about children’s data protection in Vietnam: Legal framework and challenges

Researching the State’s legal documents is very important; Decrees and circulars are also necessary legal documents used in the research process. In addition to the legal bases that are considered the basis for analysis and evaluation; Interdisciplinary and interdisciplinary research methods are used such as Dialectical materialism methodology, analysis-synthesis, logic-history, induction-interpretation, etc.

4 RESULTS AND DISCUSSIONS
4.1 THE CURRENT FRAMEWORK FOR PROTECTING CHILDREN’S DATA IN VIETNAM

Who is considered “children”?

As children develop between birth and majority, concepts such as ‘age and maturity’ and ‘evolving capacities’ play an important role in deciding which (regulatory) measures are appropriate for which groups of children (Lievens, 2018). In Vietnam, a “child” is generally defined as a person under 16 years old, according to Article 1, Law on Children 2016. This age is two years lower than the definition of children of the United Nations Convention on the Rights of the Child (UNCRC), which Vietnam was the first country in Asia and the second country in the world to ratify in 1990.

However, under Article 20, Civil Code 2015, an adult with full legal capacity is 18. This means the 16, 17-year-old group is not entitled to children’s rights. Still, they also have no rights and obligations of adults (Vu, 2023). Even under the Law on Youth 2005, the 16, 17-year-old group is defined as “youth,” and the State may adopt children’s rights in a convention to which Vietnam is a signatory towards youths aged between 16-18, it still affects the data protection process.

Currently, Vietnamese law does not have any specific regulations regarding adolescence. According to the World Health Organization (WHO), adolescence is the phase of life between childhood and adulthood, from ages 10 to 19. This group experiences rapid physical, cognitive and psychosocial growth (WHO, 2023). This affects how they feel, think, make decisions, and interact with the world around them (WHO,
Therefore, it is imperative to identify individuals within this demographic to establish age-appropriate legal regulations and applications to protect their data.

The legal recognition of children’s data protection:

Before any data protection law could be promulgated in Vietnam, the country had to establish the right to privacy as the first step toward personal data protection (Nam, 2023). The right to privacy is stipulated by the Constitution throughout Vietnam’s first Constitution in 1946 until now (Constitution 2013). According to Article 21, the Constitution 2013, “everyone has the right to inviolability of private life, personal secrets and family secrets” and “everyone has the right to privacy of correspondence, telephone conversations, telegrams and other forms of private communication” and these rights are guaranteed by law. Besides, with the rapid development of the internet in Vietnam, there are four codes, 37 laws, and many sub-law documents addressing and related to personal information (Chu, 2022, p.94).

Continuing the constitutional principles, the Law on Children 2016 acknowledges the right to privacy as one of the 25 rights granted to Vietnamese children. The children’s rights of personal privacy are also guaranteed and protected by law under two categories: personal and family secrets and private communication (Nguyễn, 2021). In particular, in protecting children’s privacy, every thought and action must be for “the best interests of children.” However, in the context of technology can both benefit and potentially harm children’s personal lives, discerning the precise definition of “the best interests of children” presents a challenging inquiry. Besides, the responsibility to protect children’s privacy online is almost placed on the online services provider. The parents, teachers and caregivers of children are only responsible for training children’s online skills so they can protect themselves. This regulation has eased the burden on parents and teachers concerning preserving children’s privacy within the online sphere, where numerous parents and teachers in Vietnam habitually share images and personal information of children on social media platforms.

Following enacting the Law on Children in 2016, the Vietnamese government promptly issued Decree No. 56/2017/ND-CP (‘Decree 56’), elaborating upon several provisions of this children’s law. This represents the initial legal instrument in Vietnam that contains explicit provisions defining “private personal information pertaining to children” and outlining measures for safeguarding the privacy of such information within the online domain. Under these stipulations, private information of a child encompasses
details such as their name, age, and distinctive characteristics for personal identification, health-related information documented in health records, personal photographs, data regarding family members and the child’s caregiver, personal possessions, telephone numbers, mailing addresses, residence addresses, and native origins, as well as information regarding the child’s school, class, academic performance, friendships, and services provided for the child. Publication of these particulars online necessitates obtaining consent from both the child’s parent and, if the child is aged 7 or older, from the child themselves.

The Law on Cybersecurity 2018, Article 29 also emphasises children’s right to protect personal secrets and private lives in cyberspace. Parties providing services in cyberspace are responsible for ensuring that information on their systems or services does not harm children or violate children’s rights.

Regarding penalties for infringements pertaining to children’s private data, Decree No. 130/2021/ND-CP delineates two distinct categories of violations: those concerning the unauthorised disclosure of children’s private information and those associated with the failure to fulfil responsibilities for protecting children within the online environment. These violations can lead to administrative sanctions, including the imposition of fines, with the maximum penalty amounting to VND 30,000,000, coupled with corrective measures such as apologies, the removal of detrimental content, and services to children. The Criminal Code 2015, Article 288 also regulates that the acts as trading, exchanging, giving, changing or publishing lawfully private information, if earns an illegal profit or causes property damage, causes reputation damage at a certain level, can face a penalty of up to 03 years’ community sentence or 03 - 36 months’ imprisonment.

Furthermore, certain specific legislative acts, such as the Law on Press 2016, also contain provisions to safeguard children’s information in both media outlets and the digital realm. The Government also approved the first National Program on Children’s Online Protection for the period 2021-2025, which clearly states the government’s commitment to protecting children online, especially protecting children’s data, through promoting legal and policies regimes, as well as cooperating with Internet services providers and technology businesses.

In order to meet the need for a comprehensive legal document on personal data protection, after two years from the time the Ministry of Public Security issued the first
draft, on April 2023, the Decree No. 13/2023/ND-CP on the Protection of Personal Data (‘Decree 13’) was issued. Decree 13 marks a significant milestone as the first comprehensive legal document governing personal data protection in Vietnam. Like the GDPR, the Decree also has detailed regulations on how to process children’s data in Article 20, with the principle of handling children’s data, besides always for “the best interests of children,” needs to simultaneously protect recognized children’s rights.

The Decree clearly defines “personal data” and applies to all Vietnamese individuals, including adults and children. This new definition offers a more comprehensive and exhaustive characterization than the previous Decree 56’s depiction of “private personal information pertaining to children.” Here, “personal data” is defined as “information in the form of symbols, letters, numbers, images, sounds, or equivalences in the electronic environment, which are associated with an individual or used to identify an individual.” While in Decree 56, child information only includes “traditional” personal information such as names, ages, addresses, and health statuses, etc., Decree 13 extends its scope to encompass emerging categories of personal data that have surfaced in the digital age, such as personal data that reflects activities and activity history in cyberspace and the personal location identified via location services. Furthermore, the Decree categorises data into two distinct types: general personal data and sensitive personal data. This differentiation is designed to ensure that the stakeholders can apply appropriate security measures commensurate with the nature of the data involved.

While under Decree 56, the requirement for obtaining parental and child consent applied only when online publication of a child’s private personal information, Decree 13 mandates that obtaining consent is a required initiation part of the whole process of “personal data processing”. This process can be understood as “one or multiple activities that impact personal data, including collection, recording, analysis, confirmation, storage, rectification, disclosure, combination, access, traceability, retrieval, encryption, decryption, copying, sharing, transmission, provision, transfer, deletion, destruction or other relevant activities.”

In Decree 13, there is no age limitation of a child for obtaining both children’s consent when processing children’s data. Nevertheless, in line with the definition of a “child” outlined in the Law on Children 2016, a child is defined as an individual under 16 years of age. Consequently, it can be construed that obtaining consent from both
children and parents is requisite when the data subject falls within the age bracket of 7 to 16 years.

The acquisition of consent and the verification of the child’s age must be undertaken as prerequisites before the commencement of data processing. In contrast to the United States, where the FTC has approved various age verification methods depending on the purposes of using children’s data (Milkaite & Lievens, 2019), Vietnam currently lacks specific regulations designating state agencies authorized to endorse such verification methods. Furthermore, there is an absence of stipulations specifying the essential criteria for these methods.

However, Decree 13 does establish specific scenarios wherein the processing of children’s data without consent is permissible. For instance, this may occur when mandated by a competent state entity in national defence emergencies, national security, epidemics, etc., or when processing data is required to protect the data subject’s or others’ life and well-being. In such cases, the burden of proof is on the parties engaged in data processing to substantiate the situation’s urgency.

Last but not least, the right to withdraw consent is given to the child’s parent or guardian. Decree 13 does not stipulate when and how to exercise this right. However, the result of withdrawn consent is to stop processing data and the personal data shall be permanently deleted or destroyed.

4.2 CHALLENGES FOR IMPLEMENTATION THIS LEGAL FRAMEWORK TO PRACTICE IN VIETNAM

**Parent’s digital literacy:**

Parents play an integral role in safeguarding children’s data. According to Decree 13, for any entity seeking to process the data of individuals under 16, the initial requisite is to obtain parental consent. However, consent is proving increasingly problematic, and consequently, questions about the (lack of) effectiveness and fairness of consent as a legal instrument are being raised […], as a result of which it is doubtful that parents are more capable of making decisions that pertain to personal data practices than their children (Hof, 2017). Not only in the world but also in Vietnam, there is the fact that very few people can read the entire privacy policy or any consent request documents because of its length and complexity. One study estimated it would cost $781 billion in lost productivity
If everyone were to read every privacy policy on websites they visited in a one-year period (Solove, 2013).

In particular, for children under the guardianship of parents and grandparents, who are less active on the Internet and do have enough technology awareness, controlling information and giving consent is even more challenging. Although there are no statistics on the number of Internet users by age, most Internet users in Vietnam are believed to be in the young age group; older people are considered less active in using the Internet than younger people (Nguyen, 2022). For example, according to We Are Social’s data, 93.6% of social network users in Vietnam are in the 13–54 age group. The percentage of social network users aged 55 and older comprised only 6.4% (We Are Social 2021), while people 55 and older accounted for 15.5% of the total population, equivalent to over 16.5 million people, in 2019 (CCSC 2020).

Due to the rise of social media, many parents all over the world use social media to share information about their children. This kind of activity is called “Sharenting” and has been defined by Collins Dictionary as “the practice of a parent to regularly use social media to communicate a lot of detailed information about their child.” This term is a combination of the words “parenting” and “sharing.” Vietnam is no exception to this trend, when it is common today, many parents and other relatives share pictures and information about children on social networks, accidentally disclosing their personal data, including full names, identifying characteristics, residence, hometown, school details, class information, health status, etc. As a consequence, according to the Department of Children’s Affairs, fraudsters research their victims by gathering these data and information. During interactions through calls or chats, these individuals demonstrate a deep understanding of the victim’s psychology, enabling them to engage in targeted fraudulent activities. The victims in this context are not only the children but also their parents.

Even though Decree 13 requires obtaining children’s consent when posting their personal information, it seems to specifically address the interactions of “others” with children, excluding considerations for the relationship between parents and children (Ngo, 2021). Consequently, many parents continue to disclose private information about their children without the awareness of getting consent from their children.

To address these challenges effectively, it is essential to consider several questions. Should parents have exclusive control over consent regarding processing
children’s data? Should predefined rules govern the processing of specific sensitive children’s data instead of relying on this privacy self-management mechanism? If not, should the government play a more substantial role in shaping the content and format of privacy policies adopted by service providers to ensure they are more conspicuous and comprehensible for children and their parents?

**Children’s digital literacy:**

Ensuring that children understand the implications of providing consent can be challenging, as legal terms and concepts may not be easily comprehensible to them (National Academies Press, 2004). Consequently, it is vital to educate children on data privacy protection and acquaint them with relevant terminology. Children should be encouraged to contemplate the responsibilities associated with being a digital citizen and consumer, as well as how internet governance and economics function, thereby influencing society (Hof, 2017). This educational approach should empower them to make equitable and informed decisions that align with their values, beliefs, and sentiments, thereby safeguarding their rights effectively (Hof, 2017).

Vietnamese children received education on information technology at school primarily through the subject “Tin học” (which can be translated as Informatics). Initially, information technology was introduced to students from secondary school and above, typically starting at 11. However, in Circular 32/2018/TT-BGDĐT, the Ministry of Education and Training of Vietnam has subsequently mandated that “Informatics” become compulsory for students from grade 3 (8 years old). Nevertheless, this regulation presents a discrepancy when considered alongside Decree 13, which stipulates that children can provide consent by themselves from grade 2 (7 years old). Consequently, it becomes apparent that when children are seven years old, they may lack formal educational exposure to concepts related to personal information protection. This raises the question of whether children at that age can possess sufficient digital literacy to grant consent for processing their data.

Moreover, per Circular 32/2018/TT-BGDDT, personal information protection occupies a low proportion and is not frequent in the curriculum. This subject matter is introduced starting from grade 3, with learning objectives being an understanding that personal and familial data can be stored and exchanged through computers and raising awareness about the need to safeguard personal and familial information due to potential risks from malicious actors. Then, in the curricula for grades 4 and 5, there is an absence
of content related to personal information protection. Children only in the 6th grade (11 years old) can learn about information security, personal accounts, and safe and legal methods of sharing personal information. Consequently, children acquire only foundational knowledge concerning personal information during these early stages but have yet to the continuous and cohesive progression of this knowledge.

**The children-parent relationship:**

The divide between parents and children is growing more pronounced in today’s fast-paced world, characterized by a thriving internet and social media landscape coupled with imbalances within family dynamics. This becomes particularly conspicuous when parents allocate excessive time to work, electronic gadgets, and personal online networks or are burdened by concerns about material possessions, finances, social connections, and individual achievements. As a result, children are increasingly immersed in the digital realm, gaining independence in their internet use and reducing their communication with parents. When parents and children communicate less with each other, they no longer understand and provide appropriate support for one another (Son Duc Nguyen et al., 2022). Hence, children may seek alternative means to circumvent the requirement of obtaining parental consent from the service provider rather than directly approaching their parents for approval.

Besides, belonging to Eastern Asia culture, Vietnam is a country influenced by Confucianism. Thus, some current parents have a Confucianism-influenced parenting style in which children are expected to obey their parents’ instructions and opinions (Nguyen, 2018). These traditional Vietnamese parents are worried about the negative impact of the community on their children and ask their children to obey their rules and restrict them in certain kinds of friendships to avoid negative influences (Nguyen & Ho, 1995). Similarly, this situation extends to their concerns about the adverse effects of the Internet, online gaming, and social networks. Consequently, they might impose stringent limitations on technology and internet usage without clearly explaining their actions. The Internet use limit they set might make their children uncomfortable, sometimes leading to behaviour such as obeying in front of their parents but completely going their way when the parents are not there (Son Duc Nguyen et al., 2022). Consequently, children often resist seeking their parents’ consent for data processing while utilizing the internet.

**Governmental and social controls:**
On the part of state authorities, since 2020, the Ministry of Labor, War Invalids, and Social Affairs, the Ministry of Information and Communications, and the Ministry of Public Security have collaborated extensively, focusing on children’s concerns in the online sphere, particularly issues related to children’s information leakage. In 2021, a Network for the Rescue and Protection of Children in the Online Environment was established, bringing together 24 entities, including government agencies, social organizations, and businesses. Despite these improvements, Vietnam’s child protection system remains underdeveloped and overly reliant on – especially at the grassroots level untrained and overloaded social welfare officers (ECPAT, INTERPOL and UNICEF, 2022). There is not only a lack of trained Child Protection Officers at district and commune levels but also a lack of clear procedures in cases of child abuse (UNICEF, 2016). Overlaps between agencies and lack of knowledge of laws and procedures are persistent problems (ECPAT, 2014).

Besides, as mentioned by the Department of Children’s Affairs, Vietnam currently lacks a comprehensive database and mechanism that enables relevant authorities and organizations to use high technologies to prevent the posting and sharing images/videos online that could negatively impact children.

Schools hold a crucial responsibility in safeguarding students’ personal data, given their extensive collection and storage of basic and sensitive personal information. However, challenges have yet to emerge in guaranteeing data security, including potential gaps in staff and teacher awareness regarding cybersecurity and pertinent data protection regulations. Inadequate decentralization may allow unnecessary access to personal information by school personnel. Additionally, schools must prioritize investments in contemporary technological solutions for robust personal data protection. Presently, schools are in the initial stages of adopting technology primarily for educational purposes, with a lesser emphasis on prioritizing information security.

5 CONCLUSION

Nowadays, where the internet constitutes an indispensable part of children’s daily lives, Vietnam has undertaken significant steps to complete its legal framework for protecting children in the digital realm and safeguarding children’s data. While in COPPA, data security for children is considered a trade issue, Vietnam aligns more closely with the GDPR approach, emphasizing the centrality of human rights in this
context. The right to privacy, enshrined in the Constitution 2013 and the Law on Children 2016, lays the foundational groundwork for Vietnam’s approach. Decree 56 offers detailed provisions concerning “private personal information about children” and outlines measures for safeguarding such information within the online domain. Furthermore, the regulatory framework and action plans for children’s data security are dispersed across several legal documents, including the Criminal Code 2015, Law on Press 2016, Law on Cybersecurity 2018, and Decree No. 130/2021/ND-CP. As of April 2023, Decree 13 has emerged as a pivotal policy for safeguarding children’s data. It required consent from children and their parents to process children’s data when they reached seven or older.

Some challenges confront the practical implementation of the aforementioned legal provisions. Firstly, the effectiveness of parent consent is questioned when parents’ digital awareness is inadequate or influenced by the privacy paradox. Secondly, a challenge emerges from the incongruity between the age at which children are legally permitted to provide consent and the stipulations in other educational documents concerning personal information security for children. While Decree 13 let children give consent from the age of 7, formal instruction on personal information security commences in Informatics curricula at the age of 8. Another noteworthy concern pertains to the lack of communication between parents and children. Children are increasingly independent in their internet usage, actively seeking ways to circumvent parental consent requirements.

Hence, to ensure that children in Vietnam can fully harness the advantages of the digital environment while avoiding concerns related to personal data infringements and resultant insecurity, it is imperative to close the gap between the established legal framework and its practical application. Achieving this objective necessitates robust collaboration among various stakeholders, encompassing government, data processors, data controllers, parents, educational institutions, and communities.
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