

# Human Rights-Based Approach to Legal Recognition of Same-Sex Relationships in Vietnam

## Abstract

This paper focuses on analyzing the relationship between human rights and the development of laws regulating cohabitation as spouses between same-sex partners in Vietnam. From a human rights perspective, the right to live together as spouses is a fundamental right recognized in international instruments such as the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights, to which Vietnam is a State Party. However, Vietnam's current legal system still lacks specific provisions recognizing the cohabitation of same-sex couples as spouses. This legal gap prevents same-sex couples from enjoying certain rights and legitimate benefits afforded to heterosexual couples. Adopting a human rights-based approach, the paper proposes a legal framework suitable for Vietnam to progressively recognize and protect the right of same-sex partners to cohabit as spouses. This mechanism aims to gradually ensure the recognition and protection of such rights, thereby upholding the principles of equality and non-discrimination and promoting harmony between national laws and Vietnam's international human rights commitments.

**KEYWORDS:** same-sex couples, cohabitation as husband and wife, human rights

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## 1 | Introduction

In recent years, the LGBT community in Vietnam, in general, and same-sex individuals, in particular, have become increasingly visible and widely recognized in society. Survey results published by the Institute for Studies of Society, Economy, and Environment (iSEE) have provided significant insights into the sexual orientation, education levels, occupations, and social barriers faced by this community. A nationwide survey of 2,340 MSM (men who have sex with men) showed that 63.4% identified as gay, 17.7% as bisexual, 11% were unsure of their sexual orientation, and 3.8% identified as heterosexual. A small number of participants also identified as transgender. In another iSEE survey of 3,000 gay men and 200 lesbians, the results indicated that 68% of gay men and 70% of lesbians had a high level of education (university or higher). More importantly, it is also notable that individuals in the LGBT community work in a wide range of professions, with the customer service sector accounting for the highest percentage at 18%. This finding helps to refute the stereotype that gay people primarily work in the entertainment or arts industries.<sup>[1]</sup> As of 2024 estimates, the LGBTQI+ community in Viet Nam<sup>[2]</sup> is about 1.65 million people, accounting for approximately 2% of the population.<sup>[3]</sup>

At the international level, the rights to cohabit as spouses without discrimination are regarded as fundamental human rights. These rights are guaranteed by the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (ICCPR, 1966), and the Yogyakarta Principles.<sup>[4]</sup> These documents all affirm that everyone is equal before the law, and no one shall be discriminated against based on sexual orientation or gender identity.

<sup>1</sup> UNDP, USAID, *Being LGBT in Asia: Viet Nam Country Report* (Bangkok: UNDP and USAID, 2014), 29.

<sup>2</sup> The concept of LGBTQI+ reflects gender diversity and includes lesbian, gay, bisexual, and transgender identities; Q stands for queer/questioning, referring to those who are in the process of exploring their own gender identity; I stands for intersex, referring to people who do not fit typical definitions of male or female; and the “+” symbol represents many other gender and sexual identities, highlighting the richness of diversity such as asexual, pansexual, and more.

<sup>3</sup> Nam Phuong, “Vietnam has about 1.65 million Homosexual, Bisexual, and Transgender People” *Dan Tri*, 19 September 2025.

<sup>4</sup> This document is considered the first international legal document to recognize and protect the rights of homosexual individuals.

In Vietnam, the 2014 Law on Marriage and Family abolished the prohibition on same-sex marriage, but still does not recognize such relationships, as stipulated in Clause 2, Article 8: “The State does not recognize marriage between persons of the same sex.” This prevents same-sex couples from being able to marry according to their needs and wishes. This provision creates a “legal grey area,” where same-sex couples may cohabit as spouses, but enjoy few legal rights or obligations compared to heterosexual couples. From a human rights perspective, the lack of recognition and protection for same-sex relationships can place this group at certain disadvantages. Moreover, this situation is not in line with current global trends. Therefore, adopting a human rights-based approach is an urgent direction in developing legal provisions to recognize the right of same-sex couples to cohabit. Although it may not yet be termed “marriage,” an appropriate legal framework could protect their civil and personal rights in certain circumstances.

## 2 | Content

### 2.1. Human Rights and the Right to Cohabitation of Same-Sex Couples

Based on different approaches, there are various definitions of human rights<sup>[5]</sup>. According to the Office of the United Nations High Commissioner:

Human rights are universal legal guarantees that protect individuals and groups against actions or omissions that interfere with fundamental freedoms, entitlements, and human dignity.

The United Nations’ Human Rights FAQ document defines human rights more broadly as:

<sup>5</sup> Wojciech Załuski, “The Crisis of Human Rights Discourse” *Prawo i Więz*, No. 6 (2025): 1015-1123.

Human rights can also be generally defined as the inherent rights to which every person is entitled, and without which we cannot live as human beings.<sup>[6]</sup>

According to the Advanced Political Theory textbook on the Theory and Law of Human Rights:

human rights are natural entitlements, which stem from the inherent dignity of all people, and are recognized, respected, protected, and guaranteed by the international community and nations through national and international legal systems.<sup>[7]</sup>

Human rights stem from the principle that all individuals are born equal in dignity and rights, regardless of gender, sexual orientation, or gender identity. As early as ancient Greece, the philosopher Zeno stated, “No one is born a slave; slavery is a condition imposed by the deprivation of the natural freedom inherent to human beings.” This idea was later reaffirmed and developed by many philosophers. Notably, Thomas Hobbes believed that individuals “have the right to do whatever they consider just and reasonable,” while John Locke argued that “governments can only be legitimate if they recognize, respect, protect, and promote the inherent and inalienable rights of citizens.” Thomas Paine emphasized that “rights cannot be granted by any government, because doing so would imply that governments also have the power to revoke them at will.”<sup>[8]</sup> Theories of human rights were also further developed by thinkers such as Jean-Jacques Rousseau, Montesquieu, George Wilhelm Friedrich Hegel, John Stuart Mill, and Henry David Thoreau. Overall, the human rights philosophy of this era had a consistent theme: it affirmed the position and value of individuals in society and championed their natural needs and aspirations, with the fundamental one being the freedom to exist.<sup>[9]</sup>

The idea of protecting human rights is also reflected in the emergence of international documents concerning human rights and freedoms.

<sup>6</sup> *Textbook on Theory and Law of Human Rights* (Hanoi: National Political Publishing House, 2011), 21.

<sup>7</sup> *Advanced Curriculum in Political Theory: Theory and Law on Human Rights* (Hanoi: Political Theory Publishing House, 2018), 11.

<sup>8</sup> *Textbook on Theory and Law of Human Rights*, 40.

<sup>9</sup> *Human Rights in International Law and Vietnamese Law* (Hanoi: Hong Duc Publishing House-Vietnam Lawyers Association, 2014), 31.

According to the 1948 Universal Declaration of Human Rights (UDHR), every individual:

Everyone has the right to life, liberty and security of person [...] No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.<sup>[10]</sup>

The International Covenant on Civil and Political Rights (ICCPR), to which Vietnam has been a member since 1982, also affirms, in Article 17, the protection of privacy and family life; and, in Article 26, it requires member states to ensure:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>[11]</sup>

In particular, the Yogyakarta Principles, which guide the application of international human rights law in relation to sexual orientation and gender identity, have established that:

Everyone has the right to found a family, regardless of sexual orientation or gender identity. Families exist in diverse forms. No family may be subjected to discrimination on the basis of the sexual orientation or gender identity of any of its members.<sup>[12]</sup>

Approaching it from this perspective, the recognition of the right of same-sex couples to live together as husband and wife cannot be limited

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<sup>10</sup> Article 3 and Article 12, Universal Declaration of Human Rights, last modified 6 August 2025. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

<sup>11</sup> Article 26, International Covenant on Civil and Political Rights, last modified 7 August 2025. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

<sup>12</sup> Principle 24, The Yogyakarta Principles, last modified 6 August 2025. <https://yogyakartaprinciples.org/>.

solely to the concept of “marriage.” This is a practical expression of human rights and should be protected by domestic law, just like other cohabiting relationships. The right to live together as husband and wife is a specific form of the right to found a family and the right to privacy, which should be protected as a fundamental right of every individual in international human rights documents. Although Vietnam abolished the sanction for organizing same-sex weddings according to Decree 110/2013/NĐ-CP, the law has still not recognized this cohabiting relationship.

This creates legal inequality compared to opposite-sex couples who cohabit as spouses or register for marriage, which is inconsistent with the principle of non-discrimination (ICCPR Article 26). Human rights—particularly the right to family and the right to privacy—form the theoretical basis for recognizing same-sex couples’ right to cohabit as spouses. When international law and standards, such as the Yogyakarta Principles, acknowledge this right, perhaps it is time for Vietnam to reconsider its non-recognition of same-sex cohabiting relationships under the law.

Therefore, the recognition and establishment of a legal framework for the right of same-sex couples to live together as husband and wife is an essential step in advancing a comprehensive and equitable human rights approach in Vietnam. Ensuring legal equality for citizens of all sexual orientations reflects the responsibility of a rule-of-law state in protecting vulnerable groups.

## 2.2. The Current Status of Recognizing the Right of Same-Sex Couples to Cohabit as Spouses in Vietnam and Future Directions

In Vietnam, human rights issues are also upheld and respected by the Vietnam Party, Vietnam Government. For example, the 2013 Constitution, passed by the National Assembly of the Socialist Republic of Vietnam on 28 November 2013, affirms that human rights are “recognized, respected, protected, and guaranteed.”<sup>13</sup> Vietnam has made notable progress in recognizing the rights of same-sex individuals, particularly by abolishing the provision prohibiting marriage between people of the same sex. Previously, under the 2000 Law on Marriage and Family, same-sex marriage was

<sup>13</sup> Article 3 of the 2013 Constitution.

classified as a prohibited act.<sup>[14]</sup> This behavior was subject to administrative penalties, with fines ranging from 100,000 VND to 500,000 VND, as stipulated in Point e, Clause 1, Article 8 of Decree No. 87/2001/NĐ-CP dated 21 November 2001, issued by the Government on administrative sanctions in the field of marriage and family. In 2013, the Government issued Decree No. 110/2013/NĐ-CP, dated 4 September 2013, regulating administrative sanctions in the fields of judicial assistance, civil status, marriage and family, civil judgment enforcement, and bankruptcy of enterprises and cooperatives. Under this Decree, same-sex marriage is no longer subject to administrative penalties.

The draft amendment to the Law on Marriage and Family also presents two viewpoints on this issue. The first viewpoint agrees to continue prohibiting same-sex marriage for various reasons. The second viewpoint proposes removing the prohibition, while not legally recognizing the relationship, and suggests that the law should include provisions that, on one hand, help prevent discriminatory attitudes toward people of the same sex, and, on the other hand, provide a legal basis for resolving issues related to property and children (if any) in cases where same-sex couples live together as spouses.<sup>[15]</sup> On 19 June 2014, the National Assembly passed the 2014 Law on Marriage and Family, which removed the ban on same-sex marriage and instead stated that such relationships would not be recognized. Specifically, Clause 2, Article 8 of the 2014 Law on Marriage and Family states: "The State does not recognize marriage between people of the same sex."

The abolition of the ban on same-sex marriage in a legal document at this time was considered a step that was appropriate for the socio-economic development context, demonstrating the state's views and management approach to this issue amid socio-economic development and global trends.<sup>[16]</sup> Although the law has not yet progressed to recognizing marriage between people of the same sex, various influencing factors remain, such as traditional views on marriage, beliefs about preserving lineage, and the notion

<sup>14</sup> Clause 5, Article 10 of the 2000 Law on Marriage and Family, Law No. 22/2000/QH10, dated 9 June 2000.

<sup>15</sup> Tue Van, "Proposal to Remove the Ban on Same-Sex Marriage," *Government Newspaper*, 7 August 2025.

<sup>16</sup> Vo Van Thanh, Le Kien, and Chi Mai, "Same-Sex Marriage: Why Is It Not Yet Recognized?" *Tuoi Tre*, 6 August 2025.

of building a family consisting of parents and children,<sup>[17]</sup> then the removal of the prohibition has demonstrated a shift in the state's approach and governance of this issue toward a more open and progressive direction.

From a social perspective, this regulation means that same-sex couples are still not allowed to register their marriage and it has no legal effect, but they are permitted to hold wedding ceremonies as a form of social rather than legal expression.<sup>[18]</sup> This shows that the State wants to maintain a buffer – “not yet legally recognized, but permitted culturally and socially” – as a cautious step to observe, to allow time to gauge the level of social acceptance and political debate, before considering stronger measures.

This provision holds significant meaning for same-sex couples, as it allows them to publicly hold wedding ceremonies – a ritual deeply symbolic in Vietnam's marriage traditions.

At the same time, the removal of the prohibition on same-sex marriage can also be understood as an indirect acknowledgment of the right to freely choose a life partner, and the right of same-sex couples to live together as spouses, even though it does not yet amount to full legal recognition equivalent to lawful marriage.

From a human rights perspective, abolishing the ban on same-sex marriage is meaningful in expanding the legal space for the right to freely choose one's lifestyle and the right to privacy-rights enshrined in international treaties to which Vietnam is a party, particularly the International Covenant on Civil and Political Rights (ICCPR). The absence of prohibitive provisions reflects a human rights-based approach and lays the groundwork for further legal reforms toward ensuring equality in terms of gender and sexual orientation.

In cases where same-sex couples live together as spouses and jointly acquire property, such property is considered shared ownership by portions, as stipulated in Article 209 of the 2015 Civil Code. According to this provision, shared ownership by portions refers to joint ownership in which each co-owner's share in the common property is clearly defined. Each co-owner has rights and obligations with respect to the jointly owned property

<sup>17</sup> *Public Opinion Survey Results on Same-Sex Marriage* (Hanoi: The Gioi Publishers, 2013), 18.

<sup>18</sup> Van Phuc Nguyen, “Regulating Same-Sex Marriage in Vietnam: Negotiations between Legalisation and Social Recognition” *Ridao*, 10 August 2025.

corresponding to their ownership share, unless otherwise agreed.<sup>[19]</sup> In cases where the parties request the division of assets acquired during their cohabitation as spouses, they can petition the Court for a resolution. The Court will rely on the parties' agreement or their proportional contributions to divide the assets. However, if there is a dispute, the parties must prove their contribution to creating the shared assets, which can be a complex issue for same-sex couples. A survey shows that in cohabiting relationships between same-sex partners, assets gradually accumulate and become more complex over time. The longer the cohabitation, the more joint assets are acquired and accumulated. In the 35-49 age group, up to 55% of cohabiting couples jointly own high-value assets (such as cars, savings accounts, gold, etc.), 50% have joint business investments, 57.9% jointly own land and houses (though the registration papers are in only one person's name), and 20% report owning land and houses in both their names. These percentages are significantly lower in the two younger age groups. Specifically, only 37.4% of the 24-34 age group reported having joint business investments with their partners, and this rate drops to 23.8% for the 19-24 age group.<sup>[20]</sup>

Compared to same-sex couples living together as spouses, the legal resolution of consequences arising during cohabitation for opposite-sex couples is more clearly defined. If the parties request a divorce, the Court will accept the case and issue a ruling not recognizing the marital relationship.<sup>[21]</sup> The rights and obligations between a man and a woman living together as husband and wife, and their children, shall be resolved in accordance with the provisions of the 2014 Law on Marriage and Family, regarding the rights and obligations of parents and children.<sup>[22]</sup> Accordingly, this includes rights such as alimony, representation of the child, and inheritance rights. Notably, the regulations on resolving property relations must ensure the lawful rights and interests of women and children;

<sup>19</sup> Article 209 of the Civil Code, Law No. 91/2015/QH13, dated 24 November 2015.

<sup>20</sup> Vu Thanh Long, Do Quynh Anh, and Chu, Lan Anh, "Same-Sex Cohabitation: Love and Cohabitation of Gay, Bisexual, and Transgender People in Vietnam" *iSee*, 12 August 2025.

<sup>21</sup> Clause 2, Article 53 of the Law on Marriage and Family, Law No. 52/2014/QH13, dated 19 June 2014.

<sup>22</sup> Article 15 of the Law on Marriage and Family, Law No. 52/2014/QH13, dated 19 June 2014.

domestic work and other tasks related to maintaining the shared household are considered as income-generating labor.<sup>[23]</sup>

From the above analysis, it can be seen that current Vietnamese law devotes a certain level of attention to the cohabitation of same-sex couples as husband and wife. However, after more than 10 years of implementing the 2014 Law on Marriage and Family, the law still does not recognize the right of same-sex couples to live together as husband and wife under any legal framework.

## 2.3. Orientation for Developing Laws on the Right of Same-Sex Couples to Cohabit as Spouses in Vietnam from a Human Rights-Based Approach

### 2.3.1. Legal Shortcomings in the Lack of Recognition of Same-Sex Couples' Right to Cohabit as Spouses in Vietnam

From the above analysis, the fact that Vietnamese law has not yet recognized the right of same-sex couples to cohabit as spouses leads to the following shortcomings.

Firstly, the lack of a legal basis to protect the rights and interests of the parties. Article 8, Clause 2 of the current Law on Marriage and Family demonstrates a limited neutrality, meaning it neither prohibits, nor recognizes or regulates. Meanwhile, the 2015 Civil Code and other related laws do not provide any legal mechanism to protect cohabitation relationships between same-sex individuals as a form of personal relationship in marriage and family. The consequence of this non-recognition is clear: same-sex couples living together cannot ask a court to dissolve their relationship, do not have rights to marital and family property, have no inheritance rights, lack the legal standing to act as a representative when one partner is ill, has an accident, or dies, and are unable to jointly adopt a child as legally prescribed. According to the report, "Being LGBT in Asia: Viet Nam Country Report," the LGBT community in Vietnam confirms that:

<sup>23</sup> Article 16 of the Law on Marriage and Family, Law No. 52/2014/QH13, dated 19 June 2014.

More than 70% of surveyed LGBT people state that the biggest difficulty is not being recognized and protected by law, which leads to serious consequences in their real-life cohabitation as a family.<sup>[24]</sup>

Thus, the law does not provide a legal framework for same-sex relationships to be established and protected as a legitimate form of cohabitation. Same-sex couples living together are not legally recognized as 'husband' or 'wife', which leads to significant limitations in the establishment, exercise, and protection of personal rights. They lack the legal basis to act as each other's lawful representative in medical, civil, or administrative situations.

Secondly, their human rights are not fully guaranteed. The 2013 Constitution affirms that human rights are to be respected, protected, and guaranteed. At the same time, Vietnam is a member of several important international conventions such as the ICCPR, ICESCR, and CEDAW, all of which emphasize the principle of non-discrimination. From a human rights perspective, the lack of legal recognition of same-sex couples' cohabitation as spouses in a specific legal form may lead to certain limitations, creating a legal gap, whereby LGBT couples are not able to equally enjoy fundamental human rights as heterosexual couples in securing their rights and benefits. In some cases, this may be seen as a lack of compatibility with the principles of equality before the law and the right to privacy, as enshrined in the International Covenant on Civil and Political Rights (ICCPR) – particularly Articles 17 and 26, as discussed above.

### 2.3.2. Legal Orientations toward Recognizing and Ensuring the Right of Same-Sex Couples to Cohabit as Spouses based on a Human Rights Approach

Before 2008, the LGBT community in Vietnam was often viewed as a "social evil." Subsequently, through the activities of civil society organizations (NGOs) and media, the LGBT community has made efforts to change the perception from "social evil" to that of a "human being" meaning ordinary citizens whose personal and human rights are respected.<sup>[25]</sup> To improve

<sup>24</sup> UNDP, USAID, *Being LGBT in Asia: Viet Nam Country Report* (Bangkok: UNDP and USAID, 2014), 38

<sup>25</sup> Pham Quynh Phuong, "From "Social Evils" to "Human Beings": Vietnam's LGBT Movement and the Politics of Recognition" *Journal of Current Southeast Asian Affairs*, 41 (2022): 423.

closer to international human rights standards, Vietnam should consider developing legal provisions related to the right of same-sex couples to live together as husband and wife.

Firstly, recognize a legal form for same-sex couples living together as spouses. At present, the recognition of same-sex marriage in Vietnam remains unfeasible. However, establishing a legal framework for same-sex cohabiting relationships is achievable. This would provide same-sex couples with a certain legal status, thereby ensuring their lawful rights and interests in social life. Currently, countries around the world have established various forms of legally recognized cohabitation, similar to marriage, such as civil partnerships in the United Kingdom, the Pacte Civil de Solidarité (PACS) in France, registered life partnerships in Germany, registered partnerships in Sweden, and both civil unions and domestic partnerships in the United States.<sup>[26]</sup>

A prime example is France, which adopted the form of a civil solidarity pact (Pacte civil de solidarité – PACS) in 1999. Regulated by the French Civil Code, the civil solidarity pact (PACS) is a contract entered into by two adult individuals, whether different-sex or same-sex, to organize their cohabitation. Those who wish to establish a PACS can register it with the competent authority. Dissolving a PACS is also simpler than divorce. It can be terminated by the marriage of one or both partners, the death of one or both partners, by a joint declaration from the partners, or by a unilateral decision of one of them.<sup>[27]</sup> In the United Kingdom, the Civil Partnership Act 2004 (Effective from late 2005) and has undergone several amendments, allowing same-sex couples in England and Wales to register civil partnerships. Initially, this form was available only to same-sex couples, and later it was extended to opposite-sex couples. In 2019, the legal system in England and Wales reached a significant milestone by officially allowing opposite-sex couples to register a civil partnership—a provision that had previously applied only to same-sex couples since 2005. This change was the result of a long political campaign, including numerous private member's bills and a landmark ruling by the Supreme Court in the case of *Steinfeld and Keidan v. Secretary of International Development* (2018).<sup>[28]</sup> According to

<sup>26</sup> Le Quang Binh, "Same-Sex Marriage: Global Trends, Social Impacts, and Lessons Learned for Vietnam" *Civil Law Information*, 19 September 2025.

<sup>27</sup> Articles 515-7, Code civil, last modified 4 August 2025. <https://www.legifrance.gouv.fr/>.

<sup>28</sup> Jacqueline Humphreys, "The Civil Partnership Act 2004, Same Sex Marriage and the Church of England." *Ecclesiastical Law Journal*, 8 (2006): 289.

the regulations, to register a civil partnership, individuals must be at least 18 years old and follow the specified registration procedures. Once the procedures are complete, the couple is issued a civil partnership certificate. When the civil partnership becomes irretrievably broken, the couple can petition the court to dissolve the relationship.<sup>[29]</sup> A civil partnership can also be terminated if it is declared void, or when one or both partners die.

Therefore, if Vietnam is to legally recognize same-sex cohabitation, a comprehensive legal framework must be established to govern such relationships. Specifically, regulations should define the conditions for registration, including age requirements, marital status (i.e., being single and not currently in a cohabiting relationship with another person), and certain prohibited cases of cohabitation. The registration procedures should also be clearly outlined to ensure public acknowledgment of the relationship, thereby enabling legal protection and recognition.<sup>[30]</sup> In addition, regulations concerning the termination of cohabitation should be clearly articulated. These may include cases where one or both parties pass away, one party enters into a legally recognized marriage with another individual, or either party requests to end the cohabiting relationship. Such provisions are necessary to ensure legal clarity and protect the rights and obligations of the individuals involved.

Secondly, regulations on the legal rights and obligations of each party in a cohabitation relationship. In legal relations, their content includes the rights and obligations between the parties. When the law recognizes the cohabitation of same-sex couples, they also have certain rights and obligations toward each other. Each party in the cohabiting relationship is responsible not only for ensuring material support to maintain a stable shared life but also for providing emotional support, thereby laying the foundation for a sustainable and harmonious relationship. For PACS couples, Article 515-4 of the French Civil Code likewise stipulates that partners must provide each other with both material and emotional support.

Thirdly, establish a mechanism to protect property rights, representation rights, and inheritance rights for same-sex couples living together. This suggestion is inspired by the laws of the French Republic and the United Kingdom. PACS provides benefits related to joint assets, taxes, and social

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<sup>29</sup> Section 37, Part 1, Civil Partnership Act 2004. <https://www.legislation.gov.uk/ukpga/2004/33/section/37>.

<sup>30</sup> Cao Vu Minh, "Should a civil partnership institution be recognized between two people of the same sex" *Journal of Legislative Studies*, 8 August 2025.

welfare, but these are less extensive than those of formal marriage. For example, couples in a PACS do not have the right to jointly adopt children like married couples do. For civil partnerships in the UK, this relationship grants nearly all the rights and obligations equivalent to marriage, including property division, pension benefits, medical decision-making rights, inheritance, recognition as legal next of kin in hospitals, and access to social benefits.<sup>[31]</sup>

Once the right to cohabit as spouses is legally recognized for same-sex couples in Vietnam, it becomes essential to establish mechanisms for the protection of their rights. These rights should, at a minimum, be equivalent to those currently afforded to opposite-sex couples who cohabit without formal marriage registration. This includes the need for legal provisions governing the resolution of personal and property-related matters upon request. Accordingly, the next step for Vietnam is to revise relevant legal documents, such as the Civil Code, the Law on Marriage and Family, and the Law on Civil Status, in order to provide a legal basis for the establishment and resolution of rights and obligations arising from such relationships.

### 3 | Conclusion

Approaching human rights in the development of laws concerning the rights of same-sex couples to live together as spouses is a highly practical issue in Vietnam. The reality is that same-sex couples living together as spouses is increasingly common, yet there is no robust legal framework to protect their legitimate rights and interests. This situation remains incompatible with international human rights instruments, such as the ICCPR (Articles 17 and 26) and the Yogyakarta Principles (Principle 24), which require member states to address these gaps. In practice, although same-sex couples in Vietnam may live together and hold wedding ceremonies without prohibition, their fundamental legal rights and interests—such as marital-like joint property, inheritance rights, and personal representation—are not adequately guaranteed. Meanwhile, many countries, such as France with its PACS system and the United Kingdom with

<sup>31</sup> Humphreys, “The Civil Partnership Act 2004, Same Sex Marriage and the Church of England.”

civil partnerships under the Civil Partnership Act 2004, have responsibly recognized and protected same-sex cohabiting relationships, gradually moving toward full marriage equality.

For Vietnam, a legal model equivalent to a “civil partnership” could be an appropriate option at the present stage to initially recognize the right of same-sex couples to live together as spouses. Although not identical to marriage, it would still ensure fundamental rights. The legal recognition of same-sex cohabiting relationships would not only align with the domestic trend of improving marriage and family law, but also demonstrate Vietnam’s commitment to the process of international integration on human rights.

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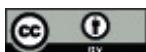
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