

SAME-SEX COHABITATION VIA THE COURT'S DECISION ON RESOLUTION OF CIVIL MATTERS – A FIRST STEP ON THE PATH OF LEGALIZING SAME-SEX MARRIAGE IN VIET NAM

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Abstract: Although same-sex marriage is regulated in some jurisdictions throughout the world, it is still contested in many countries, especially in Asia. Following the Marriage and Law 2014 reform, same-sex marriage in Viet Nam is no longer prohibited by law, but it has been unregulated. Although same-sex marriage cannot be legalized immediately due to the strong influence of Confucianism on the concept of family, first steps are needed to protect LGBT people. Hence, same-sex cohabitation in Viet Nam is suggested to be the most efficient way to transform society's attitude toward same-sex marriage. Thus, the article is dedicated to shedding light on 'To what extent can Viet Nam first lay the foundation for same-sex marriage?'. In order to answer this question, it is necessary to answer the two sub-questions of (i) What is the current context and the current legal framework of Viet Nam?; and (ii) Is it necessary to legalize same-sex marriage?. These two sub-questions shall be answered by examining Viet Nam's current context and legal framework on same-sex relationships. Since this type of decision is strongly related to moral principles and depends on a case by case, this article suggests some factors that the Court may consider when making decisions. With this first step, recognizing same-sex cohabitation is believed to gradually change society's attitude and help complete the structure of the future legal framework involving same-sex marriage.

Keywords: *Same-sex couples; same-sex marriage in Viet Nam; cohabitation procedures; civil matters.*

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Introduction

If same-sex romance was once considered unnatural⁴ and was treated as a crime,⁵ it is now excluded from the list of crimes and is legalized in some countries.⁶ Specifically, same-sex marriage was first legalized in the Netherlands (2001)⁷ and expanded to other European countries such as Belgium (in 2003)⁸ or Spain (in 2005).⁹ This trend has opened new rules for the rights and obligations of same-sex couples, including the foundation of cohabitation, partnership, or civil union.¹⁰

Though the number of countries that legalize or consider same-sex marriage is limited, it shows that people have their preferences on their lives and how they will live in a globalization era.¹¹ Indeed, LGBT (Lesbian, Gay, Bisexual, and Transgender) people are fighting for their right to choose whom they love and whom they live with regardless of opponents' arguments due to varied reasons: reproduction, children's development, or assumption regarding gender roles.¹² In Asia, however, people seem to be sceptical about this topic. Until now, Taiwan has been the first country in Asia to recognize same-sex marriage in 2017.¹³ In other Asian countries, same-sex relationships may be either treated as crimine¹⁴ or left unregulated. For the latter case, take Viet Nam as an example.

Before Viet Nam's Marriage and Law reform in 2014, same-sex marriage was treated as a violation of the law and thus was monetarily sanctioned.¹⁵ When drafting the Marriage and Law reform, there were arguments on legalizing same-sex marriage to protect LGBT people better.¹⁶ The result was that same-sex marriage in Viet Nam is no longer prohibited by law, but it has been unregulated until now. In practice, abolishing the sanction on same-sex marriage means that same-sex couples can hold a commitment ceremony – which is considered a symbolic marriage in Viet Nam and get rid of the administrative sanction. In that period, abolishing administrative sanctions was reasonable because Viet Nam seemed not ready for same-sex marriage because of many factors such as the long history of the family's concept,

⁴ Mark Seymour, 'Chapter 1. From Sodomy Laws To Same-Sex Marriage: Historical Transformations', *From sodomy laws to same-sex marriage* (1st edn, Bloomsbury Publishing Plc 2019), 1

⁵ Ben Bethell, 'Chapter 5. Defining "Unnatural Crime": Sex And The English Convict System, 1850–1900', *From sodomy laws to same-sex marriage* (1st edn, Bloomsbury Publishing Plc 2019), 57

⁶ Simona Varrella, 'Gay Marriage Worldwide By Continent | Statista' (*Statista*, 2021) <<https://www.statista.com/statistics/1229293/number-of-countries-that-permit-same-sex-marriage-by-continent/>> accessed 6 October 2021

⁷ Kathleen A. Lahey and Kevin Alderson, 'Chapter 3: European Breakthrough: The Netherlands And The Belgium', *Same-Sex Marriage The Personal and the Political* (1st edn, Insomniac Press 2004), 36

⁸ Kathleen E. Hull, *Same-Sex Marriage The Cultural Politics Of Love And Law* (1st edn, Cambridge University Press 2006), xv.

⁹ *Ibid* 36

¹⁰ *Ibid* 29

¹¹ C.F. Stychin, 'Same-Sex Sexualities And The Globalization Of Human Rights Discourse' (2004) 49 *McGill Law Journal*, 954

¹² Silvia Di Battista, Daniele Paolini and Monica Pivetti, 'Attitudes Toward Same-Sex Parents: Examining The Antecedents Of Parenting Ability Evaluation' (2020) 17 *Journal of GLBT Family Studies*, 237

¹³ Elaine Jeffreys and Pan Wang, 'Pathways To Legalizing Same-Sex Marriage In China And Taiwan: Globalization And "Chinese Values"', *Global Perspectives on Same-Sex Marriage A Neo-Institutional Approach* (1st edn, Palgrave Macmillan, Cham 2021), 198.

¹⁴ For example, article 377A of the Singaporean Penal Code states:

377A. Any male person who, in public or private, commits, or abets the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be punished with imprisonment for a term which may extend to 2 years.

¹⁵ Article 8 of Decree No. 87/2011/ND-CP on sanctioning administrative violations in the field of marriage and family stated that same-sex marriage shall be sanctioned from 100.000 VND (approximately 5 USD) to 500.000 VND (approximately 25 USD).

¹⁶ Võ Văn Thành, Lê Kiên and Chi Mai, 'Hôn Nhân Đồng Tính: Vì Sao Chưa Công Nhận? (Same Sex Marriage - Why It Still Has Not Been Recognized?)' (*Tuổi trẻ*, 2013) <<https://tuoitre.vn/hon-nhan-dong-tinh-vi-sao-chua-cong-nhan-569132.htm>> accessed 23 October 2021.

the Confucian influence, or society's acceptance.¹⁷ However, the tremendous impact of globalization has led to the gradual changes in society's acceptance of same-sex, and currently there is a growing number of people who accept this as a normal relationship, just as the same as the different-sex relationship.¹⁸

However, with a long history of Confucian and social norms,¹⁹ it is not easy for Viet Nam to immediately legalize same-sex marriage. Experiences from pioneers countries such as the Netherlands or Taiwan showed that the procedure of legalizing same-sex marriage should have solid foundations and a long-term effort that help to change the long-term norms about the definition of marriage. Although the foundation in each country may differ from each other, it is undeniable that first steps should be taken to legalize same-sex marriage. Thus, when it comes to the case of Viet Nam, the authors argue that the rights of same-sex couples can not be continually left unregulated. Instead, the first steps should be taken to as a foundation for the legalization same-sex marriage process. Accordingly, the authors suggest same-sex cohabitation via the Court's decision to resolve civil matters as a first step for legalizing same-sex marriage. Currently, cohabitation is defined as '*men, women who organize to live together and consider themselves husband and wife*' (article 7, section 7, Marriage and Family Law 2014). This raises the question of whether when homosexuals live together and consider themselves as husband and wife' could be included within the scope of this definition. Furthermore, civil matters mean a situation where individuals request Courts to recognize their marriage and family rights.²⁰ Therefore, requesting same-sex cohabitation via the Court's decision on the civil matter is a way of gaining recognition of a legal event. In this situation, a same-sex couple can ask for the recognition of cohabitation since the current legislation does not prohibit this case.

Thus, the article is dedicated to shedding light on 'To what extent can Viet Nam first lay the foundation for same-sex marriage?'. In order to answer this question, it is necessary to answer the two sub-questions of (i) What is the current context and the current legal framework of Viet Nam?; and (ii) Is it necessary to legalize same-sex marriage? These two sub-questions shall be answered by examining Viet Nam's current context and legal framework on same-sex relationships.

Literature review

Much effort on gaining LGBT's rights was made before the Marriage and Family Reform. The '*Vietnamese people's opinion polls on same-sex marriage*'²¹ report was conducted nationally with 5303 people. Accordingly, the percentage of people who supported legalizing same-sex marriage was relatively low: 33,7%²². The report also showed a high percentage of 52,9%²³ of people who did not support the legalization of same-sex marriage. However, when asking about same-sex cohabitation, the percentage of people who supported and did not support the legalization of same-sex cohabitation was equivalent, which was respectively about 41.2% and 46,7%.²⁴ Another report of '*Being gay, bisexual and transgender*

¹⁷ Institute for Social, Economic and Environmental Research, 'Kết quả trung cầu ý kiến người dân về hôn nhân cùng giới (Results Of The People's Opinion Poll On Same-Sex Marriage)' (2013), 22

¹⁸ Bronwyn Winter, 'Preserving The Social Fabric: Debating Family, Equality And Polity In The UK, The Republic Of Ireland And Australia', *Preserving the Social Fabric: Debating Family, Equality and Polity in the UK, the Republic of Ireland and Australia* (1st edn, Palgrave Macmillan, Cham 2018), 150

¹⁹ United States Agency for International Development, 'Being LGBT In Asia: Viet Nam Country Report' (United Nations Development Programme 2014), 12

²⁰ Article 361, Code of Civil Procedure 2015

²¹ Institute for Social, Economic and Environmental Research, 'Kết quả trung cầu ý kiến người dân về hôn nhân cùng giới (Results Of The People's Opinion Poll On Same-Sex Marriage)' (2013)

²² Ibid 44

²³ Ibid

²⁴ Ibid 51

(LGBT) in Asia: Vietnam national report'²⁵ in 2014 presented the struggles LGBT individuals were facing regarding working²⁶, health needs²⁷ and the discrimination they suffered from the society.²⁸

After the Marriage and Family law reform, the report '*Social points on same-sex marriage: a qualitative study in Hanoi and Ho Chi Minh City*'²⁹ in 2019 showed reasons for supporting and not supporting the legalization of same-sex marriage. Besides the reasons for not supporting or supporting same-sex marriage stated in the last report in 2013, other explanations for not supporting same-sex marriage were presented, such as the misunderstanding of young people about their gender and sexual orientation,³⁰ the worry of social conflict or the negative impact of same-sex marriage on the Vietnamese population.³¹ The report of 'same-sex couples living together'³² stated difficulties that same-sex couples were facing and raised an alert on the legal recognition for their partnership when they live together.³³

Besides reports, there are some studies conducted by scholars examining the situation of the LGBT community. The article '*Recognizing shadows: masculinism, resistance, and recognition in Vietnam*'³⁴ by Paul Horton posed the effort of Vietnamese gay men to have recognition from the society and their families in Viet Nam due to the traditional norms of masculinity,³⁵ the impact of Confucian and Taoist for a long time and the state policies.³⁶ Stories of some gay men who tried to cover their 'shadow' by either marrying women³⁷ or to find spaces for their 'shadow' by going to gay bars while in the marriage relationship³⁸ contributed to the fact that being homosexual is the nature of a people, no matter how they hide it. Also, the article '*Reshaping boundaries: Family politics and GLBTQ resistance in urban Vietnam*'³⁹ by Paul Horton and Helle Rydstrom proved the negative relationship between the government's effort to exclude the same-sex relationship from society by the soft regime the resistance of LGBT individuals.⁴⁰ The research also presented the ways that LGBT individuals choose to step out of their comfort zone.⁴¹

Furthermore, research shows the relationship between the law and its effect on shaping society's attitudes towards same-sex marriages or same-sex relationships. For example, results of research of '*Do Laws Shape Attitudes? Evidence from Same-Sex Relationship Recognition Policies in Europe*'⁴² by Cevat G. Aksoy et al. found that the attitudes towards same-sex

²⁵ United States Agency for International Development, 2014. Being LGBT in Asia: Viet Nam Country Report. Bangkok: United Nations Development Programme

²⁶ Ibid 24

²⁷ Ibid 29

²⁸ Ibid 14

²⁹ Institute for Social, Economic and Environmental Research, 'Báo cáo nghiên cứu: quan điểm xã hội về hôn nhân đồng giới (Social Points On Same-Sex Marriage: A Qualitative Study In Hanoi And Ho Chi Minh City)' (Institute for Social, Economic and Environmental Research 2019)

³⁰ Ibid 13

³¹ Ibid 15

³² Vũ Thành Long, Đỗ Quỳnh Anh and Chu Lan Anh, 'Sống Chung Cùng Giới: Tình Yêu Và Quan Hệ Chung Sống Của Người Đồng Tính, Song Tính Và Chuyên Giới Ở Việt Nam (Same-Sex Cohabitation: Love And Cohabitation Of Gay, Bisexual And Transgender People In Viet Nam)' (Institute for Social, Economic and Environmental Research 2019)

³³ Ibid 47

³⁴ Paul Horton, 'Recognising Shadows: Masculinism, Resistance, And Recognition In Vietnam' (2019) 14 NORMA

³⁵ Ibid 67

³⁶ Ibid 73

³⁷ Ibid 76

³⁸ Ibid 75

³⁹ Paul Horton and Helle Rydstrom, 'Reshaping Boundaries: Family Politics And GLBTQ Resistance In Urban Vietnam' (2019) 15 Journal of GLBT Family Studies

⁴⁰ Ibid 294

⁴¹ Ibid 299

⁴² Cevat G. Aksoy and others, 'Do Laws Shape Attitudes? Evidence From Same-Sex Relationship Recognition Policies In Europe' (2020) 124 European Economic Review

marriage/relationships only changed after the policy amendments.⁴³ In other words, they found that the recognition of the law on same-sex marriage positively changed society's attitudes.

To conclude, these findings are solid grounds for the lobby of a strategy of legalizing same-sex marriage in the next period of amending the law after almost eight years of the Marriage and Family Law 2014. Nevertheless, all mentioned reports and research focused on LGBT individuals and same-sex marriage mainly from social perspectives. Furthermore, none of the reports or research has focused on recognizing same-sex cohabitation as the first step to changing society's attitudes towards same-sex marriage. They generally indicated the need to change society's attitudes and the role of actors such as media, government or LGBT individuals. Specifically, the mentioned reports conducted surveys regarding the legalization of same-sex marriage, but they did not set out a specific strategy to achieve that goal. Since the legalization of same-sex marriage can affect the core nature of society and economic development, the legalization must be made step by step with the specific strategy. Furthermore, the reports concluded general suggestions that same-sex marriage should be legalized but did not explicitly state the legal grounds to do so. Therefore, the research shall focus on same-sex cohabitation from the legal perspective to lay the first foundation on the process of legalizing same-sex marriage, especially in the context that Viet Nam is towards the globalization era, in which people, regardless of their sexual orientation or gender, are treated and protected equally.

Research methodology

The doctrinal method shall analyze the authors' arguments on cohabitation as the first foundation of legalizing same-sex marriage. The sources used are the available primary and secondary resources. Legal documents as a primary source were used when addressing the legal framework of Viet Nam. The paper used secondary sources of academic articles and reports relating to same-sex marriage to examine the development and current situation of same-sex marriage in Viet Nam.

Overview on same-sex marriage in Viet Nam

The current context of Viet Nam

A same-sex relationship was never considered to be a crime in Vietnamese history. Indeed, a same-sex relationship was not mentioned in Vietnamese culture before due to the heavy impact of Confucianism in Vietnamese tradition.⁴⁴ Following the significant development in many areas in the Doi Moi period in 1986, the Vietnamese government focused on remaining the Vietnamese culture in the context of globalization.⁴⁵ Through years of enforcement, the Marriage and Family Law reform has brought a chance to reshape society's attitude towards same-sex marriage. Accordingly, the reform of Marriage and Family law in 2014 has abolished the prohibition of same-sex marriage and left it neither recognized nor prohibited. In practice, this meant a lot for the LGBT community since they can hold a commitment ceremony just like different-sex couples without being monetarily fined.⁴⁶

Furthermore, same-sex marriage was a topic that left little recognition⁴⁷ because of the heavy impact of Confucianism in the concept of family, which is made by different-sex couples.⁴⁸ Accordingly, different-sex marriage is considered natural, and it plays a crucial role

⁴³ Ibid 19

⁴⁴ Paul Horton (n 39) 292

⁴⁵ Montoya, A., 2021. Becoming MSM: Sexual Minorities and Public Health Regimes in Vietnam. *Open Anthropological Research*, 1(1), 37

⁴⁶ Trần Hiền, 'Hạnh Phúc Đáng Ngưỡng Mộ Của 5 Đôi Đồng Tính, Chuyên Giới Sau Đám Cưới (Admirable Happiness Of 5 Gay, Lesbian And Transgender Couples After The Wedding)' (*Báo Thanh Niên*, 2019) <<https://thanhnien.vn/hanh-phuc-dang-nguong-mo-cua-5-doi-dong-tinh-chuyen-gioi-sau-dam-cuoi-post879987.html>> accessed 23 October 2021

⁴⁷ United Nations Entity for Gender Equality and the Empowerment of Women, 'Country Gender Equality Profile – Viet Nam 2021' (United Nations Entity for Gender Equality and the Empowerment of Women 2021), 200

⁴⁸ Paul Horton and Helle Rydstrom (n 39) 292

in reproduction.⁴⁹ Together with the deep-rooted norm of gender roles in a family makes different-sex marriage more natural than ever.⁵⁰ The Vietnamese family also values the patriarchal nature.⁵¹ For example, in Viet Nam, there is a quote for building a Vietnamese family *'Men build houses, women build homes,'*⁵² which means that only men can use their strength to build a house physically or earn money to take care of his family, and the women have the duty take care of that family by doing things such as housework or raising children. Therefore, same-sex relationship is considered unnatural because it breaks the social norm on the meaning of *'traditional family'*.⁵³ Besides the mentioned Vietnamese traditional reasons, the development of children is also the reason for society's negative attitude towards same-sex marriage.⁵⁴ The traditional family in Vietnamese society must be between men and women to ensure a child's development.⁵⁵ A same-sex family is indicated to bring adverse effects on children, such as gender bias or social stigma for that child.⁵⁶

To conclude, the mentioned reasons are typical examples of reasons causing society's negative attitude towards same-sex marriage. However, significant changes have happened over the years that brought LGBT people closer to Vietnamese society. Indeed, a recent report in 2019 showed the shift in the coming out of LGBT people.⁵⁷ These recent coming-out events seem to not only bring a more friendly view to the LGBT community but also bring more sympathy and better understanding about the LGBT community by showing the various struggles that they are facing. For example, TV shows such as *'Coming out'*, *'Love is Love'* or *'Yêu là cưới'* are not only gradually providing more information about the LGBT community, their marriage (without legal recognition) but also preparing for LGBT people who want to come out. From here, it is easy to see that in the past, maybe it was the heavy burden of fulfilling the family and society's expectation and the fear of coming that made the LGBT remains silent. However, the impact of globalization on same-sex marriage around the world has not only contributed to a less strict permissive stance of the government and the society but also encouraged LGBT persons to step outside their 'shadow'.

The current legal framework of Viet Nam

To begin with, it should be noted that same-sex marriage was not recognized globally. Especially prior to 2000,⁵⁸ where marriage is generally interpreted as the union of the opposite sex. The Netherlands' legislation is the leading example of allowing same-sex marriage in 2001, which marked the possibility of changing the legal definition of marriage. This has proved that marriage is not only a heterosexual union but also a homosexual union. Accordingly, same-sex couples' marital rights were gradually legalized in many jurisdictions, including Belgium, Spanish, Canadian and widely grown in various countries until 2010.⁵⁹ From the European Union's perspective, same-sex marriage is closely linked to the right to marry or not to be discriminated against based on sex under the European Convention of

⁴⁹ Institute for Social, Economic and Environmental Research (n 29) 15

⁵⁰ Ibid 22

⁵¹ United Nations Entity for Gender Equality and the Empowerment of Women, 'Country Gender Equality Profile – Viet Nam 2021' (United Nations Entity for Gender Equality and the Empowerment of Women 2021), 38

⁵² In Vietnamese 'Đàn ông xây nhà, đàn bà xây tổ ấm'

⁵³ Vũ Thành Long (n 32) 5

⁵⁴ Ibid

⁵⁵ Institute for Social, Economic and Environmental Research (n 29) 5

⁵⁶ Stephanie N. Webb, Phillip S. Kavanagh and Jill M. Chonody, 'Straight, LGB, Married, Living In Sin, Children Out Of Wedlock: A Comparison Of Attitudes Towards 'Different' Family Structures' (2019) 16 Journal of GLBT Family Studies, 56

⁵⁷ Vũ Thành Long (n 32) 25

⁵⁸ Bosede Bukola Oludairo, 'Same-Sex Marriage, Civil Marriage And Cohabitation: The Law, The Rights And Responsibilities' (2018) 9 African Journals Online, 179

⁵⁹ Kathleen A. Lahey, 'Same-Sex Marriage, Transnational Activism, And International Law: Strategic Objectives Beyond Freedom To Marry' (2010) 104 Proceedings of the ASIL Annual Meeting, 380

Human Rights.⁶⁰ As a result, several resolutions have been enacted to prevent discrimination against homosexuals and ensure equal rights in the European Union.⁶¹ Furthermore, the principle of equal treatment before the law and non-discrimination regardless of sex is also stated in the International Covenant on Civil and Political Rights – the Convention that Viet Nam has been a member from 1982. Throughout the years, it shows an increase in the number of countries where has taken applicable forms of relationship to same-sex couples into account, including registered partnerships or cohabitation as a non-registered form of partnership.⁶² In terms of cohabitation, it refers to cohabiting couples without regulating by law or so-called a ‘*trial*’ marriage.⁶³ In the United Kingdom and the United States, cohabiting couples may be entitled to some rights and be imposed responsibilities under the laws of property and Trust in case of divorce, which does not include married couples' same rights and responsibilities.⁶⁴ Similarly, cohabitants in Nigeria are not granted the same rights and responsibilities as married couples due to the disapproval of cohabitation in regulating marriages.⁶⁵ This evidence shows the opening up of marriage law to same-sex couples in many countries worldwide, notably in the European countries.

At the national level, since same-sex relationships face resistance in Viet Nam, it can not be found in specific legal documents. However, the idea of same-sex marriage can be indirectly found in the Constitutional 2013 – the legal document with the highest effectiveness in the Vietnamese legal framework. Expressly, the right to marry someone they love is stated clearly in article 36 ‘*men, women have the right to marry and divorce. Marriage must adhere to the principles of voluntariness, progressiveness, monogamy, equality and mutual respect between husband and wife*’. The meaning of words can indicate that either men or women shall have the right to marry someone they choose by the principles of voluntariness. Therefore, the term ‘*husband*’ and ‘*wife*’ does not indicate the formation of a family must be between a man as a husband and a woman as a wife because this term is just a way to call for those having marital relationships. Generally, it should be understood that the nature of this provision is about the freedom to marry someone without the parents' arrangement, which used to be a precedent in Vietnamese society before. Furthermore, article 16 of the Constitutional 2013 stated that ‘*All people are equal before the law; no one is subject to discriminatory treatment in political, civil, economic, cultural or social life*’.

The significance of legal recognition of same-sex relationships in Viet Nam

From the social perspectives

From the current context of Viet Nam, it can be seen that same-sex couples are left behind because there has been currently no legal framework to regulate same-sex relationships. The Marriage and Family Law reform is only the preparation to reshape society's attitude towards same-sex couples. For almost eight years of enforcement of the Marriage and Family Law 2014, it is time to reconsider same-sex marriage, especially in the case that the context of Viet Nam has changed over the years. Specifically, there are four important arguments as follows:

First, the concept of marriage in a globalized society has been evolved from many perspectives. Specifically, marriage nowadays is considered to be the matter of a person and

⁶⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms arts. 8, 12, 14, Nov. 4, 1950, 213 U.N.T.S. 221 [hereinafter European Convention on Human Rights]

⁶¹ Resolution on Equal Rights for Gays and Lesbians in the EC, 1998 O.J. (C 313) 186; Resolution on Equal Rights for Homosexuals and Lesbians in the European Community, 1994 O.J. (C 61) 40

⁶² Orsolya Szeibert-Erdős, 'Same-Sex Partners In Hungary
 Cohabitation And Registered Partnership' (2008) 4 Utrecht Law Review, 212

⁶³ Wendy D. Manning and Jessica A. Cohen, 'Premarital Cohabitation And Marital Dissolution: An Examination Of Recent Marriages' (2012) 74 Journal of Marriage and Family.

⁶⁴ Bosede Bukola Oludairo (n 58) 186

⁶⁵ Ibid

not of society.⁶⁶ This leads to the right to freely marry anyone that a person loves and not be affected by the heavy burden made by society's attitude or the social norm that only different-sex can build a perfect family. Furthermore, in many reports, the most mentioned reason is the concern on the reproduction of the family. However, thanks to the development of technology, concerns related to reproduction have been resolved. In the past, the belief that only different-sex could have babies was rooted deeply in most people's minds. However, the development of medical and health has changed the situation. Nowadays, many assisted reproduction methods can help both same-sex and different-sex couples to have a baby. Furthermore, if the reproduction function is the reason for marriage, fertilized different-sex couples shall also be excluded from the right to marry since they can not function their responsibility.

Second, there is a close link between economic development and the protection of LGBT's rights. Undoubtedly, one of the highest protection measures is legalizing same-sex marriage. Recent research has proved that the legal exclusion of the LGBT community is harmful to LGBT people themselves and negatively impact the economy. Specifically, the exclusion may cause the loss of working time, low output; or insufficient work allocation.⁶⁷ This may lead to the reduction of economic output and its growth. In other words, the level of LGBT rights' protection and economic development positively impacts each other. For example, the research shows that countries having more legal protection for LGBT people have higher GDP per capita.⁶⁸ This is easy to understand since one of the driving factors to increase job performance is job satisfaction. Among many elements contributing to job satisfaction, one element that has a close link to LGBT people is the level of openness of their colleagues about their sexual orientation (for example, reducing discrimination).⁶⁹ Recent research shows that disclosing sexual orientation to colleagues brings about confidence and self-esteem or increases their interaction.⁷⁰ The higher employee satisfaction, the more increasing productivity or the output of an organization.⁷¹ Thus, recognizing LGBT's rights gives them the motives to disclose their sexual orientation, which is an integral part of the scale of job satisfaction.

Last, the recognition of same-sex marriage can significantly affect the attitudes of society towards same-sex marriage. First, as can be seen from the mentioned reports, same-sex couples are being treated unfairly just because of their sex. However, if there is nothing to be done, the attitude towards same-sex marriage is expected to remain the same as it is at the moment. This means that the rights and interests of same-sex couples shall be continually excluded. Second, marriage has long been considered necessary because of both its social and legal roles. For the former, notably, it is the reproduction function and the gender role. For the latter, it is the legal benefit. Furthermore, being legally married also brings spiritual recognition by their family and society. Although in the case of Viet Nam, the legalization of same-sex marriage can not be done immediately, the recognition of same-sex cohabitation is surveyed to be highly supported and can create a new space for people to rethinking about same-sex marriage.

From the legal perspectives

As can be seen from above, the lack of current legal recognition and society's attitude towards same-sex relationships have put same-sex couples into a vulnerable situation. Generally, when comparing to different-sex couples, the current legal framework gives them

⁶⁶ Nan D. Hunter, 'The Future Impact Of Same-Sex Marriage: More Questions Than Answers' (2012) 12 Georgetown Public Law and Legal Theory Research Paper, 1857

⁶⁷ M.V. Lee Badgett, Kees Waaldijk and Yana van der Meulen Rodgers, 'The Relationship Between LGBT Inclusion And Economic Development: Macro-Level Evidence' (2019) 120 World Development, 12.

⁶⁸ Ibid

⁶⁹ Huang-Chi Lin and others, 'Impacts Of Public Debates On Legalizing The Same-Sex Relationships On People'S Daily Lives And Their Related Factors In Taiwan' (2020) 17 International Journal of Environmental Research and Public Health.

⁷⁰ Alfred Montoya, 'Becoming MSM: Sexual Minorities And Public Health Regimes In Vietnam' (2021) 1 Open Anthropological Research, 4

⁷¹ Abdulwahab S. Bin Shmailan, 'The Relationship Between Job Satisfaction, Job Performance And Employee Engagement: An Explorative Study' (2021) 4 Issues in Business Management and Economics, 6

no protection in pregnancy, adoption, inheritance or common property. Comparisons between different-sex couples when marriage and same-sex couples are made as follows:

First, regarding the labour area, for different-sex marriage, couples are entitled to have pregnancy rights under the Law on Insurance 2014. Specifically, a male worker is entitled to a maternity regime when his wife is pregnant while he is currently paying social insurance premiums for at least 6 months within 12 months before childbirth or child adoption. Under section 2, 4, 6, article 34 and section 1, article 39 of the Law on Insurance 2014, the maternity regime for male workers who have their wife pregnant includes (i) the leave period for childbirth⁷² and (ii) allowances.⁷³ For same-sex couples, only the persons who have pregnancy or adoption may be entitled to these rights.

Furthermore, for the survivorship allowance regime, the husband (at least 60 years old) or wife (at least 55 years old) in different-sex marriage shall take advantage of the monthly survivorship allowance under article 67 of the Law on Insurance 2014. The requirements are that the deceased must meet one of the following conditions (i) *Have paid social insurance premiums for at least full 15 years but have not yet received a lump-sum social insurance allowance*; (ii) *Being on a pension*; (iii) *Being on monthly labour accident or occupational disease allowance for their working capacity decrease of 61% or more*; or (iv) *Die of a labour accident or an occupational disease*. In this case, that deceased's husband or wife must either (i) *have no income* or (ii) *have a monthly income lower than the basic salary receives this benefit*. For same-sex couples, since they are not legally married couples, their partner shall not have this benefit.

Second, regarding inheritance, according to article 644 of the Civil Code 2015, the wife or husband is considered the heirs, notwithstanding the contents of wills. In other words, if a testator does not grant any an inheritance to or give an inheritance which is less than two-thirds of the share that his/her children who are minors or incapable of working, father, mother, wife or husband shall be entitled to, these mentioned people are still entitled to have a share of the estate equivalent to two-thirds of the share that he or she would have received if the estate had been distributed under law. Thus, in every case, the wife or husband shall entitle to have their partner's inheritance. This is particularly important if one of the partners passes away and does not have any wills (for example, in case of accidents or the testator has no listed heirs notwithstanding contents of wills). For same-sex marriage, there is no way that their same-sex partner is entitled to the rights as legal heirs since they can only be inherited by wills because they are not recognized by law.

Third, regarding the personal income tax. It should be noted that incomes from receipt of inheritances that are real estate between spouses shall not be liable to personal income tax under

⁷² Article 34, Leave period for childbirth of the Law on Insurance 2014

2. *Male employees currently paying social insurance premiums whose wives give birth to children are entitled to a maternity leave of:*

a/ 5 working days;

b/ 7 working days, in case their wives undergo a surgical birth or give birth to children before 32 weeks of pregnancy;

c/ 10 working days, in case their wives give birth to twins; or additional 3 working days for each infant from the second;

d/ 14 working days, in case their wives give birth to twins or more infants and take childbirth operation.

⁷³ Article 39. Allowance levels of the maternity regime the Law on Insurance 2014

For employees entitled to the maternity regime as prescribed in Articles 32 thru 37 of this Law, the allowance levels shall be calculated as follows:

a/ A monthly allowance must equal 100% of the average of salaries of 6 months preceding the leave on which social insurance premiums are based. For employees who have paid social insurance premiums for only under 6 months, the allowance level under the maternity regime specified in Article 32 or 33, Clause 2, 4, 5 or 6, Article 34, or Article 37, of this Law, is the average of salaries of the months for which social insurance premiums have been paid;

b/ The per-diem allowance for the case specified in Article 32, or Clause 2, Article 34, of this Law must equal the monthly maternity allowance divided by 24 days;

c/ The allowance level after childbirth or child adoption shall be calculated based on the monthly allowance specified at Point a, Clause 1 of this Article; in case of odd days or the case specified in Article 33 or 37 of this Law, the per-diem allowance must equal the monthly allowance divided by 30 days.

section 4 article 4 of the Law on Personal income tax 2007.⁷⁴ Further, incomes from real estate transfers between spouses are also excluded from the personal income tax. Contrastly, same-sex couples shall be taxed for the incomes from the inheritances or their partner's real estate transfer.

Last is about the common property. Currently, there are two types of multiple ownership which are owned in common and joint ownership. Under article 210 and article 213 of the Civil Code 2015, the ownership between a husband and wife is divisible joint ownership, which means that '*each owner's share of the ownership rights concerning the multiple ownership property is not specified*'. In other words, joint owners have equal rights and obligations concerning the multiple ownership property (section 2 article 210 of the Civil Code 2015). Also, common marital property under article 33 of the Marital and Family Law 2014 is stated as '*property created by a spouse, incomes generated from labour, production and business activities, yields and profits arising from separate property and other lawful incomes in the marriage period; except the case prescribed otherwise; property jointly inherited by or given to both, and other property agreed upon by husband and wife as common property*'. Because of this nature, the common property shall be divided into fifty percent each person and taking into account the factors stated by the law in case of divorce under article 59 of the Marital and Family Law 2014.

Meanwhile, for same-sex couples, their type of ownership is owned in common. Accordingly, ownership in common is defined under section 2, article 209 of the Civil 2015 as '*multiple ownership whereby each owner's share of the ownership rights concerning the multiple ownership property is specified*'. In contrast to joint ownership, each of the owners in common ownership has '*rights and obligations concerning the multiple ownership property corresponding to its share of the ownership rights, unless otherwise agreed.*' In other words, the percentage of contribution depends on the agreement or the share of the ownership, and this shall also be the grounds for the division. When comparing the ownership of different-sex marriage and same-sex couples, it can be seen that regardless of what the law states, the nature of the ownership between different-sex marriage and same-sex couples is the same as what is stated as common property under article 33 of the Marital and Family 2014. However, in case of dispute, it would be harder to prove the share of each party's ownership in same-sex couples since the obligation to prove the evidence is one of the parties' obligations in a civil dispute under Article 91 of the Civil procedures 2015.⁷⁵

Cohabitation for same-sex marriage in Viet Nam – the first step

While controversies surrounding same-sex marriage still exist in many nations, including Viet Nam, many countries have changed their legal systems dealing with social changes.⁷⁶ According to the Netherlands's Civil Code, the Conditions for Registration of a same-sex registered partnership are almost similar to the requirements for marriages of opposite sex regulated in Vietnamese law, regarding age, single status and the non-relatives...⁷⁷ While the Netherlands permits two institutions without distinction of sex: registered partnership⁷⁸ and

⁷⁴ Article 4. Tax-exempt incomes of the Personal Income Tax 2007

Incomes from receipt of inheritances or gifts that are real estate between spouses, parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or among blood siblings.

⁷⁵ Article 91. Obligations to prove of the Civil Procedures Code 2015

1. The involved parties who petition the Courts to protect their legitimate rights and interests must collect, introduce and supply the Courts with materials and evidences to prove that such petitions are well-grounded and lawful, except for the following cases:

[...]

⁷⁶ W. Schrama, 'Registered Partnership In The Netherlands' (1999) 13 International Journal of Law, Policy and the Family, 315.

⁷⁷ Article 8, Marriage and Family Law 2014

⁷⁸ The Dutch Civil Code entered into force on April 1, 2001 in an attempt to provide same-sex couples with the right to register their relationship and enjoy the same rights and duties as marriage

marriage⁷⁹, Viet Nam only accepts the legal marriage of different-sex.⁸⁰ According to Vietnamese Marriage and Family Law, cohabitation can be implied to be not limited to the heterosexual relationship, which is defined that ‘cohabitation as husband and wife’ means living together and considering themselves as husband and wife by men and women. Under article 16 of the Marriage and Family Law 2014, the property relations, obligations and contracts between cohabitation couples shall be settled under the partners’ agreement. In case of no agreement, the property relations shall be divided by the contributing share of each party. In the case of same-sex cohabitation, there is one thing that the Court shall declare in its decision that is related to the interests of the women and the children. Specifically, housework and other related work to maintain cohabitation shall be counted as the contributing shares.⁸¹

Under the Civil Procedures Code 2015, two procedures shall be applied in specific cases: the resolution of civil matters and civil cases. Under article 361, civil matters mean a situation where individuals request Courts to recognize their marriage and family rights. At present, the law does not regulate any limitations for specific requests in this case. Therefore, it means that all requests can be brought to the Court for recognition. In the case of same-sex cohabitation, it is considered as ‘another civil matters’ prescribed in section 10, article 27 of the Civil Procedures Code 2015. Accordingly, the Court is prohibited from refusing to settle this type of civil matter because of no legal grounds for resolving (section 2, article 4 of the Civil Procedures Code 2015). Therefore, it can be seen that the role of the Court, in this case, is critical since the result of cohabitation recognition entirely depends on the view of the Court since there have not yet been any legal grounds for same-sex cohabitation. Furthermore, it should be noted that this also requires a step-by-step procedure. Specifically, there are five main steps as the followings:

First, the party shall prepare the application and the attached documents under article 362 of the Civil Procedures Code 2015. It should be noted that the request made in the application shall be explicitly stated and clearly. The requests, in this case, shall include (i) the Court’s recognition of cohabitation between same-sex couples, (ii) the Court’s recognition of the rights and obligations in the case of same-sex cohabitation. For the latter, the Court can refer to article 16 of the Marriage and Family Law 2014 on the rights. The property relations, obligations and contracts between same-sex couples cohabiting shall be settled under the partners’ agreement. In case of no agreement, the property relations shall be divided by the contributing share of each party. In the case of same-sex cohabitation, there is one thing that the Court shall declare in its decision that is related to the interests of the housework and the children. Specifically, housework and other related work to maintain cohabitation shall be counted as the contributing shares.

Second, the requesters for civil matter resolution shall apply to the competent Court and pay the advanced court fee of 300.000 VND under the Appendix B, Resolution No.326/2016/UBTVQH14 on the level of collection, exemption, reduction, collection, payment, management and use of court fees. As mentioned, this shall be categorized as another civil matter. Thus, under section 2, Article 35 of the Civil Procedures Code 2015, the competent Court is the District Court. Furthermore, under point a, section 2, article 40 of the Civil Procedures Code 2015, the requester may apply to the Court where he/she is currently settling or working.

Third, the Court considers accepting the application. The procedures for receiving and processing applications are stated under section 1, article 191, article 363 and article 364 of the Civil Procedures Code 2015. The Court then accepts the civil matter.

⁷⁹ The Dutch Civil Code also opens marriage to homosexuals on the ground of the right to be treated equally

⁸⁰ Clause 2 article 8 of Marriage and Family Law 2014

⁸¹ Article 16 of the Marriage and Family Law 2014

Fourth, under article 366 of the Civil Procedures Code 2015, the time limit for request consideration of the Court shall be 01 months from the day the Court accepts the request. During this period, the Court may summon the relevant persons to clarify identity and family marriage issues under point b, section 2, Article 366. These relevant persons may be the two parties' parents or children. The purpose of the summon is to listen to their opinions about cohabitation. This is important because the support of these persons plays a crucial role in the cohabitation life of same-sex couples⁸², just as in the case of different-sex couples, since family acceptance is considered to have a positive link to the physical and mental health of LGBT individuals.⁸³ Also, the power of law may help family members to change their traditional norm of marriage and leads to stronger family relationships.⁸⁴ However, it should be noted that this shall not be the only basis for the Court's decision. Other factors that may consider when to decide may be the years of same-sex couples living together or whether they have common property or not. After collecting sufficient evidence, the Court shall issue a decision to open a meeting under point c, section 2, article 366 of the Civil Procedures Code 2015. The Court must also send the dossier to the competent Procuracies, which shall be returned to the Court within 07 days from the date of receipt of the dossier (section 3, article 366 of the Civil Procedures Code 2015).

Last but not least, the Court opens a meeting to review the application with the participation of the relevant parties under article 367 of the Civil Procedures Code 2015. The meeting procedures shall be conducted following article 369 of the Civil Procedures Code 2015. It should be noted that in the Court's judgement, the grounds for accepting or not accepting the request shall be stated clearly and reasonably (point g, section 1, article 370 of the Civil Procedures Code 2015). In case that the request is accepted, the Court then issues the decision regarding the acceptance of the cohabitation between parties and related rights and obligations.

As mentioned above, none of the reports or research has focused on recognizing same-sex cohabitation as the first step to changing society's attitude towards same-sex marriage. Therefore, in the context that same-sex marriage is left unregulated in Viet Nam, a flexible resolution is needed as a first step to legalizing same-sex marriage. In this case, it is undoubtedly that the judiciary plays a crucial role in the path of legalizing same-sex marriage.⁸⁵ Currently, some countries legalize same-sex marriage via the Court's decision, such as Taiwan, the United States, Austria or Brazil.⁸⁶ At the regional level, Viet Nam can take Taiwan as a lesson in legalizing same-sex marriage. Research showed that factors that significantly contributed to the success of legalizing same-sex marriage in Taiwan are the long-term efforts in many areas such as LGBT movements,⁸⁷ women's movements, the introducing of knowledge about LGBT in the education area,⁸⁸ and the introduction of same-sex relationships through the Court⁸⁹ as well as the role of the Judge in settling these matters.⁹⁰ From the legal perspectives of all the mentioned factors, same-sex cohabitation via the Court's decision seems

⁸² Yuanyuan Wang and others, 'Mapping Out A Spectrum Of The Chinese Public's Discrimination Toward The LGBT Community: Results From A National Survey' (2020) 20 BMC Public Health

⁸³ Caitlin Ryan and others, 'Family Acceptance In Adolescence And The Health Of LGBT Young Adults' (2010) 23 Journal of Child and Adolescent Psychiatric Nursing

⁸⁴ Aaron Hoy, 'From The Political To The Personal: LGBT People And Their Relationships In The Era Of Marriage Equality: An Introduction', *The Social Science of Same-Sex Marriage* (1st edn, Routledge 2021), 7

⁸⁵ Frédéric Krumbein, 'Who Will Be Asia's Next Unicorn? Comparing Marriage Equality In Taiwan With Hong Kong, Japan And South Korea' [2021] Asian Studies Review, 12

⁸⁶ Doris T. Chang, 'Legalisation Of Same-Sex Marriage In Contemporary Taiwan' (2020) 3 International Journal of Taiwan Studies, 269

⁸⁷ Min Zhou and Tianyang Hu, 'Social Tolerance Of Homosexuality: A Quantitative Comparison Of Mainland China, Singapore, And Taiwan' (2019) 52 Chinese Sociological Review, 7

⁸⁸ Ibid 8

⁸⁹ Frédéric Krumbein (n 85)

⁹⁰ Frédéric Krumbein, 'Rainbow Island: Taiwan'S Struggle For Marriage Equality' (2020) 19 Journal of Human Rights, p 489.

the most suitable way to introduce same-sex relationships. This introduction shall play a vital ground in the gradual shift of society's attitude towards same-sex relationships. As many theories⁹¹ suggest that one of the factors that significantly influence attitude and behaviour is the social norms,⁹² the authors suggest that, in the context that Viet Nam is still affected by the Confucian, the acceptance of same-sex cohabitation plays a crucial role in changing the social norms. This shall have a positive effect (for example, decreasing anti-LGBT bias gradually⁹³) on society's attitude towards same-sex marriage. For same-sex couples, this shall bring them emotional support such as life sharing⁹⁴ or family support.⁹⁵

Conclusion

In summary, the globalization impact has led to a significant change in society's attitudes towards same-sex relationships. However, depending on each country's culture and social norms, society's attitudes towards same-sex relationships may vary.

As mentioned, the current context of Viet Nam has three main obstacles for people to accept same-sex relationships, which are (i) the heavy impact of Confucian on the family concept, (ii) the norm of a patriarchal family, and (iii) the negative impact on children's development. These have led to the lack of legal protections for same-sex couples such as (i) same-sex couples shall not be entitled to the maternity regime or survivorship allowance regime; (ii) same-sex couples are excluded from the list of legal heirs; (iii) same-sex couples shall be liable for the incomes from receipt of inheritances or incomes from the transfer of their partner's real estate; and (iv), their type of ownership is ownership in common, which may make it complicated when same-sex couples have a dispute related to common property. These statements shall answer the first sub-question of 'what is the current context and the current legal framework of Viet Nam?'

From these arguments, reasons for legalizing same-sex marriage are presented as following (i) the changing concept of marriage opens the way for same-sex couples to choose the one they love and not be affected by the society; the reason that used to be the main idea of a family such as reproduction can be solved nowadays by alternative assisted methods thanks to the technology development; (ii) the positive link between economic development and the protection of LBGT's rights; and (iii) the impact of the legalization of same-sex marriage in changing the society's attitudes towards same-sex relationships. These shall be the answer for the second-sub question of 'Is it necessary to legalize same-sex marriage?'

For countries that have been greatly affected by Confucianism, it shall take time and great effort to change the negative attitudes towards same-sex relationships. Before the reform of Marriage and Family Law, many research and reports had been made to support same-sex marriage in Viet Nam. However, same-sex marriage was still a new phenomenon in Vietnamese society, and people are still reserved about this topic. Furthermore, at the international level, same-sex marriage was just legalized in a few countries worldwide at that time,⁹⁶ and consequently, same-sex marriage had not closely linked to globalization. During the years, same-sex marriage gradually drew much attention from countries worldwide due to the growing number of countries legalizing same-sex marriage and similar forms such as civil

⁹¹ Stephen M. Haas and Sarah W. Whitton, 'The Significance Of Living Together And Importance Of Marriage In Same-Sex Couples' (2015) 62 Journal of Homosexuality

⁹² Margaret E. Tankard and Elizabeth Levy Paluck, 'The Effect Of A Supreme Court Decision Regarding Gay Marriage On Social Norms And Personal Attitudes' (2017) 28 Psychological Science

⁹³ Eugene K. Ofofu and others, 'Same-Sex Marriage Legalization Associated With Reduced Implicit And Explicit Antisocial Bias' (2019) 116 Proceedings of the National Academy of Sciences

⁹⁴ Frédéric Krumbein (n 90) 10

⁹⁵ Ibid 18.

⁹⁶ Elisa Tang and Lesley Hauler, 'All Of The Countries Where Same-Sex Marriage Is Legal' (*Good Morning America*, 2018) <<https://www.goodmorningamerica.com/culture/story/29-countries-sex-marriage-officially-legal-56041136>> accessed 29 October 2021.

union or partnership. Thanks to globalization, society's attitudes towards same-sex relationships are also changed.

Similarly, in Viet Nam, recent reports showed that people have a more sympathetic view of homosexuals. However, if the law is just left unregulated, same-sex marriage may always be impossible for LGBT people because it may take forever for society to accept same-sex relationships. Since the choice of marriage has not been available to same-sex couples in Viet Nam, the authors suggest same-sex cohabitation via the Court's decision on resolution of civil matters as the first step on the pathway for Viet Name to recognize same-sex marriage. Though same-sex cohabitation can not bring more legal protections for same-sex couples, it is suggested to be the most suitable and flexible solution for the law to meet the purpose of changing society's attitudes. This also answers the research question of 'To what extent can Viet Nam first lay the foundation for same-sex marriage'.

Limitations

Regardless of our efforts, two certain limitations should be noted. First, the lack of data on same-sex couples, LGBT people and non-heterosexual people's opinions nowadays at the national level further limits our ability to examine the percentage of having preferences for cohabitation. Second, the missing interviews of judges about same-sex cohabitation limit our ability to have more suggestions on the factors or matters that may be looked at when accepting or not accepting a civil matter. Despite these limitations, the suggestion of same-sex cohabitation from the study has important policy implications for the Vietnamese legal framework in which same-sex couples' rights and obligations are still left unregulated.

REFERENCES

Vietnamese Legislation

1. Code of Civil Procedure 2015
2. Decree No. 87/2011/ND-CP on sanctioning administrative violations in the field of marriage and family
3. Law on Insurance 2014
4. Marriage and Family Law 2014
5. Personal Income Tax 2007

Other Jurisdictions

6. European Convention for the Protection of Human Rights and Fundamental Freedoms arts. 8, 12, 14, Nov. 4, 1950, 213 U.N.T.S. 221 [hereinafter European Convention on Human Rights].
7. Singaporean Penal Code
8. The Dutch Civil Code

Bibliography

9. Aaron Hoy, 'From The Political To The Personal: LGBT People And Their Relationships In The Era Of Marriage Equality: An Introduction', *The Social Science of Same-Sex Marriage* (1st edn, Routledge 2021).
10. Abdulwahab S. Bin Shmailan, 'The Relationship Between Job Satisfaction, Job Performance And Employee Engagement: An Explorative Study' (2021) 4 Issues in Business Management and Economics.
11. Alfred Montoya, 'Becoming MSM: Sexual Minorities And Public Health Regimes In Vietnam' (2021) 1 Open Anthropological Research.
12. Ben Bethell, 'Chapter 5. Defining “Unnatural Crime”: Sex And The English Convict System, 1850–1900', *From sodomy laws to same-sex marriage* (1st edn, Bloomsbury Publishing Plc 2019).
13. Bosede Bukola Oludairo, 'Same-Sex Marriage, Civil Marriage And Cohabitation: The Law, The Rights And Responsibilities' (2018) 9 African Journals Online.
14. Bronwyn Winter, 'Preserving The Social Fabric: Debating Family, Equality And Polity In The UK, The Republic Of Ireland And Australia', *Preserving the Social Fabric: Debating Family, Equality and Polity in the UK, the Republic of Ireland and Australia* (1st edn, Palgrave Macmillan, Cham 2018).
15. C.F. Stychin, 'Same-Sex Sexualities And The Globalization Of Human Rights Discourse' (2004) 49 McGill Law Journal.
16. Caitlin Ryan and others, 'Family Acceptance In Adolescence And The Health Of LGBT Young Adults' (2010) 23 Journal of Child and Adolescent Psychiatric Nursing.
17. Cevat G. Aksoy and others, 'Do Laws Shape Attitudes? Evidence From Same-Sex Relationship Recognition Policies In Europe' (2020) 124 European Economic Review.
18. Doris T. Chang, 'Legalisation Of Same-Sex Marriage In Contemporary Taiwan' (2020) 3 International Journal of Taiwan Studies.
19. Elaine Jeffreys and Pan Wang, 'Pathways To Legalizing Same-Sex Marriage In China And Taiwan: Globalization And “Chinese Values”', *Global Perspectives on Same-Sex Marriage A Neo-Institutional Approach* (1st edn, Palgrave Macmillan, Cham 2021).
20. Elisa Tang and Lesley Hauler, 'All Of The Countries Where Same-Sex Marriage Is Legal' (*Good Morning America*, 2018) <<https://www.goodmorningamerica.com/culture/story/29-countries-sex-marriage-officially-legal-56041136>> accessed 29 October 2021.
21. Eugene K. Ofori and others, 'Same-Sex Marriage Legalization Associated With Reduced Implicit And Explicit Antigay Bias' (2019) 116 Proceedings of the National Academy of Sciences.

22. Frédéric Krumbein, 'Rainbow Island: Taiwan'S Struggle For Marriage Equality' (2020) 19 *Journal of Human Rights*.
23. Frédéric Krumbein, 'Who Will Be Asia'S Next Unicorn? Comparing Marriage Equality In Taiwan With Hong Kong, Japan And South Korea' [2021] *Asian Studies Review*.
24. Huang-Chi Lin and others, 'Impacts Of Public Debates On Legalizing The Same-Sex Relationships On People'S Daily Lives And Their Related Factors In Taiwan' (2020) 17 *International Journal of Environmental Research and Public Health*.
25. Institute for Social, Economic and Environmental Research, 'Báo cáo nghiên cứu: quan điểm xã hội về hôn nhân đồng giới (Social Points On Same-Sex Marriage: A Qualitative Study In Hanoi And Ho Chi Minh City)' (Institute for Social, Economic and Environmental Research 2019).
26. Institute for Social, Economic and Environmental Research, 'Kết quả trung cầu ý kiến người dân về hôn nhân cùng giới (Results Of The People's Opinion Poll On Same-Sex Marriage)' (2013).
27. Institute for Social, Economic and Environmental Research, 'Kết quả trung cầu ý kiến người dân về hôn nhân cùng giới (Results Of The People's Opinion Poll On Same-Sex Marriage)' (2013).
28. Kathleen A. Lahey and Kevin Alderson, 'Chapter 3: European Breakthrough: The Netherlands And The Belgium', *Same-Sex Marriage The Personal and the Political* (1st edn, Insomniac Press 2004).
29. Kathleen A. Lahey, 'Same-Sex Marriage, Transnational Activism, And International Law: Strategic Objectives Beyond Freedom To Marry' (2010) 104 *Proceedings of the ASIL Annual Meeting*.
30. Kathleen E. Hull, *Same-Sex Marriage The Cultural Politics Of Love And Law* (1st edn, Cambridge University Press 2006).
31. M.V. Lee Badgett, Kees Waaldijk and Yana van der Meulen Rodgers, 'The Relationship Between LGBT Inclusion And Economic Development: Macro-Level Evidence' (2019) 120 *World Development*.
32. Margaret E. Tankard and Elizabeth Levy Paluck, 'The Effect Of A Supreme Court Decision Regarding Gay Marriage On Social Norms And Personal Attitudes' (2017) 28 *Psychological Science*.
33. Mark Seymour, 'Chapter 1. From Sodomy Laws To Same-Sex Marriage: Historical Transformations', *From sodomy laws to same-sex marriage* (1st edn, Bloomsbury Publishing Plc 2019).
34. Min Zhou and Tianyang Hu, 'Social Tolerance Of Homosexuality: A Quantitative Comparison Of Mainland China, Singapore, And Taiwan' (2019) 52 *Chinese Sociological Review*.
35. Montoya, A., 2021. Becoming MSM: Sexual Minorities and Public Health Regimes in Vietnam. *Open Anthropological Research*, 1(1).
36. Nan D. Hunter, 'The Future Impact Of Same-Sex Marriage: More Questions Than Answers' (2012) 12 *Georgetown Public Law and Legal Theory Research Paper*.
37. Orsolya Szeibert-Erdős, 'Same-Sex Partners In Hungary
 Cohabitation And Registered Partnership' (2008) 4 *Utrecht Law Review*.
38. Paul Horton and Helle Rydstrom, 'Reshaping Boundaries: Family Politics And GLBTQ Resistance In Urban Vietnam' (2019) 15 *Journal of GLBT Family Studies*.
39. Paul Horton, 'Recognizing Shadows: Masculinism, Resistance, And Recognition In Vietnam' (2019) 14 *NORMA*.
40. Resolution on Equal Rights for Gays and Lesbians in the EC, 1998 O.J. (C 313) 186; Resolution on Equal Rights for Homosexuals and Lesbians in the European Community, 1994 O.J. (C 61) 40.

41. Silvia Di Battista, Daniele Paolini and Monica Pivetti, 'Attitudes Toward Same-Sex Parents: Examining The Antecedents Of Parenting Ability Evaluation' (2020) 17 Journal of GLBT Family Studies.
42. Simona Varrella, 'Gay Marriage Worldwide By Continent | Statista' (*Statista*, 2021) <<https://www.statista.com/statistics/1229293/number-of-countries-that-permit-same-sex-marriage-by-continent/>> accessed 6 October 2021.
43. Stephanie N. Webb, Phillip S. Kavanagh and Jill M. Chonody, 'Straight, LGB, Married, Living In Sin, Children Out Of Wedlock: A Comparison Of Attitudes Towards 'Different' Family Structures' (2019) 16 Journal of GLBT Family Studies.
44. Stephen M. Haas and Sarah W. Whitton, 'The Significance Of Living Together And Importance Of Marriage In Same-Sex Couples' (2015) 62 Journal of Homosexuality.
45. Trần Hiền, 'Hạnh Phúc Đáng Ngưỡng Mộ Của 5 Đôi Đồng Tính, Chuyển Giới Sau Đám Cưới (Admirable Happiness Of 5 Gay, Lesbian And Transgender Couples After The Wedding)' (*Báo Thanh Niên*, 2019) <<https://thanhnien.vn/hanh-phuc-dang-nguong-mo-cua-5-doi-dong-tinh-chuyen-gioi-sau-dam-cuoi-post879987.html>> accessed 23 October 2021.
46. United Nations Entity for Gender Equality and the Empowerment of Women, 'Country Gender Equality Profile – Viet Nam 2021' (United Nations Entity for Gender Equality and the Empowerment of Women 2021).
47. United Nations Entity for Gender Equality and the Empowerment of Women, 'Country Gender Equality Profile – Viet Nam 2021' (United Nations Entity for Gender Equality and the Empowerment of Women 2021).
48. United States Agency for International Development, 'Being LGBT In Asia: Viet Nam Country Report' (United Nations Development Programme 2014).
49. United States Agency for International Development, 2014. Being LGBT in Asia: Viet Nam Country Report. Bangkok: United Nations Development Programme.
50. Võ Văn Thành, Lê Kiên and Chi Mai, 'Hôn Nhân Đồng Tính: Vì Sao Chưa Công Nhận? (Same Sex Marriage - Why It Still Has Not Been Recognized?)' (*Tuổi trẻ*, 2013) <<https://tuoitre.vn/hon-nhan-dong-tinh-vi-sao-chua-cong-nhan-569132.htm>> accessed 23 October 2021.
51. Vũ Thành Long, Đỗ Quỳnh Anh and Chu Lan Anh, 'Sống Chung Cùng Giới: Tình Yêu Và Quan Hệ Chung Sống Của Người Đồng Tính, Song Tính Và Chuyển Giới Ở Việt Nam (Same-Sex Cohabitation: Love And Cohabitation Of Gay, Bisexual And Transgender People In Vietnam)' (Institute for Social, Economic and Environmental Research 2019).
52. W. Schrama, 'Registered Partnership In The Netherlands' (1999) 13 International Journal of Law, Policy and the Family.
53. Wendy D. Manning and Jessica A. Cohen, 'Premarital Cohabitation And Marital Dissolution: An Examination Of Recent Marriages' (2012) 74 Journal of Marriage and Family.
54. Yuanyuan Wang and others, 'Mapping Out A Spectrum Of The Chinese Public's Discrimination Toward The LGBT Community: Results From A National Survey' (2020) 20 BMC Public Health.