From "social evils" to "human beings": Vietnam's LGBT movement and the politics of recognition

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From "Social Evils" to "Human Beings": Vietnam's LGBT Movement and the Politics of Recognition

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Abstract
Since 2008, non-governmental organisations and other civil society organisations have helped to transform the image of Lesbian, gay, bisexual, and transgender (LGBT) people in Vietnam. Their efforts reached a peak in 2014 when Vietnam became the first country in Asia to debate the issue of same-sex marriage in the national parliament. Yet, the outcome of the debate remained was ambiguous, with same-sex marriage being neither illegal nor recognised by the state. This paper explores the tactics and strategies of LGBT activists as they campaigned for recognition of same-sex marriage. It argues that a key factor in the "in-between" outcome was their lack of attention to the redistributive implications of recognition. Together with attention to the fractured nature of the Vietnamese state, engaging directly with issues of redistribution may allow LGBT activists to further advance the politics of recognition at the same time as they redefine the contours of civil society and activism in contemporary Vietnam.

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Introduction

This article is about the struggle of the Lesbian, gay, bisexual, and transgender (LGBT) movement in Vietnam to gain recognition through the legalisation of same-sex marriage after 2008 as it played out in the context of the complex relationship between the Vietnamese state, civil society, and against the background of the broader society and culture. In Vietnamese society, the campaign to recognise same-sex marriage faces important challenges, most notably a stigma against homosexuality and the assumption that the idealised heterosexual family is considered the foundation of a stable society. Heterosexual families are described as the "cell" (*tế bào*) of Vietnamese society. This reflects the way that heterosexual marriage and childbearing are not only socially significant (Bélanger and Barbieri, 2009; Rydstrom, 2006), but also sacralised as part of the practice of ancestor worship (Cadière, 1955; Pastoetter, 2004; Pham, 2017). Nevertheless, for decades after the foundation of the Democratic, and since the 1976 Socialist Republic of Vietnam, no policies specifically targeted homosexuality. However, the period of rapid economic and social change ushered in by the Doi Moi (Renovation) policies after 1986 combined with the spread of HIV in the 1990s to harden state attitudes towards homosexuality, on the one hand, and reinforce social intolerance of non-heterosexual identities, on the other. Consequently, the revised Marriage and Family Law of 2000 became the first law targeting homosexuality when it banned same-sex marriage. By 2004, the Head of Social Issues Committee of the National Assembly could declare "homosexuality is a disease and an evil thought."

The rise of Vietnam's LGBT movement, which started in 2008, has both reflected and helped to lead changing views of homosexuality in the country. For the first time in 2012 and during 2013, the Minister of Justice, the Deputy Minister of Health, and many others expressed support for same-sex marriage, declaring that homosexuals were "human beings too" and thus should enjoy the same rights to marry as other human beings.[1] Vietnam was the first country in Asia where the possibility of same-sex marriage was debated in the national parliament, and at the UN Human Rights Council's 2014 UPR human rights forum, despite opposition from several countries, Vietnam voted to adopt the Resolution on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity. Already in 2013, Government Decree 110/2013/ND-CP had done away with fines for same-sex weddings and was interpreted by many as a first step toward the amendment of the Marriage and Family Law and the potential legalisation of same-sex marriage (Horton and Rydstrom, 2019; Oosterhoff et al., 2014; Pham, 2016). Yet, in the end, the revised Marriage and Family Law of 2014 failed to legalise same-sex marriage. Instead, while it decriminalised same-sex marriage, it also states that "the state does not recognize marriages between people of the same sex." The state's message of "no prohibition, but no recognition" meant that while the state would not ban LGBT weddings, neither would it recognise them nor allow same-sex couples the rights associated with a legal marital status.

This article asks how this partial victory for the LGBT movement and the resultant "in-between" status of same-sex couples in Vietnam came to be and how the movement

and the state might find their way out of their mutual impasse. By exploring the way civil society actors negotiated with the state in their attempt to gain legal recognition of same-sex marriage, this article reveals how the LGBT movement deliberately eschewed rights-based language in order to avoid direct confrontation with a state suspicious of civil society organisations. In some ways, this strategy was highly effective: it allowed LGBT activists both to successfully negotiate their relationship with the state and to gain *emotional* recognition for same-sex marriages from audiences in government and society at large. In the end, however, it failed to gain them the *legal* recognition that was their goal. Thus, activists find themself in a dilemma where more aggressive, rights-based appeals might provoke a reaction by the state, but where emotion-based appeals are likely to continue to fall short of full recognition. Yet the Vietnamese state faces its own dilemmas and moreover is far from monolithic in its approach to LGBT recognition. The ambiguous response of the state and the divergent attitudes of different actors within the state reveals the difficulty of resolving a deep desire by many actors in the state to be seen as "modern" and "developed" and "globally integrated" with the need to be seen to preserve the "cultural tradition" of heterosexual marriage and avoid alienating more conservative constituents.

This paper is based on multiple sources. These include textual analysis of policy documents, twenty in-depth interviews during 2019–2021 with LGBT activists, and ten interviews with policy-makers from the Ministry of Justice, Ministry of Health, Ministry of Culture, Sports and Tourism, the Social Committee of National Assembly, and the Vietnam Women's Union, and especially from participant observations over a decade spent working in community-based organisations in the LGBT movement. This sustained engagement with the circle of non-government and community-based organisations, allowed the author to participate in several strategic meetings run by LGBT activists and to attend a range of public activities such as exhibitions, performances, and dialogue sessions between policy-makers and representatives of the LGBT community. In the interests of confidentiality, no informant is identified in this paper.

This paper will begin by briefly discussing the relationship between the state and civil society in Vietnam, then describe the rise of the LGBT movement and the complex and evolving negotiations between it and the state. Finally, it will analyse the dilemmas of both the state and Civil Society Organisations (CSOs) as they deal with the question of recognition. Attention to history and the fallout from the ambiguous outcome of 2014 may reveal lessons for the future. This paper argues that a key factor in activists' failure to win recognition in 2014 was their lack of attention to the redistributive implications of recognition. Together with attention to the "fractured" nature of the Vietnamese state, engaging directly with issues of redistribution may allow LGBT activists to further advance the politics of recognition at the same time as they redefine the contours of civil society and activism in contemporary Vietnam.

Relational State and Civil Society in Vietnam

The state, in a simple sense, is a regime for the ideological dominance of society, exercising its political power through policy making, law enforcement, and consolidation.

State-centric theories generally assume that the "state" is homogenous and autonomous and as a separate category from society (see Migdal, 2001). By contrast, the relational approach to the state adopted by this paper embraces the complex dimensions of state actors' practices and images (Thelen et al., 2018). This approach sees the state as located within a web of relations (Gupta, 1995; Gupta and Sharma, 2006). These webs are not static ties but rather an "aggregated structure of interaction" (Frodin, 2012: 271) that is "processual in nature" (Thelen et al., 2018: 7).

The relationship between the Vietnamese Party-state and society has been a key question for scholars of contemporary Vietnam (Bui, 2013; Kerkvliet, 2019; Kerkvliet et al., 2008; Nørlund, 2007; Thayer, 2009; Wischermann, 2010, 2011). Although the Party-state is based on Marxist-Leninist ideology, many scholars question whether its relations with society should be labelled "authoritarian" (Womack, 1987; Koh, 2001). Researchers point out the "dialogical" aspect of the relationship between state and society beyond formal channels through which people can affect state agencies and policies (Kerkvliet, 2001; Wells-Dang, 2012, 2014; Wischermann, 2010). Many also argue that the Party-state has become increasingly divorced from its Marxist-Leninist roots and become increasingly fragmented since Doi Moi (Vasavakul, 2019).

As anywhere, the relationship between the state and civil society in Vietnam is complicated, in large part because the term conveys different meanings to different groups. One way of defining it is as "a sphere of interaction between economy and state, composed above all of the intimate sphere (especially the family), the sphere of associations (especially voluntary associations), social movements, and forms of public communication" (Cohen and Arato, 1997: ix), or as a sphere that goes beyond family, state, and market where people unite to promote common interests (Nørlund, 2007). More generally, as understood in this paper, it is the arena where citizens actively participate together to engage with issues that affect their lives and communities.

The origins of the civil society system as understood in the West can be traced to the colonial period, as French intervention changed Vietnam's old social institutions (Nguyen and Nguyen, 2018). In the years after reunification (1975), the Party-state did not recognise civil society as an independent entity. According to Marxist-Leninist theory, the state performs the work of mobilising the people through large "mass organizations" that link the central to the village level. Since the late 1980s and especially early 1990s, the concept of "non-government" and "civil society" has gradually been introduced to state agencies and society in general along with the arrival of international non-governmental organisation (NGOs) and donors. Thus, the emergence of civil society organisations, which mainly include community-based organisations (CBOs), professional associations, and NGOs (CIVICUS, 2006), along with novel ideas about civil society, sustainable development, human rights, poverty reduction, participatory development, and others was problematic, both in theory and in practice, for the Party-state (Bui, 2013; Salemink, 2006). Although civil society organisations have been tolerated by the Party-state, in practice, they have faced suspicion and strictly limited fields of organisation and action (Bui, 2013). Officially, the Party-state has seen "civil society" as a reactionary force and a clandestine force for achieving "peaceful revolution," that

is, a transition to a multi-party state (Bui, 2018). In recent years, as the Party-state's attitude to criticism and dissent has hardened, the relationship with civil society has become even more fraught (Kerkvliet, 2019).

Official treatment of civil society actors reflects the level of threat they are perceived to pose. Its reaction can combine coercion and consent (Nguyen, 2019), occurring across a spectrum ranging from responsiveness to toleration to repression (Kerkvliet, 2019). Vietnamese CSOs operate mainly with funding from international NGOs, which means that they very often have to face questions regarding their motivations. Therefore, activists often must find ways to avoid confrontation and seek advocacy opportunities through informal networks (Taylor et al., 2012). As a result, consensus-seeking is a characteristic of civil society in Vietnam, or as one scholar puts it, "civil society actions in Vietnamese colors" (Wischermann, 2010: 33). Speaking broadly, CSOs in Vietnam reveal regional patterns. According to a survey by The Asia Foundation, CSOs in Ho Chi Minh City are more likely to develop from informal social groups or faith-based organisations, and then tended to focus on services for disadvantaged groups such as street children or migrant workers, while CSOs in Hanoi are more likely to be networked with government agencies and evolve from some previous connection with the government, then they are much more involved in policy advocacy issues (Taylor at al., 2012). The Party-state is likely to tolerate and even accommodate some concerns and demands if it does not view the latter as threats to the political regime.

The Vietnamese LGBT movement in general and the same-sex marriage campaign, in particular, emerged within this context. The movement was promoted by CSOs working on LGBT issues and it was tactically framed in terms of identity politics and a process of negotiation with the Party-state for recognition. Such identity-based and rights-based claims have been utilised as key strategies for recognition of LGBT social movements globally. "Identity," however, is increasingly seen as a problematic term. Either mobilised as a category of practice or a category of analysis, guided by essentialism or constructivism, "identity" often means too much, too little, or nothing at all (Brubaker and Cooper, 2000). Recognition, according to Taylor (1994), means two rather different things. The first is associated with the issue of the equal dignity of all citizens that requires universal or equal treatment. The second is related to the recognition of "the unique identity" which "asks that we give acknowledgment and status to something that is not universally shared" (1994: 39). Taylor sees recognition and identity as relational (1994: 25). For Fraser, however, thinking of recognition in relation to identity politics often tends to displace the struggle for redistribution that leads to economic inequality, or the reification of identity that tends to lead to the sanction of human rights violation (2000: 108). Fraser, therefore, asks for another approach to recognition in which struggles for recognition have to be integrated with struggles for redistribution. She suggests treating recognition as a question of social status, not identity. Misrecognition means social subordination, whether it is either institutionalised formally, via formal law, government policy, administrative codes, and professional practice, or institutionalised informally through associational patterns, long-standing customs, or sedimented social practice. Misrecognition,

then, is "an institutionalized relation of social subordination," and redressing misrecognition means "changing social institutions" (Fraser, 2000: 113–114). As we shall see, Vietnamese LGBT activists' exclusive focus on identity and their failure to explicitly engage with the redistributive implications of recognition was a key element in the ambiguous outcome of the debate in 2014.

The Rise of the LGBT Movement and Strategies for Advocacy

The politics of recognition, including recognition for plural gender identity, emerged as a feature of the global political landscape in the late twentieth century (Fraser, 1995, 2000; Honneth, 1996; Thompson, 2006). In societies where heterosexism dominates, gay and lesbians often must face heteronormative assumptions, institutional heterosexism, and heterosexual privilege. Institutional heterosexism manifests itself in the policies, regulations, and programs of a state that promotes heterosexual lifestyles while discriminating against homosexuals (McGeorge and Carlson, 2011: 14). In this context, the LGBT movement is seen as a "new social movement" because its goals are not focused on the material or the overtly political but rather on recognition, identity, and human rights (Parker et al., 2014). For LGBT people, a request for recognition is not only a claim for entitlement to their identity, but also for their equal rights as human beings. Therefore, one of the main goals of LGBT movements globally is to demand the right to marry (Brandzel, 2005; Gerstmann, 2017; Pierceson, 2014). LGBT communities around the world have different strategies and practices to lobby for same-sex marriage, such as using media Copeland et al. (2016), privacy doctrine (Gartner, 2004), bureaucratic discretion (Flanigan, 2013), and coalition-building (Dziengel, 2010).

Historically, references to homosexuality appear in Vietnamese historical documents from as early as the fourteenth century (UNDP, USAID, 2014). However, until the early 1990s categories like "homosexual" or "transgender" remained unfamiliar in the Vietnamese language and society (Khuat et al., 2009). In 1986, Vietnam implemented the Renovation (*Doi moi*) policy allowing the opening of the country and its integration into the international arena. The category of "homosexuality" thus emerged out of this new phase in Vietnam's international engagement and the apparent moral decline that it seemed to produce (Blanc, 2005). As the HIV-AIDS epidemic spread in Vietnam in the 1990s the new category of "social evils" (*te nan xa hoi*) was applied to drug addicts, sex workers, and homosexuals who were associated with the spread of the disease and portrayed as antithetical to Vietnamese traditional culture (Horton and Rydstrom, 2019; Wilcox, 2000). The effects are pervasive and persistent. To this day, gay people often have to conceal their sexual identity, while transgender people are stigmatised in schools and the workplace (Horton, 2014; UNDP, USAID, 2014).

Nevertheless, until Doi moi, the state remained uninterested in regulating homosexuality or gender conversion, viewing them as personal and private. Instead, the control and effective prohibition of same-sex marriages was accomplished through social norms. Only following the period of rapid economic and social changes ushered in by the Doi moi policies did the Party-state intervene with the aim of eliminating "social evils." As

part of this campaign, Police periodically places such as gay bars, discos, saunas, or massage parlors, often on the pretext of interdicting drug trafficking and use (UNDP, USAID, 2014).

The issue of the legal status of homosexuals came to a head when two cases of gay marriage in 1997 in Ho Chi Minh City and 1998 in Vinh Long Province sparked a wider discussion. Despite calls for intervention, the police were powerless because no laws provided grounds for the prosecution of the two couples (Pastoetter, 2004; Pham, 2016; Wilcox, 2000). To provide a legal framework for handling future cases, in 2000 the state amended the 1986 Marriage and Family Law. The new version, which forbids marriage between "people of the same sex," was the Party-state's first codified discrimination against homosexuals. It "reinforced the exclusion of same-sex sexualities through a process of legal outlawing" (Horton and Rydstrom, 2019: 293). After the law was promulgated, Decree No. 87 of the Government dated 21 November 2001, imposed a fine of up to 500,000 VND on any individual involved in a same-sex marriage. Further development came when in 2004 when the National Strategy for HIV/AIDS Prevention and Control placed homosexuals in the group of social evils. The following year, Directive 54 of the Party Central Committee Secretariat (54/2005/CT-TW) was the first official document to explicitly link homosexuality to HIV/AIDS as part of "Building a right awareness of HIV risks." Thus, the discourse on homosexuals and homosexuals was linked to the discourses of "social evils," pathologies, and public health (Khuat et al., 2009).

Yet even as the state took was taking these repressive measures, so was the LGBT community in Vietnam beginning to coalesce and organise. The Internet, first introduced to Vietnam in 1997 played a crucial role. During the 2000s, Yahoo! 360, blogs, and other forums in Vietnamese cyberspace provided new spaces for different groups of gay, lesbians, and transgenders to come together. In 2007, the Institute for Studies of Society, Economy and Environment (iSEE), a local NGO was established in Hanoi with core funding from Oxfam. In 2008, iSEE initiated the project *For a Positive Image of LGBT in Vietnam,* funded by The Ford Foundation, to conduct research on homosexuality and to connect representatives of five online forums of gays, lesbians, and transgender people, including *Tao Xanh* [Green Apples], *Vuon tinh nhan* [Love Garden), *Tinh yeu trai Viet* [Vietnamese Boys Love]), *Ban gai Viet Nam* (Vietnamese girlfriends], and *The gioi thu 3* (The Third World). The web-masters of these five forums became the members of the first LGBT organisation in Vietnam, which was named "ICS" (Information, Connecting, and Sharing). Since its establishment, the ICS has helped to foreground the term "LGBT" in gender and sexuality discourse in Vietnam.

In 2010, ICS received funding from the Swedish International Development Cooperation Agency (SIDA) to separate from iSEE, establishing itself as an independent organisation of LGBT people working for the rights of LGBT (Pham, 2016). Besides ICS, other organisations in Hanoi and Ho Chi Minh city have also contributed to the emergence of the LGBT movement (Newton, 2012). Recent years have witnessed the booming of LGBT groups and organisations, such as Hanoi Queer, Saigon Queer, Inside Out, Asexual Việt Nam, Le Papillon, UniGEN, HIQFW, LEA, It's T Time, My

Life, TGVN, Bisexual Viet Nam, B2B, VSG, NYN, Intersex Asia, NYNO, 6 + , as well as the popularity of gameshow, reality shows and Vietnamese films on LGBT themes and people. The first Viet Pride was held in Hanoi in 2012; by the next year it had expanded to eleven provinces and by 2017 it was held in almost forty provinces and cities. For the last few years, in addition to Viet Pride, there are now Hanoi Pride and Saigon Pride, which are independently operated. Along with social awareness, the so-called "LGBT movement," as it was initially known is now also widely known also as the "LGBTIQ movement," with the inclusion of Intersexual and Queer, or "LGBT + movement" (including any other self-identified or un-identified group).

In 2012, the LGBT movement began to focus on policy advocacy after the Ministry of Justice sought its input on proposed amendments to the Law on Marriage and Family. In a dispatch sent to different offices and organisations for consultation on whether same-sex marriage issue should be included in the discussion for the new version of the Law, it was argued that marriage was a human right and that the state needed legal guidelines for dealing with the reality of same-sex couples cohabitating despite the ban on same-sex marriage. An official from the Ministry of Justice explained, "Modifying the law is a given, but modifying it in what direction depends on what information we have, and the issues out there that need to be addressed. When we started to review the Law on Marriage and Family, we sent an official dispatch to relevant organisations for consultation … It led us to iSEE and the LGBT community." This was an unexpected opportunity for LGBT activists, who were at that time only interested in building community and raising awareness about social discrimination. An activist at iSEE recalled, "We had not thought that we could have a chance to talk to policy makers about revising law that early. We decided that we had to seize this opportunity."

To promote the public discussion of the issue of same-sex marriage, iSEE wrote a press release praising the Ministry of Justice's appeal for the input and describing the initiative as a great step forward for Vietnam. Saigon's influential *Tuoi Tre* newspaper was the first to publish the release, followed by others. The ability to involve the media in raising awareness of proposed amendments to the marriage law and the strategy of complementing the Ministry of Justice for its initiative helped put same-sex marriage firmly on the agenda.

In response to this opportunity, leaders of the LGBT movement held several key meetings to debate and agree with strategy. Some participants were concerned about the state's suspicion of CSOs funded by international organisations. As a result, the decision was made to avoid using the language of confrontation. Instead, the LGBT movement had to show its peaceful approach and positive energy. As one informant put it, "We want the state to understand that we are not against them, we want them to be an ally." They also debated how best to frame the issue: whether as a problem of "*ly le*" ("argument, reason") or "*tinh cam*" ("sentiment"). According to the LGBT activists, Vietnamese culture attaches great importance to "sentiment," so it would not be enough to use the brain or logical reasoning to persuade policy makers. Thus, for LGBT activists, empathy would be a key tool for achieving recognition. But at the same time, they agreed that this would be an empathy among equals, not compassion

or sympathetic pity. "At the beginning, some people advised us that in Vietnamese culture, people often like to express their compassion for the weaker, so we should evoke the lawmakers' sympathy. But we rejected that idea of trying to be pitiful," an activist recalled. Instead, the language of sentiment was emphasised. Terms like "love" (*tinh yeu*) and desire (*khat vọng*) were woven into the movement's public discourse, such as "where there is love, there is family" (*o dau co tinh yeu, o do co gia dinh*"), the "desire to be myself" (*khat vong duoc la chinh minh*), or "happiness is living true to oneself" (*hanh phuc la song that*). Booklets distributed to policy makers and the public featured sentences such as "*LGBT can be anyone around you: your children, your friends, your acquaintance.*" Public exhibitions like *Open*, *Moments of life*, *The Pink Choice*, *The cabinets,* and documentary films, such as "Phung's Last Trip," "Finding Phong," and "Untold Stories" … revealed the lives of LGBT persons and the pain of not being recognised. Other events, like the *Queer Forever!* art festival, the play *Being Yourself*, or public events like *Awakening the Rainbow, Celebrating Diversity, BuBu Town*, etc., were designed to show the positive spirit of the LGBT community.

On the other hand, the language of human rights was also carefully considered. There are two terms for "human right" in Vietnamese, "*nhan quyen*" or "*quyen con nguoi.*" As "*nhan quyen*" is commonly used by Human Rights Watch and Vietnamese abroad to criticise Vietnam's human rights record, the term has a negative connotation for the Party-state. By contrast, the invention of the term, "*quyen con nguoi*" ("rights of human beings") as a Vietnamese way of interpreting and monopolising its meaning, made possible its inclusion in a chapter of the 2013 Constitution. In this case, the LGBT movement sought to make it clear that its rights claims were should not be associated with the universal human rights of "*nhan quyen*," but rather with the sense of people who have rights of human beings like any others, or *quyen con nguoi*. As an activist from ICS explained, "The point is to get them to sit down and listen to us. It doesn't make sense if we talk about rights and they reject us at once."

Along with the focus on empathy and equality, and the careful tailoring of the language of rights, the activists also sought to build personal relationships and trust with different authorities. iSEE actively approached and invited state cadres from the Ministry of Justice (*Bo Tu phap*), Ministry of Health (*Bo Y te*), Ministry of Culture, Sports and Tourism (*Bo Van hoa*, *The thao va Du lich*), Governmental Office (*Van phong Chinh phu*), and the Committee of Social Affairs (*Uy ban cac van de xa hoi*) of the National Assembly to be technical consultants for their research projects. As a leader of iSEE recalled, it was the people who had informally connected with iSEE through personal channels who made the greatest contribution to the success of their policy advocacy. For example, the consultant from the Ministry of Health successfully persuaded the Minister of Health to change her view from opposing to supporting same-sex marriage. In addition, LGBT activists also connected with representatives in the Women's Union, the Youth Union, and the Lawyers' Association in Hanoi and Ho Chi Minh City to expand their networks. Investing in personal relationships with government officials and policy makers was a conscious strategy of "creating allies." As one activist put it,

"Investing in personal relationships was very beneficial. We knew that even if we were unable to get the law amended, legislators we'd connected with could still be our allies for other policies."

The approach paid off. Whereas only a few years before, homosexuality had been categorised as a "social evil" and "disease," in a public online discussion on the Government Web Portal on 24 July 2012, the Minister of Justice Ha Hung Cuong affirmed that LGBT should not face legal discrimination. One year later, in June 2013, the Ministry of Justice submitted for review a draft bill that would remove the ban on same-sex marriage and provide some legal rights to address the consequences of same-sex cohabitation. In this original draft for consultation, four options were provided: legalising same-sex marriage, allowing civil union, removing the ban but not recognising it, and continuing to ban same-sex marriage. Government bodies such as the Ministry of Health, the Ministry of Culture, Sports and Tourism, and the Government Office made statements supportive of legalising same-sex marriage. In the months that followed, The Ministry of Justice, with support from the UNDP and along with iSEE, and ICS, organised a series of workshops to listen to representatives from LGBT communities and the parents of LGBT. On 24th September, the government issued Decree 110/ 2013/ND-CP on Regulations on Penalties for Administrative Violations abolishing the fines for same-sex marriage. On 25 September 2013, the national television station VTV1 hosted a policy dialogue on same-sex marriage, supporting same-sex marriage and the elimination of prejudice against LGBT persons. As the debate in the National Assembly approached, LGBT activists and CSOs were cautiously optimistic that their careful strategising, public engagement, and network-building would combine to win recognition for LGBT in Vietnam.

Ambiguous Outcome

In the end, however, the activists' hopes were deceived. New laws or amendments to existing legislation in Vietnam go through a three-step process. First, proposed laws or amendments are studied by a Law Drafting Committee (*Ban du thao luat*) convened by the Ministry of Justice and including representatives of relevant government ministries and organisations. The Committee then submits a draft law or amendment to the Committee for Social Affairs (*Uy ban Cac van de xa hoi*) of the National Assembly. This committee, in consultation with the Standing Committee of the National Assembly (*Uy ban thuong vu Quoc hoi*), then has responsibility for deciding the proposal that will be submitted to the entire National Assembly for debate and for voting. This three-step process and the relative degree of access and influence the activists enjoyed at each step was to shape the final outcome of the debate.

In the end, it was the Committee for Social Affairs that played a determinative role. While the draft submitted by the Law Drafting Committee contained provisions giving some legal rights to cohabiting same-sex couples. After discussion, however, the draft amendment the Committee for Social Affairs submitted not only removed those legal rights for same-sex couples, but also reduced the National Assembly's choice to replacing

the sentence "marriage is prohibited for people of the same sex" with the statement "the State does not recognize marriage between same-sex people." This rewriting of the Legal Drafting Committee's draft amendment set the terms of the debate to come and ensured that whatever success LGBT activists might achieve, it would be more symbolic than real.

In November 2013, the National Assembly debated the proposed amendment to the Marriage and Family Law. This debate marked an important milestone: for the first time, a parliamentary authority in Asia put the issue of the right to equal marriage for gay people on the policy-making agenda. Over 158 delegates engaged in a debate, which, in the words of Ms. Tong Thi Phong, Vice Chairwoman of the National Assembly, raised "new and sensitive issues," highlighting the importance of implementing a progressive law but also "promoting the ethical traditions and fine customs of the nation."[2] While some supported legalising same-sex marriage, nevertheless, opinion was divided between delegates who wanted to uphold the ban on same-sex marriage and those who supported the amendment to remove without recognising same-sex marriage. When the matter was put to a vote on 19 June 2014, the National Assembly voted for the revision of the Marriage and Family Law, removing the prohibition without recognising same-sex marriage.

The outcome in 2014 wasn't exactly a defeat, but neither was it a victory for the LGBT movement. The policy of "no prohibition" meant that gay couples could live together or organise a wedding without fear of intervention from the authorities. And indeed, after the lifting of the ban, same-sex weddings were performed around the country. Optimistic commentators highlighted how the consultation process and new legislation had raised social awareness and acceptance of homosexuality. A policy maker from the Ministry of Justice saw this change as a significant legislative move, explaining, "After considering historical customs and habits and consulting foreign countries' similar laws related to marriage and family, we can say that Vietnam has made a remarkable move by neither banning nor recognizing same sex marriage."[3] Yet for many LGBT persons, "prohibition" and "no recognition" were effectively the same thing. For them, a wedding meant little without legal rights and obligations. The outcome in June 2014 was thus a disappointment: same-sex marriage would not be banned but it would not be recognised either. Vietnam would reform, but only partially. How did this outcome happen?

CSO Tactics and Strategies in the Face of a Conflicted Party-State

Within the community of LGBT activists, explanations for the setback differed. Some focused on more tactical aspects of their campaign: they considering it a mistake to have focused on officials within relevant Ministries and Mass Organisations, rather than attempting to mobilise support within the National Assembly. One declared, "We misjudged where the real power lies because we had very good relationships with a number of government agencies but didn't have the time to seek out and invest in

relationships with the final decision makers." Others focused on strategy and the dilemmas faced by CSOs working on LGBT issues as they attempted to have an impact on policy while remaining within the tightly bounded space of Vietnamese civil society. As part of its efforts to assure the Party-state that it represented no threat to its power, the LGBT focused on sentiment, and issues of love, empathy, and respect. At the same time, this strategy was seen as compatible with core cultural values. Proverbs, such as "*Mot tram cai ly khong bang ti cai tin*h" ("One hundred reasons is not equal as a bit of sentiment"), "*mot con ngua dau ca tau bo co*" (When a horse is sick, the whole stable refuses grass) underline the greater importance Vietnamese place on "love" ("sentiment") than "reason" ("argument"). Yet this focus on sentiment and sympathy could feed into stereotypes of LGBT people as weak and politically impotent. A provincial state official from Nam Dinh province described how "If I were the responsible authorities, of course, I would ban civil society because it aims at overthrowing the regime. But LGBT people are harmless. They are also quite talented. But look at them, those people cannot make any political changes." Other policymakers who had explicitly expressed their sympathy for LGBT people, but at the same time did not hide their opposition if their children one day "imitated" becoming gay. One activist from ICS admitted: "What we did only had impact on the level of sympathy but did not change people's beliefs and values about marriage."

Another problem with the strategy of focusing on sentiment was the danger that winning sympathy – rather than substantive legal change – might be perceived as "already enough." As a result, as the date of the National Assembly vote approached, activists made the risky decision to adopt a more rights-based approach. But rather than push the Party-state to reform, it may have instead increased suspicion of the LGBT's ultimate goals. From October 2013 to March 2014, the NGOs iSEE, ICS, and 6 + launched the "I AGREE" (T*oi Dong Y*) campaign to mobilise support for the legalisation of same-sex marriage. The campaign attracted 20,000 supporters within days and a total of 80,000 within six months. At the same time, other CSOs circulated petitions in support of legalising same-sex marriage, collecting tens of thousands of signatures that they then submitted to the Law Drafting Committee in an attempt to put pressure on their decision. Yet in hindsight, CSO leaders speculated that their clearly demonstrated ability to mobilise popular support may have worried some policymakers and led them to withdraw their support. "We thought victory was in our grasp because at that time the public opinion and policy makers were so much in favor, but the final decision was disappointing," an activist from ICS said.

At the same time, the efforts of LGBT activists were complicated by the heterogeneous nature of the Vietnamese Party-state and the diversity of opinion among its stakeholders. During the first stage of consultation in early 2012 and 2013, most law and health experts opposed same-sex marriage on the grounds that homosexuality was a kind of disease. Yet the careful efforts of representatives from iSEE and ICS helped to shift the terms of the debate. Cadres reported that they had never met any gay and transgendered people until participating in the workshops. A cadre from the Women's Union described how she was "really touched by the painful stories of the LGBT and their

parents." An official from the Ministry of Culture reported how they "used to have a quite negative views about gay people. But when I met them, I found them as normal as us, even more, talented than us. Nevertheless, their lives are very unhappy. I feel sorry for them." As a result, the campaign tended to receive strong support from officials involved in the workshops and network-building efforts by the LGBT activists, most notable officials in the Ministry of Justice, the Ministry of Culture, the Ministry of Health, and the Government Office and the Congress Office. Other stakeholders were more resistant. In particular, the campaign faced resistance from the Women Union – seen as a bastion of traditional gender norms and "family values" – the Hanoi People's Committee, and conservative members of the National Assembly. From their perspective, the campaign to legalise same-sex marriage went against the nation's customs, traditions, and values.

Other officials raised concerns about the social and economic consequences of legalising same-sex marriage. A leading official of the Women's Union and member of the Law Drafting Committee explained "I sympathized with them, but I opposed same-sex marriage … The Committee and I calculated that [legalizing same-sex marriage] would have many economic consequences as well. For example, LGBT, especially transgender people, have many health issues, if their marriage were legalized, the national social insurance fund would not be able to cover the costs in the future." They continued, "It makes sense for them to advocate for themselves, and I think the ways they do it, such as collecting supporting opinions or providing information to persuade us is okay. But they must consider how it will affect other people around them if we give them [recognition]. They should turn their heads right and left, look forward but also look back. When advocating for a policy, you should know the impact on others." An official in the Ministry of Justice, expressed similar sentiments, saying, "I told [the LGBT activists] everything must have a roadmap [and go] step by step, because it also involves many cultural, social, and moral issues. It cannot be too rushed. They should see that lifting the ban on same sex marriage is already a success. We need more concrete data and results on social and cultural impact of same-sex marriage." For this official, then, the process of LGBT was an ongoing project. The Social Affairs Committee's early decision to remove the legal rights for cohabitating same-sex couples from the draft amendment illustrates its concern to avoid burdening the Party-state with additional costs. Yet while this was understandable and predictable priority of policymakers, LGBT activists' focus on a politics of identity divorced from its economic and social implications meant that they had lost a valuable opportunity to mollify important stakeholders.

At its base, the divergent opinions on LGBT recognition reflect deeper divisions over the nature of the Party-state. On the one hand, it is a force for revolution, reform, and progress. Over time, the focus of that progress has shifted from winning national independence and building socialism to today's focus on economic growth, human development, and global integration. Yet, on the other hand, the Party-state is the defender of a "nation" defined in terms of its culture, traditions, and values. And above all, the Party-state seeks to maintain social stability and thereby ensure its continued survival. How a Ministry,

office, or even individual member of the Party-state defines themselves in relation to these three priorities is necessarily complex and changing. The development of the LGBT movement took place at the right time when the Party-state's aspiration for reform and progress – if not revolution – were in the ascendant. In contrast with the early Renovation years, when the perceived need to protect Vietnamese identity in the face of rapid change transformed gay people into "social evils" due to their alleged "imitation" of Western lifestyles, the second decade was a period when the Party-state embraced global integration and the new social priorities. In this context, allowing the growth of LGBT activism and cautious moves toward recognition were one of the ways the Party-state aspired to be "modern," "progressive" and "globally integrated."

Yet at the same time, the state was clearly concerned to confirm its role as the protector of a national identity in which marriage and family are considered the core values. Fundamentally, today's Vietnamese patriarchal society still attaches great importance to marriage, family, and male children. The individual is always envisioned as a part of a nuclear family and as a result of the union between two heterosexual people. The heterosexual family is considered the norm and plays the central axis around which other interests and thoughts revolve (Pham, 2017). These attitudes are normalised among LGBT in Vietnam, where Confucian values exacerbate internalised homonegativity and the feeling of guilt for not fulfilling their filial obligation (Nguyen and Angelique, 2017). For the state, this culturally heterosexual ideology is further reinforced by the policy priority to promote reproduction and therefore economic growth.

It was also driven by the need not to alienate broader society and to ensure that the interests of the majority were not threatened by the potential reform. In 2013, for example, the Standing Committee of the National Assembly insisted on evidence that same-sex marriage would be socially accepted in Vietnam. In response, the Institute of Sociology and the Health Strategy and Policy Institute cooperated to conduct a rapid poll of ordinary Vietnamese. The results of the poll showed that while 72.7 per cent thought that same-sex marriage would not impact negatively on their family or themselves, only 33.7 per cent of people supported same-sex marriage. This statistic would have played a role in the subsequent deliberations of policymakers. According to a legal scholar, another crucial factor in the Vietnamese law-making process is the priority of the Party-state to mark its visibility in every aspect of social life by trying to include every relevant group in a harmonious, if often ambiguous, way. "Giving a little, proclaiming that's enough, and wait to see if something is wrong, then revising … It's quite strange the way the written law admits that they will not admit, but that's the way it happens in Vietnam," said the scholar. Moreover, the mindset of lawmakers in Vietnam is that the rights of minorities cannot conflict with the rights of the majority, which are in fact prioritised.

In the end, the desire of the Party-state to promote a vision of itself as progressive and committed to global norms of human development was trumped by its role as the defender of tradition and the need to preserve social stability. But while the ambiguous outcome of 2014 may have been perceived as a setback by some in the LGBT community, many others, including state officials, saw it as part of a longer process. An

official from the Ministry of Justice summed up the internal debate: "Some argued that if there was a global movement to recognize LGBT rights, then Vietnam should not reject those rights. But others replied that it was too early to recognize gay marriage because Vietnamese culture was quite different from Western. If it took so long for Western nations to accept [LGBT identities and rights], why should Vietnam be so rushed?"

Conclusion

After emerging in the late 2000s, Vietnam's LGBT movement has enjoyed remarkable success. Although stereotypes and discrimination persist, today LGBT people in Vietnam enjoy much more social acceptance than was the case only two decades before. Yet the ambiguous outcome of the 2014 debate in the National Assembly on same-sex marriage reveals both the potential and the limits of activism within the strictly defined limits of civil society in Vietnam. It also shows just how fragmented the Party-state is, and the challenges officials face in resolving competing visions of it – progressive *and* conservative – with the overriding need to preserve social stability and political control. And it highlights the importance of engaging explicitly with the redistributive implications of identity politics and convincing stakeholders in the Party-state that recognition would ultimately be economically and socially positive for the state and for society. In 2024, when the revised Law on Marriage and Family undergoes a ten-year review, there will be a new opportunity to advocate for the legalisation of same-sex marriage. 2014 thus provides important lessons for LGBT activists as they begin the next phase of a struggle for recognition. With a continued balance between appeals to "reason" and "emotion," careful network-building with key constituents in the Party-state and society, and a new attention to the redistributive implications of identity politics, LGBT activists in Vietnam could be able to keep the nation at the forefront of the movement for LGBT recognition in Asia at the same time as they redefine the contours of its civil society.

Notes

1. https://tuoitre.vn/bo-y-te-ung-ho-ket-hon-dong-tinh-543174.htm
2. https://vneconomy.vn/nguoi-dong-tinh-chi-con-trong-cho-vao-quoc-hoi.htm
3. https://tuoitrenews.vn/society/13750/vietnam-to-remove-fines-on-samesex-marriage

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