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INCLUSION OF DIVERSE GENDER AND SEXUALITY TO ACHIEVE FREEDOM AND EQUALITY FOR ALL IN VIET NAM

KEY POLICY RECOMMENDATIONS:

1. Strengthen capacity of lesbian, gay, bisexual, transgender, intersex individuals, community-based organizations and groups, and create an enabling environment for their meaningful participation in law and policy reforms that affect their right to live with dignity and as equal citizens.
2. Adopt measures to eliminate stigma and discrimination, and protect the human rights of gender and sexually diverse people, including those who are lesbian, gay, bisexual, transgender, and intersex, through the removal of discriminatory legal norms and regulatory barriers, particularly those reinforcing gender binary and heteronormativity, and the issuance of an anti-discrimination law.
3. Enact laws that protect the rights of same sex couples to cohabit, to legally share property, and to represent each other in case of legal incapacitation; further, enact laws that provide same-sex couples, transgender, intersex persons, and their children, with legal recognition and equal protection of their family ties afforded to opposite sex unions.
4. Legalize sex reassignment in the Civil Code and other relevant laws, including the modification of name and gender of transgender persons on their identification documents regardless of their sex assigned at birth and their surgical status.
5. Facilitate collaboration across different ministries to ensure holistic attention to the issues facing lesbian, gay, bisexual, transgender, intersex persons across areas including education, health, employment and civic engagement.

DEVELOPMENT CONTEXT:

- This policy brief is intended for the Government and the National Assembly of Viet Nam.
- Viet Nam has made impressive progress in strengthening protection of the rights of lesbian, gay, bisexual, and transgender people in the past few years, a foundation for the future advancement of equal rights for gender and sexually diverse people through full implementation of the 2013 Constitution and amendment of relevant laws and policies.
- The Government and the National Assembly of Viet Nam have an important role to play in supporting meaningful participation of gender and sexually diverse individuals and civil society by creating and revising discrimination-free laws, and leading efforts to improve social awareness of gender and sexually diverse people.
- Violence and discrimination on the basis of sexual orientation, gender identity and expression violate basic human rights protected by the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural

Rights; and the Convention on the Rights of the Child, all of which have been signed and ratified by the Government of Viet Nam.

CHALLENGES:

Lesbian, gay, bisexual, and transgender (LGBT) people face high levels of prejudice and discrimination at home, school and workplace. According to a survey of over 3000 LGBT people from 2008 to 2013 (iSEE-ICS, 2014), 39% were discriminated against in the family, and many got insulted (22.8%) or cast out from home (4.6%); 44% were discriminated against at school, mainly being teased by friends, being forced to dress 'properly', or having parents called to school. In the workplace, 21%, of which 68% were transgender people, were facing discrimination, including serious cases such as employment dismissal.

Out of fear of stigma and discrimination, the majority of LGBT people still have to hide their sexual orientation and gender identity and have insufficient access to health, social and legal services that are friendly to them. Most people understand their sexual orientation around the time they experience puberty, while gender identity can be formed as early as the age of three. Although the rate of people disclosing their sexual orientation increased over time, only 9.8% came out completely with their family, 16.9% at school, 12 % at work, and 15% to wider society (ICS-iSEE, 2014). 32% people think sexual orientation can be a ground for discrimination when accessing services from local government officials (UNDP-VLA-CECODES, 2013). Hiding their true sexual orientation, many young people are unable to share their difficulties with others and have to deal with psychological crises on their own (UNDP, USAID, 2014). This leads to depression, self-harm, drug abuse, or even suicide. 17% of more than 2000 Vietnamese lesbian women participating in a survey had attempted suicide at least once in the past (Nguyen, Nguyen, Le, & Le, 2010).

Because sex reassignment is prohibited, transgender people face many health risks and civil inequality. Current laws in Viet Nam do not allow people to change their gender mark on identification documents, except for intersex people, whose gender mark would be decided by a doctor. As the result, many transgender people are discriminated against because of the difference between their gender identity, expression and their gender mark. Those who wish to undergo sex reassignment surgery cannot have access to qualified sex reassignment surgery and related services such as counseling, hormone treatment, and post-surgical care. According to a survey (iSEE-ICS, 2014), 53.3% of transgender people bought hormones in Viet Nam, 30% had sex reassignment surgery abroad, 33% had their surgery done fully in Viet Nam, or partly in Viet Nam and partly abroad. Without permission to perform sex reassignment surgery and regulations on the procedures, transgender people are left with no protection when trying to access the service in Viet Nam, thereby putting themselves at risk of being exploited by unlicensed providers, risking their health and life. Without proper identification documents reflecting their gender expression, especially after performing sex reassignment surgery, transgender people face difficulties in civil transactions such as travel, banking, and property ownership.

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Milestones in protecting the rights of gender and sexually diverse people:

The 2013 revision of Law on Marriage and Family removed the ban on marriage between two people of the same sex, although their marriage still does not have legal recognition.

The Government of Viet Nam accepted Chile's recommendation during the 18th session of Universal Periodic Review (UPR) in June 2014 to build an anti-discrimination law including on the basis of gender identity and sexual orientation.

In September 2014, Viet Nam passed the Human Rights Council resolution on *Human rights, sexual orientation and gender identity*, hinting its commitment to the fight against violence and discrimination based on sexual orientation and gender identity.