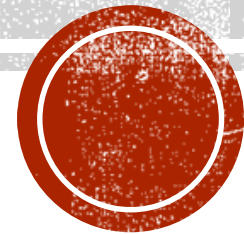


A GLIMPSE OF WHAT HAPPENED

GENDER-BASED VIOLENCE & LGBTIQA'S EXPERIENCE IN VIETNAM



IT'S TIME

Chu Thanh Ha, 25/05/2022

SOCIAL SITUATION RELATED TO LGBTIQA+

- Vietnamese culture is rooted in Confucianism (although most Vietnamese do not call it by name), which is characterized by patrilineal descent, patrilocal residence, male privilege, and hierarchical relationships that support gender inequality
- In the 19th century, French colonialism came to Vietnam putting their legal system. The communist party in Vietnam declared the independence of the nation in 1945 and won the war against France in 1954.
- The colonialism did not criminalize homosexuality.
- In 1975, North Vietnam won the civil war and took control all over Vietnam. The communist party is the only ruling political party since then.
- Decisions throughout the government and party structure are largely made by consensus, across layers of authority ranging from the politburo to the central committee, the party secretariat, the party commission, the National Assembly, regional steering committees, and government ministries.



SOCIAL SITUATION RELATED TO LGBTIQA+ (CONT.)

Starting in 1986, Vietnam gradually shifted from a centrally planned system to a socialist market economy.

- According to the World Bank, Vietnam is the second-largest recipient of remittances in Southeast Asia, with \$11 billion
- Vietnam's leading export manufactured product since 2013 has been electronics. Foreign technology companies have contributed a significant percentage to GDP of Vietnam, Samsung on itself contributing to than 20% of the total export of Viet Nam.
- > Young people, including LGBT people, tend to move and work in major cities like Ho Chi Minh or Hanoi which created a very high density of population in these cities.
- > Migration, both internal and out of the country, has also escalated since Doi Moi (1986), which has increased opportunities for migrants to improve their lives through economic independence, greater self-esteem and empowerment -> increasing women's and girls' vulnerability to abuse and exploitation at work and home (Rushing 2006)



LAWS AND REGULATIONS THAT POSE OBSTACLES FOR LGBTIQA+

- Vietnam doesn't have a legal framework that criminalized LGBTIQ people but lack meaningful recognition and protection of SOGIESC. Gender-based discrimination is forbidden in the Constitution and within various laws & policies, but SOIESC is not mentioned as a base for non-discrimination.
- Civil society organizations working on LGBT issues cannot obtain permission to provide legal consultations to LGBTIQA+ people who are marginalized by existing laws because of SOGIESC
- The amended Civil Code 2015 (Article 36) reiterated the regulation in Decree 88/ND-CP/2008 on people who are born with intersex statuses, allowing “medical intervention to clearly identify the gender”
- A law on association and a law on the peaceful assembly has been in discussion for decades and postponed several times. This poses challenges for the LGBTI community in the mobilization of resources, such as registration, project approval, and funding access.
- In 2014, the Law on Marriage and Family removed the ban on same-sex marriage, along with all fines related to same-sex weddings or ceremonies.
- In 2015, Viet Nam passed the Amended Civil Code, including Article 37 which was the first step to allowing transgender persons the right to undergo gender affirmation treatment



IMPACT OF LEGISLATION AND POLICIES ON THE LGBT+

Negative impact:

- Same-sex marriage is not recognized in the Law on Marriage & Family (2014), leading to same-sex couples living together without any protection from the State, and being unable to have children together.
- SOGIESC is not included in the grounds for anti-discrimination in any laws and policies, namely the Labour Code (2019), despite Vietnam repeatedly accept recommendations regarding non-discrimination in the 2nd and 3rd UPR
- Article 36 (Amended Civil Code) may provide a legal basis for non-consensual medical intervention on intersex infants and children, in violation of their right to bodily autonomy and may create medical problems or severe, lifelong physical and mental suffering.
- An additional Gender Affirmation Law must be enacted to give effect to Art 37. This is not officially scheduled in the lawmaking agenda of the National Assembly as of 2020-21, and therefore this right cannot practically be realized.

Positive impact:

Vietnam passed the Amended Civil Code, including Article 37 which was the first step in allowing transgender persons the right to undergo gender affirmation treatment, as well as having their gender recognized on official documents.



IMPACTS OF COVID-19 ON THE LGBTI+ COMMUNITY IN VIETNAM

- The most common types of impacts are reduced income (36.5%) and unpaid leave (18.7%)
- The younger the LGBTI+ are, the worse it became in the relationships between LGBTI+ people and their family (tend to live with family and their economic and personal decisions tend to depend more on their family)
- 32.5% transgender women and 36% gender diverse are the two marginalized groups reported that their physical health is adversely affected.
- Access to HIV and trans-related care is also being restricted, as medical providers prioritize COVID-related care
- The most recognized need for support includes psychological support (73.4%) and information and knowledge of LGBTI+ (59.7%)

(The impacts of Covid-19 on the LGBTI+ community in Vietnam, iSEE, 2020)



WHAT IS GENDER-BASED VIOLENCE (GBV)

“Gender-based violence” is violence that is directed at an individual based on their biological sex, gender identity, or perceived adherence to socially defined norms of masculinity and femininity. It includes physical, sexual, and psychological abuse; threats; coercion; arbitrary deprivation of liberty; and economic deprivation, whether occurring in public or private life (Khan, 2011).

- A fundamental human rights violation and a serious public health concern that primarily affects women and girls but can be directed against anyone who violates sex or gender norms.
- Rooted in gender inequalities and power imbalances between men and women This vulnerability also extends to trans women, *hijras* (in India) who are punished for violating gender norms (WHO, 2014a; WHO, 2013a; Tamang, 2003).
- In many countries in the Asia Pacific or even in Vietnam, there are no community-based organizations with resources to track such violence or offer support to those who have been attacked.
- The violence assaults based on sexual orientation and gender identity have not been documented and studied adequately



GBV TOWARDS LGBTIQ+ PEOPLE

In a 2015 survey (*), for those who have been discriminated for the last 12 months:

- On the ground, LGBTIQ faces discrimination in almost every facet of their lives, from family, school, and workplace to public services. One in 3 LGBTIQ respondents reported being discriminated against in the last 12 months
- 4.5% reported that they were physically assaulted; 8.4% were threatened to physical assault; 1.9 were sexually assaulted, and 2.2% were threatened to sexual assault.

- Cases of physical offenses:

19 cases where LGBT people were attacked by someone at schools

14 cases where family members assaulted LGBT people

11 cases where the perpetrators were at the workplaces

01 case where the perpetrator is a police officer

- Gay men, and trans guys are subject to most violent acts (45.5% and 18.2% respectively)

In-depth interviews also revealed a number of incidents where trans girls were subject to fairly serious physical offense



GBV TOWARDS LGBTIQA+ PEOPLE (CONT.)

Three-fourth of respondents who identify as LGBT have no knowledge about which law in Vietnam could be used to protect LGBT from discrimination or violence

Only 2% of the respondents who have been discriminated against in the last 12 months expressed that they reported the incidents to the police, civil defense force, or local authorities.

- 98% of those who decided not to report with the authorities, the main reason as set out is: viewing the incident as minor and frequently occurred (63.7%);
- 46.7% said they did not believe the incident would be resolved and 26.3% do not wish to disclose about themselves
- 17.7% of respondents fear of reaction from the police

(*) Luong The Huy and Pham Quynh Phuong (iSEE), *“Is it because I am LGBT?”: Discriminations on Sexual Orientation and Gender Identity in Vietnam*, The Institute for Studies of Society, Economy and Environment, 2015, page 82, http://thuvien.lgbt/s/iSEE_SOGI-Discrimination-in-Viet-Nam.pdf, accessed 30 May 2017)



RECOMMENDATIONS



- Build the capacity of LGBTIQ+ organizations to recognize and professionally monitor and report human rights violations, including violence against LGBTIQ+ people
- Undertake research on the impacts of gender-based violence on LGBTIQ+ people (including trans men and gender-nonconforming people who were assigned female at birth), and interventions required to reduce such violence and support those affected by it
- Undertake human rights training for judges, lawyers, police, prison personnel, asylum officers, security officials, and others in a position to perpetrate or prevent violence against LGBTIQ+ people





RECOMMENDATIONS (CONT.)

- Address violence against sex workers who are LGBTIQ+ through repealing laws that prohibit commercial sex work; taking legal measures to ensure safe working conditions and stopping police harassment, abuse, and violence against LGBTIQ+ sex workers
- Document the vulnerability of LGBTIQ+ children and youth to bullying, explicitly address their rights and schools' obligations regarding anti-bullying policies and ensure that effective internal and external complaints mechanisms and support exist
- Some UN experts and mechanisms that have investigated human rights violations against trans people including trans people in detention. Greater use of those mechanisms by trans advocates and national human rights institutions (NHRIs) in this region could start to build a stronger evidence base and make governments more accountable for reporting on trans human rights outcomes.



A close-up photograph of a hand holding a bundle of approximately 15 sharpened pencils. The pencils are arranged in a fan-like shape, displaying a variety of colors including pink, red, orange, yellow, green, blue, and purple. The hand is positioned at the bottom of the frame, with the fingers visible. The background is a blurred, textured surface, possibly a piece of fabric.

THANK YOU FOR
LISTENING

