

What do Vietnamese feminists expect in regulations related to “motherhood”?

Nguyen Dinh Duc^{1,*}, Ngo Huyen Chi²



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ABSTRACT

Feminist research in Vietnam still mainly focuses on systematizing feminist concepts and theories, as well as historical and cultural issues. There is currently a research gap on legal issues and especially feminist legal theory in Vietnam. By applying Barlett's feminist legal method, the authors explore Vietnamese feminists' views on the concept of "motherhood" and their expectations of laws related to maternity and motherhood. The article will demonstrate our theoretical foundation and the method to answer our research question: What do Vietnamese feminists expect in regulations related to "motherhood"? The study is conducted through a quantitative and qualitative survey of twenty-eight Vietnamese feminists and in-depth interviews with five feminists. Because the term "feminist" is not unanimous and could be interpreted differently among Vietnamese feminists, hence, the targeted participants of our survey and interviews were in the neat network of feminist activists and intellectuals. Quantitative analysis of the survey results and qualitative analysis of both the survey result and in-depth interviews indicated that Vietnamese feminists' expectations of Vietnamese laws reflected ideals influenced by several feminist schools of thought. We summarized and systematized branches of feminist legal theory and compared those with our in-depth interview analysis. Our finding shows that there is no dominant theory among them. The Vietnamese feminists have adopted those philosophies via their standpoint and living conditions. The article will contribute to elaborating the intersectionality in future research on feminism in Vietnam. Regarding the legal aspects, we found that feminists' expectations of Vietnamese laws can be summarized in three main themes: Making parental benefits more inclusive for both partners, ensuring laws that protect pregnant women and mothers more enforceable, and eliminating the gendered language in the law. Those expectations could be the core of emerging activities by Vietnamese activists.

Key words: feminism, motherhood, Vietnamese feminist, feminist legal theory

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INTRODUCTION

With more and more feminist research being explored and developed, it even gained some attention from the Communist Party. The female lens, which focuses on "women's urgent issues" to give "scientifically and timely answers to the gendered issues that women face in real life", was a topic of discussion in Tap Chi Cong San (Communist Journal) in 2007¹. Vietnam has had many achievements in terms of gender equality; the most obvious one is its No. 65 (out of 189 countries) position on the United Nations Development Program's Gender Inequality Index in 2019². Gender equality is also one of the factors that brought Vietnam to the "High Development" group in UNDP's 2019 Human Development Report.

Around the same period, Vietnam has observed an increasingly declining birth rate. The country's 2019 Census³ showed that the higher the women's education level, the lower the fertility rate. In urban areas, the fertility rate in urban areas is 1.83 chil-

dren per woman, lower than the replacement fertility rate. In rural areas, the fertility rate decreased from 2.38 children per woman in 2001 to 2.26 children per woman in 2019⁴. This puzzling picture prompts further investigation to see whether Vietnamese regulations and cultural norms have provided enough incentives for Vietnamese women to have children. Vietnamese feminists will be the most vocal and active in demanding social and legal change, and therefore, it is essential to find out their assessment of the relevant regulations.

"Motherhood" is a blanket term for mothers in all kinds of situations, including married mothers, single mothers, widowed mothers, adoptive mothers, LGBTIQ+^a mothers, or mothers in domestic partnerships. Although each of these situations demands a different welfare policy consideration, this paper will mainly touch on policies that can affect a cisgender^b

^alesbian, gay, bisexual, transgender, intersex, queer/questioning, asexual and many other terms (such as non-binary and pansexual".

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woman's biological motherhood experience. Using feminist legal theory, we aim to clarify Vietnamese feminists' conception of motherhood to achieve a better understanding of feminism in contemporary Vietnam.

LITERATURE REVIEW

Feminist legal theories also vary according to different feminist ideologies. Based on Levit et al.'s writing in "Feminist Legal Theory (Second Edition),"⁵ we have categorized the different schools of thinking in Table 1.

The concept of "motherhood" is a controversial and even divisive topic among feminists. Here, we must point out that "motherhood" is both a biological function and a social concept, just as "woman" is both a biological trait (sex) and a social construct (gender). As a biological concept, it is true that only cisgender women can become pregnant with a child, but "motherhood" as a social concept is still being debated, particularly whether it is a privilege or a disadvantage.

Some feminist ideologies believe that a woman's knowledge and experience of motherhood are unique, proving that women have equal or even superior capabilities in leadership and society-building compared to men. Other feminists disagree, considering motherhood as a barrier that causes women to bear more responsibilities in a male-dominated society, forcing them to raise children by men's standards, which will continue their oppression (6, p. 129), as Donovan cited Simone de Beauvoir, that "childbearing, childbirth, and menstruation are draining physical events that tie women to their bodies and to immanence. The male, however, is not tied down by such inherently physical events" (7, p.316-7). Many feminists seek to widen the boundaries of social norms and gendered expectations that force them to become a wife or a mother, as summed up in Kinser's writing: "women are persons in their own right and are not solely defined by motherhood" (6, p. 86).

Many feminists rely on biological determinism to argue that "motherhood" is a biological instinct that only women have⁸. This view holds that because children instinctively need their mothers' care from birth, women naturally have the ability and emotional capacity to understand the needs of their children and make any sacrifices necessary to care for them. This view was replaced in the 1970s by cultural feminism, which argued that patriarchal society used this biological trait to force women to stay at home to care for the children, thereby cornering them into a more vulnerable position. These feminists focused on how the

experience of motherhood, and the concept of motherhood, were constructed by social norms. Biological capabilities alone were not enough to judge "motherhood" as a similar experience for every woman. Cultural feminists argue that social expectations and norms shape the experience of motherhood, especially what constitutes someone as a "good" or a "bad" mother. Motherhood, therefore, is a diverse experience that is largely shaped by social context (6, p. 447). Just as a woman does not exist outside of her race, class, and socio-political status, "motherhood" needs to be investigated under the same cultural lens. In Vietnam, there are not many studies that investigate the experience of "motherhood" using feminist lenses or the motherhood experience in general. Discussions mainly surround the topics of maternal care pre- and postpartum and maternity leave, such as the report "Parental benefits in the Workplace: Law and Practice in the World," by the World Labor Organization (ILO), 2014⁹. This report is purely a comparison of the legal frameworks related to parental benefits in different countries, and assessments from experts.

In 2001, Wendy N. Duong provided a snapshot of Vietnamese society's conception of women as well as how Vietnam's political system affected the advocacy for feminism and gender equality. She argued that "The emphasis on women as child-bearers can serve to restrict women to reproductive and household activities under the pretense of affirmative action to promote their motherhood duties" (10, p. 239). Through discourse analysis of cultural artifacts, Duong also identified the expectation that Vietnamese women must fulfill their "thiên chức" ("sacred duty" or "holy obligation") to become mothers. In one example of a popular Vietnamese idiom, Duong noted that childless women were often compared to "toxic trees" (10, p. 286) that could not bear fruits: "cây độc không trái, gái độc không con." (A poisonous tree bears no fruit, a poisonous woman has no child)

The Communist Party of Vietnam also highlights the role of Vietnamese women in all of its official publications, specifically: "The Party aims to guide the policy-building process towards policies and laws that solidifies gender equality and women's rights"¹¹. The 12th National Congress of the Communist Party of Vietnam sets its direction for women's development as: "Improve women's education and the quality of their material and spiritual lives; recognize gender equality, create opportunities for women to grow. Research, develop and finalize regulations and policies for female employees, create conditions and opportunities for women to fulfill their roles and perform their responsibilities in the family and society"¹².

Table 1: The characteristics of feminist legal theories

Feminist legal theory	Characteristics
Equal treatment theory	The law should not treat a woman differently from a similarly situated man. The law should not base decisions about individual women on generalizations about women as a group (⁵ p. 12-13)
Cultural feminism	The laws should accommodate the biological and cultural differences between men and women. Advocates of special treatment urged a model that focuses on differences between the sexes, whether rooted in culture or biology: differences in reproductive functions, caretaking responsibilities, and even emotions and perceptions. (⁵ p. 16-17)
Dominance theory	The lack of legal controls on pornography and sexual harassment, excessive restrictions on abortion, and inadequate responses to violence against women are examples of the ways laws contribute to the oppression of women. Most laws have been drafted by men, assisting in reinforcing male domination. (⁵ p. 20 -21)
Critical race feminism	Legal doctrines in various areas do not adequately address discrimination based on the intersections of the categories such as rape, sexual harassment, and domestic violence. (⁵ p. 25)
Lesbian feminism	Lesbian legal theory focuses on the legal issues confronted by persons who identify as lesbian, gay, bisexual, or transgender (collectively “LGBT”). (⁵ , p. 27)
Ecofeminism	Ecofeminism emphasizes the intersections of human oppression and environmental destruction. (⁵ , p. 30)
Pragmatic feminism	Personal experiences help build theories, and theories need to incorporate the concrete situations of diverse individuals. (⁵ , p. 35)
Postmodern feminism	Justice belongs not to the ages but to today’s ruling class, who define and shape it to their advantage, until a new class topples the first and imposes its own version. Feminists influenced by postmodernism view gender not as natural, fixed, or objective but as socially constructed, relative, dependent on experiences, and mutable over time and according to situations. (⁵ , p.37-38)

What are the roles and responsibilities of women in the family and society? We can find the answers in the Communist Party’s official publications. The Nhan Dan article “Improving women’s role in life,” published in 2020, explains that: “Women must perform well in their roles as wives and mothers, fulfill their sacred duties as mothers, give birth to children to maintain their lineage, become a solid spiritual foundation to help connect family members, and build a happy family. Therefore, the female labor force is a human resource with a special role”¹³.

The article “Women’s extraordinary role,” published in 2018, stated: “Life’s fast-moving pace and economic concerns are slowly ingrained in every family. If women do not know how to organize their work and neglect the responsibilities that belong to them, such as taking care of, raising, and educating children, gradually there will be a distance between family members. A modern woman needs to balance family responsibilities with their roles in society.”¹⁴ From this point of view, the role of women in society is attached to their roles as mothers, which are: giving

birth to children to maintain the lineage, taking care of, raising, and educating their children.

It’s clear here that there is a gap between the Communist party’s intention of building “policies and laws that solidifies gender equality and women’s rights”¹¹, and how these intentions are being interpreted on the Party’s platforms, where there are still emphases on women as child-bearers and the main persons responsible for child-rearing, as Duong¹⁰ observed two decades prior.

Motherhood and pregnancy are also contested concepts in the legal field, especially when it comes to discrimination against pregnant women and new mothers. Feminist legal theory has questioned the validity of the “sex-neutral” legal subject. In Eisenstein’s 1998 book “The female body and the law”, she argues that in laws, “women are treated as like men - or not like men - but not specifically as women” (¹⁵ , p. 32). Here, the standard is always what she calls the “phallus,” meaning the legal subject is always presumably, “the ‘rational man’” (¹⁵ , p. 69). In this sense, it can be argued that laws are inherently discriminatory in that they

treat men as the standard and women as "the other." Women's "otherness" is the most apparent during the period of pregnancy, but laws regarding pregnancy often treat their legal subject as "the pregnant person" (women) and the "non-pregnant persons" (which can be both men and women). Viewed under this lens, a sex-differential approach is acceptable: "classifications based on pregnancy have not been viewed as sexually discriminatory, rather they have been treated as neutral" (15, p. 66). This is to say that pregnancy, and more broadly motherhood, have not received adequate consideration as a legal subject in their own rights.

RESEARCH METHOD

Since the research that covers Vietnamese feminists' views on motherhood are neither complete nor contemporary, we conducted a combined qualitative and quantitative survey to explore:

1. Vietnamese feminists' views on motherhood
2. Vietnamese feminists' view of the legal system and legal provisions governing "motherhood"
3. Vietnamese feminists' expectations of the legal system regarding motherhood.

The research method was constructed based on Barlett's "Feminist Legal Methods" (16). Here, Barlett introduced three pillars of feminist law-making: asking the Woman question, feminist practical reasoning, and consciousness-raising. Among these three pillars, asking the Woman question asks questions to examine whether women's experiences are taken into account in legal frameworks; feminist practical reasoning calls for the expansion of "traditional notions of legal relevance" (16, p. 836) to suit the context of each case, and consciousness-raising aims to test "the of accepted legal principles through the lens of the personal experience of those directly affected by those principles" (16, p. 837). Using these pillars as a foundation, we created a survey that collected feminist participants' views on motherhood.

Vietnamese feminists are not an organized political institution, and Vietnamese feminism has not grown to form different schools of thought that are particular to the country's history and socio-political context. Therefore, it's difficult to estimate the size and influence of this particular group. Therefore, this research is limited in that it uses convenience sampling. To approach feminists to participate in our research, we created a survey using Google Form, which was then shared to Facebook groups with feminism-friendly members, including research groups and community

organizing groups such as the "NPO Forum", "Mạng lưới XÃ HỘI HỌC | Vietnamese Sociological Network", "Vietnamese Humanities & Social Sciences Association (VHSSA)", "Equali-tea". The survey included a screening question of whether the participants support feminism by asking their plan of supporting feminism.

The results from the survey were analyzed qualitatively and quantitatively. Questions with dualistic (Yes/No) answers aimed to identify feminists' views on motherhood. In addition, there is also an "Other" option for participants to add their own responses. We then coded and analyzed the answers in order to quantify them effectively. Open-ended questions in the survey were analyzed qualitatively.

After analyzing the survey data, we only counted the submissions from participants who are supporters of feminism and have listed specific plans and activities that show their support for feminism. From August 12, 2021, to August 27, 2021, we received 28 qualified submissions, 92.9 percent of whom were women, which is true to Vietnamese society, where the majority of men prefer the orthodox gender stereotype (17, p.16). Among the female participants, 82.1 percent do not have children.

Following the survey, we also selected five participants for in-depth interviews. The interview participants were selected based on the following criteria:

- Participants are women, and at least 50% of participants are mothers
- Participants must have participated or had a strong intention to participate in feminism-related activities.

The in-depth interviews aim to collect feminists' points of view on motherhood. We want to investigate how feminist views affect a woman's opinion and personal experience of motherhood, especially the mother-child relationship, and how the cultural and legal landscape affects a woman's motherhood journey.

The in-depth interviews also sought feminist opinions of specific legal provisions surrounding six main topics: In vitro fertilization (IVF), abortion, mothers' rights and obligations with their children, divorce, child-rearing, employment, and maternity care. The opinions were collected in the form of "Agree"/"Disagree," and participants were asked to elaborate if they indicated that they disagreed or didn't understand a specific legal provision.

This research has a limited sample size because of the aforementioned limited access to large feminist

groups in Vietnam. This limited sample size undoubtedly affects the representativeness of the qualitative research.

Due to time constraints, we also have not been able to determine the education level and income level of the participants, although these factors surely affect a feminist's views of the subject of motherhood. In addition, during the confines of this research, we also weren't able to identify a through-line connecting Vietnamese feminists' ideologies, which was largely imported from Western countries and adopted to suit Vietnam's cultural and political context.

RESULTS

Vietnamese feminists' views on motherhood

Figure 1 illustrates the views of our survey participants on the concept "motherhood". We employed the assumption that feminist theories, when introduced into Vietnam, will be adjusted to suit the culture. The result shows that there is currently no dominant view of motherhood. Vietnamese feminists tend to view motherhood as a personal matter and always have two sides. This view is distinct from the de-personalization of women's issues by some feminists around the world. We believe that there has been acquisition and adjustment of feminist theory to suit the Vietnamese context. Specifically, issues like maternity benefits and abortion rights in Vietnam have not been widely discussed in feminist waves as they have been in the radical feminist movement in the United States and other countries. Therefore, Vietnamese feminists do not have an urgent need to publicize issues of motherhood to gain more legal considerations.

The participants' views on motherhood can be divided into four main responses:

- Motherhood has positive effects on women's lives;
- Motherhood has negative effects on women's lives;
- Motherhood is a personal choice; how people view its effect is up to their personal experience;
- Motherhood can have both positive and negative effects on women's lives.

First, the positive effects mentioned by survey respondents are mainly: the expansion of their emotional capacity, the development of life skills, and the unique experience that is motherhood.

- A female respondent, born in 1991, with no children, said: "I think every change that is radical or has a long-term impact is positive. Although the positive effect may not be noticeable at first, I think learning, adapting, dealing with new situations will train and give me different and valuable experiences. Being a mother is a challenge, and like all challenges, it helps me understand myself better."
- A mother, born in 1987, said: "Motherhood is a personal choice. For me personally, even though being a mother makes me busier, more tired, more responsible, no time for myself, and it slows down my schooling and career, taking care of a child is a joy every day. It makes me feel happy and motivated to become better, to learn more, to be more confident in my growth journey."

Notably, all those who had had children shared that they had a positive experience becoming mothers. Three out of five mothers who responded to the survey said they felt overwhelmingly happy, and two out of five mothers mentioned the "special bond" between them and their children.

- A mother, born in 1982, said: "Women have the skills, ability and the special connection with their kids. They know what's best for their children."
- A mother, born in 1996, said: "Raising and taking care of children makes me happy; no matter how hard it is, children are the most precious thing. I can give up anything, but I will never give up my child."

As for the negative effects, survey respondents expressed that their fear or discomfort with Motherhood does not come from the mother's experience of giving birth and raising children, but from society, including economic disadvantage, gendered expectations in the motherhood experience, and social pressure.

- A female respondent, born in 1987, with no children, said: "Women have to make many sacrifices [during motherhood] while there's not enough social, legal, and cultural support."
- A female respondent, born in 2001, with no children, said: "'Motherhood' comes with the expectations of unpaid labor (childcare), which easily leads to economic dependence, lost opportunities for self-development and contributing to society."

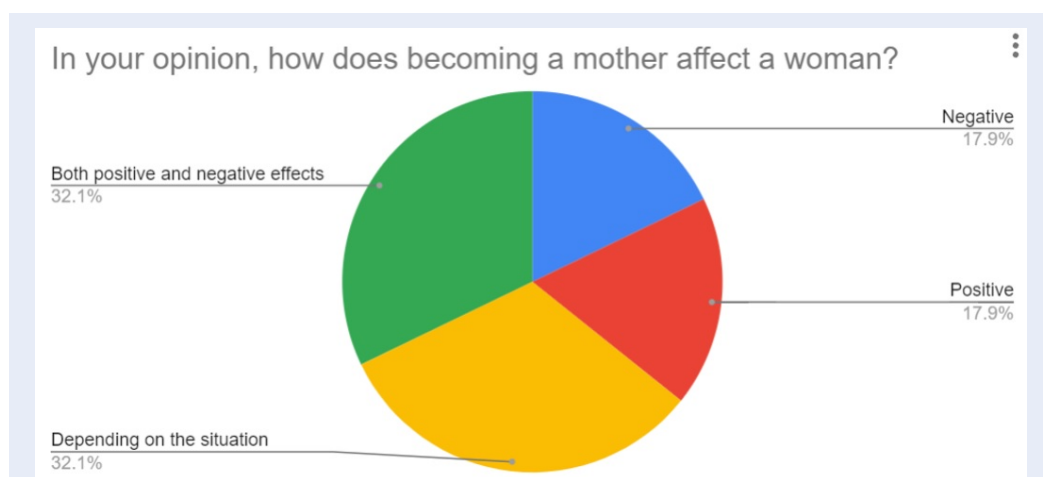


Figure 1: Participants' views on motherhood.^a

^aIn order to allow Vietnamese feminists to add their own views outside of the dual options of "Negative" or "Positive," we added an "Other" option for participants to give their own views.

All of the participants who thought that "motherhood" would bring negative effects were childless, and their observations and knowledge of the motherhood experience in society led them to draw this conclusion.

As for the idea that "motherhood" should be viewed in terms of personal choice, both mothers and non-mothers agree that having the ability to bear children does not mean having children is required of women. They believe that the motherhood experience can be improved if women have complete autonomy over their decisions to have children. They recognize the toll that Motherhood can have on a woman's physiology, socio-economic status, and mental health, and therefore, advocate for personal choice. A woman who chooses to have children, rather than being pressured into the decision, will be happier.

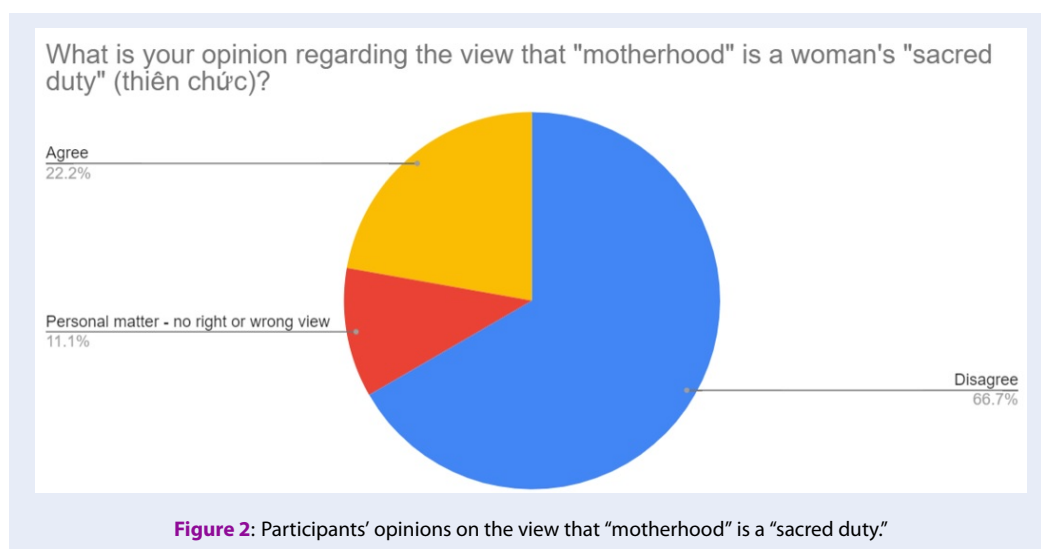
- A mother, born in 1985, said: "Motherhood requires many sacrifices; society should let women decide and support them in their decisions."
- A female respondent, born in 1991, with no children, said: "Whether to become a mother is a decision that requires the consent and willingness of each woman, instead of imposing unnecessary pressure for women to fulfill their "sacred duty" to become mothers. This view will backfire, and both the mother and her child will be negatively affected."

Those who see "motherhood" as having both positive and negative effects on women share many of the

opinions mentioned above. They believe that Motherhood can give unique experiences to women, but they will have to make many sacrifices in their health and careers compared to men.

- A female respondent, born in 2001, with no children, said: "It's a positive experience in that you can learn more positive traits just from giving birth and nurturing a new being. It is negative in that it affects many women's positions in society, especially when it comes to their careers, lost wages, lost social experiences, personal time and hobbies."
- A mother, born in 1996, said: "Raising a baby is an achievement in its own rights. Sometimes when I have no motivation, and I think of it that way, it helps me keep going. On the other hand, my life is affected a lot by this sudden change of being pregnant and having a child; there's a lot of pressure. There's pressure from the family; they always place the responsibility of taking care of the child on the mother, despite the fact that the mom and dad are equals in terms of social status and career advancements."

As Figure 2 points out the dominant attitude toward the view that "motherhood" is a "sacred duty" among our survey participant. We find that there is a consensus among feminists about the certain "sensitive" terms associated with traditional Vietnamese views on motherhood, such as "sacred duty." Feminists tend to oppose the traditional view.



Regarding the decision of whether to have children, Vietnamese feminists agree that women need to decide for themselves. To make this decision, they:

- Carefully consider their own abilities, their partner's abilities, and their family's abilities;
- They haven't decided, but both options are acceptable.

Vietnamese feminists have a neutral opinion regarding motherhood. For them, motherhood in and of itself is a positive experience, but their concerns are mainly with the social issues they may face or personal conditions that may force them to sacrifice many things in their personal lives.

- A female participant, born in 1997, no children: "I really wanted to be a mother, so I thought about it and had a plan. Recently, after working in the gender equality field for a while, I really reconsidered this thought. I find being a mother quite difficult, especially financially, and the amount of effort and time investment."

Some participants planned to have children but didn't specify a particular timeline in their life plan:

- A mother, born in 1996: "95% of [my decision to have a baby] was because of external factors, like my husband's parents, my parents. That was why I made the decision to be a mother at 23."
- A mother, born in 1987: "It was more about life planning. It was my personal desire, that is, to have a baby. But when it would be, that was a bit surprising to me."

Vietnamese feminists also recognize the different ways that women can become mothers, such as through adoption, IVF, or surrogacy. There is a consensus among them that the motherhood experience doesn't necessarily require childbirth, but child-rearing, in that the process of nurturing a child plays a significant role in a woman's experience as a mother. It is worth noting that both mothers who participated in the in-depth interviews said that the relationship between a mother and her child is unique, especially during the neonatal period, and the mother's role is irreplaceable except during extreme circumstances.

- Mother, born 1987: "I think the relationship between a woman and her child is a unique relationship because only the mother can be pregnant and give birth to the child. I can completely trust my husband or relatives to take care of the children if I am busy with work or if I have some health issues [...] However, during the first few months of life, the mother needs to take care of her child because she knows how to best care for her child. Of course, there are extreme circumstances where the mother cannot be with her child."

Every feminist interviewed, regardless of their parental status, agreed that childcare can be performed by other family members, including the child's father or grandparents. This view stems from their response to the heavily gendered language that Vietnamese society and government use to describe motherhood, including "sacred duty" (thiên chức), "a mother's noble role" (chức năng cao quý của người mẹ), or "excel at work, great at home" (giỏi việc nước, đảm việc nhà).

Vietnamese feminists' view of the legal system and legal provisions governing "motherhood"

Figure 3 provides a clue to measure how much the feminists want the state to intervene the "motherhood", which is considered as a personal matter. The majority of respondents agreed that policies were needed. However, supporters of both of those opinions agree that women need autonomy when it comes to deciding whether they have children.

Those who support policy intervention share a common negative view of social factors. They agree that the state needs to provide more policies to:

1. Protect women's reproductive rights
2. Protect the rights of both mothers and their children
3. Improve society's awareness of mothers' significant roles

- A female participant, born in 1997, with no children, said: "Society has not paid enough attention to women's autonomy and sexual rights; it is necessary that the law regulates and ensures the enforcement of these basic rights. [...] The law also needs to recognize the effort, time, and resources that women have devoted to housework and caregiving because that work makes a great contribution to social development and the labor and consumer market. Especially in Vietnam, these jobs (housework and caregiving) are still considered women's work."
- A female participant, born in 1998, with no children, said: "Whether to have children is an individual's choice, there should be laws to protect this freedom to choose. In addition, the law should also protect the rights of mothers and support them so that this "sacred duty" is not only women's but men's too. The fact that men get little paternity leave after they have a baby somewhat deprives men of their rights to fatherhood and closeness to their children. During those first few months after giving birth, women need a lot of support, both physically and mentally."

Those who oppose policy intervention emphasize the need to retain bodily autonomy and the desire to limit the state's population policy to avoid putting more pressure on women, especially in a patriarchal culture such as Vietnam. Notably, male feminists also support this view.

- A mother, born in 1996, said: "There's no need for more policies, but it's necessary to educate parents, especially men, to reduce social pressure on women."
- A male participant, born 1993, with no children, said: "In a liberal society, instead of regulating motherhood to control the mother-child relationship and civil responsibilities, it is only necessary to expand the "human" relationships, which already include the mother-child relationship. Looking at "motherhood" from the point of view of reproduction, the population will only see the fearful effect of the one-child policy [in China] or the one-to-two-child policy [in Vietnam]. The most recent example is Decision 588 on marriage and "motherhood" to ensure population growth."

When speaking of the issues that Vietnamese mothers may face, every participant used the word "pressure" to describe them. This answer echoes the problem that they previously mentioned: that cultural beliefs and practices create more issues for women rather than the law.

The pressures that they mentioned include:

- Insensitivity to the mother's mental health: After the baby is born, all the attention is on the child, and the mother is neglected. Their personal issues were not recognized by older family members, who experienced worse conditions when they had children. Older generations used the fact that modern-day mothers have it better to explain that they (mothers) had nothing to complain about (mother, born 1996).
- The pressure of doubled responsibilities: Having to work while being the primary caretaker at the same time because housework and parenting are not considered "real jobs" (participant with no children, born 1991).
- Loss of autonomy: The pressure is not only about being forced to have children, but they also mention the conflicts between mothers and their families, between mothers and society about how to raise and educate their children (mother, born 1987). They express their frustration as: "If a child is raised right, it's not necessarily a mother's accomplishment, but if a child isn't, mothers will certainly be blamed" (participant with no children, born 1996).

In the participants' opinions, the relationship between mothers and their family members, as well as their social relationships, are the main sources of pressure on

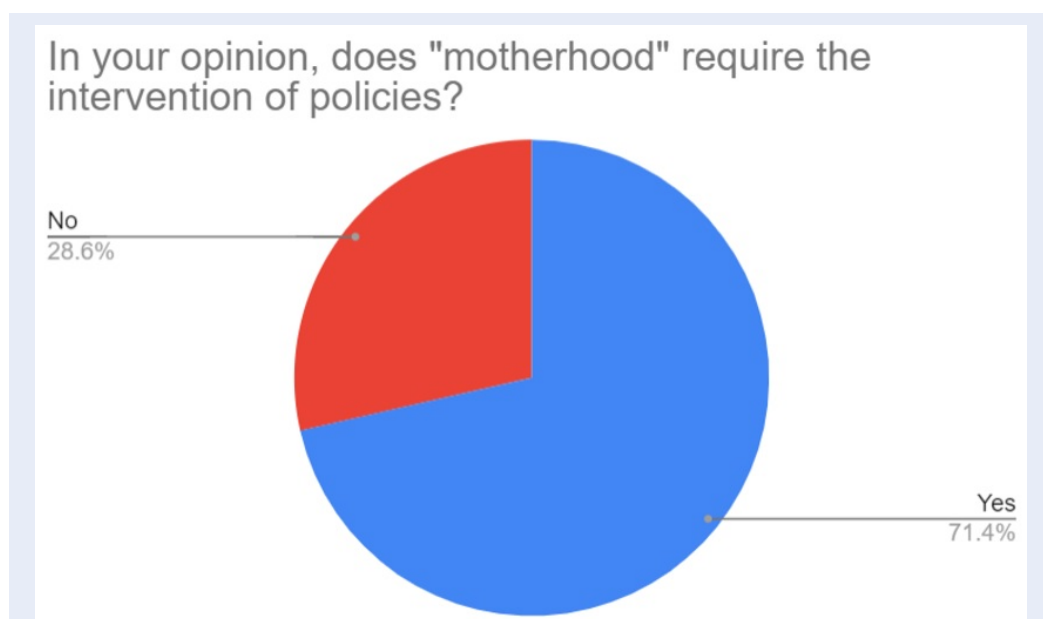


Figure 3: Participants' views on the necessity of policy interventions on motherhood.

mothers. Therefore, improving cultural understandings related to motherhood is the solution that will relieve the aforementioned "pressure" in their motherhood experience, rather than changes in the law.

Vietnamese feminists' expectations of the legal system regarding motherhood.

Regarding specific laws, the participants also expressed dissatisfactions with the following issues.

The authors arranged the answers from depth interviews with the participants in Table 2. In this table, we divided them into three groups based on the characteristic of each answers, which are the pattern among their ideas.

Regarding Vietnamese regulations, the participants tend to be more cautious with those that are open to interpretation and require more guidance from the authorities. In the survey, the only provision that did not receive any objections was Clause 2, Article 137 of the Labor Code (2019), which detailed the rights of female employees and the responsibilities of employers. This consensus shows an apprehension towards the system's ability to interpret the law in a way that ensures women's rights and gender equality.

DISCUSSION

In addition to the above conclusions, we also found several unexpected findings in the analysis. The feminists interviewed were wary of using the word "chủ nghĩa nữ quyền" (which literally translate to 'female

power-ism' but is commonly used in place of "feminism" in Vietnam). Most of them approach this -ism in the simplest way, which is gender equality. They hope to use terms that promote these values, such as "women's rights advocate" or "phong trào vị nữ" (which closely translates to "feminism"). Most of the feminists interviewed stated that they support feminism because of their personal experiences with gender inequality.

- A mother, born in 1996, said: "I don't want to be like the women in my life, my mother, my grandmother, who had to endure everything to try to accomplish everything. I don't want to have to stress myself out in order to get a compliment from those around me."
- A female participant, born in 1991, with no children, said: "My family is the most influential factor that helped me form this opinion."
- A mother, born in 1987, said: "I have read many articles, studies, and opinions related to feminism, and I support those views. I'm on the side that I can relate to; I think it makes sense with my personal life."

This concern led us to carefully divide the participants' opinions into the feminist legal theories mentioned above. The reluctance to use the term "female power-ism" shows that Vietnamese feminists have critically adopted feminist theories rather than accepting feminist beliefs at their face values.

Table 2: Categories of expectations of Vietnamese feminists' expectations of the legal system regarding motherhood

Use of gendered language	The provisions of Clause 4, Article 2 of the Law on Marriage and Family (2014); Clause 3, Article 135 of the Labor Code (2019) use gendered phrases such as “the noble role of a mother,” “harmoniously balancing working life and family life.” This was criticized by most of the participants since this gendered language forced women to become mothers and bear double responsibilities.
The law doesn't fit the reality of a woman's experience	From their personal experiences and observations, feminists believe that the complex nature of child-rearing, as well as a woman's physiological and psychological conditions, require more flexible regulations to accommodate. Specifically, regulations related to specific standards such as Clauses 1 and 4 of Article 137 and Clause 1, Article 139 of the Labor Code (2019), and Clause 3, Article 81 of the Law on Marriage and Family (2014). ”I don't understand what research or logic people rely on to allow women to have an extra 30 minutes off a day when they get their period.” (Mother, born 1987) ”The first trimester is extremely important in a woman's pregnancy. Those three months have a lot of risks, why not pay attention to those three months, (the law) only cares about the last three months.” (Mother, born 1987) When pregnant, there are many risks of miscarriage or conditions that require pregnant women to stay on bed rest; the law in Vietnam does not guarantee the mother's rights in these cases.” (Mother, born 1996) Vietnamese laws related to motherhood are found to be quite distant from the reality of these feminists' lives. ”Paid maternity leave is the only thing that the law provides,” was an answer that a mother, born in 1996, shared about her experience with related laws.
Laws that favor women actually generate stereotypes, rather than protect them.	The provisions of Clause 1, Article 88; Clause 3, Article 51; Article 55, Law on Marriage and Family (2014), aimed to protect the rights of mothers during and after marriage. However, feminists recognize that these regulations will only reinforce the stereotype that women are the “weaker sex.” “It's not really fair. While there are many women who will benefit from this law, there are cases where the wife has problems, endangers her child. What if the father wants to protect the child? It's bad for both the husband and the child.” (A participant without children, born 1991) “This law assumes that the woman is always at a disadvantage, in some instances that may be true, but it just discriminates against the man. It reinforces the stereotype that women are powerless.” (A participant without children, born 1997) For Clause 3, Articles 135 and 141 of the Labor Code 2019, in addition to the wording factor, this clause also faces opposition from the participants because only female employees are given priority. “If we always put one gender on the 'weaker' side, it will make gender equality more difficult to achieve.” (Mother, born 1987) “Men can get vasectomies or use birth control methods too. I feel that these just stereotypes women's roles and capabilities.” (A participant without children, born 1997)

During the interviews, no participant directly questioned whether these laws were made by male or female lawmakers. Instead, there were attempts to deconstruct the gendered language that was used to perpetuate patriarchal values in Vietnamese society. The participants situated the law in the context of Vietnamese culture and believed that the lawmakers were also influenced by this patriarchal culture, which guided their decision-making process. For example, maternity leave in Vietnam has been recognized by ILO as one of the longest among Asian countries⁹,

but there will still be doubts about whether Vietnam's maternity policies can accommodate the real needs of new mothers, as one participant (mother, born 1987) pointed out.

Vietnamese feminists do not seem to subscribe to dominance theory. This theory suggests that laws that restrict women's bodily autonomy and control over male-dominated cultural products actually aim to maintain male dominance. Instead, Vietnamese feminists believe that men themselves are also victims of the country's patriarchal culture and that Viet-

name men would favor gender equality if they were not heavily influenced by the culture. With the above reasons, we argue that the line of thinking of Vietnamese feminists leans more towards postmodern feminism.

However, this is not the only school of thought that influences Vietnamese feminists. The participants in this study also support benefits for both women and men during pregnancy and the maternity period, which suggests an influence of the equal treatment theory. Pragmatic feminism also plays a significant role, as their individual experiences and personal issues were brought up as examples when they felt that the law did not serve them in their own experiences and observations.

Some participants mentioned the parenting experience of the LGBTIQ+ community, especially their rights and responsibilities when it comes to child rearing since this is one area that has been left out of Vietnamese law. Not all of the participants mentioned this aspect, however, which led us to conclude that lesbian feminism is not yet an influential theory in Vietnam. Similarly, critical race feminism and ecofeminism do not appear to be influential. We believe that the reason behind that LGBTIQ-friendly attitude is the personal understanding of human rights rather than the influence of lesbian feminism.

As we have observed, none of the participants subscribed to a specific school of thought in their understanding of feminism. We conclude that they have received Western feminist doctrines and adjusted their understanding to suit the cultural context, rather than accepting any of the schools of thought that we have mentioned above. This personalization is the most profound in those who have experienced motherhood themselves. We believe that this experience, as well as these mothers' day-to-day interactions with their families and society, has shaped their nuanced views of feminism.

Regarding the specific legal provisions, the participants are mostly concerned with the following aspects:

- The insistence that women's have "noble" roles as mothers;
- The different sets of standards are applied to men and women when it comes to the maternity period.

These laws were crafted from the cultural understanding of motherhood as well as the focus on the women's biological reproductive ability. They emphasize the mothers' "noble role" (in both the biological and cultural sense) to craft policies that favor women. These cultural feminist views are now

outdated and no longer seem to fit with the current understanding of feminism and the motherhood experience. Vietnamese feminists are now focusing on eliminating old-fashioned cultural understandings of motherhood in order to create cultural change. Their goal is to use social and cultural forces to influence lawmakers to create laws that respect women's autonomy as well as grant men equal rights and responsibility in raising their children.

CONCLUSION

Through our survey and in-depth interviews with Vietnamese feminists, we have found the following answers to our research questions:

Vietnamese feminists' views on motherhood

Vietnamese feminists tend to view motherhood as a personal matter that can have both positive and negative effects on women, depending on each woman's personal context. The negative effects mentioned were primarily caused by the Vietnamese social structure and patriarchal culture, rather than childbearing itself. However, in the participants' views, the motherhood experience still has some positive impacts on women.

Vietnamese feminists want to remove the issue of motherhood from Vietnam's patriarchal social judgment, so that women can gain more decision-making power, especially regarding important choices such as whether a person wants to have children or how parents should raise their children.

Vietnamese feminists' view of the legal system and legal provisions governing "motherhood"

Regarding the relevant regulations on motherhood, Vietnamese feminists' assessments can be summarised into three main themes:

- Use of gendered language
- The law doesn't fit the reality of a woman's experience
- Laws that favor women actually generate stereotypes, rather than protect them.

We hypothesize that these assessments are based on the assumption that Vietnamese culture is patriarchal, and therefore Vietnamese laws do not reflect women's lived experiences.

Vietnamese feminists' expectations of the legal system regarding motherhood.

- Making maternity benefits more inclusive: The participants expressed their appreciation for the existing maternity benefits, but they want these benefits to become more inclusive to avoid perpetuating stereotypes about women's roles as mothers. They expect more expansive paternity benefits so that men can have an equal opportunity to practice their rights and responsibilities as fathers.
- Ensuring that laws are enforceable: The participants did not feel that the laws related to the rights and responsibilities of mothers were accessible or impactful. They expressed a stronger belief in the persuasive power of culture rather than laws because the law has not made an impact in their everyday lives. This is especially true for laws that supposedly protect the rights of pregnant employees since these laws still have some loopholes that weaken this protection.
- Eliminating the gendered language in the law: The participants reacted strongly to the phrases that had no legal value but only perpetuated patriarchal beliefs about women's roles. These phrases will be the subject of further criticism as feminist movements progress.

From these conclusions, we expect that Vietnamese feminist movements will focus more on improving cultural understandings of motherhood in order to normalize the concept of "personal choice" rather than "sacred duty" when it comes to the decision to have children. Therefore, in the future, they will gradually broaden their understanding of the concept of motherhood to become more inclusive of LGBTIQ+ parents so that each individual can make their own decisions to become parents based on their personal aspirations and abilities. This is a human rights approach, rather than a lesbian feminism approach. In addition, these feminists also hope to raise cultural awareness about the social pressure that mothers face, as well as provide science-based comprehensive maternal care using personalized medicine, rather than using folk remedies based on community experiences.

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COMPETING INTEREST

The authors declare that they have no conflicts of interest

AUTHORS' CONTRIBUTION

- Author Dinh Duc Nguyen is responsible for the content: I. Introduction, II. Literature Review, Interview, Interview and Survey analysis, III. Research method, IV. Result

- Author Chi Ngo is responsible for the content: Language editor, II. Literature Review, Interview and Survey design, V. Discussion, VI. Conclusion.

REFERENCES

1. Nguyen L. Nghiên cứu giới ở Việt Nam - quá trình và xu hướng. Tạp Chí Cộng Sản [serial online] 2007 [cited 2021 Sep 2]; Available from: <https://www.tapchicongsan.org.vn/tin-tieu-diem-10-06/-/2018/393/nghien-cuu-gioi-o-viet-nam---qua-trinh-va-xu-huong.aspx>.
2. Human Development Reports. Gender Inequality Index. [online]. 2020 [cited 2021 Sep 3]; Available from: <http://hdr.undp.org/en/composite/GII>.
3. Tổng cục thống kê. Thông cáo báo chí kết quả tổng điều tra dân số và nhà ở năm 2019. [Online]. 2019 [cited 2021 Sep 3]; Available from: <http://tongdieutradanso.vn/thong-cao-bao-chi-ket-qua-tong-dieu-tra-dan-so-va-nha-o-nam-2019.html>.
4. Báo Điện tử Chính phủ. Bức tranh tổng thể về thực trạng mức sinh ở Việt Nam. [Online]. 2020 [cited 2021 Sep 2]; Available from: <http://baochinhphu.vn/Doi-song/Buc-tranh-tong-the-ve-thuc-trang-muc-sinh-o-Viet-Nam/397811.vgp>.
5. Levit N, Minow M, Minow M, Verchick R. Feminist Legal Theory (Second Edition). 2nd ed. NYU Press; 2016;.
6. Kinser A. Motherhood and feminism. Berkeley, Calif.: Seal Press; 2010;.
7. Appelrouth S, Desfor Edles L. Feminist and Gender Theories. In: Sociological Theory in the Contemporary Era: Text and Readings. 1st ed. Sage Publication Inc; 2007. p. 313-80;.
8. Ortner, Sherry B. 1974. Is female to male as nature is to culture? In M. Z. Rosaldo and L. Lamphere (eds), Woman, culture, and society. Stanford, CA: Stanford University Press. p. 68-87;.
9. ILO. Mặc dù thời gian nghỉ thai sản dài, Việt Nam vẫn tụt hậu về chế độ cho các ông bố. [Online]. 2014 [cited 2021 Oct 14]; Available from: http://www.ilo.org/hanoi/Informationresources/Publicinformation/Pressreleases/WCMS_243008/lang--vi/index.htm.
10. Duong W. Gender Equality and Women's Issues in Vietnam: The Vietnamese Woman-Warrior and Poet. Washington International Law Journal [serial online] 2001 [cited 2021 Sep 2]; 10(2); Available from: <https://digitalcommons.law.uw.edu/wilj/vol10/iss2/2>.
11. Đổi mới phương thức lãnh đạo của Đảng đối với công tác vận động phụ nữ trong bối cảnh hiện nay. Tạp chí Cộng sản [serial online] 2020 [cited 2021 Sep 2]; Available from: <https://www.tapchicongsan.org.vn/web/guest/kinh-tri-xay-dung-dang/-/2018/815916/doi-moi-phuong-thuc-lanh-dao-cua-dang-doi-voi-cong-tac-van-dong-phu-nu-trong-boi-canh-hien-nay.aspx>.
12. Nỗ lực thực hiện mục tiêu bình đẳng giới trong lĩnh vực chính trị. [Online]. 2018 [cited 2021 Sep 2]; Available from: <https://moha.gov.vn/congtaccanbonu/binhdanggioi/no-luc-thuc-hien-muc-tieu-binh-dang-gioi-trong-linh-vuc-chinh-tri-38167.html>.

13. Nâng cao vai trò của phụ nữ trong cuộc sống. [Online]. 2020 [cited 2021 Sep 2];Available from: <https://nhandan.vn/xa-luan/nang-cao-vai-tro-cua-phu-nu-trong-cuoc-song-451359/>.
14. Nguyen D. Tạp chí Xây Dựng Đảng - Vai trò to lớn của phụ nữ Việt Nam. Tạp chí Xây Dựng Đảng [serial online] 2018 [cited 2021 Sep 2];Available from: <http://www.xaydungdang.org.vn/Home/van-hoa-xa-hoi/2018/11347/Vai-tro-to-lon-cua-phu-nu-Viet-Nam.aspx>.
15. Eisenstein Z. The female body and the law. University of California Press; 1988.
16. Bartlett K. Feminist Legal Methods. Harvard Law Review. 1990;103(4):829;Available from: <https://doi.org/10.2307/1341478>.
17. Viện Nghiên cứu Phát triển Xã hội. Nam giới và Nam tính trong một Việt Nam hội nhập - Những phát hiện chính và hàm ý đối với Bình đẳng giới. NXB Phụ nữ Việt Nam. 2020,.

Những người Việt Nam ủng hộ phong trào vị nữ mong chờ gì ở những quy định liên quan đến "làm mẹ"?

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TÓM TẮT

Nghiên cứu về phong trào vị nữ hay nghiên cứu về nữ quyền ở Việt Nam vẫn đang tập trung vào hệ thống hóa các khái niệm, lý thuyết về phong trào vị nữ, cũng như các vấn đề về lịch sử và văn hóa của phong trào này. Do đó vẫn còn nhiều khoảng trống trong không gian nghiên cứu về các vấn đề pháp lý và đặc biệt là lý thuyết pháp lý nữ quyền ở Việt Nam. Bằng cách áp dụng phương pháp pháp lý nữ quyền của Barlett, các tác giả đã tìm hiểu quan điểm của các những người Việt Nam ủng hộ phong trào vị nữ về khái niệm "làm mẹ" và kỳ vọng của họ về quy định của pháp luật liên quan đến chế độ thai sản và về việc làm mẹ. Bài nghiên cứu sẽ chứng minh nền tảng lý thuyết và phương pháp trả lời câu hỏi nghiên cứu của chúng tôi: Những người Việt Nam ủng hộ phong trào vị nữ mong chờ gì ở những quy định liên quan đến "làm mẹ"? Nghiên cứu được thực hiện thông qua khảo sát định lượng và định tính đối với 28 người và phỏng vấn sâu 5 người thuộc nhóm ủng hộ phong trào. Thuật ngữ "nữ quyền" hay "phong trào vị nữ" không được thống nhất và có thể được hiểu khác nhau, do đó, những người tham gia mục tiêu của cuộc khảo sát và phỏng vấn của chúng tôi nằm trong mạng lưới các nhà hoạt động trong phong trào. Chúng tôi phân tích định lượng và phân tích định tính kết quả khảo sát và phỏng vấn sâu về kỳ vọng của những người đối với luật pháp Việt Nam phản ánh lý tưởng chịu ảnh hưởng của một số trường phái nữ quyền. Chúng tôi đã tóm tắt và hệ thống hóa các nhánh của lý thuyết pháp lý nữ quyền và so sánh dữ liệu này với kết quả phân tích phỏng vấn sâu. Kết quả nghiên cứu cho thấy rằng không có lý thuyết nào có khả năng thống trị tại Việt Nam. Các nhà nữ quyền Việt Nam đã tiếp thu những triết lý này sau khi áp dụng quan điểm và hoàn cảnh sống của họ. Bài nghiên cứu sẽ góp phần xây dựng kiến thức định tính trong nghiên cứu về phong trào vị nữ ở Việt Nam trong tương lai. Về khía cạnh pháp lý, chúng tôi thấy rằng kỳ vọng của các nhà ủng hộ phong trào đối với luật pháp Việt Nam có thể được tóm tắt trong ba chủ đề chính: Cung cấp chế độ thai sản bao trùm cho cả hai vị trí cha và mẹ, Đảm bảo các quy định pháp luật bảo vệ phụ nữ mang thai và bà mẹ được thi hành hiệu quả và Loại bỏ ngôn ngữ mang tính thành kiến giới trong luật. Những kỳ vọng này có khả năng trở thành nòng cốt cho các hoạt động đang nổi của các nhà hoạt động Việt Nam.

Từ khoá: nữ quyền, vị nữ, làm mẹ, phong trào vị nữ Việt Nam, nữ quyền Việt Nam, lý thuyết pháp luật nữ quyền

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