

A Context Analysis on the State of the LGBTI Movement in

VIETNAM

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Published by COC Netherlands, January 2021

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1. THE GLOBAL SITUATION

Lesbian, gay, bisexual, trans and intersex (LGBTI[1]) people around the world continue to experience violence and discrimination on the basis of their actual or perceived sexual orientation, gender identity, gender expression or sex characteristics (SOGIESC).

This includes arbitrary arrest and detention, and torture, cruel, inhuman or degrading treatment with lack of access to justice or reparations. It includes killings, attacks and sexual violence by both State and non-State actors – including by police, mobs, community members, and families.

Sixty-nine countries continue to criminalise consensual same-sex relations between adults, of which 6 have death penalty provisions.[2] At least 6 countries criminalise "cross-dressing". LGBT people are also targeted under (often vaguely worded) criminal laws against sex work, vagrancy, loitering and debauchery.

LGBTI people face discrimination in access to healthcare, education, employment and housing. Trans people face obstacles in accessing identity documents in their self-defined gender, and in accessing gender affirming care. Intersex people continue to be subjected to so-called "normalising" genital surgeries, often performed without consent and during infancy, leading to life long suffering and medicalisation. Lesbian and bisexual women face compounded discrimination on the basis of sex and gender, particularly in areas with dominant patriarchal values.

Human rights defenders working on LGBTI issues continue to face restrictions on freedom of expression, assembly and association, with websites censored, events shut down, offices raided, and organisations denied legal registration. Activists are subject to surveillance, detention, and attacks, and in some cases are left no option but to seek asylum to escape persecution.

Meanwhile, access to justice, remedies and reparation is insufficient. From law enforcement to the judiciary, as well as among law and policy-makers, there is a lack of sensitisation on the issues faced by LGBTI people.

Despite these ongoing challenges, there is also a trend toward increased recognition of LGBTI equality worldwide. Eleven UN Member states now explicitly include sexual orientation as a ground for protection against discrimination in the constitution.[3] Recent years have seen the decriminalisation of same-sex relations in Botswana, Belize and India, marriage equality in Taiwan, Ecuador and the United Kingdom, and the adoption of non-discrimination provisions on grounds of sexual orientation in Micronesia, Kosovo, and North Macedonia.[4] Furthermore, an increasing number of countries, including Argentina, Belgium, Chile, Colombia, Denmark, France, India, Malta, Mexico, the Netherlands, Norway, Pakistan, Peru and Uruguay have all moved toward legal provisions for gender recognition without pathologizing requirements.[5]

At the international level, the UN Human Rights Council established in 2016, and renewed in 2019, the mandate of an Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (SOGI).[6] In a success for trans advocates, the World Health Organisation removed trans identities from the mental health chapter of the International Classification of Diseases in 2018.[7] In September 2020, Austria presented a joint statement on behalf of 32 states to the Human Rights Council calling on governments to "investigate human rights violations and abuses against intersex people, ensure accountability, reverse discriminatory laws and provide victims with access to remedy."[8]

1 The acronyms LGBTIQ, LGBTI, LGBT and LBQ and GNC (gender non-conforming) may be used variously throughout this report to refer to different groups of people, as appropriate.

2 Lucas Ramon Mendos, ILGA World (2019). "State-Sponsored Homophobia 2019: Global Legislation Overview Update"

3 ibid.

4 Lucas Ramon Mendos, ILGA World (2019)

5 ILGA World: Zhan Chiam, Sandra Duffy, Matilda González Gil, Lara Goodwin, and Nigel Timothy Mpemba Patel, *Trans Legal Mapping Report 2019: Recognition before the law* (Geneva: ILGA World, 2020).

6 https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/Index.aspx

7 http://www.who.int/classifications/icd/en/

8 http://webtv.un.org/search/item8-general-debate-29th-meeting-45th-regular-session-human-rights-council/6196364625001/?term=&lan=english&cat=Regular%20Sessions&sort=date&page=6#player

INTERNATIONAL HUMAN RIGHTS LAW

Core International human rights documents, such as the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), apply to all human beings equally without distinction, including on grounds of sexual orientation, gender identity, and sex characteristics.[9] Additional treaties such as the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities apply to specific groups (in this case women, children and persons with disabilities respectively), while others, such as the Convention Against Torture, the Convention against Enforced Disappearances, and the Convention on the Elimination of Racial Discrimination focus on particular issues.

These treaties variously cover human rights and fundamental freedoms such as the rights to non-discrimination, to life, liberty and security of the person, to equal protection of the law, to privacy, to freedom of expression, peaceful assembly and association, and to access to the highest attainable standard of health.

International jurisprudence in the field of human rights affirms the application of international law in relation to issues faced by LGBTI people. The OHCHR recently published a booklet, *Born Free and Equal*, outlining jurisprudence in this area.[10]

IMPLEMENTATION & DOMESTICATION OF HUMAN RIGHTS COMMITMENTS

Table: Dates of signature (S) or ratification (R)

	ICCPR	ICESCR	CEDAW	CAT	CRC	CED	CRPD	CERD
VIETNAM	R-1982	R-1982	R-1982	R-2015	R-1990	NA	R-2015	R-1982

The treaty monitoring bodies (groups of experts assigned the task of reviewing State Parties' implementation of their treaty obligations and commitments) have welcomed some advancements on recognition of the rights of LGBTI people in the countries listed above, while also expressing concern over a broad number of issues.

On the positive front, the Human Rights Committee welcomed the Belize Supreme Court's decision in Caleb Orozco v. The Attorney General of Belize et al. (2016), in which the Court recognised the unconstitutionality and discriminatory character of section 53 of the Criminal Code with regard to its criminalisation of same-sex sexual conduct between consenting adults.[11] The Committee likewise welcomed the efforts made by Viet Nam to improve the situation of LGBTI persons, including by eliminating the prohibition on same sex-marriage and providing for legal gender recognition[12]. Additionally, the Committee welcomed the progress made in Pakistan on the situation of intersex persons[13].

Aside from these few positive comments, the treaty bodies have expressed concern about violence and discrimination against LGBTI people across the board. The expert bodies were concerned about ongoing criminal or otherwise discriminatory laws in Guyana, Senegal, Cameroon, Ghana, Tanzania, Malawi, Morocco, Indonesia, Pakistan, Ethiopia, Tunisia, Kenya, Uganda, Nigeria, Burundi, Bangladesh, Democratic Republic of Congo and Zambia targeting people on the basis

9 OHCHR (2019). Born Free & Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law.

10 https://www.ohchr.org/Documents/Publications/Born_Free_and_Equal_WEB.pdf

11 CCPR/C/BLZ/CO/1/ADD.1 (CCPR, 2018), para 14

12 CCPR/C/VNM/CO/3 (CCPR, 2019), para 15

13 CCPR/C/PAK/CO/1 (CCPR, 2017), para 11

of sexual orientation[14]. With regards to Guyana, the Committee on Economic, Social and Cultural Rights (CESCR) noted that "cross-gender dressing" was also criminalized in the State party under section 353 of the Criminal Law Offences Act (art. 2 (2))[15]. With regards to Kenya, the Human Rights Committee regretted reports of HIV/AIDS prevalence among homosexuals and emphasized it "is partly attributable to the laws that criminalize consensual same-sex relationships and the societal stigmatization of this group that hampers access to treatment and medical care by this group".[16] In relation to Nigeria, the Human Rights Committee was particularly concerned with the adoption of the Same-sex Marriage (Prohibition) Act and subsequent increase of reports on harassment and violence against LGBTI people, "as well as the number of arrests and the detention of young people based on their actual or perceived sexual orientation and gender identity".[17]

Treaty bodies addressed discrimination against LGBTI people in Guyana, Belize, Senegal, Burkina Faso, Cameroon, Ghana, Morocco, Iraq, Malawi, Burundi, Zambia, Nigeria, Uganda and Tunisia.[18] Of specific mention, were discriminatory practices of immigration officials in Belize,[19] discrimination in the right to health in Cameroon, Malawi and Nigeria,[20] and discrimination against young homosexuals in the access to schools in Burundi.[21] The Human Rights Committee was also concerned about a lack of explicit anti-discrimination provisions in Burkina Faso, Iraq, Pakistan, Uganda, Tunisia, Bangladesh and Democratic Republic of Congo.[22] In addition, the Committee on the Rights of Persons with Disabilities expressed concern about discrimination against LGBTI people with disabilities in Uganda and "insufficient legal remedies to protect them against such discrimination".[23] The Committee on Economic, Social and Cultural Rights (CESCR) was concerned that LGBTI people in Uganda were victims of forced eviction and denied access to health care, including HIV/AIDS-related services.[24]

Violence against LGBTI people was highlighted by the Human Rights Committee in its reviews of Malawi, Morocco, Iraq, Democratic Republic of Congo, Kenya, Burundi, Tunisia and Bangladesh.[25] The Committee on the Elimination of Discrimination against Women (CEDAW) was concerned at reports of violence against LBT women in Nigeria and Uganda.[26] The Committee Against Torture (CAT) and the Committee on the Rights of the Child (CRC) expressed particular concern about violent attacks, persecution and killings, often with impunity, against people (including minors) on the basis of their actual or perceived sexual orientation or gender identity.[27] Treaty bodies noted physical and sexual violence and harassment committed by law enforcement in Guyana, Belize, Tunisia, Bangladesh and Uganda.[28] They also noted cases of violent attacks, including rape, and death

14 E/C.12/GUY/CO/2-4 (CESCR, 2015), E/C.12/SEN/CO/3 (CESCR, 2019), E/C.12/CMR/CO/4 (CESCR, 2019), CEDAW/C/CMR/CO/4-5 (CEDAW, 2014), CCPR/C/CMR/CO/4 (CCPR, 2010), CCPR/C/GHA/CO/1 (CCPR, 2016), E/C.12/TZA/CO/1-3 (CESCR, 2012), CCPR/C/MWI/CO/1/Add.1 (CCPR, 2014), CCPR/C/MAR/CO/6 (CCPR, 2016), E/C.12/IDN/CO/1 (CESCR, 2014), CCPR/C/PAK/CO/1 (CCPR, 2017), E/C.12/PAK/CO/1 (CESCR, 2017), CCPR/C/ETH/CO/1 (CCPR, 2011), CAT/C/TUN/CO/3 (CAT, 2016), CCPR/C/CO/83/KEN (CCPR, 2005) , CEDAW/C/UGA/CO/7 (CEDAW, 2010), A/HRC/26/21, CCPR/C/BGD/CO/1 (CCPR 2017), CCPR/C/COD/CO/4 (CCPR 2017), A/HRC/37/14 (UPR 2018)

15 E/C.12/GUY/CO/2-4 (CESCR, 2015)

16 CCPR/C/KEN/CO/3 (CCPR 2012)

17 CCPR/C/NGA/CO/2 (CCPR 2019)

18 CEDAW/C/GUY/CO/9 (CEDAW, 2019), CRC/C/GUY/CO/2-4 (CRC, 2013), CCPR/C/BLZ/CO/1/ADD.1 (CCPR, 2018), E/C.12/SEN/CO/3 (CESCR, 2019), CCPR/C/BFA/CO/1 (CCPR, 2016), E/C.12/CMR/CO/4 (CESCR, 2019), CEDAW/C/CMR/CO/4-5 (CEDAW, 2014), CCPR/C/GHA/CO/1 (CCPR, 2016), CCPR/C/MAR/CO/6 (CCPR, 2016), CCPR/C/IRQ/CO/5 (CCPR, 2015), E/C.12/IRQ/CO/4 (CESCR, 2015), CCPR/C/MWI/CO/1/Add.1 (CCPR, 2014), A/HRC/10/12/Add.1, A/HRC/32/36/Add.3, A/HRC/26/21, CRPD/C/UGA/CO/1

19 CCPR/C/BLZ/CO/1/ADD.1 (CCPR, 2018)

20 E/C.12/CMR/CO/4 (CESCR, 2019), CCPR/C/MWI/CO/1/Add.1 (CCPR, 2014)

21 CCPR/C/BDI/CO/2 (CCPR 2014)

22 CCPR/C/BFA/CO/1 (CCPR, 2016), CCPR/C/IRQ/CO/5 (CCPR, 2015), CCPR/C/PAK/CO/1 (CCPR, 2017), E/C.12/UGA/CO/1 (CESCR 2015), CCPR/C/TUN/CO/6 (CCPR 2020), CCPR/C/BGD/CO/1 (CCPR 2017), CCPR/C/COD/CO/4 (CCPR 2017), CCPR/C/KEN/CO/3 (CCPR 2012)

23 CRPD/C/UGA/CO/1), 2016, paras. 8-9

24 E/C.12/UGA/CO/1 (CESCR 2015)

25 CCPR/C/MWI/CO/1/Add.1 (CCPR, 2014), CCPR/C/MAR/CO/6 (CCPR, 2016), CCPR/C/IRQ/CO/5 (CCPR, 2015), CCPR/C/COD/CO/4 (CCPR 2017), CCPR/C/KEN/CO/3 (CCPR 2012), CCPR/C/BGD/CO/1 (CCPR 2017)

26 CEDAW/C/NGA/CO/7-8 (CEDAW 2017), CEDAW/C/UGA/CO/7 (CEDAW 2010)

27 CAT/C/IRQ/CO/1 (CAT, 2015), CRC/C/IRQ/CO/2-4 (CRC, 2015)

28 CEDAW/C/GUY/CO/9 (CEDAW, 2019), CCPR/C/BLZ/CO/1/ADD.1 (CCPR, 2018), CAT/C/TUN/CO/3 (CAT, 2016), CAT/C/BGD/CO/1 (CAT 2019), E/C.12/UGA/CO/1 (CESCR 2015)

threats carried out against human rights defenders working on LGBTI rights in Haiti[29] as well as verbal attacks and extorsion against LGBTI activists in Burundi.[30] The Human Rights Committee raised the issue of inhumane and degrading treatment of persons detained on charges of having sexual relations with a person of the same sex in Cameroon[31], as well as forced anal examinations in Tunisia and Bangladesh.[32] It was also concerned about hate speech directed at LGBTI people, including by politicians and the media, in Belize and Burkina Faso.[33]

OBSTACLES IN THE DEVELOPMENT OF INTERNATIONAL NORMS AND STANDARDS

While international human rights law applies equally to all persons, including LGBTI persons, the promotion and protection of the human rights and fundamental freedoms of LGBTI people has been met with opposition by groups seeking to undermine the universality of human rights.

Opposition groups and hostile governments have justified discrimination against LGBTI people on various grounds, such as on the basis of state sovereignty, anti-Western imperialism, religion, culture, traditional values, protection of women, children and the family, and "anti-gender ideology." Such groups have positioned the human rights of LGBTI people as "new rights", lobbied against comprehensive sexuality education, and promoted stereotyped gender roles.[34]

These well-funded groups continue to consolidate power and build strategic alliances with state representatives, gaining access and influence in UN spaces working on human rights normative development.[35]

The Observatory on the Universality of Rights (OURs) has documented "the watering down of existing agreements and commitment; deadlock in negotiations; sustained undermining of UN agencies, treaty review bodies and Special Procedures; and success in pushing through regressive language in international human rights documents."[36]

CIVIL SOCIETY SPACE

KEY PLAYERS

Advancements in policy and practice on issues relating to sexual orientation, gender identity and sex characteristics are primarily influenced by the advocacy of LGBTI organisations working at the national, regional, and international levels. Allied organisations working across feminist or generalist human rights issues have been able to support, as well as provide additional legitimacy to the work of LGBTI organisations over the years. This work is of course impacted by the priorities of and distribution of resources by donors.

Over the last two decades, LGBTI civil society has significantly increased its engagement with the UN and other intergovernmental institutions and has been instrumental in holding States accountable for their human rights violations based on sexual orientation, gender identity and sex characteristics. International LGBTI organisations have led the advocacy work on SOGIESC issues in UN mechanisms and development agencies and have contributed to significant achievements and visibility of those issues in UN treaty bodies, special procedures and UPR.[37] They have also played a key role in building support from and strengthening the capacity of local and regional organisations to engage with those mechanisms and as well as with governments and advo-

29 CRC/C/HTI/CO/2-3 (CRC, 2016), para.18
30 A/HRC/31/55/Add.2
31 CCPR/C/CMR/CO/4 (CCPR, 2010)
32 CCPR/C/TUN/CO/6 (CCPR 2020), CCPR/C/BGD/CO/1 (CCPR 2017)
33 CCPR/C/BLZ/CO/1/ADD.1 (CCPR, 2018), CCPR/C/BFA/CO/1 (CCPR, 2016)
34 https://www.oursplatform.org/resource/rights-risk-key-opposition-discourses/
35 https://www.oursplatform.org/resource/rights-risk-key-opposition-strategies-tactics/
36 ibid.
37 For key achievements on SOGIESC issues at the UN between 2003 and 2014, see: How far has SOGII for web.pdf (arc-international.net)

cate for policy change and rights recognition.[38] Local organisations, on the other hand, have contributed to raising awareness of violations on the ground, providing data, testimonials, reports and other mobilisation strategies, thus influencing the agenda of international LGBTI advocacy.

The mandate of the UN Independent Expert on sexual orientation and gender identity, appointed in 2016, may be seen as a result of the steady engagement of LGBTI organisations at the UN and has led to a significant increase in systematic attention to LGBTI issues in multilateral spaces such as the UN Human Rights Council and General Assembly. The advocacy of LGBTI and allied civil society organisations at national and international levels, as well as outreach by supportive states, has been instrumental in defeating opposition to the mandate in both Geneva and New York.

The growing support of UN agencies has also contributed to legitimising and strengthening the work of LGBTI civil society. The UN Office for the High Commissioner for Human Rights (OHCHR), for instance, has undertaken significant work on LGBTI issues over recent years, including producing human rights reports, best practice guides, fact sheets, training materials, managing a global awareness campaign, providing support to UN field offices and human rights mechanisms, and working with the private sector for greater equality for LGBTI people.[39]

Moreover, the UN Development Programme (UNDP) has recently rolled out regional programmes to build understanding of the issues that LGBTI people face and advancing their inclusion in national development efforts.[40] Other UN entities are increasingly addressing LGBTI issues in line with their mandates.[41] This includes the work of the UN Office on Drugs and Crime (including HIV treatment and prevention), UNFPA (capacity building on LGBTI issues), UNHCR (guidelines on protection for LGBTI refugees and asylum seekers), UNICEF (addressing discriminatory gender stereotypes, and SOGI based discrimination of children), UN Women (events, roundtables, and working groups), the ILO (research on employment discrimination), UNESCO (addressing homophobic and transphobic bullying in education), WHO (reports and guidelines, such as Sexual Health, Human Rights and the Law), the World Bank (data collection), and the IOM (training package on working with LGBTI people in humanitarian contexts).[42] The OHCHR regularly publishes summaries of UN-wide work on LGBTI issues.[43]

OPPOSITION PLAYERS

Several civil society organisations and groups of states have also been working in coalition to *oppose* advancements on the recognition of the rights of LGBTI people globally. Many are working from a religious fundamentalist standpoint, including from Catholic, Evangelical, Mormon, Russian Orthodox and Muslim faith backgrounds.[44] Among States this has included the Holy See, the Russian Federation, and the Organisation of Islamic Cooperation (OIC).

More recently, there has been an upsurge in "anti-gender" activism, providing an unexpected partnership between ultra-conservatives, nationalists, and the religious right wing who seek a return to "traditional family values", and fringe radical feminist activists who seek to preserve sex-based human rights protections for cis women and girls. These players have been successful in advocating against legal gender recognition of trans people based on self-identification, for example in the UK and New Zealand.

SHRINKING CIVIL SOCIETY SPACE

Public and political participation is a fundamental element of human rights. However, according to the UN human rights office, civil society actors around the world are "facing a pushback" with attacks on human rights defenders, inequalities, and the suppression of peaceful dissent.[45]

38 Karsay, Dodo (2014). 'How far has SOGII advocacy come at the UN and where is it heading?', ARC International.
39 https://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx
40 https://www.ohchr.org/Documents/Issues/Discrimination/LGBT/UN_LGBTI_summary_2019.pdf
41 Ibid.
42 Ibid.
43 https://www.ohchr.org/EN/Issues/LGBTI/Pages/UNWideWork.aspx
44 see for example, https://www.oursplatform.org/resource/rights-risk-key-opposition-actors/
45 https://www.ohchr.org/EN/AboutUs/ManagementPlan/Pages/participation.aspx

In some countries, organisations and activists working on LGBTI issues face restrictions on freedom of expression, peaceful assembly and association, as well as limitations in public and political participation.[46] Restrictions have come in the form of laws restricting or prohibiting discussion of sexual orientation or gender identity, restrictions on foreign funding, denial of applications to register organisations, censorship, banning the dissemination of information, restricting websites, raids on the offices of LGBTI groups, surveillance, and arrest, harassment, torture and even killing of activists.[47] Permission for events have been denied or police have allowed harassment of people at LGBTI events to take place.

Such restrictions severely limit the capacity of LGBTI groups to operate in a safe and secure environment, to receive sufficient funding to carry out activities and programmes, and to provide services to community members. They also limit the capacity of LGBTI activists to effectively advocate on issues affecting the community, without facing the threat of reprisals.

This is of particular concern in areas where LGBTI organisations are providing key services to populations that otherwise face socio-economic marginalisation or exclusion, for example in health care, housing, education or social security.

FUNDING THE MOVEMENT

Research by the Global Philanthropy Project (GPP) documents a total of USD 560 million in global LGBTI funding over a two-year period from 2017-2018, of which 58% went to LGBTI organisations in the Global North[48], 34% to organisations in the Global South and East[49] and 11% to organisations doing international or global work.[50] The report documents over 19,764 grants awarded by 800 foundations, NGO intermediary funders, and corporations and by 15 donor government and multilateral agencies.

IMPACT THAT THE FUNDING HAS HAD ON THE MOVEMENT.

The GPP research[51] revealed that the majority of grants awarded outside the United States did not focus on a specific LGBTI subpopulation, while 11% focused on trans issues, 10% on gay and bisexual men and MSM, 8% on LBQ women, 2% on intersex communities and 1% on only bisexual people.

Most of the funding for gay and bisexual men and MSM was allocated to HIV/AIDS, while the top funding issue for LBQ women was general human rights activities.

When compared to the period 2015-2016, the total funding for the Global South and East rose by 46%. In terms of subregions, Latin America and the Caribbean was the region with the highest increase (97%), followed by Sub-Saharan Africa (40%) and Asia and the Pacific (38%). Funding for Eastern Europe, Central Asia and Russia rose by 23%, while the Middle East and North Africa had a small increase of 7%.

Grants for the Global North increased by 4% and for international advocacy organisations decreased by 13%.

In the Global South and East, the most significant increase was funding for migrants, refugees, and asylum seekers (600%), followed by intersex communities (200%), children and youth (82%), transgender communities (26%) and sex workers (5%).

46 OHCHR (2019). Born Free & Equal: Sexual Orientation, Gender Identity and Sex Characteristics in International Human Rights Law.

47 ibid.

48 The GPP report considers as Global North organisations in the US, Canada and Western Europe.

49 As Global South, the GPP report considers five regions: (1) Asia and the Pacific; (2) Eastern Europe, Central Asia, and Russia; (3) Latin America and the Caribbean; (4) the Middle East and North Africa; and (5) Sub-Saharan Africa.

50 https://globalresourcesreport.org/

51 Ibid

DIFFERENT KINDS OF FUNDING AVAILABLE FOR THE MOVEMENT.

Based on the GPP research[52], the different kinds of funding available to the LGBTI movement outside the US between 2017–2018 can be divided according to the following categories:

1) Sources of funding: 37% of LGBTI funding came from donor governments and multilateral agencies, 31% came from public foundations and NGO intermediaries and 23% from private foundations. Funding by corporations and anonymous donors account to 4% and 5% respectively.
2) Issues funded: the majority of funding was on human rights (60%), followed by health and wellbeing (20%), communities and families (6%), confronting violence, homophobia and transphobia (3%), education (1%) and economic issues (1%).
3) Strategies funded: advocacy, community organizing, and public education received the majority of the funding (57%), followed by capacity building and training (11%), direct service (9%), philanthropy and fundraising (9%), research (4%), culture/media (2%) and other (8%).

KEY LGBTI FUNDERS IN THE WORLD.

According to the GPP research[53], the top 20 foundation funders, excluding funding focused on the United States, awarded a total of $128 million between 2017 and 2018. Among them, 11 funders are based in Western Europe and 9 are based in the US.

	TOP 20 FOUNDATION FUNDERS OF LGBTI ISSUES (2017-2018)	TOTAL AMOUNT (USD)
1	Open Society Foundations	$15,920,449
2	Arcus Foundation	$13,633,255
3	Ford Foundation	$12,319,300
4	Elton John AIDS Foundation (UK)	$9,843,890
5	National Lottery Community Fund, The	$8,980,621
6	COC Netherlands	$8,556,326
7	Tides Foundation	$8,360,950
8	M.A.C. AIDS Fund	$7,026,039
9	Hivos	$6,528,684
10	Foundation for a Just Society	$5,895,000
11	Astraea Lesbian Foundation for Justice	$4,732,248
12	AmplifyChange	$3,814,721
13	American Jewish World Service	$3,681,434
14	Sigrid Rausing Trust	$3,443,212
15	Gilead Sciences	$3,329,193
16	VOICE	$2,596,212
17	Comic Relief	$2,586,679
18	Mama Cash	$2,443,957
19	Dreilinden	$2,227,092
20	Baring Foundation, The	$2,058,579

52 Ibid
53 Ibid

GOVERNMENT DONORS AND INTERVENTIONS

Outside the US, 37% of funding for LGBTI issues came from donor governments and multilateral organisations. Donor governments on LGBTI issues include the governments of Sweden, the United Kingdom, the Netherlands, Norway, Finland, Canada, Denmark, Germany and the United States.[54]

Several Global North governments seek to assert leadership on LGBTI issues as a foreign policy issue, rather than a domestic concern. For example, in their Voluntary National Reviews on the implementation of the Sustainable Development Goals, Western states made reference to their commitment to LGBTI people only as far as it pertained to foreign relations, risking "leaving behind" LGBTI people in their own countries.[55] This is further illustrated by the emergence of the Equal Rights Coalition (ERC), a group of mostly Global North states seeking to collaborate on their foreign policy around SOGIESC issues. The Coalition emerged from the frustration of Western states in playing a secondary role to South Africa and the group of Latin American states leading in UN resolutions on sexual orientation and gender identity, and restrictions on Western membership to the New York Core Group of states working on SOGI(ESC).[56] The ERC has achieved the release of joint statements on LGBTI issues,[57] but its impact on the promotion and protection of the human rights of LGBTI people remains to be seen. Indeed, one of the current co-Chairs (the United Kingdom) recently affirmed its commitment to pathologizing trans people,[58] one of the root causes of human rights violations faced by this group.[59]

FUNDING FOR HIV/AIDS

Recent research by Aidsfonds on HIV funding for key populations[60] in low and middle-income countries (LMICs) shows that these populations are still disproportionately under resourced, although they accounted for over half of all new infections in 2018. According to the research, programmes targeting key populations received only 2% of all HIV funding between 2016 and 2018. Funding focused on gay and bisexual men was less than 3% of all prevention funding and only 0.3% was devoted to transgender people. [61]

The main fun ders for HIV programming for key populations were the Global Fund and PEPFAR, accounting for 55% and 23% of the total funding respectively. Other funders include private philanthropy (10%), governments in LMICs (7%) and the Dutch Government (4%). [62]

54 Ibid.

55 https://sustainabledevelopment.un.org/vnrs/

56 France, the Netherlands, the United States, and the United Kingdom are among states that have been repeatedly discouraged by LGBTI civil society groups from running their own resolutions on sexual orientation and gender identity at the UN Human Rights Council and General Assembly. These efforts remain an ongoing source of tension between the leadership ambitions of Western governments and the wellbeing of LGBTI civil society and people on the ground.

57 https://www.gov.uk/government/collections/equal-rights-coalition#latest-update

58 https://www.gov.uk/government/news/government-responds-to-gender-recognition-act-consultation

59 https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19956&LangID=E

60 Key populations are those most affected by HIV and include gay and bisexual men and other men who have sex with men, transgender people, sex workers and people who inject drugs.

61 Fast-Track or Off Track report-final_0.pdf (aidsfonds.org)

62 Ibid.

2. BROADER DEVELOPMENT AGENDAS

ECONOMIC INCLUSION, EMPLOYMENT AND POVERTY

LGBTI people face socio-economic exclusion in all regions of the world. Family and community abuse, bullying in schools, and disproportionately high levels of homelessness put LGBTI people at a disadvantage prior to entering the job market. For lesbian, bisexual and queer (LBQ) women this is compounded by sex-based discrimination. As a result of socio-economic exclusion, the World Bank has suggested that LGBTI people are likely to be overrepresented in the bottom 40% of the population.[63] The Williams Institute has similarly suggested that in certain contexts a third of LGBT people experience food insecurity, with two thirds of those identifying as female.[64]

Protections exist at the international level in relation to non-discrimination in the workplace through international labour and human rights standards. These include standards on social security, healthcare, and privacy. Additionally, UN Member States have made commitments under the Sustainable Development Goals to "leave no-one behind", including in promoting inclusive employment and decent work for all. In 2017, the OHCHR released the Standards of Conduct for Business in tackling discrimination against LGBTI people, which affirm responsibilities in protecting and respecting the rights of LGBTI people, and providing remedies for violations.[65]

Global qualitative and quantitative research on the employment situation of LGBTI people is extremely limited, while research focused on intersex workers is virtually non-existent. Research by the International Labour Organisation (ILO) has shown that discrimination takes place throughout the employment cycle, from applications and interviews to career advancement opportunities, inequitable social benefits and unfair dismissals.[66] Harassment, bullying and abuse against individuals transgressing gender norms in the workplace are commonplace. The ILO research revealed a correlation between workplace bullying and poor physical and mental health of LGBT workers, including depression, low self-esteem, and suicidal thoughts. These factors lead many LGBT people to informal and unstable sectors of work, with little protections and significant personal and economic risk.

In addition, the EU Fundamental Rights Agency has undertaken in-depth research on discrimination against LGBTI people in Europe, which includes employment discrimination. This research revealed that 21% of LGBTI respondents felt discriminated against at work.[67]

While there is less documentation on issues faced by bisexual and intersex workers,[68] research reveals that those who transgress gender norms more publicly, particularly through gender expression, face the highest levels of discrimination and harassment, regardless of actual sexual orientation, gender identity, or sex characteristics.[69] Employment discrimination against LGBTI people is compounded by intersecting factors, including sex, ethnicity, health status, migrant status, nationality, social class and disability.[70]

Many trans people experience harassment and bullying at work, including reduced job progression and an inability to disclose their gender identity at work.[71] Additional obstacles for trans workers include sex-segregated facilities (such as toilets and locker rooms), gendered uniforms and dress codes, unnecessary gender divisions in use of language, mis-gendering, and a lack of inclusive options on forms, particularly for non-binary people.

63 https://blogs.worldbank.org/governance/lgbti-people-are-likely-over-represented-bottom-40

64 Report of the Independent Expert on SOGI, A/75/258 (2020), para.26.

65 https://www.ohchr.org/EN/Issues/Discrimination/Pages/Biz4LGBTI.aspx

66 Discrimination at work on the basis of sexual orientation and gender identity: Results of the ILO's PRIDE Project. The ILO research explored discrimination against LGBT workers in Argentina, Costa Rica, France, Indonesia, South Africa and Thailand.

67 https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results#TabPubFindingsQA1

68 UNDP, ILO (2018). LGBTI People and Employment: Discrimination Based on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics in China, the Philippines and Thailand.

69 ILO (2016), PRIDE at Work: Costa Rica, Indonesia; Pride in Diversity and Organization Intersex International Australia (2014).

70 See for example ILO (2016) PRIDE at Work: Results, Argentina and South Africa; Pride At Work Canada (2017).

71 UNISON (2017). Factsheet: Transgender Workers Rights.

Intersex people who have been subjected to forced or coerced surgeries or other procedures are likely to suffer from trauma, which may affect them in the workplace.[72] Invisibility and a lack of understanding around issues affecting intersex people could potentially pose challenges to achieving workplace equality for intersex people. Research on intersex workers would help to identify any specific challenges they might face.

Lesbian workers have reported facing double discrimination, first on the grounds of gender and then sexual orientation.[73] High levels of sexual harassment of lesbian workers have been documented, with male colleagues believing they could "correct" lesbian sexual orientations, and managers expecting lesbian employees to have sexual relations with them to keep their jobs.[74] The ILO research showed that lesbians were less likely to hold positions of leadership than gay men.[75]

LGBTI people facing workplace discrimination were documented as being less satisfied with their job, and more likely to seek employment elsewhere.[76] Many LGBTI workers turn away from the formal economy altogether, for example seeking work in the entertainment, beauty or creative design industries, or through freelance work.[77] In many cases these jobs have less job security, lower pay and fewer benefits.[78] Others decide to set up a small business or petty trade, often selling products or services.[79]

Research by Micro Rainbow International shows that low-income LGBT people are more likely to become and/or stay poor due to intersectional forms of discrimination based on gender, race, class, sexual orientation and/or gender identity, including in the workplace.[80] Often, they can break the poverty cycle by starting their own small businesses and other income-generating activities. The economic empowerment of vulnerable LGBTI people may lead to increase in their income and self-esteem, improvement of livelihoods, as well as achievement of financial autonomy and better living conditions, among other positive effects in their lives and communities. [81]

HEALTH CARE

LGBTI people face violence and discrimination in accessing health care, including in sexual and reproductive health care. This includes discriminatory medical classifications (pathologisation), abusive or coercive medical procedures including so-called "conversion therapies", and forced surgeries and sterilisations.[82] In addition, health care providers are insufficiently sensitised and often lack training on the specific health care needs of LGBTI people. Many use gender stereotype or gender profiling to diagnose trans and intersex people rather than scientific data or examination results. Discriminatory treatment when accessing health services leads to some LGBTI people avoiding professional health services altogether. In combination with discrimination and violence in other areas of life, obstacles in realising health related rights culminate in compounded mental and physical health issues for LGBTI people.

In fact, LGBTI people have higher levels of mental health issues than the general population. Existing research shows that adverse social contexts, such as living with violence and SOGIE-related stigma and discrimination, have severe negative impact on the health and well-being of sexual and gender minorities.[83]

72 Pride in Diversity and Organisation Intersex International Australia (2014). Employers' Guide to Intersex Inclusion.
73 ILO (2016). PRIDE at work: France, South Africa
74 ILO (2015-2016). PRIDE at work: Argentina, Costa Rica
75 ILO (2016). PRIDE at work: Costa Rica
76 UNDP, ILO (2018).
77 ILO (2015-2016) PRIDE at work: Indonesia, Thailand, France; UNDP, ILO (2018)
78 ILO (2015-2016) PRIDE at work: Thailand, France
79 ILO (2014) Gender identity and sexual orientation in Thailand
80 ITABORAHY, Lucas P. (2014).'LGBT living in poverty in Rio de Janeiro'. Micro Rainbow International.
81 TABORAHY, Lucas P.; KALUME, Clarisse C. and RIBEIRO, Ivana P. (2017). 'LGBT Entrepreneurship: case studies of socioeconomic empowerment in Rio de Janeiro (2015-17)'. Micro Rainbow International.
82 OHCHR (2019), Born Free and Equal
83 Plöderl, M. and Tremblay, P. (2015) 'Mental health of sexual minorities. A systematic review', International Review of Psychiatry

A recent study by COC and the University of Cape Town reveals the precarious state of LGBTI people's mental health in East and Southern Africa[84]. The research shows that LGBTI people face high levels of verbal harassment, physical and sexual violence which, added to frequent experiences of social exclusion, marginalisation and stigma, negatively affect their mental health and wellbeing and result in high levels of depression, anxiety, suicidality, and substance use. When compared to cisgender minorities, transgender women experience the highest mental health risks and risks of violence. The levels of depression and anxiety as well as suicide attempts were particularly high for lesbian and bisexual women, as well as for transgender women and gender non-conforming people. The levels of substance use were highest among transgender women and gender non-conforming people. [85]

Unlike same-sex sexual orientation, transgender identities remained classified as a mental illness by the World Health Organization (WHO) until 2018, when the new International Classification of Diseases –ICD 11 was released and all trans-related diagnoses were removed from the Mental health disorders chapter.[86] Yet, transgender people continue to be pathologised by health care professionals throughout the world and continue to experience serious barriers to access gender-affirming health services, including poverty and financial hardships, lack of competent providers and adequate care, bias and stigma from medical professionals, among other factors.[87] According to studies by the Williams Institute, a lack of access to gender-affirming care leads to a higher prevalence of suicide among the transgender population. [88]

Diversity in sex characteristics remains classified as a pathological condition by WHO and intersex infants are subject to forced and coercive medical interventions, genital "normalising" procedures, sterilization and other invasive treatment without consent. Several UN bodies, such as the Human Rights Committee, the Committee on Rights of the Child, the Committee against Torture, as well as the Office of the High Commissioner for Human Rights have condemned such unnecessary and irreversible medical interventions and other human rights violations against intersex children and adults, which include infanticide, lack of access to justice and remedies, stigma and discrimination in education, sport, employment and other services.[89] They have also called upon States to urgently adopt measures to end violence and harmful practices against intersex people.[90] In 2015, Malta became the first country to approve legislation that recognises the right to bodily autonomy and self-determination, and protects all citizens from discrimination and forced and coercive medical interventions on grounds of sex characteristic.[91]

Research has shown higher vulnerability to HIV infection for men who have sex with men and trans women, elevated rates of suicide and substance abuse among LGBT youth and adults, including older people, and severe data gaps on the health needs of LBQ cis women, including relating to reproductive health in addition to generalised lack of access to health services.[92]

While sexual and reproductive rights are of relevance to LGBTI communities, many of these concerns remain invisibilised within the broader LGBTI movement. The Yogyakarta Principles Plus 10 (YP+10)[93], a soft law document on the application of international human rights law in relation to SOGIESC, addresses issues of access to comprehensive sexuality education, safe, affordable and effective contraceptives, information and education on non-discriminatory family planning and sexual and reproductive health, and assisted reproduction. The YP+10 further calls for the decriminalisation of sex work and abortion, and the elimination of sexual and reproductive violence, including genital mutilations, involuntary sterilisations, forced marriage, rape, and forced pregnancy.[94]

84 The research was carried out in nine countries: Botswana, Ethiopia, Kenya, Lesotho, Malawi, South Africa, eSwatini, Zambia and Zimbabwe.

85 Müller, A., Daskilewicz, K. and the Southern and East African Research Collective on Health (2019). *'Are we doing alright? Realities of violence, mental health, and access to healthcare related to sexual orientation and gender identity and expression: Research report based on a community-led study in nine countries'*. Amsterdam: COC Netherlands.

86 World Health Organisation moves to end classifying trans identities as mental illness - TGEU

87 Barriers to Gender-Affirming Care for Transgender and Gender Nonconforming Individuals (nih.gov)

88 Suicide Thoughts and Attempts Among Transgender Adults – Williams Institute (ucla.edu)

89 OHCHR Background Note on Human Rights Violations against Intersex People

90 Public statement of UN and regional human rights experts, n 2.

91 Gender Identity, Gender Expression and Sex Characteristics Act 2018.

92 Report of the UN Independent Expert on SOGI (2019), A/74/181

93 The YP plus 10 was adopted on 10 November, 2017 to supplement the Yogyakarta Principles, which were originally adopted on November 2006 in an attempt to apply international human rights standards to issues of sexual orientation and gender identity.

94 yogyakartaprinciples.org

There is no comprehensive global statistical data on LGBTI access to health care. The little quantitative data that exists shows that LGBT people face discrimination in access to health care. This is supported by additional qualitative research in this area. For example, a paper published in 2019 investigated "how sexism and patriarchy intersect with other forms of discrimination, such as racism, classism, and homophobia, to structure pathways to poor health." The authors discussed "evidence showing the far-reaching consequences of these pathways, including how gender inequality and restrictive gender norms impact health through differential exposures, health-related behaviours and access to care, as well as how gender-biased health research and health-care systems reinforce and reproduce gender inequalities, with serious implications for health."[95]

SUSTAINABLE DEVELOPMENT GOALS

In 2015, the UN General Assembly adopted the Sustainable Development Goals (SDGs), with 17 goals and 169 targets to be achieved by 2030, as part of the 2030 Agenda for Sustainable Development.

While LGBTI people are not explicitly covered in the SDGs, they are included under the commitment to "leave no-one behind." In the SDG declaration, Member States committed "to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status". The inclusion of "for all" and "other status" provides room for discrimination not explicitly listed, such as sexual orientation, gender identity and expression, and sex characteristics, is prohibited.

Each of the 17 SDGs is likely to be relevant to all groups of people, but there are several Goals that are particularly relevant for LGBTI people. These include:

Goal 1 to end poverty: LGBTI people face socio-economic exclusion, including in education, employment and housing, raising the likelihood of living in poverty.

Goal 3 on healthy lives and well being: LGBTI people face discrimination in health care, and broader discrimination and violence has a negative impact on health.

Goal 4 on ensuring inclusive and equitable quality education: LGBTI and gender non-conforming children face discrimination, bullying and exclusion in education settings.

Goal 5 on gender equality: gender inequality and gender-based discrimination and violence is one of the root causes of human rights concerns facing LGBTI people. LBQ women face compounded discrimination on the basis of gender.

Goal 6 on water and sanitation: safe access to sanitation facilities remains an issue particularly for women and trans people.

Goal 8 on economic growth and employment: discrimination throughout the employment cycle leaves many LGBT people in vulnerable and low paid work, often in the informal sector.

Goal 10 on reducing inequality: LGBTI people are likely to face inequalities in all areas of life.

Goal 11 on safe and inclusive cities: LGBTI people face discrimination, violence, and other harms in cities.

Goal 16 on inclusive societies, access to justice and effective institutions: access to justice and effective institutions remains an obstacle for many LGBTI people, particularly where there are discriminatory and/or penal laws and policies used to target them.

95 Prof Lori Heise et al. (2019). "Gender inequality and restrictive gender norms: framing the challenges to health". Volume 393, ISSUE 10189, P2440-2454.

As the indicators for the SDGs do not provide for explicit inclusion of LGBTI people, reporting on the implementation of SDGs for these populations is left to the discretion of states, as well as to civil society organisations.

Several states have included LGBTI people in their Voluntary National Reviews on the implementation of the SDGs.[96] For example, in 2017, Belize noted HIV prevalence among men who have sex with men (MSM) and outlined a "preventative public health HIV/AIDS programme aimed at decreasing the risk and impact of STI/HIV/AIDS." In 2018 Ireland discussed plans to develop a National LGBTI Inclusion Strategy for all ages, and brought attention to its Gender Recognition Act. Malta indicated that it had banned so-called "conversion therapies", approved a marriage equality bill, and had plans for free health care for trans people. The Philippines was concerned about the challenge relating to the need to disaggregate data by sexual orientation and gender identity. Portugal expanded universal access to sexual and reproductive health and rights to all women regardless of sexual orientation, including access to sexual education in public and private educational establishments and to family planning, including free access to a doctor, infertility treatments, decriminalisation of abortion (including of voluntary abortion) and techniques of medically assisted procreation.

Tracking the implementation of the SDGs requires high quality, up-to-date, and disaggregated data. However, in most countries, data on LGBTI people is limited or non-existent. The World Bank and UNDP, together with representatives from civil society, governments, the private sector, academia, and foundations have been working toward the creation of a global LGBTI Inclusion Index, the first global standard for measuring societies' inclusion of LGBTI individuals.[97] The indicators will cover health, education, civic and political participation, personal security and violence, and economic well-being. The index is expected to provide important data for measuring implementation of the SDGs.

96 VNRs are available on the database at https://sustainabledevelopment.un.org/vnrs/

97 https://www.undp.org/content/undp/en/home/librarypage/hiv-aids/lgbti-index.html

3. IMPACT OF COVID-19

In a statement on the International Day Against Homophobia, Biphobia and Transphobia, the Independent Expert on SOGI called on states to include LGBT people in pandemic responses, noting that "Lesbian, gay, bisexual, trans and gender-diverse people, who are disproportionately represented in the ranks of the poor, the homeless, and those without healthcare, will be deeply impacted by the pandemic."[98]

In October 2020, the Independent Expert released his thematic report to the General Assembly, focusing on the impact of the COVID-19 pandemic on LGBT and GNC people. The report analysed the impact of the pandemic on social exclusion and violence and the interaction with institutional drivers of stigma and discrimination. It also outlined measures adopted in the context of the pandemic aimed at persecuting LGBT and gender-diverse persons or with indirect or unintended discriminatory effects, and identified good practice.[99]

In May 2020, OutRight Action International published the findings of early research documenting the effects of the COVID-19 pandemic on LGBTI people. The specific challenges faced by LGBTI people identified in OutRight's report included devastation of livelihoods, disruptions in access to health care, elevated risk of domestic and family violence, social isolation and increased anxiety, scapegoating, discrimination and stigma, abuse of state power, and concerns about organisational survival.[100]

The LBTI Caucus also released a statement expressing concerns about access to health care for LBTI and GNC people during the COVID-19 crisis, an increase in domestic and family violence, the impact on employment and labour, and the related risks of "slipping into or back into food insecurity, poverty and homelessness", compounded risks for LBTI and GNC refugees and asylum seekers, and the impact on advocacy and community sustainability.[101]

Research by Sexual Minorities Uganda (SMUG) revealed impact on "livelihood such as the lack of access to food and basic necessities; health such as the lack of access to ARVs and psychosocial services including the fear of COVID-19 as well as backlash towards the LGBTIQ+ community as well as the differences in impacts on target groups in rural and in urban areas."[102]

The survey revealed that the most urgent need of the community was access to food and other essential commodities (67% of respondents), followed by access to ART, PrEP and PEP, and relocation assistance (33%). In a separate survey to community members, SMUG found that 87% of respondents were concerned about food shortages, and 59% had to give sexual favours in exchange for food, shelter and/or other basic amenities.[103]

IMPACT ON EMPLOYMENT AND SOCIAL PROTECTIONS

LGBTI people are disproportionately represented in the informal and freelance economy, often leaving them without income security and outside social security systems. The Independent Expert on SOGI gave the example of Brazil, where an estimated "90 per cent of the trans population engages in sex work, government stimulus cheques are conditional on prior registration in public records of self-employment or informal work, which excludes many workers with unregulated occupations (such as sex workers)."[104]

Community members interviewed by OutRight expressed concern about "access to the same crisis-related benefits and food support that heterosexual individuals, couples and families may be eligible for in the wake of the pandemic."[105] Despite research

98 https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25889&LangID=E

99 Report of the Independent Expert on SOGI (2020), A/75/258

100 Amie Bishop, OutRight Action International (2020). "Vulnerability Amplified: The Impact of the COVID-19 Pandemic on LGBTIQ People"

101 https://outrightinternational.org/content/lbti-caucus-statement-response-covid-19-pandemic

102 https://sexualminoritiesuganda.com/wp-content/uploads/2020/08/Findings-from-SMUG-COVID-19-Check-In-4.pdf

103 https://sexualminoritiesuganda.com/wp-content/uploads/2020/08/Report-on-the-impact-of-COVID19-on-the-LGBTIQ-community-in-Uganda.pdf

104 Report of the Independent Expert on SOGI (2020), A/75/258

105 Bishop, OutRight (2020)

for OutRight's report being undertaken very early into the crisis, 10 of the 59 interviewees had already lost their main sources of income due to the pandemic.[106] As a result of income loss, LGBTI people also face rising insecurity in access to basic resources, including food and shelter.

IMPACT ON HOUSING

The economic impact of the pandemic has resulted in an increase in forced evictions worldwide, with tenants and homeowners struggling to pay rent and mortgages. At least 150 million people worldwide already live in homelessness and a quarter of the world's population in informal settlements.[107] The UN Special Rapporteur on the right to housing expressed concern about the acceleration in evictions and home demolitions during the crisis.[108] As the previous mandate holder stated in a guidance note on forced evictions, "In the face of this pandemic, being evicted from your home is a potential death sentence."

The Independent Expert on SOGI has expressed concern about discrimination against LGBT people in access to housing, as well as the disproportionate representation of LGBT people within the homeless population.[109] LBQ women may be particularly vulnerable, facing compounded forms of discrimination. As noted by the UN Committee on Economic, Social and Cultural Rights in its General Comment No.7 on forced evictions, women are particularly vulnerable to eviction "given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless."[110]

In his report on COVID-19, the Independent Expert noted that "LGBT community members that are already homeless found themselves in an especially precarious position because, while their chances of finding even short-term employment and temporary housing solutions decreased drastically, they were compelled to rely on social housing and shelter programmes that were not safe for stigmatized communities."[111]

The detrimental impact of the COVID-19 crisis on income can only exacerbate the barriers faced by LGBTI people in access to housing, and increase the risk of homelessness. Micro Rainbow, an organisation that works with LGBTI refugees, has reported that many LGBTI migrants sofa surf or live in overcrowded rooms rented from unscrupulous landlords, have limited access to cleaning and washing facilities, and have been made homeless as a result of the pandemic, all of which leaves them at higher risk of contracting COVID-19.[112]

Many younger LGBTI people have been left little option but to move in with their families, leaving them vulnerable to homophobic or transphobic abuse and increasing levels of anxiety.[113] In Uganda, a group of LGBTI persons staying in a homeless shelter were arrested after local villagers reported them to the authorities for living in close quarters.[114]

IMPACT ON HEALTH CARE

The COVID-19 pandemic has also impacted access to health care for LGBTI people, including HIV related care, gender affirming care, mental health care, and other forms of health care.

106 ibid.
107 https://www.ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_guidance_evictions.pdf
108 https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26170&LangID=E
109 Report of the Independent Expert on SOGI (2019), A/74/181, para.14-18
110 CESCR General Comment No. 7 on the right to adequate housing: forced evictions (E/1992/23), para.10
111 Report of the Independent Expert on SOGI (2019), A/74/181, para.31
112 https://microrainbow.org/gbti-migrants-hit-hard-by-covid-19/
113 see for example, https://sexualminoritiesuganda.com/wp-content/uploads/2020/08/Report-on-the-impact-of-COVID19-on-the-LGBTIQ-community-in-Uganda.pdf
114 https://sexualminoritiesuganda.com/wp-content/uploads/2020/08/Report-on-the-impact-of-COVID19-on-the-LGBTIQ-community-in-Uganda.pdf

For example, OutRight documented LGBTI people reporting "disruptions in access to HIV medications, pre-exposure prophylaxis (PrEP), and other HIV-related care, even when going through community-based organizations." Trans and intersex interviewees for the research also noted interruptions to hormone treatments and other gender-affirming care. The report also noted a mental health impact of the pandemic, such as increases in anxiety and social isolation, heightened by being cut off from the LGBTI community.[115]

UNAIDS reported that the COVID-19 pandemic could set the response to AIDS back 10 years or more, estimating that "a six month disruption in HIV treatment due to COVID-19 could cause over 500,000 additional deaths in sub-Saharan Africa alone."[116] The Independent Expert on SOGI cited a recent global survey involving 2,732 respondents from 103 countries, which revealed that "23 per cent of participants living with HIV indicated that they had lost access to HIV care providers as a result of COVID-19 social isolation measures, and only 17 per cent reported that they were able to communicate with their providers via telemedicine."[117]

While LGBTI people face barriers in accessing health care, the Independent Expert on SOGI has expressed concern that social disparities place them greater risk of contracting COVID-19, and that physical and mental health disparities place some LGBT persons at greater risk of severe health consequences.[118]

IMPACT ON DOMESTIC AND GENDER-BASED VIOLENCE

UN Women has confirmed an "exponential increase" in gender-based violence, with many women being forced into lockdown with abusers.[119] Research by OutRight revealed that "interviewees reported either feeling at increased risk themselves or knowing others at increased risk of violence and abuse within their homes due to forced cohabitation with unsupportive family or abusive partners during quarantines or lockdowns."[120] The additional closure of support services, coupled with unresponsive or hostile law enforcement, leaves many people trapped in abusive situations.

In his report on the pandemic, the Independent Expert on SOGI outlined how "stay-at-home directives, isolation, increased stress and exposure to disrespectful family members exacerbate the risk of violence, with a particular impact on older persons and youths."[121] The Independent Expert also drew attention to an "exacerbated risk of abuse during police checks" as a result of restrictions on freedom of movement, with abuses filmed and posted on social media, arbitrary detentions, and generalised increases in mistreatment and violence in the public sphere.[122]

IMPACT ON ABILITY TO UNDERTAKE AND/OR CONTINUE WORKING

As with many sectors, the work of LGBTI organisations has been impacted by the COVID-19 pandemic. A survey by the Global Philanthropy Project found that grantees needed additional funds (88%), shifts in the funding agreements, including reporting requirements and timeline (85%), change of project or programme funding to general operating (58%), and requests for additional non-financial resources (35%).[123]

115 ibid.

116 UNAIDS (2020). "Seizing the Moment: Tackling Entrenched Inequalities to End Epidemics"

117 Report of the Independent Expert on SOGI to the General Assembly (A/75/258), para.28b

118 Report of the Independent Expert on SOGI to the General Assembly (A/75/258), para.28

119 UN Women (9 April 2020), Policy Brief: The Impact of COVID-19 on Women. Available at https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/policy-brief-the-impact-of-covid-19-on-women-en.pdf?la=en&vs=1406

120 Amie Bishop, OutRight (2020).

121 Report of the Independent Expert on SOGI to the General Assembly (A/75/258), para.11

122 A/75/258, at para.14

123 Global Philanthropy Project briefing: COVID-19 LGBTI Philanthropic Response Survey Results, available at https://globalphilanthropyproject.org/covid19/

From April-May SMUG ran a survey on the impact of COVID-19 on its member organisations. With 89% of respondents working remotely as a result of the pandemic, top challenges included internet connectivity (88%), communication with co-workers (75%), and lack of access to the necessary tools or information to work from home (63%).[124]

In the broader socio-political context, OutRight reported that "repression, exclusion, and criminalization are all on the rise" in countries prone to authoritarianism, with some states using the emergency situation to clamp down specifically on LGBTI people.[125]

IMPACT ON LOW-INCOME LGBTI ENTREPRENEURS

In August 2020, Micro Rainbow International Foundation ran an online survey to better understand the impact of the pandemic on low-income LGBTI entrepreneurs in Brazil. According to the 118 responses received, the pandemic impacted negatively on their businesses, reducing their sales or customers and making it difficult to deliver products or services. Many became indebted and had to shut down their businesses temporarily. Others were forced to interrupt house calls or change the scope of their businesses and decided to invest in digital sales and services.[126]

Most respondents (68%) reported an increase in mental health issues, including depression, anxiety and panic, combined with financial hardships and lack of work opportunities. 80% also reported greater levels of insecurity and fragility in this period as a result of homo or transphobia, including increased domestic violence, thus reinforcing an urgent demand for actions which reduce the socioeconomic vulnerabilities of the LGBTI community during and after the pandemic.[127]

Respondents also shared the strategies they adopted in order to alleviate some of the negative impacts of the pandemic. Prioritising and restructuring of their occupations and increase in physical and mental health care as well as support networks, especially of friends and family were the most common answers. Many respondents also emphasised how important it was to have access to emergency aid and to reorganise their personal finances in this period.[128]

124 https://sexualminoritiesuganda.com/wp-content/uploads/2020/08/Findings-from-SMUG-COVID-19-Check-In-4.pdf

125 ibid.

126 The impact of Covid-19 on low-income LGBTI entrepreneurs in Brazil - Micro Rainbow International Foundation (mrifoundation.global)

127 Ibid

128 Ibid

4. CONCLUSIONS

Despite strong protections for LGBTI people in international human rights law, people around the world continue to face discrimination and violence on the basis of sexual orientation, gender identity and expression, and sex characteristics.

This includes violence and killings committed by both State and non-State actors, such the police, health practitioners, community members, and families, often with impunity, or lack of adequate redress. Discriminatory laws and practices criminalise, marginalise and ostracise LGBTI people, leaving them outside of formal socio-economic systems. As a result, too many LGBTI people are forced into informal economies, homelessness, and without adequate health care protections.

Thanks to the tireless work of LGBTI activists and allies, some States are repealing discriminatory legal provisions, and adopting more progressive laws and policies designed to promote and protect human rights. However, well-funded and organised opposition groups continue to consolidate their advocacy, with some success at the international and national levels to oppose human rights protections and equality for LGBTI people.

Some States are also seeking to crack down on civil society organisations working on these issues, censoring publications and events, affecting access to funding, and putting organisations, activists, and community members at additional risk of arrest, detention and torture.

The COVID-19 global pandemic has exacerbated the challenges already faced by LGBTI people and organisations. Sustained and systematic support, funding, research and advocacy will be needed to mitigate the risks faced, and to move toward a future where equality and non-discrimination for LGBTI people is realised.

Prepared by: Dinh Hong Hanh & Han Minh Nhat,



A Context Analysis on the State of the LGBTI Movement in

VIETNAM

1. EVOLUTION OF THE LGBTI MOVEMENT

HISTORIC OVERVIEW

In the recent 10 years, Viet Nam has taken several positive steps to advance the rights of LBTI women, including removing barriers to conducting same-sex wedding ceremonies, consulting on amending the Civil Code to allow transgender persons to legally change their gender, and providing a space for civil society, including NGOs, LGBTIQ groups and mass media, to discuss issues relating to LGBTI rights, educate the public and advocate for policy and law reform.

The year 2012 marked a turning point for the LGBTIQ community in Viet Nam with more coverage from the press as well as its better attitude is extended for LGBT people. Many new initiatives and organizations for LGBTIQ people are established and operated across many provinces and in many sectors, which enhances the society awareness about LGBTIQ. A remarkable amount of activism and community organizing took place in this period. However, negative laws or a lack of laws contribute to stigma and discrimination in a broad range of areas from sexual behavior to same-sex marriage and recognition of transgender people.

During its 13th term (2011-2016), the Government and National Assembly of Vietnam made an impression by replacing the regulation prohibiting same-sex marriage with the term 'Between people of the same sex" to the term "not recognize marriage between persons of the same sex' in the revised Law on Marriage and Family (2014)[1]; as well as the Civil Code (Amended) 2015 legalizes the gender assignment and re-issuance of identification for transgender people[2]. This is also the first time LGBTI matters were discussed in parliament with active participation of several government agencies, including the Ministry of Justice, the Ministry of Health, and the Ministry of Labor, Invalids and Social Affairs, during the drafting of legislation and public community consultation.

As Vietnam is negotiating to join many multilateral trade agreements such as EVFTA and CPTPP, discussions on the rights of the community and, in particular, rights of minor social groups in public life have been broadened, especially labor rights, equal rights in terms of healthcare, education, civil status, and freedom to association.

The period from 2016 to 2020 has brought new hopes for the LGBTI community in Vietnam, with the ultimate goal to promote the introduction of the Law on Gender Affirmation and enforce anti-discrimination laws based on gender identity and sexual orientation in different fields. Unfortunately, the 14th term of the National Assembly witnessed many personnel changes and is the strategic revision phase of several policies on education, economic development, along with fundamental laws and codes governing social order, therefore, LGBTIQ is no longer the priority to be discussed in parliament, but by relevant bodies only. In this context, the Law on Gender Affirmation has been drafted by the Ministry of Health of Viet Nam to implement the Civil Code with the explicit purpose to respect and ensure the rights of transgender people. However, in March 2019, The Ministry of Health has decided not to include this draft in laws submitted to parliament for discussion and approval, and give priority for more generally applicable laws (such as, Law on Social Insurance, health care issues for children and drug administration laws).

1 Article 8, Revised Law on Marriage and Family 2014. Link: http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11018

2 Article 37 Sex reassignment, Civil Code 2015. Link: https://www.wipo.int/edocs/lexdocs/laws/en/vn/vn079en.pdf

PRIDE OVERVIEW

PRIDE (PARTNERSHIP FOR RIGHTS, INCLUSION, DIVERSITY AND EQUALITY)

Approaches: **PRIDE project** *(Partnership for Rights, Inclusion, Diversity and Equality)* takes a community-led approach in which it empowers local communities to lead, develop their own agenda and choose their own priorities. COC had a "testing - fund" period (November 2016 - March 2017) before official implementation of projects.

Goals of the 2016-2020 period in Vietnam: Building and developing community capacity based on theory of changes and supporting LGBTI movement in Vietnam.

Supporting method in Vietnam:

(1) Financial support: PRIDE provides direct funding to 3 NGOs in Vietnam, including ICS, CSAGA and iSEE (iSEE was partly funded from Bridging the GAP - BtG). The fund serves a dual role in these organizations: directly implementing the organization's activities, and at the same time, being a fiscal partner that provides technical support for some community groups to access project resources. The funding packages with fiscal partners are signed annually, accounting for about 30-50% of the budget for LGBTI activities of the partners.

(2) Technical support: The PRIDE project provides technical support to develop the capacity of organizations in Vietnam through capacity building programs for community leaders, organizational development, and networking with foreign organizations. In Vietnam, PRIDE/COC organizes an annual meeting and evaluation event with partners and has personnel staff closely monitoring the process of cooperation. In addition to 3 fiscal partners, PRIDE also directly provides technical support and shares experiences with CBOs, networks and individual activists in Vietnam.

(3) Approach: With the community-led and community empowerment approach, partners and communities in Vietnam would have a certain degree of autonomy and self-determination in setting up operational strategies for their networks. With fiscal partner organizations, the goal of community building and activity planning is also set by the organization itself, based on a process of discussions and continuous flow of information. This approach provides opportunities for more new projects and the participation of more independent groups.

Results:

- Through different approaches, fiscal partners have supported more than 20 community groups in about 15 different localities with the needed resources for project implementation. For participating CBOs, funding from the PRIDE project accounts for the majority of their annual budget (50% or more).

- The PRIDE project has significant impacts in facilitating and providing trainings to organizations in Vietnam, from which more knowledge exchange and cooperation is promoted among organizations. Through COC's partner meeting, Lighthouse, CSAGA and iSEE collected information and collaborated to together conduct trainings and operate community initiatives funds, such as VietPride Initiative Fund in 2019 and 2020, Summit Stronger Together in November 2019, Training capacity building for community leaders in September 2020.

Results have not been achieved:

i) Building a community-friendly space through the community library initiative and community hub at ICS Center:

- When it was launched in January 2019, the project was well received by the community, achieving the goal of providing location support to more than 40 groups/programs.
- However, by early 2020, as the project did not meet its budget and business goals (ICS operates as a social enterprise), the cafe-community hub model was cut down and only the LGBT library space was kept: *"Registering under the business model is also a challenge for ICS, as we have to fully comply with the tax regulations and explain losses in audit, so when the coffee hub loses-making, ICS had to consider closing the community hub"* [3]

3 Interview with ICS Director, August 30 2020

ii) iSEE has carried out a study on LGBT ethnic minority groups and the result shows that ethnic minority identity causes more stigma and discrimination in daily life than LGBT identity. iSEE chose not to continue exploring the issue due to lack of resources, as well as the need for a more thorough analysis of the dynamics of both identities so that further research and intervention could be done in the future.

(iii) Building a platform for LGBT national association: This is the goal for the second half of the PRIDE project. As of October 2020, this process has not yielded results, as organizations have not had the motivation and have not clarified the need to form a national association, and to maintain it requires a lot of resources. Therefore, the organizations decided not to continue.

Reviews from local organizations:

- In terms of approach: The PRIDE project has a unique approach from other organizations, in which it respects local voices and decision-making power of the communities, while there are still clear indicators to evaluate project quality.

- iSEE's LGBTIQ community building activities are also community-based, therefore, the process helped iSEE become more aware of the impact of learning and be familiar with new effective tools and methods such as building agenda for partner meeting and facilitating learning in knowledge exchanges. COC has created a balance of participation and took a non-intervention approach in groups' planning. When the project ends, there would be other methods to facilitate community activities and leverage other partners' resources in the same fields, for example in conjunction with CSAGA, Light House's workshop.

- COC has a great degree of flexibility and is willing to listen to local voices to adjust its activities accordingly. All organizations were well supported when they needed to adjust their plans and they did not face any difficulties. COC was the sole party that directly chose and determined funding result, not the fiscal partners.

- Groups were oriented by COC to cooperate with each other but it is not compulsory because the target audience of these groups differs from one another. At the group level, there have been co-working networks (4LINKS, Girl love Girl, Hanoi Pride), and at the organizational level, fiscal partners also cooperated to organize joint programs.

- COC coordinator works to keep close contact with the community and support the community to connect with many other partners.

Efficiency level

- The PRIDE project played an important role in supporting organization in transitioning period (ICS) and supporting the change of coordination and operation model (PFLAG), as there were not many resources and fund for organization's internal development.

- Funds have given the organizations space for development and capacity building opportunities. For CBOs, funding from PRIDE helps organizations maintain basic and necessary activities, have the opportunity to implement new ideas and connect with other networks.

Information transparency level:

- The exchange of information between fiscal partners and CBOs, and among CBOs in the project took place continuously and smoothly in the forms of email, phone, social network, face-to-face meeting. Fiscal partners always tried to create a direct three-party exchange with COC, support translating CBO groups' information into English and announce schedules for information exchange and annual meetings.

- Some groups claimed that information transparency is essential in community activities: Smaller groups sometimes do not know about new sources of funding, do not have access to information about COC's funds for later period, or receive insufficient feedback from fiscal partner's staff.

Sustainability

The groups have benefited greatly from capacity building programs for community activities and organizational development.

Some organizations have discussed about the registration of legal status in future and recognized many difficulties include: (i) Registration under the form of Science Organization/Institute /Center requires a high level of structure and capacity function;[4] (ii) "The question is what should be needed service for the community" for the business form.[5] However, there are many other factors affecting the sustainable development of the community after 2020, therefore there has been insufficient information to evaluate.

2. CURRENT STATE OF THE LGBTI MOVEMENT

COUNTRY CONTEXT

Vietnam has never criminalized homosexuality, yet never enact specific provisions using terms such as sexual orientation, gender identity or sex characteristic. Equality and non-discrimination are one of the fundamental and important principles of Vietnamese laws. Promoting effective enforcement and effective recognition are what needs to be address.

- Since January 2016, modifications in the Law on Marriage and Family (2014) and the Civil Law 2015 did not bring any change in the legal status of the LGBTIQ community. Other civil legal relations arising from marriage such as child adoption, rightful inheritance and guarantee of LGBTI couples are also not recognized.

- As for the transgender community: the draft Law on Gender Affirmation hasn't been issued in accordance with the roadmap of legal document promulgation. The need to change personal information in legal documents (name, gender) and for medical health care and intervention has risen since 2016.

- Other efforts to advocate laws and policies relating to human rights of LGBTIQ, such as inserting contents about sexual orientation and gender identity into Article 8 of the modified Labor Code (2012) relating anti-discrimination at work, as well as promoting Law on Associations and Law against discrimination based on sexual orientation and gender identity (according to 2nd Cycle of CEDAW and UPR recommendations), have not gained success.

- At international level, at UPR 2019, Vietnam refused to accept recommendations to include sexual orientation and gender identity in the Labor Code and to legalize same-sex marriage[6]. However, Vietnamese government accepted the following recommendations:

    - Recommendation 38.109: 'Develop legislation against discrimination on the grounds of sexual orientation and gender identity'

    - Recommendation 38.97: 'Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons'

    - Recommendation 38.93: 'Enact legislation to ensure access to gender affirmation treatment and legal gender recognition'

4 Interviews with NextGEN Hà Nội, September 05 2020 and Asexual in Vietnam September 06 2020

5 Interviews with LGBT Can Tho, September 8 2020

6 HRS Collecting Vietnam Third Cycle UPR 2019, p.2. Link:http://hrs.org.vn/wp-content/uploads/2019/07/K%E1%BA%BFt-qu%E1%BA%A3-UPR-k%E1%BB%B3-th%E1%BB%A9-3-c%E1%BB%A7a-Vi%E1%BB%87t-Nam.pdf

LEVEL OF ORGANIZATION IN THE COUNTRY

Formal/registered organization

By October 2020, the CCA recorded information from 11 registered organizations to work on LGBTIQ rights, including:

- 01 iNGO: Save the Children Vietnam

- 05 Institute/Center/Academic: Institute for Studies of Society, Economy and Environment (iSEE), Center for Studies and Applied Sciences in Gender, Family, Women, and Adolescents (CSAGA), Center of Creative Initiatives in Health and Population (CCIHP), Center for Supporting Community Development Initiatives (SCDI), Institute of Social Development Studies (ISDS). All of the above organizations operated before 2016 and have headquarters operating in Hanoi.

- 05 Enterprises: ICS Center, Lighthouse Social Enterprise (since 2016), Glink Clinic (since 2016), My Home Clinic (since 2017), Venus Social Enterprise Community (since 2018).

- In addition, there are many other organizations working on the rights of minorities and the rights of equal gender, health, and sexuality also include LGBTIQ issues in their activities. The report is not statistic and records information from this groups.
- There is a lack of consistency in the usage of the "LGBTIQ" or "LGBTI", or 'LGBT" term. CBOs are yet accustomed to "LGBT" as this term can be found in their names or activities. A common name for a CBO is a combination of "LGBT" followed by the specific province/city where it is based, such as LGBT Đồng Nai or LGBT Vĩnh Long, LGBT Can tho: *"Our founders are much more familiar with the "LGBT" term; it is also easy to explain to our community members. We do not usually work with intersex people and "queer" can be difficult to explain sometimes so we just use the term that we have always been using."* [7]
- There is also a lack of consistency in the usage of terms among CBOs and NGOs in community description or research, for example, survey on the impact of COVID-19 on the LGBTI+ community (iSEE) or Vietnam LGBTI+ Leadership Development Program (ViLead - ICS), and UN Women has a campaign "Safer Home for LGBTIQ people in Vietnam"

- *"ICS do not use the LGBTIQ term. We use LGBTI+ because the term "Queer" is not an exclusive term to the LGBT community and also known in other areas, as well as in some cases, the term can be perceived negatively. ICS added the letter "I" because we want to draw attention to the participation of intersex people in our movement"* [8]

In the scope of this research, we have agreed to keep the names and the terms as recorded from respondents and in our own review, "LGBTIQ" will be used.

Non-registered/informal groups

The number of unofficial and non-registered community groups (grassroots) in Vietnam is relatively high and not yet fully measured. In this CCA report, researchers decided to collect data from: community groups that belong to network established before 2016; groups that are receiving financial and technical support from registered organizations; and groups that directly receive support from the PRIDE project via fiscal partners.

Some groups and associations which do not have legal status but are affiliated with or sponsored by organizations with legal status include:

7 Interview with leader LGBT Can Tho and representative LGBT Vinh Long, September 2020.

8 Interview with Director ICS, November 2020.

- Girl love Girl Network (project of CSAGA – 12 members in 9 province)
- The Humanity - Gender equality Club (affiliated with the Youth Union – Student Union of the University of Social Sciences and Humanities, Vietnam National University Hanoi City),
- PFLAG Vietnam, PFLAG Can Tho (affiliated with Can Tho Union of Friendship Organizations),
- Da Lat LGBT group (expected to be affiliated with the Youth Union of Lam Dong province).

Groups responding to interviews: PFLAG Saigon, Bon Bon, It's T time, NextGEN Hanoi, LumiQueer, LGBT Can Tho, LGBT Vinh Long, Jessica's Band, LGBT Dong Nai, Girl love Girl Thai Nguyen, Girl love Girl Hanoi, Girl Love Girl Vietnamese, UniGEN, FTM,LGBT Da Lat, Heterosexual in Vietnam, LGBT Vinh Phuc,

Groups filling out survey information: LGBTQ + Ba Ria - Vung Tau, Rat Doi Be De, HRFO - Human Rights Fighters, Comeback home, Love boy Hanoi, LGBT Ninh Thuan, Cat Trang Hai Phong, Girl love Girl Can Tho, PFLAG Sai Gon, LGBT Khanh Hoa.

Expertise levels of the movement on:

Political Engagement (Local, National, Regional and Global Levels)

Levels of political engagement and advocacy

LGBTIQ groups in Vietnam are mainly formed and allocated according to a certain locality or geographic area, most of them are participating in some advocacy networks or working coalitions. This is one of the traits inherited from community building and visibility promotion activities prior to 2016, through community leaders development programs organized by registered organizations which focused on local balance and representation. In addition, the concept of "community" in the previous period was also understood as "local" - shared community where each local group would be associated with the community where they regularly live or work. Therefore, these groups' activities are often local, solving specific local problems, or their operational strategies are decided based on the degree of convenience in approaching local partners - based on personal relationships.

Local level: Most of groups mainly works with local schools and organize offline events, such as Bòn bon, UniGen, LGBT Khanh Hoa, LGBT Vinh Long, LGBT Da Lat, LGBT Vinh Phuc

National level: Some groups participated in national policy dialogue and connected with state agencies, such as: PFLAG Vietnam, It's T Time, FTM, Hanoi Queer.

Campaigning and Activism

- VietPride is an event that was able to attract a large number of local participants. VietPride 2016 was organized across 35 cities and provinces of Vietnam by collective efforts of LGBTIQ community, ISEE and ICS, with supports from European Union Delegation in Vietnam, Oxfam in Vietnam. Besides that, each and every Vietnam's region has their own iconic unions of LGBTIQ group. An example of is Hanoi Pride Working Group, founded by a combination of smaller LGBTIQ organizations which participate in Hanoi Pride events annually. At VietPride 2019, Hanoi Pride Working group was able to gather 14 organizations in total. Up to 2020, VietPride is still the milestone that attracts the most attention of the whole community and society.
- Campaign "Why not Trans"[9] with series of events is coordinated by ICS Center, iSEE, community-based organization It's T Time, FTM Vietnam Organization, TRANS CORE VN and The Asterisk.

9 http://ics.org.vn/why-not-trans

Fundraising and Organizational management

- Some individuals matured from the above activities or projects and started founding new groups like Lumi Queer, It's T Time, FTM, Hanoi Queer

- Some community groups grew out of community activities before 2016 and started to operate independently, proactively seek new resources while the majority of groups still rely on funds from registered organizations.

- Some organizations have utilized distinct approach of funding such as: i) raise funding based on digital platform, ii) raise funding from retailing merchandise on fanpage/ website, iii) directly raise funding at events, iv) sell tickets to community event - new approach in the recent 2 years.

- Some organizations choose specific fields to operate, such as: Hanoi Queer promotes Queer culture and community space, Lumi Queer focuses on storytelling and especially Queer cinema, 6+ works on mental health healing, Bòn Bon promotes for Safe, Caring School environment and It's T Time works on male transgender issues.

- In the 2016-2020 period, a number of self-established and independently operated groups emerged without support from NGOs such as Rat Doi Be De, HRFO - Human Rights Fighters. The social media space and the need to diversify information resources about the LGBTIQ community are the reasons behind the establishment of these online groups.

Cooperation/Conflict between different LGBTIQ players.

Cooperation:

(1) A number of conferences, conventions, meetings, seminars had been organized with the aim to improve leadership ability of NGOs. These include the National Conference of LGBTIQ Strategic Thinking (by iSEE, ICS Center), Stronger Together Summit (by Lighthouse Social Enterprise). Most organizations work together in major programs or in advocacy activities. However, there are less collaboration between LGBTIQ rights organizations and HIV/sexual health organizations, in term of activities, networks and target groups. In recent years, LGBT rights organizations started to implement some project on HIV/sexual health, and vice versa, also some joint project between two. The 2nd Summit 2020 included a miniature community forum titled LGBTIQ Vietnam Community Voice was held with the participation of many NGOs, Development partners, Government departments, Embassies, and the UN, Businesses and Media. The community had the opportunity to raise voices on urgent issues, proactively propose solutions and suggested cooperation with all parties to work together towards a future of Health, Equity and Sustainable development for the Vietnamese LGBTIQ community.

(2) However, there are still not many coordinated projects between rights and health organizations, nor the Summit action goals discussion has not been created a working group yet: *"The Stronger Together Summit is an annual meeting for the LGBTIQ community in general and for our partners and allies, which highlights the importance of collaboration between organizations that work on rights and others on specifically health rights in our community. The Summit proposes timely, urgent issues and puts out a joint statement with a list of recommendations in health care issues and community rights. The Summit is not a platform with regular activities, does not have an organizational structure or a board of executives like a network or an association. Prior to this (the second Summit 2020), a group of organizations working on rights had a discussion on forming a national LGBTI+ association, with regular activities, a board structure, that represents working groups, which is different from the Summit."*[10]

(3) The connections between LGBTIQ organizations with the common purpose such as VNTG network, Girl love girl Network, Marriage Equality Group, C4TRANS (advancers of transgender's rights)

10 Interview with iSEE LGBTI+ program officer, November 8 2020

Conflict:

Conflicts between & within organizations usually happen but are not serious. These include internal conflicts, such as between FTM and MTF transgenders groups; between organizations who have different interests, conflict between internal/external leaders, conflicts with sponsors, etc.

"Conflicts sometimes occur because the administrative procedures and processes can be too complicated with registered organizations, which makes it difficult for CBOs and individuals to meet all demands in order to receive funding. When some documents are missing, CBOs are questioned on transparency, which affects communication and puts the partnership at risk. Our organization has made efforts to keep the procedure simple, as recommended by our community so that we can better support them."[11]

Consequences of these conflict includes:

- Affecting the general mental/physical health of people involved when the common goal/objective cannot be resolved
- Affecting the companionship and relationship of the general community, leading to the separation and motivation of activists. A team member in working group for transgender rights responded:*"While we were working together, conflicts occurred because we could not reach an agreement on operation. The trans women's group contacted donor and notified donor and fiscal partner of their withdrawal from the project so our initial goal was not met (delayed) and all the leaders had a meeting again to discuss the future of the community in the next 5 years (around March 2019)."*[12]
- Affecting the culture of positive feedbacks within the community, therefor discourage activists to continue supporting LGBTIQ in the near future

SAFETY AND SECURITY

Analysis on the safety and security situation for LGBTIQ individuals and groups.

Physical security mechanisms such as safe spaces and shelters.

- Up till now, LGBTIQ people in Vietnam have some safe gathering spaces in the 03 biggest cities: Hanoi (Queer Zone), Danang (LGBTQ Friendly Spot), and HCMC (Pride Map) – built, connected and maintained by LGBTIQ groups or originated from LGBTIQ projects in Vietnam. These spaces contribute to encouraging society to build more healthy and diversity-friendly spaces, while at the same time show respect and support of businesses for the LGBTIQ community
- Queer Zone (2018) – Rainbow Map: a project initiated by Hanoi Queer to build a map of friendly locations for LGBTIQ people in Hanoi City. The project already built up a network of 32 locations.
- LGBTI+ Friendly Spot (2020): a project by Proud Team (LGBT Da Nang) to support Danang Pride 2020 and suggest locations where LGBTI people can experience friendliness. The project already has a network of 3 locations.
- Pride Map (2020) – Network of friendly spaces for LGBTIQ community: a part of a series of activities for VietPride HCMC 2020, aiming to connect businesses and facilities that are safe and friendly for the LGBTIQ community. The project already has a network of 20 locations.
- The Shelter (Girl love Girl/CSAGA Network): the model was started in 2018 and is exercised in 9 provinces. By 2019, CSAGA had 9 shelter houses which provide information and safe addresses, aiming to upgrade to shelter center – a place to provide legal and rights knowledge as well as an emergency temporary shelter for people in the community who suffer from gender-based violence and domestic abuse.

Digital security landscape for online engagements.

Existing LGBTIQ groups on the internet develop strongly without being censored. A number of organizations working for the rights of LGBTIQ operate legally, concentrating on research, public education, event organizing and advocacy work. The crackdown

11 Interview with SCDI Project Manager, September 16 2020

12 Interview with It's T Time founder, September 6 2020

on freedom of expression on cyber space affects all people in Vietnam in general, including the LGBTIQ community (*Vietnam approves new Law on Cyber Security in 2018*). However, all contents related to the LGBTIQ community (except for sensitive topics such as sex, sexual abuse, etc.) are usually not banned in Vietnam. Sharing information on the LGBTIQ community online can expose one to hate speech and online violence. Or, selling merch online as a way to fundraise can be restricted due to policy on social networks (for example, Facebook policy). In general, access to the Internet and how LGBTIQ community use and engage on the Internet and social networks are not a huge issue in Vietnam.

In the context of human rights, administrative and criminal handling measures against internet users who express their critism and share unverified information in Viet Nam have become more common since February 2020. It is the time when the government of Viet Nam declared the "war on fake news" to fight false information about COVID-19 on the internet (specifically online social media platforms). The measures and sanction to handle false information are mostly based on the Law on Cybersecurity 2018 and the provisions of the Law on Handling administrative violations. The Law on Cyber Security expands the capacity for internet censorship, strengthens measures for privacy invasion, and deprives the internet access of organizations and individuals who publish "prohibited" content. (The State applies measures to protect national cyberspace; and to prevent and deal with acts infringing national security, social order and safety, and the lawful rights and interests of organizations and individuals in cyberspace)

In such a context, general internet users and relevant stakeholders in Viet Nam need to be updated on the development of the legal system and the impact of control measures related to freedom of expression in cyberspace.[13]

HEALTH AND WELLBEING

Overview on the wellbeing of key LGBTIQ organizations, groups and activists.
Wellbeing includes: mental health of organization staff and activists, financial wellbeing of organizations/groups.

Mental health of organization staff and activists, financial wellbeing of organizations/groups: The organizations are committed to building a safety workplace for all staff and volunteers and committed complying with the labor law in working time, annual leave, wages and other benefits and. Some of organization have a weekly small talk to share about mental health.

A general overview on the health and wellbeing of the LGBTIQ community at large, with distinctions (if any) between different parts of the community clarified.

In terms of healthcare service, most medical facilities in Vietnam do not own certifications for transgender medical intervention. Sex reassignment procedure is considered plastic surgery or orthopedic surgery. Therefore, many transgenders are concerned about the lack of document evidences to determine their transgender status later and choose to come to Thailand for the transition procedures.

In terms of medical insurance, transgender people suffer the most difficulties in accessing it, especially female ones (51.4%). Some particular challenges include the fact that they do not look like their passport photo, name and information in the ID card do not match (25.4%), medical staff has discriminatory attitude towards transgender (19.7%), or insurance refuses to pay for their medical need (11.4%)[14]

Generally, transgender people face physical health problems the most due to matters relating to sex reassignment procedure and identity papers: *"When trans people go for a checkup at the hospital (public service), they would be denied because their gender on paper doesn't match their appearance, so the biggest problem is healthcare. Trans people still buy and inject hormones on their own and go to 'underground' places for (reassignment) surgery"*[15]

13 Interview on Freedom on Expression and Cyber Security Law with officer from Oxfam in Vietnam, October 2020.

14 http://isee.org.vn/wp-content/uploads/2019/01/Report_Need-experience-on-medical-intervention-of-Transgender-community-in-Vietnam-FINAL.pdf

15 Interview with admin FTM, September 14 2020.

INCLUSION WITHIN THE MOVEMENT

Analysis on marginalized groups within the LGBTIQ movement and their inclusion in mainstream programming, in particular for LBQ, Trans and Intersex communities.

Girl love Girl Network (CSAGA): Girl love Girl Network has been built by CSAGA since 2016 from Brot für die Welt /Bread for the World funding, but since 2018, with the support from PRIDE, the network has grown wide with 12 groups in 9 provinces and more than 2000 members active in offline activities. The groups operate in the provinces of Bac Giang, Phu Tho, Nam Dinh, Hanoi, Ho Chi Minh City, Can Tho, Thanh Hoa, Son La, in which several groups are the first community group in the locality. This is currently the largest Girl love Girl network in Vietnam. LBQ community and Girl love girl network faces many challenges from social bias, gender stereotypes and domestic violence based on gender.

"Our community works to promote LGBTIQ rights and women rights but also faces issues related to stigma and discrimination against women in Vietnam. Even in our own community, we have to work on their feelings of inferiority and foster their participation. We empower our own networks before working on anything related to rights. Therefore, for the lesbian or trans community, we have to build on our networks and call on participation, which takes a lot of time, before any discussions on rights and policy advocacy occur."[16]

Since 2016, there have been more groups formed based on the needs and characteristics of each minority group within the community, for example, Vietnam FTM Community, It's T Time (trans men), Asexual Community (Asexual), Girl love Girl Organization (Lesbian), etc. These groups's activities are also more flexible, with concerns expanding beyond local issues.

Project "Điền Vào Ô Còn Trống – Fill in the Blank" aim to held an exhibition about the lives of Deaf and Hard-of-hearing LGBT and people youths of all ages who came from different walks of life and cities.[17]

Some urgent matter has come up for trans people - the fact that most of them don't have identification papers excludes them from the government's support package and other social welfare and medical services, especially in April 2020, a transman in Dong Thap province got pregnant and become the first transgender people in Vietnam to naturally have a baby girl. Minh Khang has yet to obtain a birth certificate for his daughter after six months. The official authority rejected his request to be named the father rather than the mother on his child's birth certificate, in a case that suggests complications between trans rights and parenthood, and Khang said he ***"was prioritizing his newborn daughter. I would put my name under 'mother' on the baby's birth certificate, though I have plan to resume hormone therapy next month"***. His cases raises many issues because the legal delay creates daily difficulties for transgender people, from healthcare to public services and to parenthood rights.[18]

Intersectionality between different movements:

Sex-work, people living with disabilities, people who use drugs, people living with HIV, people outside capital regions.

- Health care services for minor groups have been more diversified: HIV services have been brought to the locality with the private sectors (G-Link, Light House), mental health services have reached on a personal level, with more diverse forms (offline - workshop, online) and rich information contents. In particular, chemsex – a new segment – has been mentioned and discussed, with a diverse source of information such as the first study on chemsex in the MSM group, and orientation of supporting activities and promoting communication. With the support from Bridging the Gap, Lighthouse have developed some innovative interventions to reach MSM online with chem-sex messages along with providing mental health support and training for peer educators on the subject. This training model and supporting from health funds could be a good-practices for organizations working on the LGBTIQ rights to collaborate.

16 Interview with CSAGA project officer, September 22 2020.

17 Interview with Hanoi Queer coordinators, September 14 2020, Link: https://sohuutritue.net.vn/trien-lam-cham-vao-thanh-am-trai-nghiem-cung-bac-cam-xuc-dac-biet-cua-nguoi-khiem-thinh-d59928.htm

18 https://www.reuters.com/article/us-vietnam-lgbt-rights-trfn-idUSKBN24400B

- The adverse impact of Covid-19 with LGBTI people is on the transgender elder women community, as suffers the biggest loss in their incomes, cannot access healthcare and medical services as well as economic recovery support packages from the state, because they don't have any form of identification, cannot prove their loss of income (on paper), and are subjected to discrimination by state administrative offices. These are typical female transgender communities in southern Vietnam, who earn their living by singing in bingo games *(lôtô)*[19], hawking on the streets, selling lottery ticket or running small household businesses, etc.

- By October 2020, it is reported that the number of groups promoting the rights of female transgender is much lower than other groups promoting for other rights in the community. Some members that support the rights of female transgender in networks of SCDI, Light House and Save the Children in Vietnam such as Red S, Quang Ninh group, Got Hong, Ruby are original *MSMTG group* established from HIV healthcare projects for *MSMTG* and most of them focus only on activities relating to sexual health.

  From March to September 2020, Jessica, an influential individual among the transgender community in Southern Vietnam, held a series of charity events to hand out relief in HCMC and more than 10 charity trips to other localities (in An Giang, Binh Duong, Binh Phuoc, Ca Mau, Dong Nai, Dong Thap, Tay Ninh..) to support the elder female transgender communities in these areas.[20]

Level of access to safe spaces, funding and political engagement of GBQ, LBQ, Trans and Intersex communities.

No information available

Between 2016 – 2019 there are a number groups/organizations working for LBQ, transgender rights was born. Therefore, these new organizations have difficulty in connecting and seeking support for their operations, such as increase resources and enhance access to resources to support trans communities. This includes increasing access to non-financial resources for trans organizations, such as skills building, technical support, and communications; and providing support for movement activists and organizations, such as coaching, wellness, and trauma support. At this time, the linking role of registered organizations/fiscal partner has been promoted.

"It's T Time had a meeting with COC to share information on our activities with the trans community and found another funding opportunity. We talked to iSEE about it and iSEE suggested that we should contact COC directly. The funding we received was not too much; however, it would be cover for our activities in a year. If we only implemented the activities in Hanoi, the impact would be minimal because there are trans people in other cities as well. So, we discussed with FTM and COC and suggested that we and FTM would both implement activities in Hanoi and Ho Chi Minh City, we would draft a joint proposal. FTM in Ho Chi Minh City partnered up with ICS to co-organize the Trans Pride Month which included Trans Dot."

"Our donors connected us through conferences or networking events to other local partners or regional partners (for example, COC networks in the Southeast Asia). We learned a lot and became aware of the strengths and weaknesses of our movement in Vietnam, as well as learned to utilize the strengths of our community and to have an overview of the whole community in order to create a balance and be more professional. We are also part of the APTN network, which is an opportunity for us to approach experts in this field as well as receive technical support to conduct a research study on the trans community in Vietnam".

Girl love Girl Saigon also works in collaboration with other organizations to make use of all resources available from venue hosting to human resources. *"For example, when we organize talk shows and choose a topic, we combine gender-based violence with other topics that other groups are working on as well, such as family topics in collaboration with PFLAG in Saigon. Our weaknesses are our English and our lack of networking. For our latest funding opportunity, we were given the information by fiscal partner who also guided us through outlining the proposal, did translation for us and submitted it. We have been proactive and partaking in many networking events to look for connections and learn to familiarize ourselves with the civil society scene. This is how we keep up our operation without being too dependent on a certain organization."*[21]

19 https://vietnamtimes.org.vn/lgbt-community-in-vietnam-making-both-ends-meet-with-lotto-shows-21783.html

20 Interviews with Jessica, leader of Jessica'Band and Cà Boutique, 14 September 2020.

21 Interview with Girl love Girl Saigon, September 4 2020.

Which regional membership bodies do organizations in the movement link to?

No information available

By September 2020, Vietnam has 06 organizations/groups that are member of ILGA ASIA, with a representative of ICS being a board member of ILGA since 2017. That the 2021 Conference of ILGA is scheduled to be held in HCMC, Vietnam, is an important milestone indicating connections between national and regional LGBTI organizations and activities. Community-based organization and individuals working for HIV/sexual health (Lighthouse) also join regional initiatives such as Youth Voices Count.

FUNDING LANDSCAPE AND RESOURCE FOR LGBTIQ WORK

Analysis of donors in the country and their focus areas

The international organizations operating in Vietnam: UNDP, UN Women, UNAIDS, USAID, Oxfam in Vietnam, Save the Children in Vietnam

The international donors/global funding and Diplomatic Missions in Vietnam**:**

- Sweden was one of the first donors to the LGBTIQ movement in Vietnam. From the beginning of 2011 onwards, Swedish International Development Cooperation Agency (SIDA) signed the project grant which would support ICS in their establishment as an independent and sustainable LGBTI+ rights organization. With the support of iSEE and Swedish embassy, PFLAG Vietnam has been formed and developed since 2011.
- Foreign embassies in Vietnam support community activities in different ways and on topics/issues of particular interest. For example: US Mission support for Work with Pride project within VietPride 2015 - 2016, a nationwide campaign on LGBTI equality workplace by ICS, Dutch Mission in Vietnam and AmCham.
- Hanoi International Queer Film Week (HIQFW) 2017, with the patronage of Netherlands Embassy in Vietnam, became the first and only queer film festival to be licensed in Vietnam and member of Asia Pacific Queer Film Festival Alliance (APQFFA). The event also received sponsorship from more than 10 embassies such as Sweden, Czech, Canada Embassy (for networking and event venues); and international donors.
- The international donors/global funding: COC Netherland, Brot für die Welt /Bread for the World, Asia Pacific Transgender Network (APTN), APCOM (MSM health care), The Global Fund to fight AIDS, EC (Europe Commission), Freedom to Marry Global, ASEAN SOGIE Caucus (ASC), PEPFAR (HIV/MPACT)
- International network**:** ILGA Global, APTN, APQFFA

How are organisations/groups/coalitions raising funds to support LGBTI work apart from major donors

No infomation available

AVAILABILITY OF INFORMATION AND DATA ON LGBTIQ PEOPLE AND ISSUES

Data and research or levels of information available on LGBTIQ people

- National Data by country in any form (Census, Health Care, etc.): In April 2019, Vietnam carried out a National population and housing census to collect fundamental information for the research and evaluation of the results of its Population and Socio-economic development plans from 2011 to 2020, as well as preparing the development strategy for the period of 2021-2030. By April 1st, 2019, Vietnam has a population of approximately 96,208,000, of which 50.2% are female and 49.8% are male. The gender ratio is 112 boys for every 100 girls, which means that Vietnam will lack around 2.3-4.3 million women in 2050 (based on biological gender).
- Policies on population development, resource development for young people, job creation, sexual and reproductive healthcare, gender equality, … will be focused in the period of 2021-2030 to take advantage of the 'golden popula-

tion' and ensure population growth. '*There is an opportunity to refer to LGBTIQ rights campaigns in discourses about healthcare right, sex and gender equality in order to expand the advocacy process and attract more allies. However, as population policies cover many issues and involve several agencies, it is challenging for the LGBTIQ community to come up with a long-term strategy to advocate and build connection with state partners who have key roles in decision making'*[22]

- In the scope of this CCA, the researchers haven't been able to access any official reference sources from state bodies relating to LGBTIQ population statistics in Vietnam. There are no official studies on LGBTIQ population conducted by government authorities, in addition, an incomplete and poor-quality surveillance data in monitoring in policy implementation; combined with limited programs data publish by General Statistics Office of Vietnam, increase uncertainty of the information. Because of the collection of information on gender based on biological sex only, the state focus promotes a model of a married heterosexual couple with two children in the media and through its public policy campaigns. That leads to Vietnam's laws, policies and decrees do not explicitly discriminate against LGBTIQ individuals but their rights are not legally protected and they are socially marginalized (for example, women are eligible for micro-credit programmes, but not for transgender women). Some of the minorities groups listed in the official data are mainly ethnic minorities, disadvantaged groups in society – recording to Vietnam Law on Legal Aid 2017[23] (such as the disabled, women, children, the elderly and the poor, people with HIV); and among these a little relevant data can be found, such as MSM – TG groups with HIV (for example, website of MOH usually updates data about people with HIV population, included MSM groups[24]).

  "In Vietnam, as in other countries in the region, data on the health and wellbeing of transgender people is limited. A few local studies have included transgender populations, but only as a small subgroup within broader studies aimed at the MSM or LGBTI communities. These studies include a very small number which take a rights-based approach to analyzing the challenges faced by the transgender population".[25]

Organizations (CSOs- both LGBTI and non-LGBTI) collecting data or information on LGBTI people and the kind of information they are collecting:

- The census didn't report any official data on the rate of LGBTIQ population in Vietnam, or characteristics of sexual orientation and gender identity in different areas (urban vs rural areas, migration of LGBTI community, areas with high LGBTIQ population,…), which shows a lack of attention to population group analysis and minor groups, causing the policies to focus only on the target to develop and maintain population growth, gender equality and reproductive health education for the 'traditional' groups (women, minorities, young people of reproductive age,…)
- Vietnamese media and civil society organization usually use the prevalence of LGBTIQ from international research (CDC and William Institute) which is 3-5% to estimate the population of LGBT people in Vietnam. Survey research is a commonly-used method of collecting information about a population LGBT community of interest[26]. Report 'Need experience medical intervention of Transgender community in Vietnam by iSEE in 2019 used the rate around 0.3% to 0.5% population is transgender. In local level, LGBT Dong Nai is conducting a survey on Livelihood of transgender workers in Dong Nai province, but these samples do not represent for the transgender employees population[27].
- The kind of most of collected data: gender, sexual orientation, health condition, experiences of stigma and discrimination, personal relationship, family relationship, academic level, drug abuse.

22 Interview with CSAGA Project officer, September 22 2020

23 http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11098

24 https://moh.gov.vn/hoat-dong-cua-lanh-dao-bo/-/asset_publisher/TW6LTp1ZtwaN/content/thu-truong-bo-y-te-o-xuan-tuyen-tham-va-lam-viec-voi-lanh-ao-can-bo-cuc-phong-chong-hiv-aids?inheritRedirect=false#:~:text=Trung%20b%C3%ACnh%20m%E1%BB%97i%20n%C4%83m%20x%C3%A9t,HIV%20%C4%91%C3%A3%20%C4%91%C6%B0%E1%BB%A3c%20ph%C3%A1t%20hi%E1%BB%87n.

25 APCOM Study in Transgender population and challenges in HCMC, 2015: https://www.apcom.org/wp-content/uploads/2017/04/City-Scape-HoChiMinhCity.pdf

26 For example: Some researchers have scanned the proportion of people with the desired gender different from the biological gender across many countries and suggest that 0.2 to 0.3% of the population, possibly the closest reality (Winter and Conway, 2011)

27 Research Livelihood of transgender workers in Dong Nai province by LGBT Dong Nai, March 2020

3. LOBBY AND ADVOCACY ENGAGEMENTS

LOBBY AND ADVOCACY OVERVIEW

Overview of the L&A efforts made in the last 5 years.

What/who have been the main targets of advocacy:

The main targets remains to advocate for i) Equal marriage, ii)Law on Gender Affirmation, iii) anti-discrimination and bullying against LGBTI in schools and iv) promote the effective implementation of regulations that protect LGBTI rights in Penal Code, Labor code (anti-discrimination and safety workplace), Civil Code (law on Civil status and right to change given name).

"We call that National Assembly need to enact a legal instruction, as required by the Civil Code, within 2 years, to ensure that transgender and non-binary people can access gender affirmation treatment and legal gender recognition on the basis of self-determination". This is also a main targets of advocacy of C4Trans – a coalition working for transgender rights formed in 2020. [28]

What have been the main purposes of advocacy?

(i) Raise awareness about LGBTI for the entire society, especially people with authority (parents, teachers, government officials, public police, medical personnel…).

(ii) Strengthen the associations' activities, groups and organizations of LGBTI people and promoting LGBTI groups engage in public policy making process. Participation in policy dialogues is also an opportunity for minority groups to express their rights.

"Though the transgender law is still debated within the transgender community due to technical reasons (hormones, medical treatment,..), the main reason that hasn't been passed is because there have been a lot of new laws proposed in the last two years," says by ICS staff. *"At present, the transgender law is not the Health Ministry's priority. The draft bill has been proposed eight times from 2017 until now but it still hasn't been prioritized, most likely because this law only affects a small minority of the population. It just means we need stronger visibility, to raise our voices and express our needs."*

(iii) Integrating anti-homophobia education and embrace diversity in schools

(iv) Political participation: LGBT community and NGO/CSOs continue to engage in policy dialogues with state agencies and law makers at national level

How have advocacy efforts manifested?

Lobby & Advocacy at local level (strategic litigation, media, law enforcement, religious leaders)

- The interviews show that most local LGBTI groups want to carry out programs to bring LGBTI knowledge to schools. Some local associations already cooperate frequently with schools in their areas to organize extra-curriculum activities about LGBTI. However, there has been no official collaboration between these organizations, associations and groups with governmental units in the field of Education in Vietnam. The act of organizing programs relating to LGBTI in schools requires permission/direction from the Department of Education, while according to the hierarchical management structure, these departments can only follow the existing contents or guiding documents of the Ministry of Education. In an interview in September 5th, 2020, about collaboration method with Save the Children in Vietnam[29] with secondary and high schools in An Giang and Can Tho via state partners like the Ministry of Labor, Invalids and Social Affairs, Social Work Center, and Cần Thơ Union of friendship organizations, the representative of Save the Children in Vietnam stated:

28 Interview with C4Trans team member September 13 2020

29 "Child Rights Governance – LGBT Youth and Children Have Access to Education, Health and Social services" project co-implemented by Save the Children, the Can Tho Union of Friendship Organizations and PFLAG with the financial support from Norwegian Organization for Sexual and Gender Diversity (FRI).

'Schools are now more open. Teachers can recognize these matters early on, take notice and provide support. When the project approaches a school via state partners, the school will be more willing to cooperate – this is the advantage of working with schools via state partners. The project hopes to promote LGBTI in schools, but the challenge is that there is no guiding document (for example, from the Ministry), so schools do not have any clear instruction from the superior agency, and don't know what to suggest when discussing with partners. Schools do have the need for such programs but they are confused. The Department also needs guidelines from the Central management level before they can instruct schools - it's a vertical information system. Now none of the existing administrative documents mention LGBT, so it's very hard to support.[30]'

Lobby & Advocacy at nation level (strategic litigation, media, law enforcement, religious leaders)

The report do not discuss the accuracy of the responses, but that the respondents could list the names of the laws demonstrates that legal advocacy has been contributing on how communities begin to aware of their rights and laws related to them. Laws which are widely promoted and related to specific movements by LGBTIQ communities were usually mentioned. And the introduction of these laws which contain LGBTIQ-related regulations is acknowledged by the community as the realization and protection of their rights. But it also reveals that a majority of LGBTIQ community remain unaware of which regulations they could implement to protect themselves against discrimination.

Community leaders are aware of places which could provide support or subjects of discrimination based on sexual orientation, gender identity and expression. The answers vary: ICS, iSEE, PFLAG, VietPride, FTM, Hà Nội Queer, CSAGA, CCIHP, SCDI,.., some groups on protecting sexual safety for gay men, safehouses, Facebook groups of different provinces… UN Women and UNDP are among organizations mentioned as a place whose supports LGBT community could refer to when there is discrimination. These parties will usually decide the agenda and work plans, then CBOs will join: *"For the last few years, our focus has been working with schools and bringing awareness on LGBTI rights into schools. Our work is in response to our community's needs so we do not classify it into policy advocacy or social advocacy. We participate in a few big movements of policy advocacy initiated by iSEE or ICS but in our own province, we only organize offline events and invite PFLAG to our talk shows. We have never worked with any government departments or committees."*[31]

- *"Big organizations often run community campaigns or social campaigns, mobilize community involvement and collect data. Then, we participate in policy consultancy workshops, identify government officials who potentially support us, keep in touch, exchange information, keep track of their schedules and keep them updated".*

For example, in strategic litigation, although Vietnam has officially recognized the right to sexual reassignment since 2017, all authorities are very reluctant to consider the request of transgender people (and other auxiliary cases – such as name change for transgendered people) as they await further guidance from the government.

- From March 2018, iSEE contributed with two attorneys in project "Public litigation" aims to increase fulfilment of human rights of LGBTI, especially transgender people and accelerate the implementation of their recognized right through the litigation process and working with the community, media, lawyers and government. In the first case, a transgender tried to submit the Lawsuit Petition against An Bien Authority at the An Bien People's Court (An Giang province). In order to initiate a name change lawsuit, he has required to officially attempt to change their name first. When the authorities turned down the application, he/che will initiate a lawsuit against such authorities to seek recourse and reconsideration of the case.

- Under the Vietnamese law, there is no concept of strategic litigation where a lawsuit can mandatorily change the legal landscape. However, the lawyers identify that such a lawsuit brought by a transgendered people would be

30 At the national level, the Ministry of Education & Training issued Decision 1876 on school psychological counseling, which emphasizes the enhancement of teachers' awareness and counseling skills on gender and reproductive health issues. This Decision does not specify the levels and symptoms that require psychological counseling, definitions of 'gender issues', nor does it include additional content and knowledge about sexual diversity as a part of awareness raising efforts in schools. In terms of the issuance process, the above guidance documents are also not required to consult with community organizations. Link: https://thuvienphapluat.vn/van-ban/giao-duc/Quyet-dinh-1876-QD-BGDDT-2018-boi-duong-nang-luc-tu-van-cho-giao-vien-pho-thong-397252.aspx

31 Interview with LGBT Can Tho leader and Girl love Girl Thai Nguyen

unprecedented in Vietnam and will empower the community a lot. It will also create a good incentive for the larger movement to advocate for implementation of the recognized sexual reassignment rights. After that, both An Bien Authority (The People's Tribunal Court of An Bien) and Quang Ngai Authority rejected the applications on the ground that both transgender people did not produce evidence that they were "intersexual people" or people with gender congenital defects[32]

Advocacy at regional level

By September 2020, Vietnam has 06 organizations/groups that are member of ILGA ASIA, with a representative of ICS being a board member of ILGA since 2017. That the 2021 Conference of ILGA is scheduled to be held in HCMC, Vietnam, is an important milestone indicating connections between national and regional LGBTI organizations and activities. Moreover, Vietnam is also present in some other distinctive regional and international networks, such as the Asia-Pacific Transgender Network. Besides the networks mentioned above, regional diplomatic exchanges including the Asia 21 Young Leaders Conference (Japan) and the Asia-Pacific *SDGs 30* Forum (Timor Este) witnessed the participation of local LGBTI activists, who shed light on LGBTI matters in Vietnam.

Advocacy at global human rights platforms

In June 2016, iSEE, ICS Center and PFLAG Vietnam sent a letter calling to the Permanent Mission of the Socialist Republic of Viet Nam in Geneva support "the Resolution on Protection against violence and discrimination based on sexual trends and gender identity" in the 32rd Discussion Session of the Human Rights Council.[33] In January 2019, the Working Group on LGBTI issues formed by iSEE, NextGen Hanoi, LGBTQ (Education Activists - LEA) had submitted the joint report on the Human Rights of the community of LGBTIQ in Vietnam for the Third cycle UPR of Vietnam[34]. In addition, beside important issues as transgender rights, right to equal marrige iSEE has raise the issues Right to bodily integrity of Intersex people in their joint report:

"Despite being characterized as a human rights violation by several UN treaty bodies (CAT, CRC, CEDAW), medical interventions are still performed on intersex infants and children without their informed consent. Such medical interventions are allowed by the law, specifically Article 36 of the Civil Code. This is a direct violation of intersex people's right to bodily integrity and may create medical problems or severe, lifelong physical and mental suffering"

In its 2019 UPR, Vietnam rejected recommendations to include sexual orientation and gender identity in the Labor Code and to legalize same-sex marriage. However, the government accepted recommendations to:

- *Develop legislation against discrimination on the grounds of sexual orientation and gender identity*[35]
- *Take further steps to ensure the protection of all vulnerable groups in society including lesbian, gay, bisexual, transgender and intersex persons (Recommendation 38.97 from Malta)*
- *Enact legislation to ensure access to gender affirmation treatment and legal gender recognition (Recommendation 38.93 from Iceland)*[36]

In September 2019, the Prime Minister's office issued an order specifying how various government agencies should implement Vietnam's UPR recommendations[37]. The order included:

- Instructions to the Ministry of Justice to undertake: *"Promulgating and implementing national action plans and programs to eliminate stigma and discrimination against women (to increase women's participation in all fields and eliminate violence gender) and vulnerable groups…[including] LGBTI people."*

32 Under the current laws, intersexual people or people with gender congenital defects have the right to re-determine their gender identity when they produce enough medical evidence. This process is more common but not identical to the sexual reassignment process.

33 http://isee.org.vn/en/isee-gui-thu-keu-goi-viet-nam-ung-ho-nghi-quyet-ve-lgbt/

34 https://www.upr-info.org/sites/default/files/document/viet_nam/session_32_-_january_2019/e_1.pdf

35 United Nations Human Rights Council, Universal Periodic Review – Viet Nam, 3rd cycle, 2019, Recommendation 38.109, https://lib.ohchr.org/HRBodies/UPR/Documents/Session32/VN/Recommendations.docx (accessed November 14, 2019).

36 https://vietnam.un.org/en/45681-un-viet-nam-supports-lgbti-persons-who-are-breaking-silence-international-day-against

37 https://dvov.org/wp-content/uploads/2020/01/Decision1252_En-Civil-Polit-Rights.pdf

- Assigning to the Ministry of Health the responsibility to *"examine legal gender recognition procedures without medical requirements"* and to *"allocate sufficient human and financial resources to implement effective plans, national action programs to eliminate prejudice, discrimination toward vulnerable groups…[including] LGBTI people."*
- Assigning to the Ministry of Labor, Invalids, and Social Affairs the responsibility to *"review and recommend improvements to legal standards to ensure equality between men and women, non-discrimination on the basis of gender (including LGBTI)."*[38]

Overview of L&A strategies employed.

An analysis on which have not been successful.

Advocacy activities related to the rights of the LGBTI community: Analysis of case studies and initiatives

Case study advocacy for LGBTI rights in Amended Labor Code 2012:

> *In Viet Nam Labor Code 2012, one of the prohibited acts is "[d]iscriminating on the basis of gender, race, color, social class, marital status, belief, religion, HIV status, disabilities or for the reason of establishing, joining trade union and participating in trade union activities." In fact, one person would face discrimination for many other reasons beyond those bases. Listing limitedly the bases of stigma and discrimination leads to the fact that some bases are not considered and respected in social life – in this case, they are SOGIE.*

- From the end of 2016 to 2018, some LGBTIQ organizations (iSEE & ICS) had advocacy campaign to bring the term of respect and non-discrimination based on 'gender expression' and 'sexual orientation' into the Revised Labor Code: expanding the concept of 'gender identity' and 'sexual orientation' in anti-discrimination acts in the workplace on the 'basis of gender, race, color, national or social origin, ethnicity, sex, age, maternity status, marital status, (…)"; as well as advocating for the expansion of range of application labor disciplinary if there are acts of disrespect and discrimination based on gender expression and sexual orientation in workplace. (Article 122 – Article 128 Labor Code)[39].

However, the Revised Labor Code 2019 did not recognize the term of "gender expression" and "sexual orientation" due to the reasons:

- Context: As the Labor Code 2012 was revised during Vietnam's negotiation process to join various trade agreements and preparation to ratify ILO conventions, there were many hot spots to discuss such as wages, working hours, policies and social insurance levels. LGBT-related anti-discrimination content is therefore not a priority for revision compared to other technical issues.
- Identify key state partners for impact: The Ministry of Labor, Invalids and Social Affairs is the government agency responsible for consultation and revision. However, anti-discrimination issues belong to a broad section of general regulations so there is no specialized agency (while the Department of Gender Equality is in charge of gender issues) and state agencies have not been equipped with sufficient knowledge about LGBTIQ.
- The dynamics of the community itself and its connection with alliances: Besides the two policy recommendations of ICS and iSEE, there are not many opportunities for community groups to participate in consultations and coalitions working on labor rights. Although livelihoods are always the top concern for the LGBTI community, surveying discriminatory behaviors in labor and unsafe working environment is very difficult as there is no data and evidence of infringement of rights.
- Labor discipline cases or labor lawsuits related to discrimination acts are not popular in settlement of a civil matter in Vietnam, therefore finding case laws or case studies to document is nearly impossible.

38 https://dvov.org/wp-content/uploads/2020/01/Decision1252_En-Civil-Polit-Rights.pdf

39 Labor Code 2012 Amended, English version by ILO (unofficial edition). Link: https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/91650/114939/F224084256/VNM91650.pdf

KEY ALLIES AND OPPONENTS

Overview of key allies (and how the process of creating allies has evolved overtime) for the LGBTI movement in the country.

Allied institutions (including embassies and multilateral institutions).

- Universities have higher autonomy level compared to local high schools in their cooperation with NGOs and community groups. The University of Social Sciences and Humanities HCMC is the official partner of Save the Children in Vietnam in the … project, the University of Social Sciences and Humanities Hanoi City established the Humanity-Gender equality Club, while Ho Chi Minh City University of Technology (HUTECH) collaborated with AIESEC and Lady of Vietnam to organize the 'Sexual orientation and relevant applications in counseling and therapy' program for students of Psychology Counseling and Therapy major. The Law Faculty of the Hanoi National University also has many positive studies LGBTIQ rights.
- Most of Embassies and UN agencies in Vietnam are active in supporting civil society efforts on human rights for LGBTIQ in Vietnam: UNDP, UN Women, Embassy of Canada, Ireland, Netherland, New Zealand, Norway, Sweden Switzerland, UK, US,.. They have strong technical and financial resources to support LGBTIQ groups and organizations in the country. They also have strong connection with lawmakers and other governmental organizations and State agencies. The main community activities that embassies often participate in are VietPride events, parade, art and culture activities, national policy dialogue and other diplomatic activities.
- UN Women in Vietnam focus on the key message "Leave no one behind" and contributed with MOLISA and Australia in Vietnam in National Strategy on Gender Equality 2021-2030 to identifying priority issues on gender equality of social groups such as youth, LGBTIQ group, people with disabilities, minority groups,..

Allied CSOs and movements.

- Network development partners and CSOs support LGBTI community are both increasing in quantity and quality. LGBTIQ rights became one of the motivating goals of many CSO's missions, among other. For example, the Center for Supporting Community Development Initiative (SCDI) have a project to seek ways to support LGBTI community's access to health care services and SCDI was an active organization networking for C4Trans coalition with 12 members.
- Within NPO network in the South, LIN Center have an important role to support NBO groups and promoting for safety civil space. LIN raised funds for the Community Fund for responding to the Covid-19 pandemic and called for proposals from groups/organizations. *ICS and PFLAG have been received a small grant for responding to Covid-19 at May 2020*[40].

Strategies used to develop relationships.

Overview of key opponents for the LGBTI movement in the country.

No information available

Strategies used to mitigate counteracting forces.

No information available

Opposing institutions

No information available

40 https://www.thesaigontimes.vn/303391/lin-lap-quy-ho-tro-cac-to-chuc-phi-loi-nhuan-gap-kho-vi-covid-

4. STRENGTH, WEAKNESS, OPPORTUNITY AND THREAT (SWOT) ANALYSIS

STRENGTH

- A new generation of this movement is emerging and developing rapidly: More community groups have been established and active in more diverse fields, with more energy and new initiatives.
- It is comprised of mostly students and young adults whose awareness of their rights and knowledge of sexuality is improving. They are well educated and well connected to LGBT communities in big cities.
- Community activities have diversified their approaches to suit different social groups, in particular creativity in social media communication.
- Minor groups in the LGBTIQ community also starting participated in movement, such as: Deft LGBTIQ people, Asexual community, Gender flood,..

WEAKNESSES

- There are still disagreements and conflicts among community groups, one of which is the conflict between the leaders of these groups. The leaders have a significant influence on the members of their groups, direct the groups' operation and decide the link between networks, therefore, they greatly influence common activities.
- The community hasn't been able skills to collect and document information, or use evidences to advocate policies.
- Community organization model is not varied enough (in terms of format and structure…) for groups to use as reference or sample model to follow.

A director from a local CSO comments that non-registered groups will meet with difficulties registering as a legal entity. Currently, organizations are registered under decrees and many are registered as social enterprises, however, there are not many circulars guiding social enterprises. *"The first challenge to getting into this process is legitimacy. Without legitimacy, organizations will not be able to officially participate in consultation process (as a representative of their community) and resource mobilization will become more challenging. As a result, most of these non-registered organizations are operating based on volunteers rather than salaried employees, or have less than 5 employees due to insufficient resources, leading to difficulties in organizational development and human resources development. Thus, the three difficulties are: (1) Legitimacy; (2) Ability to mobilize resources; (3) Organizational development. These are common difficulties faced not just by LGBTI+ groups, but by the whole grassroots community."*[41]

OPPORTUNITIES

- The rights of LGBTIQ community, in particular, and minor social groups, in general, have received more attention recently, and are mentioned in Vietnamese government's commitments towards respecting LGBTI individuals and protecting human rights. UPR recommendations of other countries also specially concern the rights of LGBTIQ community in Vietnam[42].
- To advocate and promote LGBTIQ rights is the common progressive trend of the world, and are supported by many development partner countries of Vietnam.
- Many potential allies have emerged, domestic development organizations have expanded their rights advocacy activities including LGBTIQ matters.

41 Interview with LIN Center, September 14 2020

42 During the 32nd UPR Working Group Sessions, Vietnam received 7 SOGIESC. Link: https://ilga.org/downloads/32st_UPR_Working_Group_Session_SOGIESC_recommendations.pdf. P.55

THREATS

- The viewpoint of some sponsors and international partners of Vietnam has changed. In March 2020, the USA removed Vietnam from the list of countries entitled to developing national status in the US countervailing law[43]. Vietnamese government stated that this would not affect their bilateral economic relationship and the economic potential of Vietnam, however, funding for sustainable development and protecting minor groups in commercial activity might be constrained. Statistics from World Bank also show positive economic signs in Vietnam, despite its warning about the 'middle-income trap'[44]. An activist from Hanoi commented, '*In terms of achievement, many conventional donors consider Vietnam to be alright, being able to maintain and develop on its own without support. This is partly true, but generally progresses still require long-term companion commitment and support from sponsors. At present, there has been no project which can reach the duration of 3 years, while the achievements of 10 years can disappear within just 6 months or a year. If we stop now, the progress that we have been trying so hard to make can be destroyed*'
- Domestically, civil society activities have to face more difficulties generally when legal frameworks regarding right to association, freedom to association, receipt of funds from abroad and activities with foreign elements have been tightened.
- The media and public tend to normalize LGBTIQ matters, discussions about LGBTIQ rarely mention the rights and legitimate interests of the community, as well as underestimate the seriousness of the restrictions of LGBTIQ rights.
- Work that directly relates to disadvantaged groups and policy advocacy is not recognized as a formal profession. Very few universities have Social Work major which provides skills to solve urgent problems and assist integration of disadvantaged groups, there is no professional training program for social movement development and rights advocacy of minor groups. More than 90% of groups' representatives and individuals taking part in our survey shared that members of LGBTIQ movements only consider it as voluntary work or part-time collaboration, not an official job with fair payment. This prevents them from prioritize their time to participate and commit to community activities in the long term.

Impacts of COVID-19 on the LGBTIQ movement.

A study reveals that the Covid-19 pandemic and social distancing period affected all aspects in the life of LGBTIQ community in Vietnam, both positively and negatively, with severity level ranging from mild to extreme depending on different identity groups, as well as their distinctive characteristics[45]. Impacts were witnessed in the fields of healthcare, access to medical care, employment, study and family.

- In terms of activity, all offline events had to be cancelled, delayed or turned into online events. Therefore, most activities could not reach maximum effect, especially community healthcare, team building, cultural and entertainment activities. Many organizations struggled with online events due to technical limitations, lack of human resource and fund for technology operation, and had to change their plan for activity operation.
- In terms of human resource and working time, in registered organizations, the pandemic asked for a shift from working in office to working from home, which led to many difficulties. In unregistered organizations, most personnel are students or voluntary workers with flexible timetable, so during the pandemic, a large number of students switched to studying online and came back to their hometown, while others faced financial difficulty and other matters, being discouraged to continue their community work. Develop, mid-term and long-term projects took a long time to hand over work to new personnel or had to be canceled.
- Some groups faced more difficulties when switching to online form and alternative technology such as the PFLAG group and local communities of elderly female transgender. The members of PFLAG are in the age group of 49-70, live in rural areas without any technology skill or ability to use computer or smartphone, and cannot make time for online activities (because of work, family matters or other activities…).[46]

43 http://hanoitimes.vn/us-drops-vietnam-off-developing-country-status-311131.html

44 https://www.worldbank.org/en/country/vietnam/overview

45 iSEE (2020), Survey on Covid-19 impacts to LGBTI+ Community, p.48

46 Interviews with representative of PFLAG, August 29 2020

‘During the pandemic, we receive up to 50 counseling cases a day, of which up to 10 cases are SOS. At the present, there is a small counseling team to assist the page’s admin regarding simple questions (for knowledge and services…). More challenging questions or serious cases will be applied psychological first aid and transferred to other parties for further support. We have Happiness in Hanoi and the help list of Beautiful mind in Saigon. Victims with no money can stay in the Women’s cultural house for free’, a representative of FTM commented[47].

47 Interviews with admin FTM organization, September 14 2020

