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Abstract
Labor law is traditionally viewed as a crucial mechanism for advancing gender equality in the workplace by providing a framework to eliminate sex-based discrimination and enhance women’s participation in the workforce. As nations strive to achieve the UN’s Sustainable Development Goals (SDGs), the significance of such laws is amplified, with gender equality not only a key indicator but also an enabler for other SDGs. This study demonstrates that, despite recent reforms in Vietnam's labour law reducing barriers to female employment, pervasive gender inequality persists, fuelled by enduring employment stereotypes that often depict women as victims. To develop a sustainable workforce, Vietnam's labor laws and policies should implement strategies to dismantle these stereotypes. This research suggests transitioning from the traditional approach of female protection to involving men in domestic roles. A strategy targeting men is expected to promote gender equality in the Vietnamese workforce by altering employer perceptions of female employees' maternal roles. From the perspective of masculinity theory, the potential of paternity bonuses is significant; they can enhance women’s career opportunities by alleviating domestic burdens and broadening acceptable roles for men.

Keywords
Gender equality, Vietnam labour law, employment, male-targeted policies, sustainable development, masculinity theory

To cite this article: Dang, H. M. (2024). Gender Equality in Vietnam Labour Law: A Critique Toward Sustainable Development. Masculinity & Social Change, Online First – First Published on 19th July, 2024, pp. 1-26 http://dx.doi.org/10.17583/msc.14102

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Igualdad de Género en la Ley Laboral de Vietnam:
Una Crítica hacia el Desarrollo Sostenible
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Resumen

La ley laboral es crucial para avanzar en la igualdad de género en el lugar de trabajo, eliminando la discriminación por sexo y mejorando la participación femenina en la fuerza laboral. Al esforzarse por alcanzar los Objetivos de Desarrollo Sostenible (ODS) de la ONU, la importancia de estas leyes se amplifica, ya que la igualdad de género es clave y un habilitador para otros ODS. Este estudio demuestra que, a pesar de las reformas recientes en la ley laboral de Vietnam que reducen las barreras al empleo femenino, persiste una desigualdad de género alimentada por estereotipos laborales que a menudo representan a las mujeres como víctimas. Para desarrollar una fuerza laboral sostenible, las políticas laborales de Vietnam deben desmantelar estos estereotipos. Esta investigación sugiere pasar del enfoque tradicional de protección femenina hacia la participación de los hombres en las tareas domésticas. Se espera que una estrategia dirigida a los hombres promueva la igualdad de género en la fuerza laboral vietnamita al cambiar las percepciones de los empleadores sobre los roles maternales de las empleadas. Los bonos de paternidad pueden mejorar las oportunidades profesionales de las mujeres al aliviar las cargas domésticas y ampliar los roles aceptables para los hombres.

Palabras clave
Igualdad de género, ley laboral de Vietnam, empleo, políticas dirigidas a hombres, desarrollo sostenible, teoría de la masculinidad

http://dx.doi.org/10.17583/mse.14102

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In the modern context, gender equality in any aspect, particularly in the workplace, is regarded as an important contributor to the achievement of the sustainable development (Leach et al., 2016). This concept has first been introduced in the well-known 1987 Brundtland report of “Our Common Future”, which has been realized widely since then as “…development that meets the needs of the present without compromising the ability of future generations to meet their own needs…” (UN, 1987, p. 41). Later, sustainable development became the cornerstone of the UN 2030 Agenda for Sustainable Development, which comprises 17 Sustainable Development Goals (SDGs). These goals universally calls for actions to end poverty, protect the planet, and ensure that by 2030 all people are going to enjoy peace and prosperity (UN, 2022). Among these SDGs, gender equality and empowering women (SDG 5) are often recognized as essential instruments for facilitating sustainable development. More broadly, gender equality is often viewed as an enabler for the implementation of all 17 SDGs due to its overarching significance (UN, 2022). This strong relationship indicates that advancing gender equality in any sector will contribute to achieving of sustainable development. Conversely, sustainable development cannot be promoted without gender equality (Leach et al., 2016, p. 6).

Like any other countries, women in Vietnam make up a half of the country’s population and together with male counterparts, their participation in the workforce importantly contributes to the national economic growth. Despite the high involvement of women in the country’s economic activities, their participation remain challenged (SNV, 2017). Although Vietnamese women’s workforce participation is higher than that of women in other countries in the region and globally (with 70.9% of working-age women in Vietnam participating in the workforce in 2019, compared to 47.2% globally and 43.9% in Asia and the Pacific), gender inequality remains pervasive in Vietnam’s labour market (Barcucci et al., 2021). The gender gap in the labour force between men and women has been relatively low at 9.5 percentage points over the past decade, compared to an average of 32 percentage points across the Asia-Pacific region (Barcucci et al., 2021, p. 2). This inequality is evident not only in the lower workforce participation rate of women compared to men but also in the quality of jobs and the lower wages women receive for the same work as their male counterparts (Barcucci et al., 2021, p. 3; Bertay et al., 2020). This unequal situation not only hinders Vietnam’s commitments to attaining the SDGs but also raises questions about the effectiveness of the Vietnam’s labour policies in securing gender equality. Accordingly, labour laws are deemed one of the most important tools in eliminating discriminations and securing gender equality (Elborgh-Woytek et al., 2013). These legal tools are mandated with the special functions of providing a basic framework for women to have an equal access to job opportunities and to secure the equal treatments in the workplace, such as equal pay, promotion and career advancement (Cooksey, 1966; Fisher, 1948; Snell, 1979, p. 40). Therefore, the current gender inequality in labour market highlights the deficiencies of the Vietnam’s labour laws, which may, in turn, impair the country’s progress toward fulfilling the SDGs.

Despite the importance of this issue, there is a significant lack of literature exploring how Vietnam’s labour laws have been regulated to achieve the SDGs to which the country is committed. Existing research on gender equality in Vietnam has mainly focused on the roles of women in the economic sector and the presence of gender disparities across various
industries (Duong, 2001; Goodkind, 1995; Knodel et al., 2005; Liu, 2004; Schuler et al., 2006; Tran & Walter, 2014; Werner, 2009). These studies typically provide provisional solutions or recommendations to address gender inequalities within specific contexts. Regarding labour regulations, the discourse has predominantly centred on examining working conditions and advocating for the rights of female employees from various employment perspectives (Dang, 2021; Doan & Dang, 2023; Mừng, 2021; Phương & Huyền, 2022; Phượng, 2021; Thủy, 2019). However, there is a notable scarcity of in-depth studies that investigate the root causes of gender discrimination in the labour sector to develop appropriate legal solutions to sustainably eliminate the gender-based discrimination in the employment. Notably, there is a lack of research employing masculinity theory discussions to explain and resolve this issue from a gender-based perspective. This research gap highlights the need for further study on gender inequality in employment, with the primary objective of finding gender-responsive solutions to sustainably secure the gender equality in the workplace.

Against this backdrop, this study aims to identify an appropriate approach in public policies to advance gender equality in the workplace. The objective is to develop and integrate a comprehensive gender-based strategy within the national labour legal framework to promote gender equality and facilitate the creation of a sustainable workforce. Based on the theoretical framework of gender stereotypes and an analysis of the principles aimed at eliminating sexual discrimination in Vietnam's labour law, this study argues that the current approaches in Vietnam's labour law have failed to adequately challenge gender inequality and have, in some cases, exacerbated gender disparities. This underscores the need for a more robust approach to securing gender equality in the workplace through legislative measures. Drawing from these analyses and incorporating discussions on masculinity theory, this study proposes recommendations to enhance labour laws, aligning them with modern approaches and the experiences of countries with high rankings in gender equality. By doing so, this research makes a significant contribution to understanding and advancing gender equality in Vietnam's workforce. It not only identifies critical gaps and deficiencies that perpetuate gender-based discrimination in current laws but also provides a foundation for legal reforms by incorporating a gender-responsive strategy into labour legislation. This multifaceted approach addresses the root causes of gender inequality, fostering a more equitable labour market and broadening the discussion on the role of masculinity theory in labour law.

**Theoretical Frameworks of Gender Inequality in The Employment Context**

**Gender Stereotypes and Workplace Discriminations**

The sexual division of labour is widely accepted, with homemaking traditionally seen as women's primary duty and income generation as men's main role. (Hakim, 1996; Lyonette, 2013). This acceptance of differentiated sex roles enables many fundamental differences between men and women regarding work orientations, labour market behaviours and life goals. By these gender-based beliefs, a prevalent and widely held gender stereotype has been established which demonstrates the characteristics of both sexes when they carry paid jobs
These attributes frequently exhibit contradiction as males are seen as deficient in qualities that women possess, and vice versa. Accordingly, since men are described as achievement-oriented or having ‘agentic’ personalities, they are often characterised as aggressive, forceful, independent, and decisive (Heilman, 2001). On the other hand, women are often seen as having community characteristics, which include being socially and service-oriented (Bakan, 1966). These ‘communal’ traits frame women within feminist personalities, such as being kind, helpful, sympathetic, and concerned about others (Heilman, 2001). To sum up, gender beliefs about ‘agentic’ or ‘communal’ characteristics are often seen as descriptive stereotypes about men and women, both in work and nonwork settings (Heilman, 2001).

It is worth noting that besides descriptive components, gender stereotypes are also prescriptive. Not only refers to the differences in how women and men are, but prescriptive gender stereotypes also imply the behavioural expectations about how women and men should be, which constitute the norms for each sex (Burgess & Borgida, 1999; Eagly et al., 1991; Terborg, 1977). In line with this, the women’s ‘communal’ or men’s ‘agentic’ gender stereotype–based norms will be interpreted as their ‘shoulds’ (Eagly et al., 1991), while ‘should nots’ denotes that men’s behaviours will be seen as incompatible or inappropriate with the conduct viewed acceptable for women. Similarly, women are not expected to be agentic since this is a men’s normative prescription.

In employment, gender discrimination happens when applicants or employees are treated unfavourably because of their sex (Padrón et al., 2023). Accordingly, the distinctions between the descriptive and prescriptive components of gender stereotypes highlight the two ways in which stereotypes may lead to gender-based discrimination (Heilman & Caleo, 2018). The descriptive gender stereotype component enables job discrimination for two reasons: Firstly, it labels men or women as lacking the necessary attributes to succeed in either female- or male-dominated occupations; Secondly, due to the influence of gender stereotypes in the evaluation criteria for certain occupations, the application of these biassed criteria in the hiring and promotion process can have a detrimental impact on either male and female workers. This is because they are less likely to be perceived as possessing the required qualities when they apply for jobs traditionally associated with the opposite sex (Fiske et al., 1991). These reasons thus prove that the mismatch between the gender factors in occupational qualifications and descriptive stereotypes is the source of discrimination in employment (Burgess & Borgida, 1999). This prejudice is naturally occurring since it does not need any biased intention to discriminate, nor does it necessitate the decision maker to have any animosity against men or women.

The prescriptive component also leads to discrimination under forms of disparate treatment of men or women when they violate the common beliefs about how each sex should behave (Burgess & Borgida, 1999; Prentice & Carranza, 2002). Although women are more likely to be discriminated for prescriptive stereotypes, which is often committed by male to maintain power imbalances that benefit them (Stockdale et al., 1999), in some specific circumstances men may also be regarded as victims when they pursue careers in female-dominated fields such as kindergarten or babysitter jobs (Simpson, 2004). In this case, men will be punished by either hostile environment intimidation or the devaluation of their performance since they violate the
normative beliefs of being workers who must undertake male-labelled jobs. Generally, men (or women) may face antagonistic and demeaning behaviour from women (or men) who feel resentful towards the encroachment of these men (or women) in their sphere of influence. Furthermore, they may also be negatively evaluated and be denied positions and promotions even when they are deemed more competent than the other sex counterparts in these working domains.

The Unfit Role of Women in the Labour World

Although men and women are equally prone to engaging in discrimination based on the descriptive and prescriptive components of gender stereotypes, women can be more disadvantaged (Sweet-Cushman, 2022). Descriptive aspects of gender stereotypes may result in women being assimilated into various conceptualisations of the female stereotype. Consequently, women may be perceived as unfit for formal employment, which mainly consists of male-dominated industries and occupations (Gaines, 2017). This can be justified by the constant biases against hiring women for many occupations and lower performance evaluations when they carry male-typed tasks (Jonnergård & Stafsudd, 2010). Moreover, stereotyping based on the descriptive component may also fail to perceive certain types of women (e.g. lesbian women or transgendered women) as being the victims of certain types of sexual harassment because such women do not match the prototype of a typical victim (Mezzapelle & Reiman, 2022).

The prescriptive component of gender stereotypes may also lead to the devaluation and even harassment of women who violate specific gender role prescriptions (Rudman & Phelan, 2008). As a result, women are more relevant in legal disputes related to hostile work environments or other accusations of sex discrimination, specifically in terms of unequal treatment. Accordingly, women who exhibit authoritarian behaviour or work in historically male-dominated professions are more prone to be negatively sanctioned (Nielsen et al., 2015). Some people may hold negative opinions about women who do not conform to the conventional homemaker role. These negative opinions are more likely to focus on the communal or interpersonal dimension rather than the competency dimension of women. Women may also face sex discrimination more often in the form of sexual harassment when they fail to conform to societal expectations of being sexually appealing and open to male sexual advances (Holland et al., 2016).

Against those backdrops, women are often regarded as typical victims of gender-based abuse due to gender stereotypes in employment (Saksena, 2007, p. 488). These gender stereotypes have not only formed hindrances and restricted women in employment and occupations but also labelled them as unfit for joining the labour world. Gender stereotypes enable gender disparity to happen in the labour market, and without serious steps to tackle this issue, not only women are disadvantaged, but also the process of achieving the country's sustainable development will be tremendously retarded (Stevens, 2010).
Gender Equality in Employment and the Role of Labour Laws

'Gender' refers to the rules, norms, customs, and practices by which biological differences between males and females are translated into socially constructed differences between men and women, boys and girls so that the two genders are valued differently and are given unequal opportunities and life chances (Pryzgoda & Chrisler, 2000). This concept gives rise to the claim of gender equality, which is defined as a situation where “… all human beings are free to develop their personal abilities and make choices without the limitations set by strict gender roles; that the different aspirations and needs of women and men are considered, valued and favoured equally” (Neuhold & Weiss-Gänger, 2010, p. 5; UNFPA, 2005). In this line, equality between men and women can be promoted by identifying and redressing power imbalances, together with giving women more autonomy to manage their lives, particularly in economic aspects such as jobs and employment (Arat, 2015).

The role of law in addressing gender disparity in employment is generally recognised (Cooksey, 1966; Gow & Middlemiss, 2012; Heaton, 2005; MacKinnon, 1991; Orifici, 2019). By establishing a framework that empowers women to participate in paid jobs, legislation may effectively challenge the existing gender disparities and promote gender equality (Grown et al., 2005, p. 101). Despite the length and complexity of legislative processes, laws that are carefully designed, enforced, evaluated, and financed can be highly effective in advancing not just gender equality but also the SDGs achievement (Shanthosh, 2023). This is because complete and adequate workforce participation and decent work for all are keys to inclusive and sustainable economic growth (Lagarde, 2013). To combating gender inequality effectively in employment aspects, the law should be robustly functioned to deconstruct the unfit gender stereotype of women and further engage them in the labour market (Hudson, 2005).

The remaining questions then focus on how these laws and policies will be regulated and what approach should be appropriately engaged. Gender equality in laws and regulations often prioritises protective measures, which involve providing specific considerations to compensate for the disadvantages women face while participating in the workforce compared to males (McCrudden, 1993). This strategy refers to the norms, processes and institutions required to shield women from critical and pervasive gender-based discrimination. It implies a ‘top-down’ approach in which states are primarily responsible for implementing such a protective structure through laws and legal enforcement (Rachlinski, 2006). Moreover, since women's empowerment is critical in acquiring gender equality (Sarfaraz et al., 2014), the laws enable and empower them with special conditions to let them proactively engage, participate, and make decisions in all activities unavailable to them before. This bottom-up approach facilitates women to develop their capabilities to have the “ability to make strategic life choices where that ability had been previously denied them” (Malhotra et al., 2009). Empowering women by law is thus essential not only in securing gender equality but also in socioeconomic development (Kabeer & Natali, 2013, p. 14).

By engaging these strategies in labour law, female workers' protection and empowerment are mutually reinforced (Leach et al., 2016; Muguruza, 2007). The protected female workers can exercise many choices, and when empowered, they can avoid some risks and demand improvements in the protection system. However, those female-focused strategies are criticised...
for the practical effect that they may have on the outcome of gender equality (Bumiller, 2007). The gender stereotypes against women will persistently remain or even be enhanced once the laws reserve female workers with separate privileges (Wright, 1979). These law-defined favourable conditions will result in significant costs on the employer's responsibility and thus further enhance the unfit stereotype of women in the employment context (Brodin, 1987; Fischel & Lazear, 1986; Holzhauer, 1986). In general, a strong emphasis on protection or empowerment initiatives diminishes the appeal of using the law to address gender inequality.

This situation highlights that to eliminate gender-based discrimination, legal provisions must effectively cease gender stereotypes. As mentioned previously, the descriptive and prescriptive gender stereotypes perfectly mould women as homemakers or the guards of the families. This creates the most significant obstacle that women face is the double workload of work and family caring while participating in the workforce (Newell, 1993). From the employer's view, this gender stereotype is interpreted as maternal profiling, which refers to the beliefs about the costs and the job interruption that they often have on female workers (McPhail, 2008). Accordingly, employers are hesitant to employ women due to the workplace departures and replacement training costs happening during maternity leave, which in turn contributes to gender disparity in the workplace (Felmlee, 1982). Employers often see these tendencies and anticipate that all female applicants will eventually decrease their level of engagement in the workplace, irrespective of the specific intentions or actions of any particular female employee. Consequently, maternal profiling is assumed not just by pregnant women but also by all female employees since employers see all women, regardless of whether they have children or not, as prospective domestic caregivers (Cunningham-Parmeter, 2014).

In order to alter the employer's antagonistic stance towards maternal profiling, it is essential to promote and incentivise males to embrace conciliatory actions by actively participating in the distribution of home responsibilities alongside women (Doucet, 2000). Including men in the responsibility of family caring would help address imbalanced relationships and their negative consequences on a significant portion of society. Based on this concept, some European nations consider granting paternal leave to male workers when their spouses give birth a viable option to advance gender equality (Figueroa et al., 2023). Accordingly, a well-designed parental leave scheme would not just shift the expenses of procreation onto one gender. If both moms and dads were equally likely to take parental leave, employers would no longer be able to assume that only women would leave the job. This would undermine employers' justification for gender-based statistical discrimination in their recruiting practices (Brighouse & Wright, 2008, p. 370). Undoubtedly, employers may still engage in statistical discrimination against parents, but this would rely on a far less robust justification compared to the existing practice of using sex as a proxy (Brighouse & Wright, 2008). Indeed, considering the challenges that employees face in expressing their desire to parent or not, almost every employee of reproductive age would expose employers to the risk of early career disruptions, which would substantially undermine the ability to discriminate against any specific individual (Issacharoff & Rosenblum, 1994). Despite these benefits, male-targeted legislative strategies have limitations. Undoubtedly, no single measure can completely absolve women of the financial burden of statistical discrimination such as wage inequalities (Haas & Hwang, 2008). Policies focusing on males partially reduce, rather than eliminate, the imbalances in caregiving responsibilities. Hence, it is imperative to acknowledge that the
primary objective of these policies may not be universal coequal parenting among couples but rather the attempt to ‘de-gender’ particular activities by undermining the notions associated with femininity and caregiving (Brighouse & Wright, 2008).

Methods

This research employs a normative legal methodology to evaluate the effectiveness of Vietnam’s labour laws in addressing gender-based discrimination in the workforce. By integrating comparative and economic approaches, the study offers a comprehensive understanding of the existing legal framework and its implications for gender equality. Through a comparison of Vietnam’s labour laws with international standards and best practices, the research identifies deficiencies and proposes necessary legal reforms.

The study is grounded in secondary data meticulously collected from various official sources, including government publications, legislative documents, and authoritative studies on labour laws and gender discrimination in Vietnam. This robust foundation ensures a comprehensive reflection of the current state of labour regulations and their practical implications for gender equality. The methods employed to analyse these secondary data include legal analysis to uncover shortcomings within the current legal framework, comparative analysis to highlight deficiencies by contrasting Vietnam’s labour laws with international standards, and economic analysis to assess the impact of these laws on women’s economic participation and career advancement. This combination of methods facilitates a nuanced understanding of both the legal and economic dimensions of gender-based discrimination.

The research procedure began with the identification and collection of pertinent legal texts, including the Labour Codes of 1994, 2012, and 2019, as well as relevant government reports and publications. Synthesising these analyses revealed the shortcomings of the current labour laws, leading to the formulation of recommendations for legal reforms. Drawing on discussions of masculinity theory and international experiences, the recommendations aim to enhance gender equality in the workplace by addressing the identified gaps and aligning Vietnam's labour laws with modern standards, thereby contributing to the achievement of sustainable development goals.

Gender Equality in Vietnam Labour Laws

The approach in Vietnam Labour Codes

The Labor Code 1994

The first Labour Code of Vietnam under the Socialist Republic regime was implemented in 1994 and established the framework for applying market principles in labour relations inside the country. It was the upshot of the economic reforms started in 1986 to transform the
economy from a centrally planned economy to a more market-driven one. The law established a system for hiring and employing workers through labour contracts based on market principles. Which significantly contributed to the formation and development of a progressive, harmonious, and stable labour market. In terms of the principle of eliminating sex-based discrimination, the Labor Code 1994 stipulated in Section 5 that “All persons shall have the right to work, the right to freely choose an employment and occupation […] without any discrimination in respect of sex […].” The role of the government and employers in securing gender equality in the workplace is particularly enhanced by specific responsibilities. Accordingly, the government should equally grant rights to both sexes and favourably regulate the working conditions for women. Employers are strictly prohibited from conducting any discriminatory behaviour that degrades female employee’s dignity and honour.

These guiding principles are codified into specific provisions in Chapter X of this Labor Code, with ten sections dedicated to the rights of female employees. Besides clarifying the requirements for eliminating sex-based discrimination, that Chapter favourably set the provisions about equal treatment for female employees at the workplace (equal pay, equal promotion in the career, working time in specific circumstances, employer’s responsibility for special facilities serving female employee…) as well as their duties while exercising their motherhood (maternity leave, special treatment for female workers in maternity leave or while taking care of children…). However, particular blatant discrimination still exists in provisions of the Labor Code 1994, which directly impaired the opportunity of female workers to participate in the labour market. Accordingly:

Section 113: No employer shall employ female workers for hard or dangerous work or work exposed to toxic substances that are harmful to their ability to bear and raise children, as specified in the lists established by the Ministry of Labour, War Disabled and Social Affairs and the Ministry of Health. […]

No employer shall employ female workers of any age in regular underground work in mines or for work immersed in water.

According to these provisions, women are not eligible to carry some specific jobs which may potentially expose them to health or reproductive risks. Another discrimination can be seen through the retirement age of 55 for female employees, while with male employees, this threshold was set at 60 (Section 123).

The Labour Code 2012

The increasing disputes between workers and employers in the new globalisation and participation contexts under market-oriented economy required the labour law to address these issues. After four years of debate with plenty of critical consideration demonstrated, the Vietnam Labour Code 2012 was passed to fulfil the shortcomings of the Labour Code 1994. The term gender equality was first used in this law while stipulating the responsibility of the government (Section 7) and the employer (Section 154) to eliminate discrimination. Although some changes were made in laws, such as the extension from 4 months to 6 months in the length of maternity leave for female employees when they give birth, or the female employee’s
right to be consulted when employer’s decisions may affect their rights and interests, the Labour Code 2012 had a similar stance towards gender matters as the Labour Code 1994. This law keeps focusing on protection strategies with separate provisions for female employees. The sex barrier for women to participate in the workforce similarly remained in this Labour Code when they could not take part in some specific occupations and had to leave the labour market earlier than men due to the gap in retirement age.

The Labour Code 2019

The latest legal instrument governing the employment relationship marks necessary improvements in eliminating gender discrimination to advance gender equality toward international standards (ILO, 2021a). There is no chapter with separate provisions for female employees as the 1994 and 2012 Labour Codes used to define. Instead, Chapter X of the Labour Code 2019 includes specific provisions for female employees and gender equality. In this line, the Vietnam Labour Code 2019 demonstrates a consistent approach to previous laws about protecting female workers and extends to a new and broader concept of gender equality. In this current Labour Code, legal restrictions on job access opportunities for female workers, which were persistently available in the previous ones, are finally lifted. As stipulated in Section 142, female employees are empowered to participate in any jobs, including ones which may adversely affect their reproductive and child-nursing functions, provided that they are provided in advance with adequate information about the employers' dangers, risks, and requirements of these jobs.

Two other significant changes are regulations about sexual harassment and parental leave, which were first defined in the Labour Code 2019. Besides determining the sexual harassment concept, the Labor Code 2019 further defines the employer's obligations as well as the responsibilities of the parties in combating this sexually discriminatory behaviour. Although some drawbacks have remained, such as there are no specific regulations about the procedure to investigate, assess, and conclude an act considered sexual harassment, this fulfilment of the Labor Code 2019 is essential for protecting female employees, who are mostly regarded as victims of sexual harassment. Furthermore, parental leave allows men whose wives give birth to extend their fatherhood and share childcare duties with their female counterparts. This is a cutting-edge improvement in the Labour Code 2019 since the labour law extends its traditional approach of focusing on protecting female employees to male-targeted benefits.

Critical Evaluations

The regulations about eliminating sex-based discrimination have been developed in Vietnam's Labour Codes with remarkable improvements to cope with the dynamic context of advancing gender equality and socioeconomic development. Protection strategy has pervasively been enshrined in laws, which implies women are a vulnerable group in the workforce. Therefore, the legal labour provisions compensate for women's disadvantages and facilitate further workforce participation. With a new approach toward gender equality, the current Labour Code is expected to effectively balance gender-related workplace issues. Firstly, this law consistently
upholds the traditional approach to gender equality established in previous labour laws, which emphasises that effectively eliminating sex-based discrimination will secure gender equality. This underscores the causal relationship between gender equality and anti-discrimination efforts. Consequently, the terms ‘gender equality’ and ‘anti-gender-based discrimination’ are often used interchangeably in the law, reflecting their intertwined purposes. Secondly, the current Labour Code further addresses workplace gender disparities by incorporating an empowerment strategy that enables women to freely choose their activities without restrictions (Social Committee, 2019). Based on this approach, women can equally participate in the labour market since the legal barriers used to prevent them are removed. Moreover, the gap in retirement age between males and females is also shortened while provisions about working conditions and sexual harassment are adjusted in line with international standards (ILO, 2020). Therefore, the combined approach in the current labour laws not only enhance the moral norms and values that have already been previously available but also present substantial developments to empower women and counter gender inequality (ILO, 2020).

These improvements have demonstrated some practical results, as the participation of Vietnamese women in the workforce is higher compared to other countries in the region and the average of the world, while the gender gap between men and women in the workforce remains low (ILO, 2021c, p. 2). However, the high level of female participation in economic activities is often misinterpreted as a positive indicator of gender equality in the country (ILO, 2021c). Women are, on average, found in lower-quality employment and are overrepresented in vulnerable jobs, particularly in family work. Even when women hold the same positions as men, they often receive lower pay despite working comparable hours and the progressive elimination of gender gaps in educational attainment (ILO, 2021c, p. 3). Therefore, despite recent optimistic results, gender inequality persists in the Vietnam Labor market.

Among many different reasons, gender stereotypes emerge as a primary explanation for this inequality. Vietnamese female employees significantly carry a disproportionate double burden: one to perform their best at the workplace and one to ensure they are good mothers in the family sphere. The main reason for this is due to stereotypes and social norms imposed on women. Society assigns a lower status and most of the unpaid care work to Vietnamese women and expects them to engage in productive work in subsistence agriculture and the market economy (ILO, 2021b). This inequality in distributing domestic responsibilities consequently limits the working capability and prevents women from participating in the workforce. Due to the cultural emphasis on maternal care and the fact that women take significantly more family leave than men, many employers in Vietnam believe that young women are more likely to exit the labour force compared to their male counterparts. This belief leads employers to expect that all female candidates will eventually decrease their workplace involvement, regardless of the individual intentions or actions of these women. As a result, employers often provide fewer promotions and workplace rewards to women, especially after they have children. Furthermore, the implementation of female-specific legal provisions is complicated by economic factors, as the cost of employing female workers - due to requirements for working conditions, maternity leave, and other gender-related issues - is higher than that of employing male workers. This economic burden contributes to a reluctance among employers to hire women, who are viewed as the primary potential caregivers. Critically, while Vietnamese women spend much more time caring for the family, statistics showed that very few men support them, and nearly 20 per
cent of men reported spending no time in household activities (Barcucci et al., 2021). This situation underscores that the improvements in Vietnam's labour laws during the time have been insufficient to address the root causes of gender inequality in employment context.

Given that the Vietnam labour policies have long upheld the principle that female employees must be protected in employment and treated with special favours, this approach raises concerns about advancing gender equality in the workplace. This legal framework implies that, as primary caregivers, women cannot compete fairly with men for job opportunities and thus require protection. Such a female-protective strategy can reinforce gender stereotype, as the cost of hiring female employees is higher due to compliance with specific working conditions, maternity leave, and other gender-related requirements. Consequently, Vietnam's labour laws are less effective in dismantling persistent gender stereotypes held by employers against female workers. The current approach not only fails to challenge entrenched gender biases but may also widen the gender gap in the labour market. Therefore, to promote gender equality in the workforce and achieve SDGs, Vietnam’s labour laws need more innovative and robust approaches.

A New Approach in Vietnam Labour Law Toward a Sustainable Workforce

The Current Challenges

The Vietnam's 2021-2030 strategic program calls for shortening the gender perspective in all political, economic, and social dimensions of people's lives. However, the objectives of this program are unsecured due to the pervasive existence of gender inequality in the workforce. Although gender inequality in the workforce has been gradually decreasing, maternal profiling and other gender prejudices against women have still been a significant problem. Whenever Vietnamese women are still naturally perceived as the primary caretakers in the household, the goal of establishing a sustainable work market in Vietnam still needs to be achieved. This situation indicates two essential tasks of the Vietnam labour law to eliminate gender-related discrimination: extending what the laws have successfully achieved and having new radical approaches to advance gender equality toward sustainable development. Accordingly, protection strategies in Vietnam's labour law have successfully demonstrated their significance in enabling women to participate equally in the labour market. However, that protection does not mean women always need exceptional legal provisions to compensate for their disadvantages. Although protecting female physical and reproductive health is often employed as reasons to explain for legally restricting women from participating in certain occupations, these are not feasible in the modern context where women have participated in jobs which used to be deemed male-dominated. Those restrictions potentially enhance the gender stereotypes about their domestic roles or turn them into law violators since they may accept jobs that legally do not allow them to work to earn a living. Therefore, the law should be extended with empowerment strategies, in which women are free to choose what they want to do without restriction, provided all related information about that job will be presented to them in advance.
Without the freedom to choose in law, Vietnamese female workers are still restricted from accessing employment opportunities.

Although the Labor Code 2019 has been improved this way, it has failed to address the gender stereotypes against female workers. As previously discussed, the inequalities and gender gaps between Vietnamese working women and men are largely due to the traditional beliefs about domestic roles, which dictate that women should primarily handle domestic responsibilities and childcare (ILO, 2021a; UN Women, 2021). These cultural norms continue to shape parenting behaviours, placing expectations on women to reduce their participation in the labour market and become the main caregivers once they have children (Vietnamnews, 2022). In the employment context, Vietnamese employers believe that young women are more likely to leave the workforce compared to their male counterparts, anticipating that all female candidates will eventually decrease their workplace involvement regardless of their individual intentions or behaviours (ILO, 2016; UN Women, 2014). As a result, employers often provide fewer promotions and workplace rewards to women, particularly when they have children. This assumption represents a significant barrier to achieving an inclusive labour market in Vietnam and illustrates that current legal measures have been less effective in addressing and eliminating this gender stereotype.

The Significance of the Fatherhood Bonuses

Since the protection and empowerment strategies can be less effective in eliminating the chronic perceptions about the existing stereotype and maternal profiling, the Vietnam labour law should further invest in male-targeted policies – initiatives that provide families with additional weeks of paid leave if fathers stay at home with their newborn (ILO, 2015). This approach introduces a new form of special treatment for Vietnamese fathers, which could significantly promote coequal parenting and reduce the impact of maternal profiling (Gregory & Milner, 2011; Vaganay et al., 2016). When men take even brief periods of parental leave, substantial changes occur both at work and home, leading women to spend more time in paid employment, earn higher wages, and advance in their careers (Ramos et al., 2022; Rossin-Slater, 2017). Additionally, men who take leave participate more in housework and continue to spend less time at the office long after their parental leave ends (Rehel, 2014). By focusing on equalizing unpaid work between parents, these male-centric policies can challenge traditional gender stereotypes that depict Vietnamese women as primary caregivers and men as breadwinners (Chorny et al., 2021). Policies such as paternity and parental leave entitlements, implemented at critical points in parents’ lives when caregiving patterns are established, help balance the distribution of unpaid responsibilities (O’Brien, 2009). These entitlements provide Vietnamese mothers in the modern era with more support to enter or re-enter the labour market after childbirth, enabling them to better balance personal and professional lives (O’Brien, 2009).

Furthermore, the impact of fatherhood bonuses in Vietnam employment law goes beyond immediate caregiving benefits, addressing deeper issues of gender discrimination in the workplace (Cunningham-Parmeter, 2013). When men take parental leave, it signifies a cultural shift towards shared caregiving duties, thereby diminishing the perceived risks of hiring and
promoting women (Cunningham-Parmeter, 2013). This reallocation of unpaid labour is essential for achieving transformative equality, as it allows women greater participation in paid employment and reduces the economic disadvantages linked to caregiving (Holmaat, 2013). Increased male involvement in caregiving highlights the potential of this male-focused legal strategy to dismantle stereotypes that limit women's opportunities at home and in the workplace. Consequently, by normalizing the practice of men taking parental leave, male-targeted policies can effectively modify employers’ assumptions about maternal profiling against women.

From the perspective of masculinity theory, the benefits of implementing fatherhood bonuses to promote gender equality in Vietnam are evident, despite the seemingly paradoxical nature of masculine norms that both privilege and restrict men (Fuller & Cooke, 2018). Although gender norms in Vietnamese tradition generally reinforce male dominance, it may appear contradictory for men to want to dismantle a system that provides them with numerous advantages. However, masculinity theory posits that Vietnamese men also suffer costs for their privileges (Collier, 1995). For instance, norms that stress strength and aggression lead to higher rates of violent crime among men. Moreover, the emotional suppression taught to boys from a young age results in deeper anxieties and impaired interpersonal development as they consistently conform to rigid masculine expectations (McLean, 1996). These societal expectations also shape men’s roles as parents. The prevalent belief that mothers should be the primary caregivers often relegates fathers to secondary, less satisfying relationships with their children (Locke, 2016). This expectation for men to disengage from caregiving has significant repercussions, with fathers being twice as likely as mothers to feel they do not spend enough time with their children (Parker & Wang, 2013, p. 30). Even though most fathers express a desire to spend more time with their children, cultural norms that discourage domestic involvement prevent them from doing so.

Masculinity, as a prevailing cultural norm, imposes economic disadvantages on women (Grant, 2002). Gender theorists describe a ‘patriarchal dividend’ that men receive due to the invisibility and normalization of masculinity (Becker, 2023). Men’s detachment from domestic responsibilities allows them to concentrate on their careers without the scrutiny that women face for their domestic absences (Bailey, 2015). This ‘dividend’ enables men to work longer hours and maintain continuous career progress (Bailey, 2015). Even men who resist traditional masculine roles benefit economically from these societal structures. Conversely, women’s reduced participation in the labour market, often exacerbated by extended maternity leave, leads to significant career setbacks. These prolonged absences result in women losing job-specific skills and career development opportunities, and upon re-entering the workforce, they frequently struggle to recover these losses. The societal norm of men’s minimal caregiving role leads to diminished social power and workplace privileges for women (Bailey, 2015). Therefore, in line with anti-stereotyping and anti-subordination principles, masculinity theory illustrates how gender norms subtly constrain acceptable Vietnamese male behaviour, thereby limiting Vietnamese women’s career advancement (Vojdik, 2005).

In addition to addressing stereotypes that hinder women’s progress, sex-specific laws promoting gender equality are supported under Article 5 of CEDAW (Morgan, 2009). As a signatory to CEDAW, Vietnam upholds these principles in its national legislation, as outlined
in the Vietnam Law on Gender Equality 2006 (Articles 5 and 19). Thus, there is a legal foundation in Vietnam for male-targeted policies aimed at promoting gender equality in employment. Fatherhood bonuses align with laws designed to offer special treatment for women in response to job segregation, economic inequality, and discrimination (Heymann et al., 2017; Ramos et al., 2022). Building on these principles, masculinity theory demonstrates how fatherhood bonuses can enhance women’s career opportunities by reducing their domestic burdens and expanding the acceptable roles for men. Consequently, father-targeted leave represents a constitutionally appropriate form of special treatment with the potential to alleviate gender-based constraints and encourage greater female participation in the workforce.

**Good practices for Vietnam**

Sweden serves as an exemplary case of successfully implementing male-targeted policies in labour law to promote gender equality. Since 1974, Sweden has introduced the concept of providing fathers with remunerated parental leave, demonstrating a progressive approach to achieving gender parity in the workplace. However, shortly after its implementation, government authorities saw a limited uptake of this programme among males (Bennhold, 2010). Although there were efforts to promote men staying at home via public campaigns, less than ten per cent of Swedish fathers opted for paternity leave. The underutilisation of parental leave by males led to a recurring pattern of reinforcing gender norms, as Swedish women took leave at much greater rates and experienced salary inequalities in the job market. Realising that the current parental leave policy in the country resulted in women taking prolonged breaks from the workforce, the Swedish government introduced an enticing proposition in 1995: Families would be granted an extra month of leave if fathers availed themselves of thirty days of paid leave specifically allocated to them by the state (Brighouse & Wright, 2008). In Sweden, ‘daddy month’ is a term used to describe a bonus solely dependent on whether males take leave. It is important to note that dads cannot pass this incentive to their female partners (Doucet, 2012). This astute kind of manipulation rapidly yielded significant outcomes. Following the implementation of the daddy month legislation, the percentage of men who availed of leave during the first two years of their child’s life rose from 40% to 75% (Duvander & Johansson, 2012). Following the addition of a second month in 2002, the proportion of men availing leave in Sweden surged to ninety per cent by 2006 (Haas & Hwang, 2009). Additionally, a significant proportion of men took extended periods of leave, with more than 50% of dads taking more than thirty days off work. In contrast, women's utilisation of leave decreased by an average of twenty days (Duvander & Johansson, 2012).

This is an excellent example for Vietnam about the potential of male-targeting policies to advance gender equality. The current labour policies in Vietnam allow paid parental leave for male workers with a maximum of 14 days. However, the contribution of this policy to gender equality remains ambiguous since it is not enough to change the maternal profiling stereotype. Accordingly, maternity and parental leave should be restructured to allow male employees to share the caring duties with women. The maternity leave could be shortened to allow women to rejoin the labour market earlier. In contrast, paternity leave could be extended to encourage men to stay home and share domestic duties. Although it is not realistic for Vietnam to provide the ‘daddy month’ policy as Sweden, the experience of Sweden demonstrates the significance
of fatherhood bonuses in mitigating the gender stereotype, and this should be further considered to apply in Vietnam's employment context.

Conclusion

This study has rigorously examined the efficacy of Vietnam's labour laws in mitigating gender-based discrimination within the workforce, identifying critical deficiencies and proposing necessary reforms. Despite the progressive nature of Vietnam's legal framework, gender inequality remains pervasive, impeding the nation's progress towards achieving sustainable development goals. The research highlights the indispensable role of both protective and empowerment strategies in labour legislation to foster genuine gender equality. Although the traditional protective measures enshrined in Vietnam’s labour laws have provided certain benefits but have also inadvertently reinforced gender stereotypes and maternal profiling, thereby limiting their overall effectiveness. This study advocates for a more balanced approach that includes male-targeted policies, such as extended paternity leave, to promote shared domestic responsibilities and dismantle deep-seated gender norms. The potential of these policies in dismantling the traditional gender stereotypes are justified through the lens of masculinity theory, which argued for the role of men in promoting the gender equality. Comparative analysis with international best practices, particularly Sweden's ‘daddy month’ policy, underscores the transformative potential of such strategies in altering societal perceptions and workplace dynamics.

However, this research has inherent limitations. The reliance on secondary data constrains the ability to conduct direct observations and analyse the practical implementation of these laws. Future research should incorporate empirical studies to evaluate the real-world impacts of legal provisions and reforms on gender equality in the workplace. Furthermore, cultural and socio-economic differences between Vietnam and other countries may influence the applicability of certain international best practices. Consequently, proposed reforms must be meticulously tailored to the specific context of Vietnam. Future approach should also encompass longitudinal studies to monitor the progression of gender equality initiatives over time and explore the intersectionality of gender with other factors such as ethnicity, socio-economic status, and regional disparities. These studies can provide a more nuanced understanding of the multifaceted nature of gender inequality in Vietnam.

The practical implications of this research are substantial, providing policymakers with a new understanding of masculinity theory and male-targeted policies in addressing inequalities. Based on these, policymakers can consider revising current labour laws to incorporate appropriate gender strategies, ensuring that legal provisions do not inadvertently perpetuate gender stereotypes. Moreover, employers should be incentivised to adopt family-friendly policies that promote work-life balance for all employees, regardless of gender. Advancing gender equality in Vietnam's workforce necessitates a multifaceted approach that integrates legal reforms, cultural change, and practical initiatives. By addressing both the symptoms and root causes of gender discrimination, Vietnam can make significant strides towards achieving its sustainable development goals and cultivating a more inclusive and equitable society.
Acknowledgments

The author would like to express his thanks to Dr. Doan Thi Phuong Diep, Associate Professor at the University of Economics and Law, Vietnam National University, HCMC, Vietnam, and Dr. Dao Thi Thu Hang, also of the University of Economics and Law, Vietnam National University, HCMC, Vietnam, for their motivation and support. This research is funded by University of Economics and Law, Vietnam National University Ho Chi Minh City, Vietnam.

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