

Laws Regarding the Rights of Transgender Individuals in Vietnam: A Contemporary Perspective

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Abstract

This article focuses on examining the current legal framework related to the rights of transgender individuals in Vietnam and provides recommendations to improve legal regulations in this area. The introduction introduces theoretical issues related to transgender individuals, including their concepts, characteristics, and rights. The article then delves into the current legal situation regarding the rights of transgender individuals in Vietnam, emphasizing progress in recognizing and protecting their rights, such as the right to change gender on personal documents and equal treatment. However, challenges remain, including a lack of documentation and counseling support. Finally, the article suggests recommendations to enhance legal regulations concerning the rights of transgender individuals in Vietnam, including developing specific laws for their rights, simplifying the process of changing gender on personal documents, and ensuring community participation in the legislative process. The conclusion emphasizes the importance of protecting the rights of transgender individuals not only for them but also as a crucial part of building a just, diverse, and human rights-respecting society. It is hoped that the recommendations in the article will be considered and implemented to ensure that transgender individuals are treated equally and respectfully, and they have the right to decide their gender identity.

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I. Introduction

In an increasingly progressive and diverse world regarding gender and physical identity, the rights of transgender individuals have become an increasingly important and relevant issue. Ensuring their rights is an integral part of efforts to promote justice and respect for human rights.

According to the World Health Organization (WHO), transgender individuals are those whose gender identity and/or gender expression differ from the sex assigned to them at birth. This may include transitioning from male to female or female to male, as well as those who do not conform to traditional gender norms. With the development of society and the promotion of awareness of gender diversity, the rights of transgender individuals have become a crucial aspect of legal frameworks and policies in many countries, including Vietnam.

The legal landscape regarding the rights of transgender individuals in Vietnam is currently undergoing a crucial phase in defining and protecting their rights. Despite positive strides in equal treatment and protection of the rights of transgender individuals, there is still much work to be done to ensure equality and respect for this community. With the advocacy of the transgender community, activist groups, and researchers, we have the opportunity to examine the current legal situation in detail and make specific recommendations to improve legal regulations related to the rights of transgender individuals in Vietnam.

Concept and Characteristics of Transgender Individuals

In the context of gender transition research, it is crucial to focus on some important theoretical aspects. Firstly, a clear understanding of the concept and characteristics of gender transition is necessary. Gender transition is not merely a personal decision; it involves an understanding of similar needs that everyone has in expressing their gender identity. This establishes an intimate connection between fundamental human rights and the recognition and protection of these rights in society.

Gender transition also has a legal basis to ensure individual rights. It is not just a psychological need but also a theoretical human right. This approach is influenced by international legal trends where gender transition is recognized as part of human rights and legalized. Legal recognition of gender transition reflects the fundamental nature of transgender individuals and provides protection against various risks and challenges in their daily lives.

In summary, researching and discussing gender transition need to combine both theoretical and practical perspectives. We must not only understand the basic needs and rights of transgender individuals but also consider the legal recognition and protection of gender transition rights in the context of international law and real-life situations.

The concept of "transgender" has become a crucial part of the debate on gender and human rights. Transgender individuals are those who do not identify with the gender assigned to them at birth. This may reflect on gender identity and/or gender expression.

- **Gender Identity:** This is how transgender individuals perceive and define their gender internally. For example, someone may be born with male reproductive organs but identifies as female. Their internal gender does not align with the gender determined based on reproductive organs.
- **Gender Expression:** This is how transgender individuals express their gender in society. For instance, a transgender person may change their clothing, hairstyle, or attitude to reflect the gender they identify with. Transgender individuals not only face the mismatch between their gender and the assigned gender at birth but also encounter various difficulties and pressures in society, including discrimination, unequal treatment, and the inability to express their gender as desired. This can lead to mental health challenges, negative emotions, and psychological pressure.

Rights of Transgender Individuals

The rights of transgender individuals are an essential part of human rights and equality. These rights include:

- **Equal Treatment Rights:** Transgender individuals have the right to be treated equally with others, without discrimination or prejudice based on their gender or gender identity. This requires ensuring protection against discrimination in various areas, including employment, education, and healthcare.
- **Right to Gender Affirming Interventions:** Transgender individuals have the right to make decisions about gender-affirming interventions, including changing gender on identification documents, undergoing gender-affirming surgeries, or choosing not to undergo gender interventions. This right necessitates ensuring access to healthcare services and safe support during gender-affirming interventions.
- **Right to Determine Social Gender Expression:** Transgender individuals also have the right to decide how they express their social gender, including how they dress, style their hair, and express their gender in daily life.
- **Right to Protection Against Discrimination and Violence:** This right requires the establishment and implementation of protective measures to prevent discrimination and violence against transgender individuals. These measures may include psychological support, creating safe public spaces, and ensuring their right to seek legal protection when necessary.

Therefore, understanding the concept and characteristics of transgender individuals, along with their rights, is a crucial part of the discourse on human rights and equality. Clearly comprehending and protecting the rights of transgender individuals is vital for building a fair and diverse society.

Legal Situation Regarding the Rights of Transgender Individuals in Vietnam Today:

In Vietnam, the issue of gender transition is addressed in several legal documents such as the Marriage and Family Law of 2014, the Law on Citizenship of 2014, the Law on Temporary Detention and Custody Enforcement of 2015, the Gender Law of 2015, the Labor Law of 2012, and the Education Law of 2019, and the Health Law of 2019. However, the issue of gender transition is discussed and regulated in specific legal texts, with the Civil Code of 2015 being the only document providing detailed provisions on "Gender Transition." Article 37 of the Civil Code acknowledges the gender transition process of individuals.

Vietnam has seen some positive changes in the laws related to the rights of transgender individuals in the past decade. Although there are still aspects that need improvement, significant progress has been made. Since 2015, Vietnam has allowed transgender individuals to change their gender on identification documents through legal procedures. This is a crucial step in recognizing and protecting the right to self-determination regarding gender identity. There is an increasing awareness of the rights of transgender individuals in society and the legal system. Many government agencies and social organizations have engaged in raising awareness and training on this issue, improving equal treatment and respect for transgender individuals. Advocacy groups and researchers have actively participated in discussions and proposed legal reforms regarding the rights of transgender individuals. These discussions contribute to creating momentum for improving laws related to their rights. Various policies and support programs have been implemented to assist transgender individuals, particularly in education, vocational training, and employment opportunities as outlined in the Social Support Program 2016-2020.

Challenges and Considerations in Implementing Transgender Rights Legislation in Vietnam:

Currently, the implementation of legislation related to gender transition faces various difficulties and shortcomings in practice. Both positive and negative factors play crucial roles in this process.

1. **Changing Perspectives:** Firstly, global and Vietnamese perspectives on gender transition continue to evolve. There is still a lack of accurate and in-depth understanding of this issue, which may create difficulties in law enforcement. Vietnam currently lacks a specific legal document solely addressing the rights of transgender individuals, leading to ambiguity in their application and enforcement.

2. **Personal Awareness:** Secondly, the personal awareness of transgender individuals significantly influences decisions regarding gender transition. Self-acceptance and patience are crucial factors in this process.
 3. **Support from Family and Community:** Thirdly, support from family and the community plays a significant role in determining the success of gender transition. Transgender individuals still face discrimination and unequal treatment in various areas, including employment, education, and healthcare. The law needs to ensure protection against discrimination and provide enforcement mechanisms to address violations.
 4. **Medical Advancements:** Fourthly, advancements in medical science can improve the gender transition process and minimize risks.
 5. **Role of Organizations and Communities:** Fifthly, the activities of organizations, communities, and transgender forums play a vital role in providing support and information. Currently, there is a lack of documentation and counseling support regarding the rights of transgender individuals. Establishing additional resources and databases on this issue is necessary to support both transgender individuals and legal professionals.
 6. **Communication and Community Building:** Sixthly, addressing communication challenges and community building can promote understanding and acceptance of gender transition.
 7. **Traditional and Religious Barriers:** Seventhly, barriers stemming from traditional beliefs, religious views, and gender norms still exist and can influence decisions and experiences of transgender individuals.
 8. **Lack of Gender Education:** Lastly, the absence of gender education in families, schools, and society poses a challenge. Creating conditions for proper gender education becomes crucial to improving the situation.
- In conclusion, despite progress in recognizing and protecting the rights of transgender individuals in Vietnam, there is much work to be done to ensure their protection against discrimination, unequal treatment, and full access to their rights. Legal reforms and structural changes are necessary to promote justice and respect for transgender individuals in Vietnamese society and law.

Recommendations to enhance the legal regulations on the rights of transgender individuals in Vietnam

1. Develop a specific law on the rights of transgender individuals: It is necessary to create a dedicated law outlining clear and comprehensive guidelines for their rights. This law should encompass the right to self-determination of gender identity, equal treatment, and protection against discrimination.
2. Simplify the procedure for changing gender on personal documents: Streamlining and simplifying the legal process for transgender individuals to change their gender on personal documents is essential. This involves reducing complex procedures and associated costs related to gender change on personal documents.
3. Train healthcare staff and educate about the rights of transgender individuals: Providing training for healthcare professionals to ensure they have a thorough understanding and awareness of the rights of transgender individuals is crucial. Educational programs should also create opportunities for students to learn about this issue to minimize prejudice and discrimination.
4. Establish a mechanism to create a safe public environment for transgender individuals: To ensure that transgender individuals are not discriminated against or face threats to their safety when expressing their gender identity in public, mechanisms need to be established to create a safe societal environment. Additionally, ensuring their right to report and seek protection from violent behaviors is crucial.
5. Develop databases and support materials: Developing resources and databases on the rights of transgender individuals is essential to provide useful information for them and legal experts. This can help enhance awareness and support for transgender individuals.
6. Ensure the participation of the transgender community in the legislative process: Actively involving the transgender community in building and promoting legal reforms related to their rights is essential. Their representation in discussions and legislative processes is crucial to ensure that their rights are fairly represented. These recommendations aim to contribute to the improvement of legal frameworks and promote equality and respect for transgender individuals in Vietnamese society and law.

II. Conclusion

In an era witnessing the development and diversification of gender and gender identity, safeguarding the rights of transgender individuals becomes increasingly crucial. Promoting equality and respect for them is an indispensable part of the endeavor to construct a cultured and progressive society.

This article has deliberated on theoretical issues related to the concept and characteristics of transgender individuals, along with their rights. It has examined the current legal status concerning the rights of transgender individuals in Vietnam, acknowledging the progress made in recognizing and protecting their rights.

However, there is still much work to be done to refine legal provisions and ensure the effective protection and promotion of transgender rights. Several recommendations have been proposed, including the development of specific laws regarding the rights of transgender individuals, simplification of the gender transition process on personal documents, and ensuring community participation in the legal process. These suggestions aim to bring about changes, guaranteeing equal and respectful treatment for transgender individuals, and affirming their right

to decide their gender identity. This is an integral part of building a just, diverse, and human-rights-respecting society.

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