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BÙI THỊ MỪNG

**INSTITUTION OF GETTING MARRIED
UNDER THE LAW ON MARRIAGE AND FAMILY -
THEORETICAL ISSUES AND PRACTICAL**

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SUMMARY OF LAW STUDY DOCTORAL THESIS

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INTRODUCTION

1. The necessity of reseaching the topic

The right to marry is the natural right of human and legally recognized and protected. In the system of international law, the right to marry is defined in Important international conventions on human rights. In Vietnam, freedom of individuals to marry concretized in many legal documents, especially Law of marital and family (LMF). With that meaning, the law plays an important role in ensuring the exercise of freedom of the individual marriage. In this context, ensuring the enforcement of human rights is increasingly the international community particularly concerned, especially the very humane rights such as the right to marry. Ensure freedom of each individual marriage is not only secured for the benefit of marriage but also ensure to promote the development of the society. Because marriage is an important foundation to build a family which is defined as the "cell" of society. Good families make good society. Resolution of the Fifth Conference Central Committee of the Communist Party of Vietnam, the ninth course continues to assert family hold a significant position in the construction and development of culture in all aspects of the country. This is also recognized in the Constitution and concretized in many other legal documents, especially in the LMF. The institution of marriage adjusted establishing conjugal relationship - the relationship of the family foundation. So not only ensure the freedom of marriage of the individual but also have an important role for the construction of a harmony and happy family, creating a premise to a civilized, prosperity society.

The institution of marriage in Vietnam's LMF in 2000 was defined on the basis of inheriting selective regulation of marriage in LMF, while continuing to develop in accordance with the adjustment of relations in marital and family during integration period. However, practical implementation of applicable laws also revealed many

shortcomings, having significant impact on the efficiency of regulation of the law on marriage issues, affect the rights and benefits of the married, the family and society. The issue of men and women living together as husband and wife but not registered as marriage couple has increasingly complicated, child marriage and marital inbreeding in the northern mountainous provinces, Central Highlands and Tay Nguyen has rung the alarm and must be stopped promptly. Only in Lao Cai, 2012 General Population and Family Planning Survey implement child marriage and marital inbreeding in 44 communes in 9 districts of Lao Cai province has detected 224 married couples are marital inbreeding. This makes the public very concerned about the decline of race, affect the quality of population and sustainable development of the country. Particularly many homosexuals wedding are open to the public despite the objections of the family has become the focus of public opinion with many mixed opinions on whether or not to recognize marriage between people of the same sex. The downside of the market economy has an impact on the lifestyle of a large part of young men and women to create a significant change in the concept of love and marriage. Therefore, the status of men and women living together as husband and wife unlawful tends to increase. The men and women living together as husband and wife become becoming a negative effect to marital and family. LMF current regulations do not specifically deal with the consequences of the status of women and men living together as husband and wife led to many disputes between the parties becoming more and more complex. The marriage between Vietnamese women and foreigners, popular with men from South Korea, Taiwan, fraught with economic purpose, nature or movement, many cases through unauthorized brokers ... illegal marriage brokerage business of a number of organizations and individuals continue to occur in many forms of unhealthy, contrary to the habits and customs of the people, insulting honor and dignity of Vietnamese

women, pressing in public. All of these issues, if not resolved to the satisfaction of not only the causes hindering the development of Vietnam families but also affect the overall development of society. Launched in the scene. LMF 2014 resolved to the satisfaction of the problems arising in the implementation of the law on marriage or not? solutions needed to stabilize relations LMF, contributing to the overall development of society. Stemming from the above reasons we chose the topic "The institution of getting married under the law on marriage and family - theoretical issues and practical" with the desire to study in depth and comprehensive about regulatory marriage. From there on finding the perfect direction in accordance with the laws of social context Vietnam in the current period.

2. Situation of the research topic

The institution of marriage is a basic legal institutions of Vietnam's LMF, having the implications for determining the rights and liabilities of the entity. Therefore, this issue attracted the attention of the scientific research. Since LMF 2000 was enacted, there are a number of scientific studies related to the content of the scope of the regulatory marriage, but none of those studies are intensive and comprehensive. In terms of academics, the contents of the The institution of marriage is designed as a chapter in the textbook of LMF of the Law University of Hanoi, but stop at the general level as guidelines for student research, explore. Author Nguyen Van Cu and Ngo Thi Huong in "Some theoretical and practical issues of LMF 2000" also refers to some contents of the the institution of marriage and generalize these traits in practice applicable law. Author Nguyen Ngoc Dien in "Science Comment about LMF" commented on the issue of "marriage broker", "concept of marriage". Besides, there are a number of articles published in newspapers and journals under many different angles as the article's author Ngo Thi Huong: "Some issues of prohibition of same sex marriage" (Jurisprudence Journal No. 6/2001); Post by author Thai Cong Khanh: "Discussing about

illegal marriage cancellation " (Journal of the People's Court No. 4 in 2007); Article by Tran Van Trung: "The difference in opinions about unregistered marital relations " (Journal of the People's Court No. 4/2007); Post by author Bui Thi Mung: "The right to marry and divorce of women in Vietnam and Thailand, seen in comparative law" (Jurisprudence Journal No. 2/2011); Article by Nguyen Thi Lan: "Model advisory, supportive body for marriage with foreign elements - solutions to ensure the rights of Vietnamese women when marrying foreigners" ... These article refers only to the small dimensions of the institution of marriage. Also, the institution of marriage also got chosen by graduate students as their thesis: "Institutionalization of marriage in the Marital and Family Law" (2008) - Thesis by Khuat Thu Hanh. The scope of the thesis research only focused analysis of the contents of the institution of marriage in 2000 LMF and practical application. The issue of men and women living together as husband and wife unregistered, same-sex marriage issue and many other contents of the institution of marriage has not been addressed in this thesis. In some doctoral theses, dissertation authors also mention some aspects related to the content of the institution of marriage . The thesis of Dr. Nong Quoc Binh: "Legislation governing of marital relations with foreign elements in Vietnam" (2003). In a comparative law study about the institution of marriage of Vietnam with other countries, the thesis refers to the age of marriage in Vietnam's law. The thesis of Dr. Nguyen Van Cu "order of conjugal assets under Vietnam's LMF " (2005). Thesis refers to the time in which arise the conjugal relationship for the case of unregistered couples is recognize as husband and wife. This is a significant issue for the protection of both parties' property in this relationship. Thus, the content of the institution of marriage is resolved in a comprehensive and in-depth and will be an important legal basis to address issues related to marriage and family matters. However, within the scope of their researchs, these authors didn't go in-depth with their analysis when putting it in

coherence with related regulations of the institution of marriage.

Some works of foreign authors: In a study entitled "family law principles, policy and practice" author Mary Hayes and Catherine Williams mentioned several issues including the issues of marriage, divorce, child rights, child support issues. However, within the scope of this study, the authors of the above study did not analyze in depth the issue of marriage set in a legal institution structure. The angles about marriage only focused on depicting real practice of the law to resolve marriage matters which place in the social context of the West in comparison with the laws of some countries in the world. Thus many contents of the institution of marriage are not authors considered. However, when studying this shows that socio-economic conditions have a profound impact on the laws and practices of law enforcement. Therefore, the law must be socially acceptable then the law is implementable. In "The Vietnamese Law and Social from XII century to the end of XV century", the authors Insun-Yu has studied deeply about traditional family structures in Vietnam in the relationship between families with the village, the state and law. The material that the author used to demonstrate the scientific conclusions and interesting findings on the issue of the marital and family of Vietnamese in this period are Quoc Trieu hinh luat (National criminal law) and a few other materials. The questions concerning to the study of "marriage" in Part II and Part III of the book. The author does not go deep in analyze the law of the Le dynasty about conditions for marriage but only introduce the broadest definition of this issue, on this basis, the author explains the social basis of the regulation of marriage conditions in comparison with the laws of other states in the same time period. This conclusion shows that society and the law are always closely connected with each other and can not be separated. Legal research, the researchers also found that social context and to construct the law we must come from the social structure, family context. In other interdisciplinary research, "The futures of the

family" by authors Charles L.Jones, Lorne Tepperman and Susannah J.willson predicted many problems about marital and family. In relation to the law, the forecasts of every fields of social life including issues about marital and family is very important. Because, these forecasts will help lawmakers having further consideration for law regulation with problems may arise with marital and family issues. This study indicates, into the twenty-first century, marital and family will be facing many new issues, including same-sex marriage issue and the formation of many incomplete families due to the increase in divorce ... The authors also think that MFL suppose to be "responsible" to these problems of social life. These are interesting findings that legal researchers must have in order to enrich their knowledge in the field of research requires interdisciplinary approach, interdisciplinary field of jurisprudence. In addition to these academic studies, many articles reflect the reality vivid life of marital and family under many angles also have been mentioned by the authors such as "marriage inbreeding", "child marriage ", "living together as married couple unregistered "... But in these studies mentioned above as well as articles that reflect real life status of marital and family are only separate studies, they did not create a link and systems in the study of marriage. Meanwhile, the society is facing many new marital and family issues that the law has not contemplated in time. We believe that the legislation governing the establishment of conjugal relations is a field of law relevant to many other areas of law. Therefore, the marriage elaboration should be studied fully, deeply and comprehensively and with a systematic basis for theoretical and practical to improve the LMF. From then on, guarantees the rights and legitimate interests of entities. The thesis is the first to study a comprehensive, in-depth into the content of the institution of marriage in Vietnam.

3. Purpose and duties of the research topic

The purpose of the research is to elucidate the basis of

theoretical and practical issues of marriage and the institution of marriage, indicate the appropriate points as well as the shortcomings of current legislation and enforcement practices, applicable regulatory marriage. On that basis, to assess the effects of regulatory marriage adjustments onto the construct of Vietnamese family in the current period and provide suggestions to improve the institution of marriage, raising the efficiency of regulators about marriage.

The task of the thesis is, based on the study of theoretical issues, the thesis need to develop the basic concepts of marriage, the institution of marriage, marriage conditions as the bedrock for the development platform construction and enforcement of marriage; the thesis has to study the specific content of the institution of marriage in relation to reality through each stage of historical development and compare it with the laws in some countries especially countries having similarities in customs and practices with Vietnam; thesis has to study and assess the situation in Vietnam's laws and practices of law enforcement. Through it, the thesis has to be able to draw out the problems and shortcomings of the current law in order to complete it; thesis have to develop strategies and solutions towards improving LMF in order to improve the effectiveness of regulation of the law on marriage

5. Subject and scope of the study of the topic

The object of this study is to study the nature, social and legal status of marriage through a number of classic works and theoretical study about marriage; the regulations in the legal system of Vietnam and some other countries in the world about marriage are set in relation to comparative law to ensure the comprehensive and in-depth of the study; practical LMF implementation in our country in recent years. The thesis also examines the basic factors affecting the laws governing marriage to clearly explain the relationship between the marital legislation governing with natural elements and society.

The scope of this project is to study the theoretical and practical basis of the institution of marriage in Vietnam's LMF. In

particular, the issue of marriage with foreign elements only being studied in terms of content as part of marital legislation governing. The thesis does not study problems about the principle of choosing applicable law or resolve the conflict of laws... because these problems can be acquired from other research projects. Ensures the logical and comprehensive study of the subject, the content of the law under statutory marriage laws relating to the legal form, the thesis only mention a few specific aspects set in inseparable relationship with the institution of marriage to detach the relationship between the institution of marriage with relevant institutions, to form the basis for the complete solution of the LMF.

6. Basis of methodology and research methodology of the topic

+ Basis methodology to study the topic is dialectical materialism and historical materialism of MAC-Leninist doctrine, ideology associated with Ho Chi Minh and the view, the path of the Party and the law of the State about the problems of marital and family in general and marriage in particular.

Research Methodology of the Topic include some method such as analysis, synthesis, historical, comparative, statistical, sociological investigation

Methods of analysis, synthesis give the thesis an overview of the issues need to be studied, help the thesis being more deep and comprehensive.

Method of historical, comparative using in parallel of the research topic. Because the LMF must be placed in relation to the legislative history, the laws of each country, so that we can find the true value of the regulatory adjustment of the legislation on marriage for marital and family life. Also, we have to put the LMF in relation to the customs, traditions, morals, social and economic conditions in different historical periods, only then the specific content of the institution of marriage is solved. Only then the content mentioned in the thesis is contain authenticity, the scientific conclusions of the

thesis is built on well-fou

6. The new contribution of the thesis

+ The study of theoretical and practical issues of the institution of marriage in a comprehensive and logical systems. The result of the thesis has the following new contributions:

+ The thesis developed some ensured academic concepts, it is the basis for the construction and enforcement of LMF. That is the concept of marriage, the institution of marriage, the conditions for marriage, illegal marriage, illegal marriage cancellation.

+ Under theoretical perspective, the thesis is an overview of the legal system of Vietnam on marriage set in relation to the laws of some countries in the world in the integral evaluation with social context

+ The thesis clarifies the specific content of the LMF in relation with reality and indicate the shortcomings and difficulties of adjusting legal issues and also evaluate the impact of the institution of marriage to the construct, preserve and promote the traditional values of Vietnam's family;

+ The direction and solutions to improve the law is built to ensure the scientific aspect of the thesis. Therefore, the scientific conclusions of the thesis is ensure the feasibility of the development and enforcement of LMF.

7. The meaning of science and practical implication of the

+ The thesis is a study of science, a comprehensive study of institution of marriage in Vietnam. The research results of the thesis help to the contribution and complement of the theoretical issues about institution of marriage in particular, law of marital and family in general and enrich the intellectual treasure of Jurisprudence.

+ The thesis can be used as references for research, teaching and learning of Jurisprudence in legal studies and training institutions.

+ The results of the thesis can be used as a guide in the implementation of the LMF, to ensure the accuracy, efficiency and consistency for solving issues related to marriage.

8. Structure of the thesis

The thesis consists of the introduction, conclusion, 3 chapters, a list of published scientific works, the list of references and appendices.

Chapter 1

THE BASIC THEORETICAL ISSUES ABOUT MARRIAGE

1.1. Concept, purpose and nature of marriage

1.1.1. The concept of marriage

* The concept of marriage as a social issue

Social perspective: marriage is understood as a form to establish a conjugal relationship.

* The concept of marriage as a legal perspective

Under a legal perspective, marriage can be considered as a legal event or legal institution.

- The concept of marriage as a legal event

+ As a legal event: Marriage is a legal term used in the marital and family law refers to the base in which arise the legal relations between husband and wife, on that basis the rights and benefits of marriage is under legal recognition and protection.

- The concept of marriage as a legal institution

+ Concept of the institution of marriage

The institution of marriage in LMF is a system of legal state-issued, adjust the establishment of conjugal relationship, including the legal conditions for marriage, marriage registration, sanctions for violations of the law on marriage.

As such, the legislation governing of marriage have to fully anticipate the specific and strict regulations on the conditions of marriage, marriage registration and handles violations of the LMF in order to create a uniform legislation, contributing to improve the effectiveness of regulation of the law on marriage.

+ The constitution elements of the institution of marriage

+) Marriage conditions

Marriage conditions are legal requirements expressed in the form of legal regulations, force the married to compliance, aimed at establishing marriages in accordance with the interests of the married, the benefits of family and society.

The above definition suggests, legal compliance of the conditions of marriage is an obligation that each individual must make. Under legal perspective, it can be concluded that individuals exercising their right to marry obliged to adhere to the law on marriage conditions. In this term, the right to marry is not a natural right that is purely "human rights" recognized and protected by law. By the regulations conditions for marriage, the State protects oneself right to self-selection and decision to marry.

+) Registration of marriage

Registration of marriage is a form of conjugal relationship established before the state agency having the jurisdiction.

+) Dealing with violation of LMF

Terminate unlawful marriage is LMF's sanction, this sanction is only applicable to the case of unlawful marriage. Unlawful marriage is a legal term used to refer to these cases of establishing conjugal relations with registration of marriage but violate conditions for marriage according to the law.

Terminate unlawful marriage is a sanction of Vietnamese LMF applied to the case of unlawful marriage. Accordingly, based on the request of the person having the right to sue, the court decides to force the parties to terminate the unlawful conjugal relationship.

In addition to the sanction to terminate unlawful marriage. LMF violations can be handle with administrative or criminal sanctions.

+ The principle of the institution of marriage

The institution of marriage is built on the basic principles of the LMF. In particular, the following principles: Principle of voluntary marriage, advanced, principles of marriage one wife - one

husband, the principle of equality without discrimination, the principle of respecting good customs and traditions. Principles of the institutions of marriage is a reflection of the fundamental legal basis of the law regulating marriage.

1.1.2. The purpose and nature of marriage

* The purpose of marriage

The purpose of marriage is to establish conjugal relationship. The purpose of marriage has a certain relationship with the purpose of marriage. Marriage is the conjugal relationship after being married. Therefore, the purpose of marriage is to establish the rights and obligations between husband and wife.

* The nature of marriage

- The nice a natural human rights law recognizes and protects
- The basis for creating nice ñ family, contributing to maintain and promote the development of human society
- Marriage is the legal basis for the State protects the lawful rights and interests of the marriage.

1.2. fundamentals of impact on the laws governing the meaning of marriage and processing ò marriage.

1.2.1. The basic factors affecting legislation governing marriage

The basic factors affecting legislation governing marriage, including natural factors and social. Social factors such as socio-economic conditions; customs, traditions, culture and traditions of ethnic, social policies also govern law to regulate marriage. However, this division is relatively purposes only. Because these factors are intertwined, there is interaction with each other. So perfect marriage legislation should consider these factors in the overall calculation for the most suitable solution in order to improve the efficiency adjustment marriage law.

1.2.2. The meaning of the statutory marriage

* Legal Significance

- Finished the marriage creating legal standards for the

behavior of each entity to implement and apply the law on the basis of respect for the human rights of individuals.

- Preparations for marriage help protect the legitimate rights and interests of citizens and interests of the family and society

- * Social Meaning

- Finished contribute to marry moral education, youth lifestyle, enhance personal responsibility for their families and society

- Finished the marriage contributed to the preservation and promotion of identity definition, culture and family traditions in Vietnam

- * Economic Significance

- Preparations for the marriage to strengthen the human resources and provide high quality economy.

- Finished the marriage helped reduce the weight load on the economy, reverse the poverty and backwardness ensure the sustainable development of the economy.

1.3. Preparation of marriage law in Vietnam through the period

1.3.1. Regulation on the LMF in Vietnam before the August Revolution in 1945

- * Regulation on the LMF in feudal period

- * Regulation on the LMF in Vietnam colonial times

1.3.2. Regulation on the LMF in Vietnam from August Revolution in 1945 and 1975

- * Regulation on the LMF in Vietnam from August Revolution 1945 to 1954.

- * Regulation on the LMF in Vietnam from 1954 to 1975

1.3.3. Regulation on the LMF in Vietnam from 1976 to present

- * Regulation of marriage in the LMF 1986

- * Regulation of marriage in the LMF 2000

Study the rules of the law of Vietnam on marriage over time shows that the law of Vietnam on marriage through the ages there are certain differences, in accordance with the conditions of political, economic and society in each period. However, the legal to marry at

a later period always have the legal successor of the previous period, to create a connection string deep nature, mount the traditional values of the legislation governing the establishment of conjugal relationship, which, special mention must be ethical values and cultural traditions of Vietnam.

Chapter 2

REALITY OF MARRIAGE LAW BEFORE LMF 2014 EFFECTIVE

2.1. Condition of marriage

2.1.1. Age of marriage

+ Regulation of marriageable age according to the LMF 2000 revealed the inadequacies certain show inconsistency with the provisions of the Civil Code and the CPC in relation to the age of capacity for civil acts fully and CPC in relation behavioral capacities fully. Child marriage increased but not handled as well as causes for increasing abuses continue, affecting the efficiency regulators as well as life LMF.

+ Research provisions on age at marriage from the perspective of theory and practice show that should have profound insights to problems with appropriate regulations on marriage age and the need for effective measures to ending child marriage.

2.1.2. The voluntary marriage

+ Research on the legal status of marriage shows that voluntary regulation of voluntary marriage inadequate led to the marriage is unlawful for breach of voluntary basis to handle. Therefore, to ensure the voluntariness of marriage need to resolve shortcomings in the theoretical interpretation of the law voluntarily and perform many synchronization solution to stop the fake marriage created.

2.1.3. The marriage ban case

- * Prohibition is married to the wife or husband

+ Those who are married or have a husband who is in a relationship exists marriage is recognized by the State. Prohibit marriage for married people, whose husband is needed because

marriage monogamous marriage is the value of progress, is the basis for building a happy family, sustainability.

+ Practice shows that violate prohibitions have complicated. The handling of violations that led to unsatisfactory routine disregard for the law and violating condition tends to increase. Bad people are living together as husband and wife couple others but not dealt with the effects become negative impact on the implementation of the provisions of the decree.

+ This practice requires there are specific regulations, tight and strong enough to ensure that the provisions that ban was implemented, healthy relations LMF, stable social life.

* Prohibition of marriage for the loss of civil act capacity

Under current law, a marriage is only prohibited when the decision of the Court declares that the person has lost the capacity for civil acts.

+ In fact, law enforcement shows, there are many cases of people with mental illness do not have cognitive and behavioral control was established by the marital relationship may not request the court to declare the incapacitated person civil actions. Besides, there are cases of refusal to register the marriage for which the person with mental illness. Thus, the implementation of regulations that prohibit reveals shortcomings, leading to the application of the law is not uniform, does not guarantee the purpose of social meaning of marriage, should have specified and more closely to ensure the enforcement of the prohibition of marriage

* Prohibition of marriage between people of the same direct blood flow; between those who have relatives within three generations.

Research indicates this is necessary regulations and prohibitions in accordance with the traditional society of Vietnam. Find out the status of marriage in violation of this shows the status of "marriage inbreeding" was quite popular in the ethnic minority. On the other hand the status of "trading sperm" indiscriminate forecast future we will be faced with a situation of "inbreeding new marriage." Therefore,

there should be strict regulations to restrict this trait, contributing healthy the relationship LMF.

* Prohibition of marriage between adoptive parents and adopted children; between people who used to be a parent, raising adopted children, husband and father with daughter in law, mother-in with the law, stepfather and stepson, stepmother and stepchildren

Research indicates there is overlap in the provisions of law relating to the prohibition of marriage. Adoption Act 2010 stipulated between adopted children and other members of the family and the adoptive parents have the rights and obligations to each other under the provisions of the law on LMF (Article 24). Thus, between the offspring and the adoption of the adoption and the rights and obligations arising between brothers and sisters; between the adoptive parents and the adoptive parents rise to rights and obligations between grandparents and grandchildren. Meanwhile, according to current LMF, adopted the child of the adoptive parents, adoptive parents adoptive parents are not married to each other prohibited. Clearly this represents inconsistencies and synchronization of the rules of law, to consider and take appropriate data.

* Prohibition of marriage between people of the same sex

+ During the length of the legislative history, the laws of most countries in the world in which the laws of Vietnam have followed the trend does not recognize same-sex marriage. However, until the present time, the world has witnessed significant changes around this problem. Some countries have recognized same-sex marriage. Therefore, studies indicate it is time to have more suitable solution concerning prohibitions prescribed to ensure conformity with the general trend of modern legislation in the recognition and protection of human rights people.

2.2. Marriage registration

2.2.1. Competence marriage

+ Competence marriage has certain differences between married with foreign

+ Research shows that many points exist for the registration of marriage with foreign elements in the border areas. And problems need to be solved thoroughly competent to register the marriage is executed, contribute to protecting the legitimate rights and interests of the marriage.

2.2.2. The order and procedures for registration of marriage

+ Order marriage registration procedures closely, simply important contribution to ensuring the freedom of the individual marriage also helps us prevent violation of the conditions of the marriage law. Research indicates, should perform better solutions to improve staff for enforcement of marriage as well as to improve the law of procedures contribute to improving the efficiency of solving the registration of marriage.

2.2.3. Men and women living together as husband and wife are not registered marriage

+ The study focused on analyzing the problems in the review recognized the couple for men and women living together as husband and wife are not registered their marriage at the same time indicating to recognize the men and women living together as husband and wife unregistered marriage is a social phenomenon exists objectively to the appropriate data in adjusting the law on this issue in order to protect the legitimate rights and interests of each party to the marriage relationship as wife husband, the rights and interests of those involved.

2.3. Handling of law of marriage

+ The study focused on analyzing the specific provisions of existing laws on marriage annulment is unlawful. On that basis for comparison with the practical application of the law to detect obstacles and gaps that need to be reviewed and improved.

+ The administrative sanctions, criminal analysis is also placed in the overall calculation of the sanctions to be applied to deal with violations of the laws on marriage. However, reality handle violations of

the LMF suggests quite inadequate. So the sanctions violations are not really effective measures to improve the efficiency regulators. Therefore, the state law violated the marriage is increasing.

+ Analysis on the basis of classification of the types of violations, the study proposed solutions to curb violations of law on marriage, contributing healthy relations LMF.

Chapter 3

ORIENTATION AND FINISHING SOLUTIONSPREPARATION OF MARRIAGE IN VIETNAM DURING CURRENT

3.1. Completion requirement of marriage preprration

3.1.1. Improving the institution of marriage to stem from the state of marital relations and family in new era

+ The world is entering a new era - the era of the integration period. In this context, Vietnam is facing many Olympics but there are also challenges. So perfect marriage institutions must ensure that all new problems arise in the life of LMF are reviewed adjusted accordingly.

3.1.2. Improving the institution of marriage integral to promoting and preserving the cultural and traditional values of family Vietnam

+ Complete the institution of marriage to bind to the preservation and promotion of cultural values, traditions of family Vietnam - there is also an inevitable requirement of preserving and promoting the rich culture ethnic identity

3.1.3. Improving the institution of marriage to ensure effective application of enhanced law marriage

+ Improve the effectiveness applicable law marriage is the urgent requirement of improving the LMF. The institution of marriage in LMF 2000, building legal standards for the behavior of each individual, creating a legal basis to protect the rights and legitimate interests of the marriage as well as people with rights and related benefits

3.2. Direction to perfect preparation of marriage

3.2.1. The institution of marriage must clearly reflect the views of the Party and State are aiming build prosperous, equitable, progressive and happy, sustainable

+ In the context of open and integrated, families Vietnam is facing many new challenges. So perfect legal right to marry strategy aims to build a prosperous family Vietnam, progress, happiness is everyone's nest, the healthy cells of society in the spirit of family development strategy Vietnam 2030 2020 views.

3.2.2. The institution of marriage to specific, comprehensive and uniform, taking enforcement, contributing to ensuring human rights in the field of private law are respected, protected

+ The right to marry first natural rights of man. The right to marry legally recognized and protected express the profound human values and respect for human rights in the field of private law. Therefore, statutory marriage must be built from vivid reality of life LMF. The provisions of the law on marriage must be specific, and must be tightly synchronized with the provisions in the legal system. Institution of marriage creates a legal basis to protect the legitimate rights and interests of stakeholders in the field to the right of each individual private law increasingly respected, towards a healthy civil society.

3.2.3. The institution of marriage must meet the regulation of marital relations and family in the context of globalization

+ Globalization creates these advantages there are also challenges to life LMF. Thus, the law governing the establishment of conjugal relationship to selectively acquire the values of the legislative progress over the world, especially in countries with similarities in culture and economic conditions Socio with our country. In particular, the law on marriage must ensure compatibility with the international treaties to which Vietnam is a member. This is the essential preparation for marriage legislation meets the legal requirements governing the current period.

3.3. Some measures to improve the efficiency of governing law marriage

The institution of marriage significance in establishing legal standards for the behavior of each individual, creating a legal basis to ensure the rights and legitimate interests of stakeholders participating in the LMF legal system. In order to improve the efficiency dropped to adjust the law on marriage to conduct synchronous solutions improve the law on marriage, raise awareness of legal compliance of each individual in society and effective pressure the LMF.

3.3.1. Improving the rules governing marriage in LMF

* Completing a number of provisions on marriage conditions

+ First: Improving regulations on marriage age: For specific instructions on how to calculate the age of marriage as well as the implementation of synchronous solutions to reduce child marriage

+ Second, the need to continue to look for perfect conditions, "the marriage was not the loss of capacity for civil acts.

+ Third: Need provisions prohibiting marriage between people of the same direct blood flow; between those who have relatives within three generations based on phylogenetic relationships reality. Besides, lawmakers should have specified, closer to the birth of scientific method, and surrogacy issues to limit the deformed complex in practice.

Fourth: Complete rules prohibit marriage between adoptive parents and adopted children; between who served as foster parents and adopted children, husband father with daughter in law, mother-in-law and wife with children, stepfather and stepson, stepmother and stepchildren to ensure compatibility and synchronization with the provisions of the law on adoption.

+ Thursday: It should have anticipated the suit to protect the rights of same sex couples.

* Improving the regulations regarding the handling of violations of the law on marriage

Firstly, it should be regulated the right to revoke the marriage is unlawful for uniform and consistent with the provisions in the legal system.

Second, it specifies the base processor to cancel the marriage illegal: There should be a specific guide signs violated the conditions of marriage as grounds for annulment of marriage treatment unlawful

Third, clearly defined treatment guidelines cancel the marriage is unlawful to facilitate the application of the law.

Fourth, the need to specify the handling of marriage ultra vires direction

- * It should be specified in the resolution of issues arising from the men and women living together as husband and wife are not registered marriage

- To explain the terms of men and women living together as husband and wife are not registered their marriage.

- It should have specific guidelines for handling cases of men and women living together as husband and wife are not registered marriage before the 03/01/1987.

- It should have specific guidelines for the protection of the rights of the disadvantaged.

- It should be clear guidelines required the cases of men and women living together as husband and wife for marrying another person to request the court to declare not recognized as spouses.

- For specific instructions about the behavior cohabitation as husband

- * It is necessary to develop guidelines to implement, apply LMF 2014 as well as the effective implementation of the law enforcement organization

- Must be constructed of guiding documents and applicable law. The guiding documents, apply the law should focus on content specific to the conditions of marriage, handle violations of law on marriage, on the men and women living as husband and wife does

not register the married and living on between people of the same sex

- Must be well organized to conduct enforcement LMF 2014.

- * Need to solving world problems in the marriage preparations to ensure gender equality.

- Must be well implemented gender mainstreaming for the implementation of the law on marriage to secure gender equality. So urgent problem posed now is to raise awareness on gender equality for each individual, especially the actors to implement and apply the law. Therefore, implementation LMF 2014 for these subjects should focus the content related to gender relations and gender equality, help them with skills for gender mainstreaming effectively solving specific cases, in order to achieve substantive gender equality.

3.3.2. Improving the legal provisions related, contribute to improving the efficiency adjustment marriage legislation

- * It is necessary to improve the law on civil status

Improving the efficiency adjustment marriage legislation should put in relation inseparable with the completion status legislation tich.Vi that, should soon through civil law, contribute to addressing the inadequacies obstacles to the provisions of law enforcement nature of marriage.

- * Improving the criminal law for offenses against the regime of monogamy to ensure that the criminal law is an effective tool to protect the legitimate rights and interests of the marriage, to avoid legal criminal law becomes legal instruments forgotten.

3.3.3. Other solutions to improve the efficiency adjustment marriage legislation

- * Raise awareness of law-abiding individuals in society

- * Improve the effectiveness applicable law marriage

- * Capacity building activities of the Center for Marriage Support, make good management issues state relations LMF with foreign elements to limit the marriage broker, towards ending the marriage broker for the purpose of profiteering

CONCLUSION

The nice a natural human rights law are recognized and protected. International law and the laws of each country are respected by the law regulating marriage issue aims to protect the interests of the marriage as well as the interests of the family and society. With that sense, adjust marriage legislation gives positive values for life LMF. The establishment of voluntary marital relations, progress on the basis of compliance with the provisions of the law on marriage conditions is a solid foundation to build a prosperous family Vietnam, contributing to the implementation the objectives of economic development, social in a new era. However, in the movement and development of life LMF, the provisions of the law on marriage must be continuously improved to meet the requirements governing laws in each particular stage. Based on the study rationale and practice of marriage institutions can draw the following, conclusions

1. Marriage is a legal event giving rise to the relationship between husband and wife. The event giving rise to legal relations between husband and wife is an "compound" includes a legal act. Which must include acknowledgment of state agencies having jurisdiction. So LMF law only recognizes a current marriage ceremonies only legal value, which is the formal registration of marriage in state agencies having jurisdiction.

2. As a general legal by the competent authority issued to regulate the establishment of conjugal relationship, marriage institutions have great social significance, paving the way to build families Vietnam Male happy, contributing moral education, youth lifestyle, enhance personal responsibility for their families and society.

3. Marriage is a regulatory center of the LMF, is built on the principles expressed specific law governing the establishment of conjugal relationship that is the principle of voluntary marriage, progress; principles of marriage a vo- a husband; principle of equal

treatment without discrimination; principle of respect for traditions, customs and practices..

4. Finished to marry influenced greatly from all aspects of social life. Therefore, laws governing marriage in every historical period are certain differences. Research Vietnam legal system on the issue of marriage, can see ethics, customs and traditions have a great influence on the laws governing marriage. However, lawmakers Vietnam both in the past and the present are selectively acquire legislative achievements of science to enrich the country legally. This is also the valuable experience we have the proper orientation of the building and improving the LMF.

5. Institutionalization of marriage in the LMF 2014 represents a new development in the laws governing marriage, continue to express the views of the Party and the State in promoting the role of the family to social life, promoting the fine tradition of the family in Vietnam. The institution of marriage was specifically and comprehensively overcome the shortcomings and problems fixed by LMF 2000. However, for institution of marriage continue to improve and meet the adjustment of Married in the current period must perform synchronization solutions that focus is to develop guidelines to implement and apply the law and organize the implementation of the law. Besides, they should focus on finishing the law is concerned, further institutional reforms to put the law into life LMF.

LIST OF RESEARCH PROJECTS RELATED TO AUTHOR'S PUBLISHED THESIS

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