



ICS

**JOINT REPORT ON THE SITUATION OF THE COMMUNITY OF
LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PEOPLE (LGBTI)
IN VIET NAM
FOR THE FOURTH UNIVERSAL PERIODIC REVIEW OF VIET NAM
AT HUMAN RIGHTS COUNCIL (2023)**

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This joint report has been produced by the ICS Center, IT'S T TIME Community-based Organization, Asexual in Vietnam (AIV) Community-based Organization, Sunshine An Giang Social Enterprise, and NextGen Hanoi Community-based Organization.

I. Introduction

This report, submitted for the third Universal Periodic Review of VietNam in 2024, has been produced jointly by the following organizations:

- ICS Center: An organization that protects and advocates for the rights of LGBTI people in Vietnam, established in 2008.

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- IT'S T TIME: An organization founded in 2018 and led by transgender people, working in the area of capacity building and policy advocacy for transgender people in Vietnam.

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- Asexual in Vietnam (AIV)¹: A network connecting people on the Asexual Spectrum (asexual, demisexual, grayasexual, etc.) in Vietnam, established in 2013. The organization builds programs on rights and shared spaces for people on the Asexual spectrum.

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- Sunshine An Giang Social Enterprise: The first ever community-based organization and social enterprise in An Giang to advocate and fight for the rights of the LGBTIQ+ community, and people living with HIV, with an emphasis on the rights of transgender people.

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¹ People on the Asexual Spectrum are individuals who have or do not have sexual behavior, who may or may not have sexual desire but one thing they share in common is they have no or little sexual attraction and may or may not have emotional attraction. (Research on "The current status of building romantic relationships among asexual people in Vietnam, 2020)

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- NextGen Hanoi: An organization working for the rights of LGBTI people from 2015, projects which are especially aimed at young people and educational activities about SOGIE along with art, entertainment, and festival activities for the LGBTI community.
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II. Background

In 1977, Vietnam officially became a member country of the United Nations. By ratifying the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1982, as well as other conventions on human rights, Vietnam has demonstrated its commitment to respect, protect and promote human rights on the principles of equality and non-discrimination.

During the 3rd Universal Periodic Review (UPR) in 2019, Vietnam accepted the recommendations of three countries that directly addressed the protection and promotion of rights for the LGBTI community, namely Malta: “Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons”; Iceland: “Enact legislation to ensure access to gender affirmation treatment and legal gender recognition” and Chile: “Develop legislation against discrimination on the grounds of sexual orientation and gender identity.” Right after that, a master plan on implementing the recommendations that Vietnam accepted during the third UPR cycle was signed and approved by the Prime Minister (Decision No. 1975/QĐ-TTg dated December 31, 2019), affirming the commitment to fully implement the recommendations for Viet Nam. However, until April 2022 when the government submitted the mid-term voluntary report, there had not been any changes in the legal system to better protect the rights of LGBTI people in Vietnam.

Meanwhile, the 2 year COVID-19 pandemic has made vulnerable people, especially LGBTI people, face more difficulties enjoying their rights and livelihood

and gaining limited access to healthcare services².

Since 2019, society has witnessed a number of weddings of diverse groups, with not only same-sex couples, and heterosexual transgender couples, but also gay transgender couples more likely having their weddings publicly announced. At the same time, transgender and same-sex couples have also become increasingly present with their families and children. Some medical facilities also started advertising their services as LGBTI-friendly. Psychological support for LGBTI people has come into being, but the service providers work separately and are connected by personal circles.

LGBTI organizations, groups, and individuals are relatively widely present in Vietnam, with community events being able to take place but those of small and medium sizes given less constraint. However, LGBTI groups are constrained in receiving funds and organizing activities, mainly due to their lack of registration and legal status. The community is also encouraged to participate in policy dialogues as well as to provide comments and feedback to the policy development and evaluation process. However, acts of stigma and discrimination remain in many different forms, exerting negative impacts on the socio-economic life of the LGBTI community.

Legislation on same-sex marriage has not witnessed any changes since the previous cycle of review. The Law on Marriage and Family 2014 still does not recognize marriage between same-sex persons. Legislation on gender equality and gender-based anti-discrimination in the area of labor rights still only refer to male and female biological sex, not taking into account discrimination based on sexual orientation and gender identity to ensure the rights of LGBTI people.

A bright spot related to the rights of transgender people is that the Draft Law on Gender Affirmation has had a new development with the establishment of a Drafting Committee, and it is expected to be officially discussed at the National Assembly in session October 2023 and be reviewed for approval in May 2025.

III. Legal and social issues related to the LGBTI community in Vietnam

² According to the Vietnam Social Insurance, by the end of 2022, there had been about 91.1 million people participating in health insurance, reaching a coverage rate of 92.04% of the population. However, transgender people have been facing barriers in accessing insurance services because of gender- and hormone intervention-related factors, as well as the lack of psychological and health information consultation services in public hospitals.

1. Same-sex couples do not have equal marriage rights

1.1 Although the Law on Marriage and Family (amended) 2014 removed the prohibition on same-sex marriage, Vietnam still does not recognize or provide any forms of protection to the rights of same-sex couples during their cohabitation to create a shared life³. Same-sex couples are not entitled to a number of rights such as moral rights – to represent each other, common property rights, rights of inheritance at law, joint adoption rights, division of property rights, etc. A study in Vietnam in 2019⁴ shows 23.4% of same-sex couples had difficulty registering for household registration, and 42.3% of same-sex couples aged 25-34 had difficulty registering their lover/partner as next of kin in place of emergency contact.

1.2 Right to have children together and adopt children: current legislation only allows (legally) married couples or qualified individuals (in compliance with the Law on Adoption) to adopt children⁵. Surrogacy is only applicable to (legal) couples who cannot conceive naturally, or single women⁶. This means a male same-sex couple cannot have a child through surrogacy, while if a female same-sex couple chooses to have a child through in vitro fertilization, only the person who directly gives birth to the child is recognized as the legal mother by law (single mother), the other person is not entitled to any rights to the child. Vietnamese legislation does not yet allow or create supportive conditions for same-sex couples to adopt and have children through assisted reproductive methods⁷.

1.3 The Draft Preliminary Report summarizing 5 years of implementing the Law on Marriage and Family 2014 of the Ministry of Justice in July 2019 mentioned the need to continue researching and perfecting relevant institutions (arising from the regulation of not recognizing marriage between same-sex persons) to ensure

³ Clause 2, Article 8 of the Law on Marriage and Family: "The State does not recognize marriage between same-sex persons."

⁴ Research "Same-sex cohabitation" (iSEE, 2019)

⁵ Clause 3, Article 8 of the 2010 Law on Adoption

⁶ Clause 22, Article 3, the 2014 Law on Marriage and Family, Clause 1, Article 3, Decree 10/2015/ND-CP

⁷ 96.1% of interviewed LGBTI people (equivalent to 5,765 people) want Vietnamese legislation to allow same-sex couples to adopt children. The majority of them (5,729) wish to have a favorable legal environment for assisted reproductive activities, specifically regulations on in vitro fertilization, etc. for same-sex couples who wish to have children. - Excerpt from the research "Same-sex cohabitation" (iSEE, 2019)

equality and prevent discrimination against LGBTI people⁸. This is in line with Vietnam's commitments to the International Covenant on Civil and Political Rights (ICCPR)⁹ and the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹⁰. During the third UPR cycle, Vietnam accepted a number of recommendations related to the protection of LGBTI people¹¹, but did not accept any of the 3 recommendations (from the Netherlands, Iceland, Canada) on having the institution of equal marriage, and protecting the rights of same-sex couples. The 4th ICCPR periodic report of Vietnam¹² also does not show efforts to change and protect the rights of same-sex couples.

Recommendations:

1. Review and amend the Law on Marriage and Family 2014 (Article 8), entitling people of the same sex to marriage and full equal rights and obligations in marriage.
2. Revise relevant laws and regulations, and expand the definition of 'cohabitation' to entitle same-sex couples to their rights, including the Law on Domestic Violence Prevention and Control 2022, the Law on Adoption 2010, and the Law on Gender Equality 2006.

2. Domestic violence and intimate partner violence against lesbian and bisexual women

⁸ [The Preliminary Report on the implementation of the 2014 Law on Marriage and Family.](#)

However, in the Preliminary Report on the implementation of the Law on Marriage and Family of a district of [Ha Tinh](#), same-sex couples are mentioned as "people with gender problems and gender disabilities."

⁹ Article 26: "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.."

¹⁰ Article 16b: States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular, shall ensure, on a basis of equality of men and women: The same right freely to choose a spouse and to enter into marriage only with their free and full consent." The fact that the Law on Marriage and Family does not recognize same-sex marriage, limiting the freedom of women (as well as men) to choose a partner, is not in compliance with Article 16b of the International Convention on the Elimination of all forms of Discrimination against Women.

¹¹ Malta: "Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons"
Chile: "Develop legislation against discrimination on the grounds of sexual orientation and gender identity."

¹² [Viet Nam's 4th ICCPR Periodic Report](#)

In 2021, an 18-year-old lesbian living with her family in Ho Chi Minh City was discovered to have a romantic relationship with another woman. Her parents locked her in the house and did not let her out for school. Her parents threatened to have her marry a man, while her elder brother took her phone away, beat her, and threatened to "force her to have sex with a man". When she contacted a community-based organization working on lesbian and bisexual women's issues and had her case reported to the police, the police took neither any protective measures to her nor any penalties or deterrent measures against her family members who committed violent acts.

2.1 Vietnam remains as a patriarchal society¹³. This creates a power imbalance between men and women, making women susceptible to victims of gender-based violence in the family¹⁴. In that context, lesbian and bisexual women often become victims of social discrimination and many forms of gender-based violence due to their non-conformity to social standards and expectations of a woman (such as falling in love, getting married, settling down with a man and performing the traditional roles of women in the family). According to research by Hai Dang Social Enterprise, an organization working on the rights and health of the LGBTI community, 79.3% of lesbians have experienced SOGI-based violence. Another study¹⁵ also shows that lesbians are the group most often subjected to emotional violence from family¹⁶. In addition, lesbian and bisexual women are also likely victims of intimate partner violence like other sexual orientation groups. However, the current situation of gender-based violence and intimate partner violence against lesbian and bisexual women is not reflected in the results of the

¹³ According to the UN Women 2021 [report](#), persistent gender gaps include: rising sex ratios at birth amid son preference; stereotypes/prejudices about choosing gender-appropriate majors and streamlining into a few narrow occupations; women's vulnerable, unprotected and underpaid employment; prejudice against women in leadership roles, especially against women holding executive or public positions at the commune level; high rates of intimate partner violence, coupled with a lack of support services; and the social expectation that women are responsible for unpaid work in the household, and have an obligation to balance this unpaid housework with paid employment.

¹⁴ In Vietnam, one in every four women who have ever had a husband/partner or are currently married/have a partner reports experiencing physical violence by their husband/partner in their lifetime (26.1%).

- According to UNFPA [report](#).

¹⁵ Research "Is it because I am LGBTI?" (iSEE, 2022)

¹⁶ Lesbians are the group most likely to be threatened with pressure on their lover or to reveal information to their lover's family, according to the research "Is it because I am LGBTI?" (iSEE 2023)

National Survey on Violence against Women¹⁷, the Report on 15 years of implementation of the Law on Gender Equality 2006 of provinces and cities, or in the Report on the Implementation of the Government's National Goals on Gender equality¹⁸.

According to a lesbian activist in Vietnam, the majority of lesbian and bisexual women who are victims of intimate partner violence choose not to report their cases to competent authorities as they do not want to disclose their sexual orientation or do not believe that they can receive the support they seek. In a specific case, a woman-loving woman in Ho Chi Minh City reported to the police that she was beaten by her same-sex partner, who also threatened to kill her, and demanded all their shared property if the couple broke up. However, the police responded that they could not provide any support.

2.2 Although a number of relevant laws and regulations have made efforts to protect women from domestic violence¹⁹, in reality, lesbian and bisexual women still receive little protection from the law when their rights are violated. The Law on Gender Equality 2006 does not provide a specific definition of gender-based violence, and the concept of 'gender' is understood in a binary sense (only male and female) in the law and the relevant legal system, in which the goal of gender equality is to balance the entitlement of rights between men and women. Article 3 of the Law on Domestic Violence Prevention and Control does not apply to same-sex couples²⁰. The Ministry of Justice's regulations on ensuring gender equality²¹ in legal aid on the implementation of protective and support measures for legal aid recipients do not cover women who experience domestic violence from a female lover/partner. The Law on Children 2016 also has regulations on

¹⁷ In this survey, women are considered to have a husband/partner if they had ever been married, had cohabitated as husband and wife, or had ever dated a sexual partner (boyfriend).

¹⁸ [Report on the Implementation of the Government's National Goals on Gender Equality](#)

¹⁹ The 2013 Constitution stipulates that all citizens (including women of all ages) are entitled to equal rights and are protected from all forms of violence and discrimination. The Law on Gender Equality 2006 affirms that men and women are equal in all areas of social and family life; The Law on Domestic Violence Prevention and Control 2022 and the Law on Marriage and Family 2014 stipulates that marriage must be based on an equal and non-violent relationship.

²⁰ The law has pointed out acts of violence within the family, committed by people with family relationships.

²¹ Article 12 of Circular No. 11/2014/TT-BTP dated April 17, 2014 of the Ministry of Justice on ensuring gender equality in legal aid has regulations on the implementation of measures to protect and support mothers, girls, victims of domestic violence, victims of trafficking, victims of sexual abuse.

anti-discrimination against children but does not include SOGIESC elements²².

In addition, during the third UPR cycle, Vietnam approved over 05 recommendations on combating domestic violence and violence against women²³ as well as recommendations on ensuring the rights of lesbian and bisexual women²⁴.

Recommendations:

1. Expand the definition of Gender Equality in the Law on Gender Equality 2006 and relevant laws to include gender and sexual diversity groups.
2. Expand the scope of anti-discrimination based on SOGIESC in the Law on Children 2016 and in the Law on Domestic Violence Prevention and Control 2022 to be consistent with the conventions that Vietnam has joined (CEDAW, CRC, ICCPR).

3. Sexual violence in Asexual couples

3.1 Although the number of studies about the Asexual community in Viet Nam is still relatively limited, sexual violence is always a prominent issue reported by the community in existing studies. First of all, Asexual people face acts of violence in general (violence based on sexual orientation and gender identity) in economic, mental, sexual, and work aspects²⁵. Furthermore, one in every four people from the sexual minority community (including Asexual people) experiences at least one type of sexual violence (being forced to watch pornography, being sexually

²² Article 8 of the Law on Children 2016 does not prohibit SOGIESC-based stigma and discrimination against children.

²³ Spain: "Adopt a national plan of action to prevent all forms of violence against women and assign sufficient resources for its implementation."

Iceland: "Prohibit all forms of violence against women and strengthen women's access to justice."

Tunisia: "Continued efforts to combat domestic violence and violence against women."

²⁴ Malta: "Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons"

²⁵ 74.1% of surveyed Asexual people have experienced at least one type of sexual violence (violence based on sexual orientation and gender identity) (Report on the Current Situation of Violence based on Gender and Sexual Orientation with LGBTIQ+ people in Vietnam and related factors (Hai Dang, 2023)

harassed or abused, being forced to have sex with another person/rape)²⁶.

3.2 According to a community survey, when faced with acts of sexual violence, 96% of Asexual people seek neither help from competent authorities nor health examination and consultation at medical facilities. Only 2 cases made their attempts to seek help but they were not happy with the result, citing being ignored by the police or asked for hospitalization by a medical facility²⁷.

3.3 Romantic partners are the second largest perpetrators of sexual violence after sexual violence from strangers/unknown people²⁸. Asexual people are put in the position of having to satisfy a partner whose sexual needs are of different levels to theirs or having to use sex to demonstrate the sincerity of their romantic feelings, or even having to endure corrective rape²⁹. According to community research, these acts of sexual violence have a detrimental impact on the victims' minds, causing asexual victims to suffer from sexual phobia and fear of entering a romantic relationship or to develop inferiority complexes about their sexual orientation³⁰.

An Asexual male currently living in Ho Chi Minh City has experienced violence and sexual violence committed by his girlfriend. Even though he has no sexual needs, he has many times been pressured and forced by his lover to commit sexual intercourse with serious violent acts such as gagging and razoring. He neither shared the incident publicly nor reported it to the police nor sought other forms of help. The reason is that he had had the experience of being overlooked or ignored when reporting a case of sexual coercion to his supervisor in military service.

Domestic sexual violence

²⁶ 152/653 LGBT+ people participating in the study reported on experiences of sexual violence in three types: being forced to watch pornography, being sexually harassed or abused, being forced to have sex with another person/rape (Ibid. 1)

²⁷ One person shared, "The medical facility immediately required me to be admitted to the hospital and use strong sedatives, which caused mental depression, even though I had not yet reached that threshold. I felt lucky because I did not listen (to them), otherwise, I would have suffered a lot worse than now" ([Survey on Sexual violence against people on the Asexual Spectrum](#), Asexual in Vietnam, 2023)

²⁸ Romantic partners account for 20% of all perpetrators of sexual violence. (Ibid. 4)

²⁹ (Ibid. 4)

³⁰ Report on the Current status of building romantic relationships for Asexual people in Vietnam (2020)

3.4 According to research by Hai Dang Social Enterprise, 23.7% of LGBTI people have experienced domestic sexual violence³¹; and among them, Asexual people also encounter serious domestic sexual violence such as being forced to have sex with others to have children or get married³². In fact, there have also been recorded cases of families forcing their Asexual children to undergo "corrective rape" because these individuals previously refused to have sex with their lover or life partner.³³

An Asexual man in Hue had the experience of being forced by his family to have sex in a state of unconsciousness to have children and get married. Because he is an Asexual and has no need to get married or have children, his family forced him to have sex to have children, thereby forcing him to get married and comply with family traditions and obligations. Afraid of being stigmatized and discriminated by society, he did not go to any government agencies to seek support.

3.5 Vietnam has added the definition of domestic violence acts in the Law on Domestic Violence Prevention and Control 2022³⁴ in accordance with the principles of the conventions Vietnam has signed such as the International Covenant on Civil and Political Rights (ICCPR)³⁵ and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). However, Article 3 of the Law on Domestic Violence Prevention and Control 2022 does not list domestic sexual violence acts based on sexual orientation or gender identity. Therefore, violence against Asexual children and partners is not covered by this

³¹ Ibid. 2

³² Ibid. 4

³³ Ibid. 4

³⁴ [There is a Law on Domestic Violence Prevention and Control 2022, effective from July 1, 2023.](#), (The Library of law)

³⁵ Article 26: "the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Failure to ensure the political and civil rights of same-sex couples because they have the same sex is gender-based discrimination, violating Article 26 of ICCPR.

³⁶ Article 3 of the Law on Domestic Violence Prevention and Control 2022: Acts of domestic violence, "Stigma and discrimination based on body shape, sex, gender, and ability of family members"

law³⁶. At the same time, with cases of violence caused by family members³⁷, Article 5 of the Law on Marriage and Family 2014 prohibits forced marriage, and LGBTI and Asexual people are also victims of forced marriage³⁸.

3.6 Vietnam has produced a National Report (2019) on the issue of sexual violence within the family or by intimate partners, but there is no data on Asexual or LGBTI people³⁹ suffering from violence. In 2021, Vietnam issued [Resolution 28/NQ-CP](#): National Strategy on Gender Equality for the period of 2021 - 2023, contributing to achieving the Sustainable Development Goals until 2030 with targets in domestic violence reduction.⁴⁰ However, the strategy does not set out targets to prevent cases of domestic sexual violence based on sexual orientation and gender identity.

3.7 During the third universal periodic review, Vietnam accepted 03 recommendations on discrimination issues based on SOGIESC⁴¹ and many recommendations to protect victims of domestic and intimate partner violence.⁴²

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Recommendations:

1. State mechanisms need to provide education and training in gender and sexual diversity and build capacity for officials who work directly with victims of

³⁶ Article 3 of the Law on Domestic Violence Prevention and Control 2022: Acts of domestic violence, “Stigma and discrimination based on body shape, sex, gender, and ability of family members”

³⁷Article 3 of the 2014 Law on Marriage and Family: *Family members* include husband, wife; natural parent, adoptive parent, stepfather, stepmother, parent-in-law; natural child, adopted child, stepchild, child-in-law; full sibling, paternal half-sibling, maternal half-sibling, brother- or sister-in-law of full sibling, paternal half-sibling or maternal half-sibling; paternal grandparent, maternal grandparent; paternal grandchild, maternal grandchild; blood paternal aunt, maternal aunt, paternal uncle, maternal uncle, niece and nephew.

³⁸Article 5 of the Law on Marriage and Family 2014: Prohibits the following acts: b) Underage marriage, forcing a person into marriage, deceiving a person into marriage, obstructing marriage;;

³⁹ Findings of the National Survey on Violence against Women in Vietnam (2019, MOLISA & UNFPA)

⁴⁰ Target 2: By 2025 and 2030, respectively 80% and 90% of DV and GBV survivors will access at least one of the basic support services; By 2025 and 2030, respectively 50% and 70% of DV and GBV perpetrators detected at a level that is not criminally prosecuted will be provided with counseling (National Strategy on Gender Equality for the period of 2021 - 2030)

⁴¹ Chile: Develop legislation against discrimination on the grounds of sexual orientation and gender identity

Malta: Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons

⁴² Canada: Review the Labour Code and the law on gender equality to include a detailed definition of sexual harassment

⁴³ Tunisia: Continue efforts to combat domestic violence and violence against women

⁴⁴ Iceland: Prohibit all forms of violence against women and strengthen women’s access to justice

sexual violence in the family.

2. Strengthen additional research and reports by the Ministry of Labor, Invalids and Social Affairs (MOLISA) on domestic and intimate partner violence cases of LGBTI and Asexual people.
3. Enhance knowledge about gender diversity, raise awareness of rights and choice of freedom in the materials of sex education in schools at different levels

4. Transgender people's right to legal gender recognition

4.1 The Draft Law on Gender Affirmation (GAL) (developed by the Ministry of Health since 2016⁴⁵) has been transferred⁴⁶ to the Drafting and Editing team led by National Assembly deputy Nguyen Anh Tri (September 2023), expected to be opened for comment at the October 2024 National Assembly session and to be adopted in May 2025 session⁴⁷. Although Vietnam has accepted 03 recommendations^{48 49 50} regarding the promulgation of a GAL and ensuring rights for people in vulnerable groups during the third UPR cycle, the process of developing a GAL and providing comments on this draft law will continue at least until the last session of the 2021 - 2026 National Assembly term.

4.2 Transgender people in Vietnam have not had their legal gender recognized even though the right to gender affirmation has been legalized in Article 37, Civil Code 2015⁵¹. Not being able to have their legal gender recognized has caused transgender people to have difficulty exercising their right to change their name (Their request for changing their name is refused because their new name is not

⁴⁵ Decision No. 243/QĐ-TTg dated February 5, 2016, of the Prime Minister promulgating the Plan to implement the Civil Code, which assigned the Ministry of Health to research and propose the development of legal documents on gender affirmation.

⁴⁶ <https://plo.vn/bo-y-te-chuyen-Giao-du-an-luat-chuyen-doi-gioi-tinh-cho-dbqh-nguyen-anh-tri-post732039.html>

⁴⁷ Resolution No. 89/2023/QH15 of the National Assembly: Program for developing laws and ordinances in 2024, adjusting the Program for developing laws and ordinances in 2023

⁴⁸ Malta: Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons.

⁴⁹ Iceland: Enact legislation to ensure access to gender affirmation treatment and legal gender recognition.

⁵⁰ Chile: Develop legislation against discrimination on the grounds of sexual orientation and gender identity.

⁵¹ "Gender affirmation is carried out according to the provisions of law. Individuals who have changed gender have the right and obligation to register for changes in civil status according to the provisions of the law on civil status; have moral rights appropriate to the gender that has been converted according to the provisions of this Code and other relevant laws." - Article 37, Civil Code 2015. <https://thuvienphapluat.vn/van-ban/Quy-en-dan-su/Bo-luat-dan-su-2015-296215.aspx>

in line with their gender expression), and to be stigmatized and discriminated in accessing health services⁵², civil transactions and employment. At the same time, the principles of ensuring equality and anti-discrimination in the Law on Gender Equality 2016 do not include transgender people⁵³.

*On March 11, 2019, a transgender man named N.T.T (21 years old) submitted an application for changing his name to the People's Committee of Hoi Thuong ward (Gia Lai province) because his birth name caused him difficulties in communication, affecting his legitimate rights and interests in the school environment, health insurance, banking transactions as well as access to employment. However, the application processing officer refused his application because NTT could not prove the problems from his current name.*⁵⁴

4.3 Not only N.T.T. but also many similar cases in other localities⁵⁵ ⁵⁶cannot exercise their legitimate right to change their name (According to Article 28 of the

⁵² "...people pressed me down and looked at me for a while, and said, "why does this guy have a uterus; he's a man, why does he have a uterus, so they made a big fuss...". Then I whispered to the doctor: "Doctor, I'm transgender, then the doctor lowered his voice..." (Lam, a transgender man, 32 years old). Consultation with the transgender and gender diverse community on the draft GAL by IT'S T TIME and iSEE in 2022.

⁵³ The current Law on Gender Equality only recognizes two biological sexes: male and female, and also does not recognize terms such as "Gender Identity" and "Sexual Orientation". "Men and women are not discriminated in terms of gender" - Clause 2, Article 6, Law on Gender Equality 2006.

⁵⁴ Clauses a and e, Article 28, 2015 Civil Code stipulate the cases in which the right to change a name can be exercised, including: "At the request of the person whose name is used and causes confusion and affects the family relationship, affects that person's honor, rights, and legitimate interests" and "Changing the name of a person who has had their gender reassigned/ reaffirmed". On March 11, 2019, a transgender man named N.T.T (21 years old) submitted a request to change his name to the People's Committee of Hoi Thuong ward (Gia Lai province) because his birth name caused him difficulties in communication, affecting his honor, rights, and legitimate interests; but his request was refused by the officer handling the application. Reason for refusal: NTT's name cannot be changed because, based on Article 1, Clause a of the excerpt of the law on name change, if the name causes problems to N.T.T.'s honor and rights, he must have documents to prove it. Although N.T.T.'s report clearly states: At school, because his name did not match his appearance, he was suspected of going to school for someone else, was teased, and felt scared every time he went to class; In healthcare, N.T.T was suspected of using another person's health insurance card for medical treatment; In transactions with banks, N.T.T was required to submit additional documents; When applying a job, he was refused because his name did not match his appearance and he was suspected of falsifying identification documents to commit fraud.

⁵⁵ On March 29, 2021, a transgender man named H.K.N went to the People's Committee of Tan Phu District (Ho Chi Minh City) to request a name change because his birth name caused him difficulties in communication and affected his honor and legitimate rights. The officer handling his request, after receiving it, returned it to H.K.N with a refusal letter on the grounds that he had no documents to prove that his current name affected his honor.

⁵⁶ On January 17, 2023, a transgender woman H.Y.V went to the People's Committee of Binh Tan District (Ho Chi Minh City) to request a name change on the grounds that her name caused difficulties in communicating, affecting her honor and legitimate rights. After receiving the application, the processing officer asked H.Y.V. if she had any documents proving that she was having difficulties with her name. If not, then she had to find evidence to prove it. After that, H.Y.V requested a certificate of refusal, and the processing officer requested H.Y.V to follow the required procedures. When H.Y.V. asked the officer for guidance, the answer she received was to go to the National public service portal to find out. However, what H.Y.V found out is that there is no requirement to have documents proving the harm the name brings to her.

Civil Code 2015, changing one's name is an individual's civil right and is not related to transgender status). In fact, transgender people provide two reasons: first, their birth name causes difficulty in communication, affecting their legitimate rights and interests; Second, they have changed their gender and need to change their name to match their gender, but their request for changing their name is refused. The enforcement of the law also varies in many localities as some individuals have successfully changed their names for the same reason as above^{57 58}. This shows the inadequacies of the legal system and also reveals the subjective judgment of public officials.

The drafting agencies are planning to include, in the Draft GAL, conditions for an individual to be recognized as a transgender person. The compulsory conditions are medical intervention⁵⁹ and singleness (not married). This affects transgender people's right to bodily self-determination and freedom to marry.

Right to bodily self-determination

4.4 The right to bodily self-determination is a basic human right. Therefore, the draft GAL needs to be built on the principle of respecting and ensuring this right of transgender people by not requiring medical intervention, and by including consultation processes, support, and counseling services in the self-identification process of transgender people⁶⁰.

Freedom to marry

4.5 This is a fundamental human right and should not be restricted when exercised in conjunction with the right to new gender recognition. The right to have a new gender recognized needs to ensure that transgender people still have all rights to pursue their own happiness as well as maintain civil relationships that

⁵⁷ On June 27, 2019, a transgender man N.N.H requested a name change at the People's Committee of Tan Phu District (An Giang) because his male appearance did not match his name, which caused many difficulties in his communication and affected his honor and legitimate rights. The application processing officer received and processed the application for N.N.H within 5 days and NNH was successfully renamed.

⁵⁸ On May 13, 2021, a transgender man named H.Q.H requested a change in his middle name at the People's Committee of Tan Son District (Phu Tho) on the grounds that his birth name caused difficulties in communication and affected his honor and legitimate rights. The application processing officer received and processed this request within 5 days and HQH has successfully had his middle name changed.

⁵⁹ "Gender re-affirmation is only for people who have experienced medical intervention" <https://plo.vn/bo-y-te-chuyen-Giao-du-an-luat-chuyen-doi-gioi-tinh-cho-dbqh-nguyen-anh-tri-post732039.html>

⁶⁰ Mandatory medical intervention does not respect transgender people's right to bodily self-determination. Transgender people without good health or economic conditions or without the need for medical intervention will have to trade their right to bodily self-determination with the right to legal gender recognition.

existed before having their new gender recognized⁶¹.

Right to health care and access to health care services

4.6 Transgender people of any age should be able to access and use comprehensive health care and counseling services. Therefore, regulations on health care and access to counseling and support services should be applied at any time depending on each individual's needs, instead of limiting these services only to the time of medical intervention of transgender people^{62 63}.

Recommendations:

1. Ensure the progress in promulgating the Law and sub-law documents to protect the rights of transgender people in accordance with international commitments, including the recognition of legal gender for transgender people, ensuring their full rights of self-determination about their body, freedom of marriage, and health care.
2. Add the term "Transgender" to the basic principles of gender equality in the process of amending the 2006 Gender Equality Law, ensuring that transgender people are not discriminated against on the basis of gender and gender expression.
3. Consider removing the regulation 'not recognizing marriage between people of the same sex' in the Law on Marriage and Family 2014 to protect transgender people's freedom of marriage.

5. Stigma and discrimination in access to employment and in the working environment towards transgender people

⁶¹ The mandatory singleness would force previously married transgender people to divorce if they want to have their legal gender reaffirmed and would prevent single homosexual transgender people from getting married in the future. Therefore, with the current discussion, to exercise the right to legal gender recognition, transgender people will have restrictions in their freedom to marry.

⁶² Discussion on hormone intervention and psychological counseling for transgender people is applicable to subjects 16 years of age and older. Clause 3, Article 6, Chapter 3, Draft GAL, January 2022 <https://thuvienphapluat.vn/van-ban/The-thao-Y-te/Luat-Chuyen-doi-gioi-tinh-500252.aspx>

⁶³ "Research and supplement regulations on psychological and physiological support for children under 16 years old whose gender identity is different from their sex at birth to help them prevent possible negative consequences due to "gender dysphoria" - Vice Chairwoman of the Social Affairs Committee Nguyen Thi Kim Thuy shared at the International Experience Seminar and Consultation on the draft GAL on August 26, 2022 in Hanoi.

5.1 Vietnam has accepted two recommendations^{64 65} in the third UPR cycle on ensuring workers' rights as well as promoting gender equality in the workplace. However, the fact that transgender people have not had their legal gender recognized and continue to suffer a lot of social discrimination due to the lack of recognition by law has a serious influence on their ability to access jobs, and education as well as a safe and equitable learning and working environment.

5.2 The study “Is it because I am LGBTI” (iSEE, 2023) shows that 53% of transgender women and 60% of transgender men are refused by employers despite meeting all conditions regarding capability. In particular, even when employed, up to 69% of transgender women and 66% of transgender men are often discriminated against and shunned in the workplace⁶⁶. In particular, the main actions showing discrimination include negative comments and actions from colleagues⁶⁷.

Ms. Nguyen Ngoc Anh (27 years old, District 4, Ho Chi Minh City) graduated from university and is also a transgender woman... Previously, with the appearance of being a woman but being a man by law, Ngoc Anh many times flatly rejected "We do not accept transgender people" when applying for a job. Ngoc Anh said that: when applying for a job, many transgender people have to hide and not mention their transgender status; some transgender people disclose their transgender identity cautiously and anxiously.

5.3 Although some businesses are now more open to recruiting LGBTI employees, during the work process, transgender groups tend to be discriminated against in promotion opportunities at businesses (10.5 % of transgender women are limited in their promotion opportunities⁶⁸), causing them to often only hold low-level,

⁶⁴ Cambodia: Implement the policy on promoting gender equality and bridging the gender gap, which focuses on enhancing the role and participation of women in the political, economic and social spheres.

⁶⁵ Indonesia's 2019 recommendation: Strengthen its Labour Code 2019 to ensure consistency with its international commitments on labour rights, including ILO conventions to which Viet Nam is a party.

⁶⁶ Research by the Institute for Studies of Society, Economy and Environment (iSEE) published in 2023

⁶⁷ Excerpt from the report: Labor rights of transgender people in Vietnam today (December 28, 2021) posted on the website <http://www.lapphap.vn/Pages/tintuc/tinchitiet.aspx?tintucid=210950> of the Legislative Research Institute under the National Assembly Standing Committee.

⁶⁸ Excerpt from the report: Is it because I am LGBTI? (iSEE, 2023)

basic positions and find it difficult to hold management or higher positions⁶⁹; and encounter many other obstacles in their work. For example, 11.8% of transgender men participating in the iSEE 2023 survey say that they normally do not receive their work benefits (health insurance, periodic health examinations, benefit policies for their dependents,...)⁷⁰.

5.4 Difficult job opportunities and economic constraints force many transgender people to earn a living through informal employment (*selling lottery tickets; lottery singing; working as waiters/ waitresses in restaurants, cafes, karaoke,...*) with no protection during work and no benefits. In a study on transgender women in Ho Chi Minh City, only 4% of survey participants had jobs in the formal sector (*with a labor contract and employee benefits*) and up to 13% made a living by being sex workers⁷¹. In particular, the jobs transgender women often do, such as street art performances (*lottery singing; singing in funerals, parties, etc.*), still record a lot of discrimination and violence at many levels from customers and the surrounding community⁷².

6. Right to ensure safety in education

At a college in An Giang, L.N.N.K. (a transgender woman, 19 years old) is often teased and scolded by male students because of her different appearance. She is also harassed by male students through acts such as grabbing clothes and pulling hands in classrooms and on school grounds. Teachers also have discriminatory thoughts and often convey their discriminatory views to students during class

⁶⁹ Excerpt from report: Inputs for amending the Labor Code - Recommendations of gay, bisexual and transgender people (ICS, 2017), posted on <https://thuvien.lgbt/documents/gop-y-sua-recommendation-of-labour-recommendation-of-people-dong-spiritual-sex-life?fbclid=IwAR3Gg9tFlmNavumFHGIZ0sq-qdL-kA7GNzXuTBIYzUn-gZpFKaY52dinFbM>

⁷⁰ Ilib 68

⁷¹ Excerpt from the newspaper "Labor rights of transgender people in Vietnam today" (Truong Hong Quang, 2021). Access at the link <https://sti.vista.gov.vn/tw/Lists/TaiLieuKHCN/Attachments/330170/CVv213S202021003.pdf>

⁷² An article published in Dan Tri newspaper under MOLISA: "The truth behind the lottery rounds in Binh Duong" (Pham Dien, 2023) used vulgar and incorrect words ("*third world*") when describing the lottery musical band (bingo theater) in the original post. After the LGBTI community voiced their feedback, this post was edited and the above phrases were removed. These media posts have not only deeply affected the livelihoods of the transgender community in particular and the entire LGBTI community in general, but also deepened existing prejudices against the community. Access at link: "<https://dantri.com.vn/ban-doc/su-that-phia-sau-nhung-vong-quay-so-lo-to-o-binh-duong-20230302170639663.htm>". According to the representative of Sunshine An Giang Enterprise, lottery singing bands usually always obtain licenses from authorities for their operation. However, when these authorities work with the press, they say that these singing bands' activities are "disguised" and "undercover" activities.

when there are transgender people in the classroom.

6.1 The case of L.N.N.K. reflects the lack of safety in the learning environment for students who express themselves as transgender or do not conform to gender norms. 03 out of 05 LGBTI students often encounter negative comments about LGBTI and are bullied by peers; the percentage of LGBTI students suffering negative comments from school teachers and staff is similar.⁷³ Stigma and lack of safety in the educational environment can affect transgender people's mental health and cause serious barriers to accessing knowledge - about 7.8% of transgender women participating in the survey "Is it because I am LGBTI" (iSEE, 2023) had to drop out of school midway⁷⁴.

6.2 Most students who express their gender differently or identify themselves as LGBTI have experienced verbal harassment and physical violence. Revealing sexual orientation and non-conforming gender expression in the educational environment often puts students in a difficult situation where they are easily discriminated against by friends and teachers, and most schools do not yet have policies to protect gender minority student groups⁷⁵.

Recommendations

1. The Ministry of Education and Training (MOET) needs to add the principles of anti-discrimination based on sexual orientation, gender identity, and gender expression in the 2019 Education Law to better protect students with diverse gender expressions or not complying with gender norms in the school environment (from primary to upper secondary school level).
2. MOLISA needs to have capacity building and vocational education and training policies and programs suitable for transgender people, especially in areas where it is difficult to access information and have limited resources; Add the definition of sexual orientation and gender equality to the meaning of the

⁷³ Excerpt from the report: Is it because I am LGBTI? (iSEE, 2023)

⁷⁴ Excerpt from the report: Is it because I am LGBTI? (iSEE, 2023)

⁷⁵ Duc (22 years old, Ho Chi Minh City), in an interview with Human Rights Watch (September 2018), recounted that he was "mostly [bullied] verbally, but one time I was beaten by 5 or 6 boys in my grade 8 - just because they didn't like my appearance." Lieu (19 years old, Ho Chi Minh City) is often physically harassed - having a ball thrown at her head while playing basketball, having her books and uniforms torn, having her arms broken by her friends while some other students suffer from physical violence by their own family.

terms "discrimination" and "ensuring gender equality" in the Labor Code 2019.