Legal practice, gender gap and perfecting gender equality policy in Vietnam

Prática legal, gap de gênero e aperfeiçoamento da política de igualdade de gênero no Vietnã

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Abstract

Women are an important social force that comprehensively influences the country's development. Therefore, it is very important to clarify, supplement and perfect policies and laws, and promote the implementation of gender equality for women participating in social activities. In addition to the successes in gender equality, over the past time, gender stereotypes still exist, causing gender inequality, making women still a disadvantaged group in society. Therefore, in order to clarify, supplement, and perfect policies and laws on gender equality, at the same time, it is very important to promote the implementation of gender equality for women in social activities, which needs to prioritize and put first. On the basis of studying the State's legal documents, gender equality policy, and gender equality situation, this study proposes solutions to improve gender equality policy in Vietnam.

Keywords: Women; gender equality; practical law; gender gap; gender equality policy; Vietnam.

Resumo

As mulheres são uma importante força social que influencia de forma abrangente o desenvolvimento do país. Portanto, é muito importante esclarecer, complementar e aperfeiçoar políticas e leis, e promover a implementação da igualdade de gênero para as mulheres que participam de atividades sociais. Além do sucesso na igualdade de gênero, no passado, ainda existem estereótipos de gênero, causando desigualdade de gênero, tornando as mulheres ainda um grupo desfavorecido na sociedade. Portanto, a fim de esclarecer, complementar e aperfeiçoar políticas e leis sobre igualdade de gênero, ao mesmo tempo, é muito importante promover a implementação da igualdade de gênero para mulheres em atividades sociais, que precisa priorizar e colocar em primeiro lugar. Com base no estudo dos documentos legais do Estado, da política de igualdade de gênero e da situação da igualdade de gênero, este estudo propõe soluções para melhorar a política de igualdade de gênero no Vietnã.

Palavras-chave: Mulheres; igualdade de gênero; direito prático; lacuna de gênero; política de igualdade de gênero; Vietnã.

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Introduction

One of the cross-cutting issues of class and national struggles in history and still one of the outstanding issues of our time is human rights. Human rights, of course, are first and foremost a right for each individual to assert himself as a subject with the same rights and obligations as everyone else (Vinh, 2022). But humanity has once divided a society, half male, the other half female, in which women have been limited or excluded from basic human rights. That is why, the issue of human liberation, especially women's liberation, has always been of interest to socialist thinkers and today it is a common problem of all mankind, because, being concerned with women also means caring about resources that are especially important for the existence and development of human society (Marx & Engels, 1999).

Social history has proven that the progress of society will slow down if a large part of society is oppressed, exploited, restricted, or excluded. Therefore, the issue of women's liberation has been raised for a long time. In the middle of the nineteenth century, Marxism-Leninism was born, making a very important contribution to the freedom of women and the realization of equality between men and women (gender equality) as one of the contents of the social revolution. The goal of socialism is to liberate society and liberate people (Marx & Engels, 1999). This is also one of the significant contributions of Marxism-Leninism to the development of gender science in the world in general and in Vietnam in particular.

In the history of national construction and defense of the Vietnamese nation, women have always held an important position and made great contributions, contributing to the building of the nation's glorious tradition and at the same time creating the tradition of the nation (Van, 2017; Trung & Van, 2020). The shining examples of heroic heroines who did not submit to the enemy refused to live a life of slavery and stood up against foreign invaders to win freedom for the nation and the country like Ba Trung and Ba Trieu (Van, 2019; Trung & Van, 2020); female generals Bui Thi Xuan, Ms. Nguyen Thi Dinh, Ms. Ut Tich, etc. (Luongngoc & Vuhong, 2022). Under the feudal and imperialist regimes, women were the most oppressed, exploited, and unfair people, so they always asked to be solved. free and ready to follow the revolution (Van, 2020; Phong & Van, 2020). Right from the early days of fighting against the French, Vietnamese women participated in large numbers in the Can Vuong, Dong Kinh Nghia Thuc, and Dong Du movements (Trung & Van, 2020).

On February 3, 1930, the Communist Party of Vietnam was established. The Party’s first Platform was written: "Men and women have equal rights". This shows that the Communist Party of Vietnam (It is often called "our Party" by Vietnamese people) paid attention to the equal rights of women, soon recognized women as an important force of the revolution, and set out the task: The Party must liberate women, associated with national liberation. Class emancipation versus women's liberation. President Ho Chi Minh once affirmed: The countryside is decorated with Vietnamese beauty because our women, young and old, try to weave and embroider, which makes them more beautiful and brilliant. Therefore, “If you do not liberate women, you will not liberate half of humanity. If you don't liberate women, you'll only build half of socialism" (Minh, 2011).

Because of the importance of women to the revolution, our Party poses a problem: Women must join revolutionary organizations such as trade unions and farmers' associations and establish separate organizations for women to attract women from all walks of life to join
the revolution. Therefore, on October 20, 1930, the Vietnam Anti-imperialist Women's Union was officially established. To mark this event, the Communist Party of Vietnam has decided to choose October 20 every year as the traditional day for Vietnamese women, and also consider this a day to celebrate and honor Vietnamese women. called "Vietnam Women's Day".

Literature review

What are equal rights?

According to the Vietnam Encyclopedia (1995), equality is defined as equal treatment in terms of politics, economy, and culture, regardless of social class and status, of which the first and most basic is equality before the law.

Equality is a fundamental human right. It is the right to establish human status before the law; are not discriminated against by law, have equal rights and obligations before the law, and are equally protected by law.

Thus, equality means that survival rights are respected, including the right to life, the right to health, the right to fame, the right to vote, and the right to property, etc. In society, people regardless of rich-poor, high or low knowledge, and citizens' personalities are equal.

Right to equality before the law

Equality before the law is considered a constitutional principle, expressed in the 2013 Constitution and concretized in specific areas of legal relations.

Article 16 of the 2013 Constitution of Vietnam stipulates that “Everyone is equal before the law. No one should be discriminated against in political, civil, economic, cultural or social life.” Accordingly, all citizens, men, and women of different ethnicities, beliefs, religions, backgrounds, and social statuses in a country shall not be discriminated against in the enjoyment of rights and obligations and shall bear the burden of responsibility liability by the law.

Clause 1, Article 3 of Vietnam's 2015 Civil Code stipulates: “All individuals and legal entities are equal and must not use any reason to discriminate; are equally protected by law in terms of personal and property rights.”

Point b, Clause 1, Article 3 of Vietnam's 2015 Penal Code stipulates: “All offenders are equal before the law, regardless of gender, ethnicity, belief, religion, caste or status. society”.

Article 2 of the Law on Election of Deputies to the National Assembly and People's Councils of Vietnam stipulates: "As of the date the election is announced, citizens of the Socialist Republic of Vietnam who are full eighteen years of age or older can have the right to vote and being full twenty-one years old or older has the right to stand for election to the National Assembly and People's Councils at all levels by this Law."

Clause 1, Article 4 of the Law on Environmental Protection in 2020 of Vietnam stipulates: “Environmental protection is the right, obligation and responsibility of all agencies, organizations, communities, households, and individuals".
Gender equality

Gender equality is an important issue in realizing equal rights. The 2013 Constitution stipulates equal rights for citizens in all areas of social life, in which gender equality is always a matter of special priority. Article 26 of the 2013 Constitution stipulates: “Male and female citizens are equal in all respects. The State has the policy to ensure equal rights and opportunities for gender. The State, society, and family create conditions for women to develop comprehensively and promote their roles in society. Gender discrimination is strictly prohibited.”

Clause 3, Article 5 of the 2006 Law on Gender Equality stipulates: “Gender equality means that men and women have equal positions and roles and are given conditions and opportunities to promote their capacity for the development of the community. community and family and equally enjoy the fruits of that development.”

State policies to ensure gender equality

Ensuring gender equality in all fields of politics, economy, culture, society, and family; supporting and creating conditions for men and women to promote their abilities and have equal opportunities to participate in the development process and enjoy the fruits of development.

Protecting and supporting mothers during pregnancy, childbirth, and child-rearing; create conditions for men and women to share housework. - Apply appropriate measures to eliminate outdated customs and practices that hinder the achievement of gender equality objectives.

To encourage agencies, organizations, families, and individuals to participate in activities to promote gender equality.

Support gender equality activities in remote areas, ethnic minority areas, and areas with extremely difficult socio-economic conditions; support the necessary conditions to raise the gender development index for sectors, fields, and localities where the gender development index is lower than the national average.

Research results and discussion

Practical legislation on gender equality

Over the past years, the Party and the State of Vietnam have made many breakthroughs in awareness and action, from the aspects of law, and policy to practice, and achieved many important achievements in terms of gender equality. Vietnam is considered one of the countries to close the gender gap the fastest over the past 20 years (Vinh, 2022). The highlight in ensuring gender rights in Vietnam is the completion of the legal framework and policies on gender equality (Vuhong, 2022). As early as 1946, in the first Constitution of the new regime, the goal of gender equality was recognized. Next, in the amendments and
supplements to the Constitution, the guarantee of gender equality was clearly stipulated. The 2013 Constitution stipulates that “male and female citizens are equal in all respects.

The State has a policy to ensure equal rights and opportunities for gender” and "strictly prohibits gender discrimination". In addition, the Law on Gender Equality (2006) and the Law on Domestic Violence Prevention and Control (2007) were implemented. Many other laws are closely related to the rights of men and women such as the Law on Prevention and Combat of Human Trafficking (2012), the Labor Code (2012), the Employment Law (2013), etc. gender issues are integrated. In addition, many decrees and sub-law documents have been issued to concretize the contents of the Law on Gender Equality and the Law on Prevention and Control of Domestic Violence.

Along with perfecting the legal system, policies and national apparatus on gender equality have also been strengthened. The Ministry of Labour, Invalids and Social Affairs is assigned the task of being the leading agency to assist the Government in performing the function of state management of gender equality nationwide. To perform this function, the Ministry of Labour, Invalids and Social Affairs established the Gender Equality Department. Other ministries and branches shall assign a focal point to advise on the state management of gender equality. At the local level, the provinces and cities have set up a gender equality room or arranged a focal point for gender equality work. At the district and commune levels, most officers of the Department of Labor - Invalids and Social Affairs and socio-cultural officers are assigned to do this part-time job. In addition, the National Committee for the Advancement of Women in Vietnam - an interdisciplinary coordination organization established in 1993, continues to be consolidated and improved in quality, including members who are representatives of many ministries, branches, and central agencies, helping to effectively coordinate activities from departments and agencies for the sake of gender equality.

Promoting gender equality is considered a key task to realize the country's socio-economic development goals and is increasingly being implemented strongly and effectively. Many policies and legal documents on gender equality, such as the National Action Plan for the Advancement of Women in Vietnam until 2000 (Decision No. 822/QD-TTg dated October 4, 1997, of the Prime Minister, Prime Minister); Decision No. 19/2002/QD-TTg dated January 21, 2002, of the Prime Minister approving the National Strategy for the Advancement of Women in Vietnam until 2010. Next, there are decrees and circulars specifically to institutionalize and guide the Law on Gender Equality 2006.

It can be said that the guarantee of gender equality has achieved many great achievements. The system of policies and laws on gender equality is increasingly being improved. Party committees and authorities at all levels have had positive changes in awareness and action on the implementation of gender equality. Gender equality rights in the fields of politics, economy, health protection, family life, etc. are more fully realized.

Status of gender equality in Vietnam

Vietnam is one of the countries with a fairly comprehensive legal and policy framework to promote gender equality in the Asia-Pacific region. The universal principle of equality between men and women in the Constitution is concretized in many legal documents and policies in all fields, clearly expressing the Party's viewpoints and undertakings and the
State's policies and laws, as well as Vietnam's efforts in implementing its member states' commitments to international conventions and laws on gender equality, such as the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Platform and Declaration of Action, the Millennium Development Goals (MDGs), and the Sustainable Development Goals (SDGs).

The National Strategy on Gender Equality for the 2011-2020 period (Decision No. 2351/QD-TTg dated December 24, 2010, of the Prime Minister) has set out basic objectives to ensure gender equality more clearly, on opportunities, participation and benefits in political, economic, cultural and social fields, contributing to the country's rapid and sustainable development, including: (i) Increasing participation of women in leadership and management positions, in order to gradually reduce the gender gap in the political field; (ii) Reducing the gender gap in the fields of economy, labor and employment; (iii) Increasing the access of poor women in rural areas and ethnic minority women to economic resources and the labor market; (iv) Improve the quality of female human resources, gradually ensuring the equal participation of men and women in education and training; (v) Ensuring gender equality in accessing and enjoying health care services; (vi) Ensuring gender equality in the fields of culture and information; (vii) Ensuring gender equality in family life, gradually eliminating gender-based violence; (viii) Enhance state management capacity on equality in general and gender equality in particular.

In the process of implementing the task of implementing the Law on Gender Equality in localities across the country, central and local agencies, ministries, branches, and localities have coordinated with the Vietnam Women's Union to well implement the law, gender equality. After the Law on Gender Equality (2006) was promulgated, proactively propagate to all cadres, civil servants, and public employees. At the same time, focus on popularizing legal education, popularizing the Law on Marriage and Family (2020).

The mainstreaming of gender equality issues in the formulation of socio-economic development policies, programs, and projects creates a premise for more effective implementation of gender equality, especially related policies, to the issue of gender equality for people in terms of roles and positions of men and women are equal. The results of the implementation of these policies have greatly affected the economic life of households and contributed positively to the realization of equal rights in households.

Socio-political agencies and organizations, such as the Ministry of Labor, War Invalids and Social Affairs, National Committee for the Advancement of Women in Vietnam, Central Committee of Vietnam Fatherland Front, China The Central Committee of the Vietnam Women's Union and agencies and local authorities have also strongly implemented the issue of gender equality, focusing on raising awareness about the implementation of gender equality; develop appropriate communication products to propagate and disseminate gender equality; organize experiential learning activities, conferences, seminars, seminars to draw experience from implementing and replicating the model.

However, the gender gap still exists quite large in some areas of life. According to the Global Gender Gap Report (WEF 2020) for 10 years from 2011 to 2020, Vietnam's gender equality index (ranked in four areas: politics, economy, education, and health) is unstable and tends to go down, from 79/135 countries (2011) to 83/145 (2015) and 87/153 (2020) (World Economic Forum, 2020). Limitations on gender equality are reflected in a number of specific areas as follows:
First of all, women's participation in politics is limited, especially at the grassroots level. The percentage of female staff in management and leadership positions is still low compared to management and leadership positions in general and compared with the increase in the female workforce. Traditional gender stereotypes about women's roles, linking women to taking care of the family and men to earning money to help the family still exist. Policies and mechanisms for female cadres have not been implemented synchronously, and there is a lack of a roadmap to create specific cadres.

In the economic sector, women's opportunities to access high-income jobs and economic resources are still lower than that of men. Some targets set out in the National Strategy for Gender Equality in Labor, Training, etc. have not yet been achieved. According to the General Statistics Office, the percentage of rural female workers under 45 years of age with vocational and technical training reached 11.8% in 2013, nearly half of the planned target. The proportion of women participating in vulnerable jobs is higher than that of men; Women make up a higher proportion of the informal sector of the labor market. They earn less income and are less protected by labor legislation and have less direct access to social protection (Ministry of Labour, Invalids and Social Affairs, General Statistics Office, and United Nations Population Fund in Vietnam, 2019).

In terms of health care, women's access to reproductive health care services in rural and ethnic minority areas is still limited. The maternal mortality rate is still high compared to some countries in the region. Gender stereotypes, the idea of "respecting men and disrespecting women" are still quite common. Women are still considered to be the main ones to take care of the family, while men are still expected to become successful people, ensuring the family's economy. Although women are increasingly involved in family decisions, men are still the main decision-makers. This is creating barriers to the choice of development opportunities for both men and women.

Violence against women is quite serious. The National Survey on Violence Against Women in Vietnam in 2019 shows that nearly 2 out of 3 women have experienced physical, sexual, emotional, or economic violence or abuse by their husbands/partners. control at least once in your life. Nearly 1 in 3 women is currently experiencing violence (in the last 12 months (Ministry of Labor, Invalids and Social Affairs, General Statistics Office and United Nations Population Fund in Vietnam, 2019), and the people on domestic violence prevention and control are still limited in many localities, authorities at all levels, and communities, domestic violence is considered a private matter of each family. domestic violence is not strong, and acts of domestic violence have not been strictly handled.

The gender imbalance at birth is also a major challenge in terms of gender equality today. Although in 2019, the sex ratio at birth fell to 111.5 boys born per 100 girls, it is still very high. Harmful gender practices through fetal sex selection leading to an increase in the sex ratio at birth are one of the reasons why Vietnam has dropped in the ranking of the gender gap. In 2020, Vietnam ranked 87/153, with a total score of 0.7, down 10 places compared to 2018 and 15 places compared to 2010 even though the score increased but not significantly (World Economic Forum, 2020).

In terms of legislation, a number of guiding documents, institutionalizing the provisions of the law related to gender equality have been slow to be promulgated. The implementation of the regulation on mainstreaming gender equality in the development of legal
documents and assessment of the mainstreaming of gender equality in the development and appraisal of draft legal documents has achieved results, not high.

Monitoring - supervision - evaluation and inspection, examination and handling of violations of the law on gender equality in the fields of economy, labor, and employment are still limited. In fact, there are currently no policies to attract male primary and preschool teachers and to support scholarships for girls. Policies to support female cadres, civil servants, and public employees when participating in training and fostering with children under 36 months of age are generally prescribed in Decree No. 101/2017/ND-CP dated September 1, 2017, of the Government on the training and retraining of cadres, civil servants and public employees. Most vocational education and training policies do not directly address women or men, but there are provisions for existing gender inequalities in education and training.

In general, the guarantee of gender equality rights in Vietnam in the current period has made great progress compared to before. Women and men have substantive equality in all areas of life, however, the realization of equal rights between men and women is still limited. So how to better implement gender equality in our country today, in my opinion, we need to focus on doing well some solutions such as: Changing gender awareness in society; implementing gender equality in the economic field; formulating gender-responsible policies and laws; strengthening the leadership role of Party, government and mass organizations, especially the Women's Union and the Committee for the Advancement of Women; promote scientific research on women, etc.

Completing policies and laws on gender equality in Vietnam

First, it is necessary to focus on implementing Resolution No. 28/NQ-CP dated March 3, 2021, of the Government, promulgating the National Strategy on Gender Equality for the 2021–2030 period, which emphasizes the overall goal of continuing to narrow the gender gap, create conditions and opportunities for women and men to participate and enjoy equal benefits in all areas of social life, contributing to the sustainable development of the land country” and realize 6 specific objectives: Objective 1: In the political field; Objective 2: In the field of economy and labor; Objective 3: In family life and prevention and response to gender-based violence; Objective 4: In the medical field; Objective 5: In the field of education and training; Objective 6: In the field of information and communication. At the same time, strengthen the leadership and direction of the Party committees at all levels, and the management responsibilities of the authorities at all levels in raising awareness, implementing, and perfecting the institution on gender equality. In particular, the role and responsibility of the leader in the implementation of regulations on gender equality are emphasized.

Second, perfect the system of policies and laws to ensure the principles of gender equality in relevant fields. Implement gender equality content in the formulation of policies, laws, and socio-economic development programs, strategies, and plans, conditions for women to have fully and equal access to gender, economic resources (such as arable land, credit sources, market information, information on laws and policies), and equality of opportunities to participate in production and business.

Continue to improve policies and expand participants of various types of social insurance, especially for new groups of workers; take measures to meet the needs of women
and men participating in voluntary insurance and unemployment insurance, paying attention to vulnerable groups (such as migrant workers, poor workers in rural areas, ethnic minority areas). Have policies to support vocational training institutions for rural workers, especially those that attract many female workers.

Third, develop and implement programs to promote gender equality and prevent and respond to gender-based violence: communication to raise awareness and change behavior on gender equality; putting content on gender equality into the official lecture system at all levels of education; preventing and responding to gender-based violence; capacity building on gender equality for legal staff, strengthening gender mainstreaming in the development of legal documents; strengthen the equal participation of women in leadership and management positions at policy-making levels.

Fourth, promote the work of information, propaganda, and application of information technology to raise awareness for all classes of people about gender equality. Every year, the organization deploys Action Month for Gender Equality to prevent and respond to gender-based violence from November 15 to December 15.

Fifth, strengthen the capacity of the state management apparatus on gender equality at all levels; develop a national gender statistical database (such as a gender-segregated labor market and vocational training database. The Ministry of Labour, Invalids and Social Affairs strengthens work research and forecasts labor market trends and demands; organizes labor demand surveys in various types of enterprises) (Ministry of Labour, Invalids and Social Affairs, 2021). Continue to strengthen the interdisciplinary inspection and examination of the implementation of the law on gender equality; inspect the implementation of policies towards the female labor force in vocational training, social insurance, labor protection, and retirement policies.

Sixth, proactively, strengthen international cooperation in the implementation of gender equality goals; take advantage of technical, financial, and professional support from foreign countries, organizations, and individuals in the field of gender equality.

**Conclusion**

Affirming the position and role of women in the integration and development of the country, Vietnamese women continue to make important contributions to the development of society. With the policies and laws on gender equality of the Party and State, more and more opportunities are created for women to share housework with men and have more time to participate in social work and activities. other. Thanks to these policies and laws, women are equal in all aspects. Therefore, promoting gender equality and empowering women is the goal of countries in the world in general and of Vietnam in particular. Therefore, besides the achievements in the field of gender equality, we still need to continue to improve policies and laws on gender equality; strengthen the role of the whole political system; take advantage of resources to ensure gender equality really effectively.
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