

STAKEHOLDERS' JOINT SUBMISSION FOR THE 3rd UNIVERSAL PERIODIC REVIEW OF VIETNAM - 2019

SUBMITTED BY



Center for Education Promotion and Empowerment of Women (CEPEW)
Email: cepewdk@gmail.com



IDEA - Inclusive Development action (IDEA)
Email: hongoanh@idea.org.vn



LEA – LGBTQ Education Activists
Email: lea.org.vn@gmail.com



Research Center for Gender, Family and Environment in Development (CGFED)
Email: infor@cgfed.org.vn

WWMD

Women Who Make a Difference
Email: haiyen.thcv@gmail.com

This joint submission was prepared by GENDER EQUITY COALITION of non-government organizations (NGOs), community-based groups and individuals. The joint submission covered thematic reports and testimonies prepared by members. There were 41 people who are representatives of 21 organizations and groups including NGOs, community-based groups, international organizations and individuals provided comments, information, recommendations for the submission through a consultation workshop on 27th June 2018.

Hanoi, July 2018

I. INITIATIVES TO PROMOTE WOMEN'S RIGHTS & GENDER EQUALITY AND ACHIEVEMENTS

1. **The Government has adopted the action plan to promote gender equality and worked on the revision and supplement of the laws.** Since 2014, the Government has promulgated a number of legal instruments to promote gender equality¹ and implementing the CEDAW Committee's concluding observations².
2. **Achievements of non-governmental organizations and networks.** Non-governmental organizations have implemented various initiatives to educate the public about gender equality, protection of the rights of vulnerable women and girls, prevention of gender-based violence. They also contributed greatly to the process of reforming laws and policies. New youth groups and networks have been formed to promote gender equality.
3. **Increased dialogues between government representatives and non-governmental organizations working on women rights,** most notably on raising the public's awareness on CEDAW and the Law on Gender Equality, in the consideration of the signing of ILO conventions on worker rights or on the drafting of the Law on Access to Information.

II. GENDER NORMS AND GENDER DISCRIMINATIONS

4. **Lack of a comprehensive legal framework that prohibits all forms of discrimination** as set out in the UN Conventions and other human rights mechanisms.³ The provision of non-discrimination in the Constitution 2013 is incompatible with the scope of non-discrimination as expressed in UN-Human Rights Treaties.⁴ Discriminatory clauses exist in different Laws, including: **The Marriage and Family Law** (revised in 2014) differentiates marital age between males (20 years-old) and females (18 years-old),⁵ and mentions gender-role concepts of women⁶ or despite CEDAW's recommendations (2007)⁷; **The Labor Code** contains provisions that discriminate on the ground of sex and reinforce gender stereotypes: Different retirement age between men (60) and women (55).⁸ The law also provides a list of jobs in which the employment of female is prohibited.⁹ These regulations received particular concerns and recommendations to revise by CEDAW (2001)¹⁰ and CESCR (2014),¹¹ yet they prevail. Some of the other provisions of this Code also reinforce gender stereotypes about women's carework responsibility¹². As the Labour Code is under revision, MOLISA proposes a roadmap to raise retirement age by 2021 which would still differentiate between men and women.¹³ **The Law on Children (2016)** does not provide clear forbidden grounds of discrimination against children.¹⁴ **Lack of non-discrimination regulations in legal framework for Election**¹⁵ as the principle has been removed from the electoral rights provisions of Article 27 of the Constitution 2013¹⁶ and the Election Law of 2015.

Recommendations:

- Adopt a Law on Anti-discrimination in accordance with Article 1 of CEDAW and Article 2 of the ICCPR, ICESCR, CERD, CRC and CRPD, including specific measures and punishment for violations.
- Implement training programs for policy makers in the legislative, executive and judicial branches about the obligations of the Member State on the non-discrimination principles of CEDAW and other international human rights conventions.
- Revise all discriminatory laws and regulations to comply with international human rights standards, including: Remove the discriminatory provisions that reinforce gender stereotypes in the Law on Marriage and Family Law to ensure compliance with Article 16 of CEDAW and the General Recommendation No.

21 of the CEDAW Committee on Equality in Marriage and Family Relations; Revise the Labor Code according to CEDAW Committee's concluding comment No 271 for Vietnam in 2001;¹⁷ Review and revise the Law on Children 2016 to protect the child from recognised forms of discriminations inline with CRC.

- Amend Article 16 of the Constitution 2013 to incorporate the principle of non-discrimination in the legal framework on election, following Article 2 of the ICCPR, Article 1CEDAW and other human rights treaties to which Vietnam is a member.

5. Reinforced gender norms and stereotypes in textbooks and media. Research conducted from 2009 to 2010 indicated the prevalence of gender-biased content and images in textbooks.¹⁸ A rapid review of elementary textbooks by our research team confirmed this trend.¹⁹ Other educational materials by private companies would include similar stereotypes in contents and illustrations.²⁰ Studies from 2010 to 2012 indicated that men are more dominant in news stories and media products where gender norms are further reinforced.²¹ A rapid test of commercials on a national TV channel in two days in 2018 against gender stereotypes (which is forbidden by Law on Advertisement²²) confirmed this trend.²³ In this test, only 1.16% of the advertisements showed non-traditional role such as male involvement in housework as part of their responsibilities.²⁴ Such practices were also observed in TV's gameshows and entertainment programs.²⁵ In addition, news stories tends to depict female leaders attaching to traditional roles such as caring for family, children, housework.²⁶

Recommendations:

- Provide effective measures including accessible complaint mechanism for victims of gender discrimination and their representatives, and sanctions on violations of non-discrimination.
- Provide trainings on gender equality in accordance with the CEDAW standards for civil servants, journalists and media managers, using hands on tool such as the Gender-Sensitive Indicators for Media.²⁷
- Ensuring that the principle of substantive gender equality and non-discrimination on all grounds, including non-discrimination on the basis of sexual orientation and gender identity is applied in the process of formulating and reforming the educational program under the Circular No. 14/2017/TT-BGDĐT²⁸

6. Government-funded propagandas and projects re-inforced gender stereotypes. For instance, the campaign by the Vietnam General Confederation of Labour for women members introduced since 1989 encourages women employees to register to be "excellent in public, responsible at home". While there was no similar qualification required for men, the campaign has been continuously promoted in all sectors without being evaluated or adjusted from gender equality perspective.²⁹ The Women's Union' mass communication project on "Four virtues: Self confidence - Self respect - Kindness and Diligence" approved by a Prime Minister's Decision³⁰ or a movement on "Families with 5-no and 3-clean"(started in 2010 and remained central to the Women's Union agenda in 2012 - 2017)³¹ or the project "Supporting the development of private child care groups/centres in exporting processing and industrial zones by 2020" targeting at 95% of mothers in industrial and export processing areas to raise their awareness on child-care and children's development³² provides more responsibilities on women and did not address men's roles and responsibilities, in many cases became a doubled criteria for women. It became a barrier to participate in the public life for a woman as she would need to fulfil double role at both public and private spheres.

Recommendation: Review and adjust all state-funded projects and campaigns towards women using to ensure that all stereotypes of gender roles are eliminated.

III. WOMEN AND ELECTIONS

7. Gender inequality was reproduced in the electoral process. 5/21 members of the National Election Council 2016 were women, account for 23.8%.³³ In some provinces, women accounted from as low as 3.7%³⁴ to no more than 30% in the election committees. Regarding election candidates, no specific quota but a general direction of “make sure there are women in the list of nomination for the National Assembly” by 18 agencies and organizations of the Government or to “have women in the list of candidates” of 31 candidates nominated by the Farther Land Front and its member organizations. There is no suggested quotas on female candidates for other agencies.³⁵ As men takes a majority of leadership positions, fewer women were nominated to powerful groups³⁶ of candidates in the election, therefore reproduced gender inequality in the electoral process. In the Election 2016, women accounted 38,97% candidates at all levels, but only 14.72% of those powerful groups of candidates introduced by national agencies, while 46.06% candidates nominated by local agencies were women.³⁷ As a result, the percentage of national assembly delegates for course XIV and people’s council delegates in the course 2011 - 2016 do not meet the expected target of 30%.³⁸ In 2016, 26.8% of elected candidates were women.³⁹

Recommendations:

- Adopt a quota on ratio of each gender in the election committees not lower than 30%; Introduce a requirement on gender balance in the leadership positions of election committees.
- Amend the conditions and criteria for candidates of the National Assembly and People's Council delegates to ensure the right to stand for election and to nominate candidates by voters; Ensure no one is discriminated or excluded from the election process.
- Ensure that voters have the right to directly nominate candidates of their choice.
- Introduce affirmative actions to ensure each gender in each electorate should be no less than 45%.

8. Uncontrolled practice of proxy voting affected the principles of universal, direct and confidential vote. Law on Election 2015 does not require to check ID of voters before giving them the voting registration card and during the voting process. While it was reported that 99.35% voters cashed their votes,⁴⁰ it was also admitted by the General Secretary of the National Assembly - Administrative Clerk of the National Election Council that “family voting or proxy voting” had not been controlled.⁴¹ The observation report made by youth group conducted in 2016 also showed that 23.2% of voters did not vote. Among those who did not vote, 63.6% did not ask support from others and 30.3% asked helps from others to vote, while 6.3% do not want to answer. The majority of supporters are relatives (75%) then friends (6.3%) and others (18.8%).⁴²

9. The ballot counting were not done in public and preliminary results at grassroots levels were not published immediately. The ballot counting is required to be done at the election unit right after the voting completed, with witness from two voters, journalists, candidates and their designated representatives.⁴³ As ballot counting was not done in public, it was difficult to monitor the count of the preliminary result of at the grassroots level, while there was no requirement to publish such result immediately.⁴⁴ In practice, the result of the election for NA deputies was publicized on 8/6/2016, 17 days after the election day.

Recommendations:

- Adopt the practice of ballot counting in public and immediately release the preliminary result at the grassroots level after the public ballot counting;
- Introduce measures to prevent proxy voting, including a protocol to check ID card together with voter registration before cashing the ballot.
- Give legitimacy and space for civil society organizations working on gender equality and women rights to conduct communication and education on fair and free election, and monitoring election.

IV. WOMEN PARTICIPATION IN THE PUBLIC SECTOR

10. Imbalance of ratio of female-male teachers at the school system. While the percentage of female teachers at college and university levels were respectively 49.8% (school year 2014-2015) and 47% (2015-2016), this number at highschool, primary school and pre-school increased to 68.6%, 73% and 99.7% respectively.⁴⁵

Recommendation: Adopt temporary special measures to ensure gender-balance in the employment of the education sector at different levels.

11. Discrimination in the enrolment in the universities and colleges on military, public security, procuracy and justice. Clause 3, Article 3, Circular 17/2016/TT-BQP⁴⁶ dated 11 March 2016 on guideline for enrolment in the army universities and colleges have regulation on enrolment quota of 10% women⁴⁷ and no more than 6% women in the total enrolment for information technology, telecommunication, biomedical electronics, military engineering at Academy of Military Techniques. Those targets are also applied to all universities and colleges on public security, people's police and fire control. In addition, the University of Procuracy, for instance, does not specify quotas of male or female students but provides differentiated requirements such as higher enrollment exam results for female candidates than male. This institution announced that people with disabilities are not eligible for enrollment.⁴⁸

Recommendation: Assess discriminatory regulations and practices in the enrolment in universities and colleges, especially at public institutions on public security, military and the justice sector, and take actions to ensure fair and equal opportunities for all.

12. Lack of statistical data on female staff as public servants from the main portal of information on public servants at the Ministry of Home Affairs,⁴⁹ nor from the General Statistics Office and a few other ministries⁵⁰.

Recommendation: Make available records of the public servants disaggregated by sex, ethnic minorities and religious minorities on the website and Statistical Yearbook of ministries and relevant agencies, especially, the website of the General Statistics Office and Ministry of Home Affairs.

V. FREEDOM OF ASSOCIATION AND PEACEFUL ESSEMBLY

- 13. Women's right to freedom of association is limited by legal normative documents promulgated by the administrative bodies** including Decree 38/2005/ND-CP⁵¹, Circular 09/2005/TT-BCA⁵² and Decision 76/2010/QD-TTg⁵³. These documents are not in line with the 2013 Constitution and incompatible with international standards on freedom of association. As stipulated under **Decree No. 38/2005/ND-CP and Circular 09/2005/TT-BCA⁵⁴**, the gathering in public places five or more people in common areas⁵⁵ must be registered in advance to district-level People's Committees or provincial-level People's Committees. The duration of such activities is only allowed to be carried out between 8.00 and 17.00 everyday, unless otherwise provided for by law. However, these two documents are not applicable to the activities organized by the Communist Party, state agencies, Vietnam Fatherland Front and socio-political organizations.
- 14. Article 3.1.b of Decision 76/2010/QD-TTg stipulates** that the Prime Minister approves the organization of international conferences and seminars with contents related to political issues, ethnicity, religion, human rights among others. Organizers must obtain written opinions of the Ministry of Foreign Affairs and other relevant local agencies on a detail proposal,⁵⁶ based on which the proposal might need an approval from the Prime Minister if the topic of the event related to human rights and international elements. The conduct of conferences and seminars needs to follow approved program and proposal and the result must be reported to the approval level within 15 days. In practices, such procedure posed un-due re burdens for women's rights organisations to conduct their activities.⁵⁷

Recommendations:

- Abolish Decree No. 38/2005/ND-CP, Circular No.09/2005/TT-BCA and Decision No. 76/2010/QD-TTg to ensure the freedom of peaceful association and assembly of women in line with the international standards which Vietnam has committed to;
 - Provide guidelines and training to law enforcement officers to assist and protect peaceful assembly of people;
 - Strictly apply the provisions of administrative and criminal law to address violations of the right to peaceful assembly of women.
- 15. Lack of a comprehensive legal framework to ensure the women's right to freedom of association.** Vietnam has not yet passed a law on associations despite a 15-year drafting process. The prevailing legal framework is not compatible with the Constitution 2013 and international human rights standards, as the following: The registration procedure for establishing an association in Vietnam is complicated and time-consuming;⁵⁸ Limited scope of activities of associations and other scientific and technological organizations;⁵⁹ Restriction of fundraising of women-led organization's and/or the organizations working in the fields of gender equality, promoting and protecting women's rights⁶⁰ and requires the approving power of the Prime Minister.⁶¹ and several other layers of approval⁶²; Under Circular 07/2010/TT-BKH⁶³, in order to receive an amount of aid/grant, a social organization must go through an approving procedure including obtaining a written agreement from the local authority where the project/grant will be carried out, 6 to 8 confirmations of no-objection to the amounts of grants from state agencies in relation to the grant contents as well as the consent of the host or lead agency or corresponding State bodies responsible for approving the grants. These regulations are applied to control the receipt of foreign aid to associations, non-governmental organizations, non-profit organizations and philanthropic foundations in Vietnam.

16. Delay or refusal of approval of the programs/projects of women-led associations and organisations working on gender equality and women's rights. It took more than 4 months to approve 26% of the projects, 4 months for 12% of the projects, 3 months for 26% of the projects, 2 months for 34% and 1 month for 2%,⁶⁴ despite regulation required 20 days⁶⁵. Another survey on⁶⁶ the implementation of Decree 93/2009/NĐ-CP, conducted in 2016, indicated that it must take projects from 2 to more than 5 months to receive approval and 18,1% of the projects were not approved or had not been approved yet.⁶⁷

Recommendations

- Review to amend those documents promulgated by the Government and the Prime Minister, including Decree No.45/2010/ND-CP, Decree No.93/2009/ND-CP, Decision 97/2009/QĐ-TTg, Circular 07/2010/TT-BKH to comply with Constitution 2013 and Vietnam's obligations under ICCPR.
- Promulgate a Law on Association that adheres to the spirit of Article 22 of the ICCPR, Article 7 of CEDAW, Article 29 of the ICRPD, Article 15 of the CRC, Article 5 of the CERD, which recognizes the principles of equality and non-discrimination in the establishment, participation and operation of associations.
- Progressively apply Article 14 (2) of the 2013 Constitution and Article 6 (1) of the Law on International Treaties 2016 for the consideration and approval of foreign non-governmental aid projects, especially during the drafting a law on association and making amendments and supplements to legal normative documents promulgated by the Government.

VI. GENDER-BASED VIOLENCES

17. Lack of a comprehensive definition of sexual harassment at work. The Labor Code 2012 includes four articles regulated that sexual harassment is one of prohibited acts⁶⁸. However, it still lacks a comprehensive definition of sexual harassment and punishment measures. In 2015, the Code of Conduct for prevention of sexual harassment at work was published⁶⁹. However, the Code of Conduct only defines sexual harassment at work but it is not legally binding, especially for employers and lack of punishment measures for violated acts.

18. In practice, 51% women and girls in a survey experienced sexual harassments at different levels in public places.⁷⁰ However, 47.7% female victims reported incidents compare to a 5% reported⁷¹. At work, victims of sexual harassment did not report as they felt blames and stereotypes when reporting incidents, due to a lack of mechanism to protect victims or victim advocates⁷² and the lack of sufficient capacity by authorities to receive complaints.⁷³

Recommendations:

- Ensure a comprehensive definition of sexual harassment at work and punishment measures are included in the amended Labor Code in 2019 and the Law on Gender Equality.
- Build capacity for law enforcement officers and justice officer as well as victim advocates to effectively address sexually harassment and support victims.
- Provide safe and efficient system to receive and address complaints.

VII. HUMAN RIGHTS OF VULNERABLE WOMEN

19. Transgender people have not been de facto recognized. The 2015 Civil Code recognizes the right to sex reassignment.⁷⁴ In the period 2016-2018, the Government has drafted and held consultations on the Law

on Sex Reassignment but pending further step at the National Assembly. The fact that the law has not been enacted has made it difficult for transgender people to enjoy civil, political, economic, social and cultural rights because some legal documents require individuals to present ID cards or such papers as birth certificates when registering for work, medical examination and treatment, registration for permanent residence or registration for temporary residence or absence⁷⁵.

Recommendations:

- Promptly enact the law on sex reassignment embracing specific provisions on the implementation of sex reassignment and changes in identity paperworks by 2020.
- Formulate and implement capacity building programs for health workers and civil servants on transgender people and sex reassignment in an effort to implement the obligations to ensure the rights of transgender people by 2020.

20. Stigma and discrimination against LGBT people. A study conducted by iSEE in 2016 ⁷⁶ found that bisexual women, transgender women and transgender men were discriminated against in their home, in the fields of health and employment⁷⁷. Clause 2, Article 8 of the 2003 Marriage and Family Law has removed the stipulation on prohibition into non-recognition of marriages between same sex persons. This indicates the de jure discrimination against LGBT people, especially LBT people in getting married and in exercise of their rights and obligations in marriage.

Recommendations:

- Add the stipulations on non-discrimination on grounds of gender identity and sexual orientation to the Law on Gender Equality and the Labor Code, in addition to the stipulations on non-discrimination against men and women on grounds of biological sexes by in 2020
- Legalize the right to same-sex marriage by 2020
- Integrate the knowledge of gender identity and sexual orientation, increase gender sensitivity in the process of working for training programs for State's civil servants including staff working in the court sector, lawyers, police officers and health workers
- Guide the formulation of school internal disciplines that do not discriminate on grounds of any identities, including gender identity and sexual orientation; coupled with the regulations on sanctioning and disciplining discriminatory acts in schools by 2020

21. Limited right to access to health information and services, reproductive health care and sexual health care among the LGBT community . The policies related to prevention and control of school violence issued by the Government⁷⁸ do not mention education on diversity of sexuality, reproductive health care and sexual health care for the LGBT community. Meanwhile, LGBT people, especially LGBT youth and adolescents encounter numerous difficulties and are discriminated against in schools or in their access to other public services⁷⁹.

Recommendation: Develop an action plan to change awareness, improve working skills of health workers towards LGBT people to achieve the goal that all people will be entitled to primary health care services, expand accessibility to and the use of quality health services in the National Strategy for the Protection, Care and Promotion of People's Health period 2011-2020, with a vision to 2030.

22. Women living in rural areas meet numerous difficulties when exercising the right to access to land. People at large, including ethnic minority women, do not have the right to land ownership as a result of Article 53 of the Constitution.⁸⁰ The right to access to land is reflected in the land use certificate. The report from a study conducted by ActionAid Vietnam in 2014 indicates that 71-76% of the land use certificates have the husband's name on them, only 6-13% of the land use certificates holding both the husband's and the wife's names, and the remaining number has not been issued yet⁸¹. The PAPI report in 2016⁸² shows that across the country, the difference or gap in the proportion of men compared to that of women that are named on the land use right certificates is about 13% (excluding the households without land use certificates/LUC). In rural areas, the difference is much higher than in urban areas, with the difference of up to 19% between the proportion of men and the proportion of women in rural areas having their names on the land use right certificates. Prior to 2004, only the name of the head of households (often men) was inscribed on the issued LUC. Now, as women want to change it in order to have their names inscribed on LUC to secure the right to land access, poor rural women are less likely to do so due to complicated procedures and high fees.⁸³

Recommendations:

- Review the situation of renewing LUR holding both the husband's and the wife's names nationwide with the participation of state agencies and civil society organisations
- Support poor and near poor households with payment of fees for renewal/replacement, cadastral measurement in an attempt to encourage people to renew their LUC to hold both the husband's and the wife's names
- Diversify the forms and languages in the programs to disseminate laws, policies on land to people, especially ethnic minorities, to ensure their right to access to information on land as well as their accessibility to land

23. Limited access to maternal health care information for ethnic minority women. Approximately 70.9% of ethnic minority women have accessed to at least one antenatal care (ANC) visit⁸⁴, much lower than the national average of 96%⁸⁵. Only 16% of ethnic minority women have at least four prenatal care visits, compared to the national average of 74%⁸⁶. In some ethnic groups, the rate of women having ANC visits is very low.⁸⁷ For many women, the extremely far distance from their home to the medical facility means that if they go for antenatal care they will lose one working day⁸⁸. In all ethnic groups, only 64% of the deliveries are made in a health facility. Meanwhile, home delivery is still the main method for half the ethnic groups, (80% of the deliveries are at home)⁸⁹. The distant location of health facilities is one of the reasons for the limited access to health care services.⁹⁰ Many women interviewed described the health workers' attitude of disrespect and discrimination against ethnic minorities women in health facilities. Sometimes health workers also receive bribes in cash for better service⁹¹. Many women feel uncomfortable with the expertise of commune health center's staff and their service quality, so they tend not to use their services unless the quality is improved. Meanwhile, some commune health center's staff say they are not confident in their capability to handle emergencies due to the lack of expertise and sufficient equipment.⁹² Communications delivered in Kinh (Vietnamese) is also a barrier for ethnic minorities women in accessing maternal health care services, as 40% of the ethnic women aged 15 and over is illiterate.⁹³ Contraception campaigns and programs have mainly targeted women and focused on family planning rather than on the prevention of sexually transmitted diseases⁹⁴ therefore can only reduce the risk of unwanted pregnancies but have no

dual effects of unintended pregnancy prevention and sexually transmitted diseases prevention, including HIV.⁹⁵

Recommendations:

- Provide safe, efficient, reasonable and equal maternal health services based on the traditions and custom, cultural values and diverse needs of ethnic minority communities at the existing commune health centers.
- Promote collaboration among commune health workers, village midwives in the provision of services and increase the proportion of deliveries supported by qualified health workers. Provide training on skills to midwives and train them to become village health workers.
- Provide professional capacity training, training on the customer service attitude for health workers at all levels throughout the country, using rights-based approach, mainstreaming gender equality knowledge.
- Efficiently and sufficiently invest in facilities and equipment of health facilities, especially at the commune level, provide specialized and technical training for health workers to operate and maintain devices.

24. Limited access to public transportation by women with disabilities. Vietnam only has a definition of persons with disabilities which focuses on health defects⁹⁶ but does not address the broader disabilities issues. The government has issued a number of regulations on the access to public transport for persons with disabilities, including fare exemption, discount and train carriages accessible to persons with disabilities⁹⁷. In fact, wheelchair-users still need to be carried in order to get on trains on different routes. Restrooms on these trainlines are not accessible nor safe for people with disabilities, especially women. All three domestic airlines have regulations on price discount for persons with severe and extremely severe disabilities,⁹⁸ however, passengers must purchase tickets over the counter and demonstrate written evidence for their disabilities. Travellers with disabilities are required to inform the airline 48 hours prior to flight to request for service. The railway sector applies ticket price discount for war invalids; victims of agent orange; persons with severe and extremely severe disabilities⁹⁹. However, the e-ticketing system of the railway sector does not include the section of support to the persons with disabilities.¹⁰⁰

Recommendations:

- Review all public transportation means to ensure the freedom of movement of persons with disabilities
- Adjust the e-ticketing system to ensure that persons with disabilities fully enjoy the fare discount and exemption policy in accordance with the current legal regulations

VIII. GENDER RESPONSIVE BUDGETING

25. Lack of regulations on and guidelines for gender responsive budgeting. Regulations stay focused on specific issues of women,¹⁰¹ but does not specify principles to ensure equity in investment including gender equality nor preventing investment projects from promoting stereotypes or discriminations on any basis.

Recommendation: Collaborate with international and national specialists to formulate and promulgate legal normative documents guiding the development, implementation and supervision and evaluation of gender responsive budget

26. Lack of capability to developing, supervising and assessing gender responsive budget. A study conducted by UN Women and OXFAM in 2015 indicates the most common way of understanding of gender responsive budgeting is to allocate a specific budget portions for activities targeting women such as budget for the affairs of Committees for Women’s Advancement and for workshops, training on gender equality. This fact is confirmed by leaders of the Department of Finance – Budget of the Office of National Assembly¹⁰². The concern on the lack of understanding of substantive gender equality concept among legislators, policymakers and Government officials as well as about the limited awareness of temporary special measures in order to accelerate the achievement of substantive equality between women and men was raised by CEDAW Committee to Vietnam in its dialogue in 2015.¹⁰³

Recommendations:

- Improve capacity of legislators and policymakers, government officials, national and provincial judicial and law enforcement officials to better their understanding of substantive gender equality and temporary special measures to promote gender equality in line with CEDAW Convention
- Provide technical training on developing, implementing, supervising and assessing gender responsive budgeting for elective representatives, civil servants in State finance and auditing sectors

27. Lack of gender-disaggregated data makes it difficult to assess the gender impact of tax policy in general and tax incentives in particular. Vietnam’s tax incentive policies are quite complex due to a scattered list of incentive eligibility covering both business areas and locations.¹⁰⁴ The tax incentive policies embody social policies, including gender equality issues, but in reality, there is a lack of adequate studies by scholars and State management bodies to assess the efficiency of these policies¹⁰⁵. Meanwhile, in December 2017, Vietnam was one of the 46 countries listed in the European Union (EU)’s Grey list and tracked for tax violations. One of the reasons for Vietnam’s being listed in the EU list of non-cooperative tax jurisdictions is that Vietnam has tax incentives that do harm for export processing zones.¹⁰⁶

Recommendations

- Review and complete the tax data system to make it possible to assess the tax policy from the perspective of ensuring gender equality.
- Adjust the policy to restrict the application of preferential forms on the tax exemption and reduction time and replace tax incentives with investment preference policies, with a deduction being allowable for spending on scientific research and technological development of enterprises to avoid reduced budget revenue.

28. Vietnam is in the process of reviewing some taxation policies.¹⁰⁷ A study predicting the impact of VAT increase in 2018 shows that the reform of indirect tax including VAT does not directly but indirectly discriminate women because women are getting lower pay than men.¹⁰⁸ That women have low education level¹⁰⁹, work in low-skilled sectors and/or in informal areas¹¹⁰, have high unemployment rate¹¹¹ whilst retire five years earlier than men in accordance with the Labour Code 2012 are seen as reasons for women getting income lower than men.

Recommendations:

- Conduct studies of gender impacts on the revision of taxation policies to ensure that the practice bring about equity for vulnerable groups such as women with low income, women with low education level, women with unstable job, women run family business and work in informal sector
- Adjust tax incentive policies to ensure better resources for social issues, including gender issues

29. Budget allocation has not fully ensured gender equality and contribute to eliminate gender stereotypes.

For instance, the majority of vocational training programmes designed for women are short-term courses and focused on women's traditional crafts such as tailoring, hairdressing, hair washing, and so forth. These professions often provide low income, leaving women vulnerable to men in access to labour market. Larger gaps are still found between men and women in access to technical education at work.¹¹²

Recommendations:

- Develop guidelines for making annual budgets that take into account gender elements and social gender responsive budget models from the 2019 fiscal year
- Develop guidelines for reviewing public expenditure and assess the effectiveness of budget expenditure from gender perspective

30. The lack of gender-disaggregated statistics, budget estimates and budget settlements of budget spending units.

The assessment of UN Women and WiPPA in 2016 on the set of national indicators on gender-related development statistic¹¹³ shows that this process is currently difficult to implement and is varied by sectors. Moreover, in order to have sufficient empirical evidence as a basis for gender responsive budgeting, it is not possible to rely on local statistics, but also on data of periodical surveys or adhoc surveys.¹¹⁴ Insufficient data, especially the lack of gender-disaggregated posed a great challenge to the monitoring of gender-responsive budgeting.

Recommendations:

- Implement the Decision No. 56/2011/QĐ-TTg to ensure that statistics in all sectors are gender disaggregated
- Publicize detailed data and explanations on the budget estimates and settlements of budget spending units

IX. OTHER ISSUES

31. Lack of mechanisms to deal with violations of women's rights and a specific monitoring mechanism.

Despite State efforts and investment to address issues mentioned above, the lack of a specific and independent monitoring mechanism makes it difficult to identify and address problems, so the measures taken are often inadequate and inefficient. Vietnam has numerous bodies, both State and State-funded ones, that are performing the supervision function. Nevertheless, these bodies lack the expertise to oversee the implementation of human rights in general and women's rights in particular. During operation, there are concerns about their ability to operate independently and unbiasedly.

Recommendation:

- Accelerate the establishment of an independent National Human Rights Institution under the Paris Principles
- Recognise the competence of CEDAW to receive individual complaints.
- Invite visits by Special rapporteur on the rights to freedom of association and peaceful assembly; Special rapporteur on violence against women, its causes and consequences; and the Working group on discrimination against women de jure and de facto.

¹These include: Decision No. 2351/QĐ-TTg dated 24 December 2010 approving the National Strategy on Gender Equality for the 2011-2020 period; Decision No. 1696/QĐ-TTg dated 02 October 2015 approving the National Program of Gender Equality for the period 2016-2020; Decision No. 622/QĐ-TTg, dated May 10, 2017, on the promulgation of National Action Plan for the implementation of the 2030 sustainable development agenda; Decision No. 1464/QĐ-TTg dated 22 July 2016 approving the project on "Preventing and responding to gender-based violence in the 2016-2020 period, vision to 2030"; Decision No. 565/QĐ-TTg dated 25 April 2017, approving the Objective programme on developing a social support system for the 2016-2020 period which supports the implementation of national targets for gender equality; Decision No. 1309/QĐ-TTg of September 5, 2017, approving the scheme on putting human rights contents into the educational program in the national education system; Decision No. 1898/QĐ-TTg of November 28, 2017, approving the scheme on "Supporting gender equality in ethnic minority areas in the 2018-2025 period"

²Decision No. 668/QĐ-TTg dated May 16 of the Prime Minister approving the plan on implementation of the United Nations' Convention on the Elimination of all Forms of Discrimination against Women for 7th and 8th progress reports. Significantly, the Law on the election of the National Assembly deputies and People's Councils has set specific targets to strengthening the participation of women in the National Assembly and People's Councils; The Penal Code 2015 added a number of crimes related to child abuse and child molestation; The Law on State Budget 2015 mentions the principle of equality in state budget management and allocates budgets for gender equality as one priority.

³Recommendation of the CERD Committee 1993 (Official Records of the General Assembly), Forty-eighth Session, Supplement No. 18 (A/48/18), para 348-358), in 2001 (CERD A/56/18 (2001) para. 414-415) and 2012 (CERD/C/VNM/CO/10-14 para. 7); by CESCR in 2014 (E/C.12/VNM/CO/2-4 para 13) and accepted UPR recommendations in 2014 (Recommendation No.88 from Chile) (see A/HRC/WG.6/14/L.14 para. 143.88).

⁴ Article 16 of the of the Socialist Republic of Vietnam 2013 states: 1) Everyone is equal before the Law and 2) No one is discriminated against in political, civil, economic, cultural or social life. It does not provide enough specific forbidden grounds of discrimination as stipulated by international standards. Moreover the non-discrimination provision in the Constitution (and other laws) are articulated in an exhaustive list of forbidden ground.

⁵Article 8, paragraph 1a.

⁶ such as "assist mothers in properly fulfilling their lofty motherhood functions" (Article 2, paragraph 4), "perpetuate and promote the Vietnamese nation's fine cultural traditions and ethics on marriage and family"(Article 2, paragraph 5) or using general terms such as [accepting] marriage and family practices "which are repetitive over a long period of time and widely accepted in an area, a region or a community"(Article 3, paragraph 4), or continuously addresses the gap in marital age between males (20 years-old) and females (18 years-old) (Article 8, paragraph 1a). Law No 52/2014/QH13 dated June 19th 2014 on Marriage and Family. An English translation is accessible at <http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=10874>

⁷ on revising the law and set a minimum age limit for marriage for both females and males in line with Article 16 CEDAW

⁸ or 65/60 respectively for men and women who are professionally qualified workers, high-tech workers, management positions and some other special cases, following Article 187 of the Labor Code 2012 and Decree No. 53/2015 / ND-CP issued by the Government on May 29, 2015 on retirement age of cadres and officers.

⁹ Article 160 Labour Code No. 10/2012/QH13 dated 18/6/2012. Follow this provision, the Circular No. 26/2013/TT-BLĐTBXH dated 18/10/2013 provides a list of 77 jobs in which the employment of women is forbidden. The list includes several manual labour job and others, for instance or carrying weight more than 20kg or the operation of dead bodies.

¹⁰Document No. 38 (A / 56/38) - Section 271

¹¹Document No. E/C.12/VNM /CO/2-4

¹²Clause 6 of Article 153 states that "the State makes plans and takes measures for the organization of preschool, kindergarten at the place where there are many female employees", Clause 6, Article 154 stipulates one of the obligations of employers is "to assist and support the building of nursery school, kindergarten or partial cost of child care at kindergartens for female employees".

¹³http://duthaonline.quochoi.vn/DuThao/Lists/DT_DUTHAO_LUAT/View_Detail.aspx?ItemID=1270&TabIndex=2&TailieuID=2591 (access on 6 June 2017). In this proposal, the retirement age is proposed with two option. The first option is to maintain the current retirement age of workers under normal working conditions, which is 60 years for men and 55 years for women. Option 2 would follow

the first until January 1, 2021, after which it would make incremental increases of 6 months until reaching the age of 62 for males and 60 for females.

¹⁴ Article 5 para.2 only provides “discrimination against children is forbidden”.

¹⁵Principles of non-discrimination on the basis of race, sex, social status, beliefs, religion, educational attainment, occupation, the length of stay in the electoral process has been stipulated in the 1992 Constitution¹⁵, the Law on the Election of delegates to the National Assembly in 1997¹⁵ and the Law on the Election of delegates to the People's Councils in 2003. Article 2 of the Law on the Election of Delegates to the People's Council 2003 stipulates that "Citizens of the Socialist Republic of Vietnam will be not discriminated on the basis of nationality, sex, social status, belief, religion, occupation or residence duration, who are full eighteen years or older and have the right to vote and are twenty-one years or older, shall have the right to stand for election to the People's Councils according to the provisions of law”.

¹⁶Article 27 of the Constitution states that "Citizens who are eighteen years of age or older shall have the right to vote and twenty-one years or more shall have the right to stand for election to the National Assembly or the People's Council. The exercise of these rights is governed by law.

¹⁷CEDAW A/56/38 (2001) para. 271.

¹⁸MOET, UNESCO, 2010. The Study on National textbook review and analysis from a gender perspective; and Nguyen Thi Tuyet Minh and Nguyen Thi Thu Hang, 2009. Gender stereotypes in primary textbooks. The study indicated, for example, , in which men appear as the main character (41%) more frequently than women (15.6%); names of male characters in textbooks usually mean 'intelligent' (66.67%), 'ambitious' (10%), 'natural phenomenon' (13.33%), 'strong animals' (10%), while female names are names of flowers (27.5%), names of plants (15%), seasons' names (10%), birds' names (7.5%), or rivers' names (40%).

¹⁹ The team reviewed elementary textbooks of Vietnamese; Nature, Society and Science textbook, Ethics books and workbooks. These textbooks showed 100% of the career-related illustrations of construction workers, engineers are associated with male imagery; 88.68% of the teacher profession illustrations are female; 53.49% of the farmer images are female; 70% of the images associated with the health sector are male; 64.29% of the images associated with the care and education of children are female; 96.67% of the images in the military, security sector are men; and 95.83% of illustrations of housework are attached to women. The terms describing male characteristics are "strong", "the breadwinner", "the director". The words that describe the female characters are "gentle", "patient", "good cook", "child care", "secretary". Some posters used in primary schools with the topic of occupation and family published by the Vietnam Education Publishing House still uphold gender stereotypes such as male professions are related to engineering and health sectors such as builders, mechanics, engineers; women often work as farmers, teachers, cleaning staff

²⁰Coloring book "Be tap lam noi tro" (Learn to do housework) by Ha Tay Printing and Packaging Company (fourth edition), May 2017; The coloring book "Nganh nghe" (Jobs) Ha Tay Printing and Packaging Company (sixth edition), May 2017; "Be hoat dong va kham pha chu de Nghe nghiep cho be tu 3-4 tuoi" (Activities for kids to explore the topic of jobs for children aged 3-4 years old) by the printing company of the General Staff (fourth edition), September 2016.

²¹ Global Media Monitoring Project 2010 and the Survey on Gender Equality, Prevention of Domestic Violence and Sex Ratio at Birth via Mass Media (Case Study of Vietnamese Women Newspaper, Tien Phong Newspaper, Dan Tri Newspaper) and commercials on VTV3, VOV1 by CSAGA in 2012

²² Article 8 para.6

²³The team observed from 6:30 to 22:30 everyday from 7-9 June 2018 and found out among 432 commercials broadcast on VTV3 channel, 58.56% of the commercials used images, characters with female characteristics that reinforce gender stereotypes and prejudices, including advertisements of formula milk companies such as Optimum Gold Plus, Pediasure; dipping sauce companies such as Chin-su, Long Dinh, Nam Ngu or baby-friendly products such as Johnson baby Top-to-Toe Shower Gel . The images in the promotional clips play into gender stereotypes, particularly the expectation that women are responsible for maintaining a household in addition to achieving professional success. Women are attached to the image which is soft, sweet, delicate, gentle to attract men. Meanwhile, men must be strong, proactive to protect women and children, taking charge of the family's economy and social relations, as well as they should do the job requires strength and technical skills (including the advertisements of some dairy products, beverages, energy drinks such as Pepsi, Pediasure milk, Fami and Bkav Pro, an antivirus software)

²⁴Including the advertisements of Vedan sweet powder, 3 Mien dipping sauce, washing water Sunlight Aloe.

²⁵Including the programs “Đại chiến quý ông”(Gentlemen's War), “Chất lượng cuộc sống”(Life quality), “Trí lực sánh đôi” (Matching force), “Chuẩn cơm mẹ nấu” (That's my mom dishes) and “Lựa chọn của trái tim” (Heart's choice)

²⁶The study "Newspapers and gender stereotypes against women" conducted by Oxfam in Vietnam in 2016

²⁷The Gender-Sensitive Indicators for Media developed and published by the Ministry of Information and Communication with the support of UNESCO and OXFAM in 2014

²⁸Circular No. 14/2017/TT-BGDĐT issued by the Ministry of Education and Training dated June 6, 2017 promulgating regulations on standards and procedures for the construction and adjustment of general education programs; the organization and operation of the National Council for Appraising General Education Programs and Textbooks

²⁹ Most recently was the Order No03/CT-LD dated 18/8/2010 by Vietnam General Confederation of Labour Unions on continuous promotion of the campaign. The campaign was reviewed in 2015 following Guidelines No. 21/HD-TLĐ on 07/01/2015 on the review of the implementation of the program for five years 2010 – 2015. The review guideline however did not take any consideration on the gender equality perspective and how the program affect gender stereotypes or gender equality.

³⁰ Decision No.343/QĐ-TTg dated 12/3/2010 by the Prime Minister on the approval of the project “Communications and Education of virtues and qualities for Vietnamese women in the period of enhancing industrialisation and modernisation of the country (period 2010 – 2015).

³¹ No poverty and “social evils”, no domestic violence, no third child and beyond, no manultritious children and children drop out from school. Clean house, clean kitchen and clean lane. The movement’s criteria has been implemented since 2010 and mainstreamed to the national program on New Rural as criteria to rate communes which are qualified as “New Rural communities”.

³² Đề án ban hành kèm theo Quyết định số 404/QĐ-TTg ngày 20/03/2014 của Thủ tướng Chính phủ

³³ Analysis from the National Assembly’s Resolution No.105/2015/QH13 on the establishment of the National Election Council.

³⁴ Counted from different online portals on Election Committees at provincial level: Ha Giang:24%; Hanoi:17.2%; Da Nang:16%; Binh Dinh:10.7%, Soc Trang: 9.1% and Quang Nam: 3.7%.

³⁵Resolution No 1135/2016/UBTVQH13 dated 22/01/2016 of Standing Committee of the National Assembly on tentative number and composition of the national assessment candidates for Congress XIV

³⁶ There are three types of candidacy in the election of the National Assembly candidates and People Council, including (1) oriented group; (2) recommended group and (3) combined group mechanism. The first group includes persons who are holding key leadership position in the party organizations, communist party membership organizations, state agencies, political –social organizations, the army organizations at all level (central, provincial/city, district, and commune). The second group includes candidates who are representatives for ministries (at the national level), department (at the provincial level), units and agencies(at district level) and representatives of relevant agencies at commune level (at commune level). The combined mechanism was designed to respond to quotas of women, ethnic minority, non-party membership candidates, youth and religion leaders in all field, at all level and those people may not be in the leadership positions. (Following Resolution No 1135/2016/UBTVQH13 dated 22/01/2016 of Standing Committee of the National Assembly on tentative number and composition of the national assessment candidates for Congress XIV).

³⁷Resolution No 270/NQ-HĐBCQG dated 26/4/2016 by National Election Council on the list of official candidates for National Assembly delegates at all election units

³⁸ 30% as indicated in the National Strategy on Gender Equality period 2011 – 2020 and 35% according to recommendations of the CEDAW committee for Vietnam.

³⁹According to Report No 695/BC-HĐBCQG dated 19/7/2016 made by the national election committee on review the result of national assembly delegates and people’s council delegates in the period 2016 – 2021. A study group in our coalition randomly took 21 provinces and found six provinces have the percentage of the female delegates higher than 35% (Da Nang city: 37.5%, Dien Bien province: 50%, Hung Yen: 42.8%, Quang Ngai: 57.1%, Vinh Long: 50% and Vinh Phuc: 50%), On the other hand, the percentage of female delegates in some provinces are only about 10%, for example, Hai Phong: 11.2% and Binh Dinh: 12.5%. There are 1.038 female delegates among 3.908 people council’ delegates at provincial People’s Council (equal to 26.56%); 6.925 female delegates among 25.181 delegates at district level (equal to 27.5%) and 77.724 female delegates among 292.306 people council’ delegates at commune level (equal to 26.59%) at whole country.

⁴⁰ Report No 695/BC-HĐBCQG dated 19/7/2016 made by the national election committee on review the result of national assembly delegates and people’s council delegates in the period 2016 – 2021.

⁴¹ 6th Meeting by the National Election Committee, Mr. Nguyen Hanh Phuc-

⁴² In this quick survey, reasons made voters did not cash their votes included, for example, do not have a voter registration, busy with their works, do not have time to study about candidates, migrant workers who did not register for voting with local authority, people with disability could not access the election units; do not trust the result of ballot countings and election.

⁴³ According to Article 73, Law on Election 2015.

⁴⁴ Regarding the announcement of election, the Law on Election provides (1) the national election council has to publicize the result of election at whole country, based on the report of the election result and the list of persons who were selected for national assembly delegates, no later than 20 days after the election finished ; (2) the election committees have to publish the result of election and the list of persons who are selected for people’s council delegates, no later than 10 days.

⁴⁵Source:: <https://www.moet.gov.vn/thong-ke/Pages/thong-ke.aspx> (access on 18/6/2018)

⁴⁶Circular 17/2016/TT-BQP dated 11 March 2016 on regulations and guideline for enrolment works of universities and colleges related to military and public security

⁴⁷ including in those disciplines such as the Military Medical Academy; the international relations on defense and foreign language faculties at Academy of Military Science.

⁴⁸ Enrollment notice of the University of Procuracy 2018, accessed at <http://tks.edu.vn/bai-viet/chi-tiet/35/2396/thong-bao-so-tuyen-nam-2018> on 12/7/2018.

⁴⁹Source: <https://www.moha.gov.vn> (visited on 18/6/2018)

⁵⁰such as the Ministry of Defense Source: <http://www.mod.gov.vn> (visited on 18/6/2018); the Ministry of Public Security Source: <http://bocongan.gov.vn> (visited on 18/6/2018)

⁵¹Decree No. 38/2005/NĐ-CP enacted by the Government dated 18 March 2005 defining some measures ensuring public orders

⁵²Circular No. 09/2005/TT-BCA enacted by the Ministry of Public Security dated 5 September 2005 guiding the implementation of some articles of Decree No. 38/2005/NĐ-CP

⁵³Decision 76/2010/QĐ-TTg enacted by the Prime Minister dated 30 November 2010 on the organisation, management of international conferences and workshops in Vietnam

⁵⁴ Point 4.1 Article 4 Circular 09/2005/TT-BCA

⁵⁵ such as pavements, road beds, squares, economic and cultural facilities, spaces for community activities.

⁵⁶ The proposal on the organization of the international conferences should clearly state the reason and name of the organizers and purpose of such conference or seminar; time and avenue for holding conferences and seminars; Places of visit or survey (if any); format and technology to organize (in the case of online conferences and seminars); content, agenda and activities, side events of conferences and seminars; organizing members including Vietnamese agencies, foreign agencies and donors (if any); Participants: Number and composition of participants, including Vietnamese delegates and delegates with foreign nationality; funding; **(Article 4.1 and 4.2).**

⁵⁷ The Department of Foreign Affairs and Department of Public Security of Hanoi and Thua Thien Hue province based the Decision 76/2010 / QĐ-TTg to issue a Dispatch to check the approval license of the workshop organized to commemorating the International Day on Anti- corruption on 8/12/2017 in Ha Noi and to make an order to terminate the training on access to information on June 27, 2015 in Hue organized by women-led organizations and Gender equality, women's rights organizations. Also, under this decision, it took more than half a year to obtain an approval license to organize a training workshop on ASEAN Human Rights Mechanism dated on 12-14 January, 2015, after being agreed by Ministry of Foreign Affairs, Ministry of Public Security, Office of the Human Rights Commission, Central Committee of External Relations of the CPV and Permanent Secretariat of the CPV.

⁵⁸Decree No. 45/2010/NĐ-CP enacted by the Government dated 21 April 2010 stipulating the organisation, operation and management of associations According to Articles 6, 7, 9, 10, 12 and 13 of the Decree 45/2010 / ND-CP, the establishment of an association in Vietnam requires three compulsory administrative procedures, including (i) setting up an advocate and lobbying committee which must be recognized by the Government; (ii) compiling a dossier of application for establishment and must obtain the approval from the Government, (iii) holding a congress and its establishing charter and the leader of that association must be approved by the Government. The current three-step administrative procedure does not show the respect for freedom of association, but rather creates more barriers to the exercising of people's rights as well as the intervention of state into the internal affair of such association.

⁵⁹ Clause 1, Article 5 of Decree No. 45/2010 / ND-CP has created a "monopoly on association activities" with the stipulation that "the main activities of an association shall not be duplicated with the main activities of the association that was legally established earlier." Decision 97/2009 / QĐ-TTg enacted by the Prime Minister dated 24 July 2009 on promulgation of the list of eligible areas to individuals establishing Science and Technology organisations. The Decision regulates 265 fields belonging to 7 specialized sectors (Including natural sciences, social sciences, humanities, science and technology, medical and pharmaceutical sciences and health, agricultural science, science and technology services) ⁵⁹ that individuals are allow to set up scientific and technological (S&T) organizations. This regulation restricts individual women from setting up scientific and technology organizations in a number of areas, including promoting gender equality and protecting human rights of women and girls.

⁶⁰Decree No.93/2009/NĐ-CP enacted by the Government dated 22 October 2009 promulgating the regulations on management and use of foreign non-governmental grants prescribes some priority areas for using foreign non-governmental aid. Under the provisions of Article 3 Decree No. 93/2009/ND-CP, foreign non-governmental aids that shall be used to support the implementation of socio-economic development and humanitarian priority objectives of Vietnam over each period, mainly include a) Agricultural and rural development (including agriculture, irrigation, forestry and fisheries) in combination with hunger eradication and poverty alleviation; b) Development of social infrastructure (health, education and training, labour, employment, population); c) environmental protection and management of natural resources, prevention and mitigation of the aftermaths of natural disasters and epidemics; d) Enhancing institutional, managerial, technical capacities and human resource development; technological transfer, capacity building for research and implementation; e) humanitarian activities; and a number of other areas as decided by the Prime Minister.

⁶¹Under Clause 1.a, Article 15 of Decree No. 93/2009 / ND-CP, the Prime Minister is competent to approve FNG aid/grants related to national security, defense, religion and the grants that directly support the elaboration of legal normative documents, policies, advocates falling under the promulgating competence of the Prime Minister and higher levels, the strategies, plans and socio-economic development plans of the whole country, sectors and territories; The detailed list of categories of the used goods, equipment with simple structures; FNG aid amounts related to the import of automobiles and other means of transport. ; heads of State agencies, organizations', Chairs of People's Committees of provinces and cities under Central control, heads of Central agencies of various organization's

⁶²Under Clause 1.b, Article 15 of Decree No. 93/2009/ND-CP, heads of State agencies and organizations, chairs of people's committees of provinces and cities under central authority, heads of central bodies under agencies of the Party, the National Assembly, ministries, ministerial-level agencies, government-attached agencies, Supreme People's Procuracy, Supreme People's Court, People's Committees of centrally-run provinces and cities; organizations under central bodies of Vietnam Fatherland Front, Vietnam General Confederation of Labour, Ho Chi Minh Communist Youth Union, Vietnam Farmers' Union, Vietnam Veterans' Association, Vietnam Women's Union, Vietnam Lawyers Association; Organizations belonging to associations or association coalition established under the decision of the

Prime Minister shall be authorized to approve used goods with simple structure that have more than 80% compared with the value of being newly used (verified in writing by the Donor) on the list approved by the Prime Minister mentioned in paragraph 2, Point a of this Clause; and Emergency relief amounts that have specific addresses.

63 Circular No. 07/2010/TT-BKH enacted by MPI dated 30 March 2010 guiding the implementation of Government Decree 93/2009/NĐ-CP promulgating regulations for management of foreign non-governmental aids.

64 Follow discussion at the Workshop on Decree 93/2007/NĐ-CP held by VUSTA on 11 August 2016, a count on 50 projects under VUSTA were approved in the first 6 months of 2016

65 Article 13.3, Decree 97/2009/NĐ-CP on the enactment of the regulations on management and use of foreign non-governmental aids

66 Lê Quang Binh et al., 2016, Study on implementation of Decision 93/2009/NĐ-CP of grant recipients

67 According to the survey, excuses for not approving or not yet approving the projects include: Local authorities refused to approve (28%), the contents of the projects were inappropriate and sensitive (22%), the concerned agencies disagreed (11%), the locations for project implementation are sensitive (6%) and no reason specified (11%). In 2017, at least 6 foreign non-governmental aid projects of the five women-led organizations were refused by lead agencies for the reasons not related to national security, public order and safety, protection of health or morals of the community as provided for in Clause 2 of Article 14 of the 2013 Constitution or the spirit of Article 22.1 of the ICCPR.

68 Point 2 Article 8 of the Labor Code 2012 regulates that sexual harassment is one of prohibited acts. Point 1.c regulates **the right of employees to unilaterally terminate labor contracts in case** he/she is maltreated, sexually harassed or is subject to forced labor. The point 4 Article 182 regulates the **obligations of a domestic employee to** denounce to competent agencies if the employer commits acts of mistreating, sexually harassing or forcing labor or other illegal acts. And the point 1 Article 183 regulates mistreating, sexually harassing, forcing labor and using violence against the domestic employee **are prohibited acts of an employer's domestic worker**.

69 The Code of conduct for prevention of sexual harassment at work was published by Ministry of Labor, Invalids and Social Affairs, Vietnam Trade Union and Vietnam Chamber of Commerce and Industry in 2015

70 MOLISA và ILO. 2012. Report "Sexual harassment in the workplace in Vietnam: overview and legal framework". Reported 51,3% women and girls experience at least one form of sexual harassment in their lifetime, in which 52.3% experienced 2-5 times.

71 CGFED, Action Aid, Molisa..2016 Safe Cities for women and girls.

72 MOLISA và ILO. 2012. Report "Sexual harassment in the workplace in Vietnam: overview and legal framework".

73 Báo cáo Thành phố an toàn cho phụ nữ và trẻ em gái -2016 – CGFED, Action Aid, Molisa – Tr50

74 Article 37 of the 2015 Civil Code stipulates "The sex reassignment shall comply with regulations of law. Each transgender has the right and obligation to apply for change of civil status affairs as prescribed in law on civil status affairs and has the personal rights in conformity with the transformed gender as prescribed in this Code and relevant laws".

75 Article 17 of the Law on Health Insurance stipulates that an application for issuance of health insurance card includes copies of birth certificate or copies of Proof of Birth. Article 23 of the 2012 Labor Code stipulates that the contents of the labor contract must clearly state the full name, date of birth, sex, residence address, ID card number or other legal papers of workers. Article 30 of the 2006 Law on Residence stipulates that the person who comes to register for temporary residence must produce their identity cards or the papers certified by the police security of the commune, ward or township where that person registered their permanent residence; Proof of ownership or use of the house; submission of the paper reporting on the changes in permanent residence, residential household members, household member declaration form; In cases where the lawful dwelling house was obtained through renting, borrowing or being put up by some individual, written consent must be obtained from the individual who agrees to lease, lend or put that person up.

76 Luong The Huy – Pham Quynh Phuong, 2016, Is it because I am LGBT – iSEE, Hong Duc Publishing House, Hanoi.

77 66.2% of lesbians, 55.4% of bisexual women, 61.5% of transgender women, 79.9% of transgender men that participated in the survey were scolded or verbally pressured by their family members; 64.4% of lesbians, 57.1% of bisexual women, 75% of transgender women, 86.7% of transgender men were forced to change their appearance and gestures. In schools, 61.7% of lesbians, 61.6% of bisexual women, 66.7% of transgender women and 74.0% of transgender that participated in the survey reported that they had heard, seen negative comments and actions from friends. In the health sector, 1.6% of lesbians, 3.9% of bisexual women, 9.1% of transgender women and 13.3% of transgender men participating in the survey were refused, encountered difficulties in emergency treatment. 35.5% of lesbians; 43.4% of bisexual women, 45.5% of transgender women and 58.4% of transgender men experienced over-curiosity about their personal affairs; about 5.8% of lesbians; 9.6% of bisexual women, 40.0% of transgender women and 26.1% of transgender men had their separate/distinctive needs that were not taken into account. In the employment sector, 47.9% of lesbians, 48.2% of bisexual women, 68.8% of transgender women, 65.8% of transgender men reported they had heard, seen negative remarks, actions from their colleagues. 8.6% of lesbians, 10.5% of bisexual women, 13.3% of transgender women, 14.1% of transgender men got fired from work. At the same time, 28.4% of lesbians, 24.3% of bisexual women, 53.3% of transgender women, and 59.7% of transgender men were rejected for work while being qualified.

78 Article 4 of Decree No. 80/2017/ND-CP on safe, healthy, friendly educational environment and prevention and response to school violence, including sex education regulations stipulating that "It is required that teaching materials and learning materials would clearly specify 1. With regard to educational establishments: a) teaching and learning materials are consistent to the educational program's

objectives and contents; ensure science, pedagogy, humanity and aesthetics; are appropriate with psychological characteristics of learners; do not contain elements that incite violence or pornography; are not contrary to the culture and history of Vietnam; are free from gender bias, discrimination; b) Having teaching and learning materials on education of ethics, lifestyle and life skills, education on law observance, sex education, injury and accident prevention and response, abuse prevention and response”

⁷⁹The results of online survey on stigma, discrimination and violence against LGBTQ people at schools conducted by CCIHP in 2012 show that 40.7% reported to have experienced violence and discrimination at schools. The most common form of violence and discrimination they experienced was to be called in a derogatory manner (80.7%); followed by being attached with an insulting nickname (69.3%); then being sarcastically, ironically teased about styles of walking, talking, dressing, the way they love/like people of the same sex (66%); 18.9% had been beaten, kicked, which resulted in bruises, and 18.4% had their sexual parts palpated against their will. The major effects of violence at schools is learners’ distraction (40.6%); and constantly stressful mind (47.2%). 34.9% of the participants in the survey who had experienced violence had the intention of committing suicide and half of them committed suicide attempts without success. Violence in the school setting also caused other effects on many people, such as making them feel constantly stressed and scared (55%); feel the hatred against themselves (50%); feel doubtful about who they are (37%); resulting in the loss of self-confidence (38%). The findings of the study “Being LGBT youth and adolescents in Vietnam” conducted by Save The Children in 2015 are that up to 22.4% of them did not know where to seek for sexual health and reproductive health services, 21.2% did not have enough money to pay for the services, 14.1% did not have access to health facilities, 14.1% did not have time, 9.4% did not have ID cards.

⁸⁰ Article 53 of the 2013 Constitution prescribes that “Land, water resources, mineral resources, resources in the sea and airspace, other natural resources, and property managed or invested in by the State are public property, owned by all the people, and represented and uniformly managed by the State”.

⁸¹ Study report “2013 Land Law, opportunities for EM peoples to get out of poverty” conducted by ActionAid Vietnam in 2014 for 3 provinces Haa Binh, Dak Lak and Dak Nong

⁸² Reports prepared annually by UNDP, CECODES and Vietnam Fatherland Front as from 2009 covering 63 provinces and cities of Vietnam.

⁸³ Under the current regulations, the maximum fee rate shall not exceed VND 100,000 /certificate for new issuance, VND 50,000 / certificate for re-issuance, renewal/replacement or verification of additions to LURC. Besides, people have to pay the associated fees namely the fees for measurement, cadastral mapping, evaluation/appraisal fees for issuing land use right. In adherence to the regulations, the rate of fee collection for measuring, drawing of cadastral maps shall not exceed VND 1,500/m² and the appraisal fee for issuing land use right shall not exceed VND 7,500,000/dossier Circular 02/2014/TT-BTC dated 02 January 2014 guiding fees and charges under the deciding competence of People’s Councils of centrally-run provinces and cities, a6, a7, point a, Clause 2, Article 3

⁸⁴ Report on “Socioeconomic status quo of 53 ethnic groups”, CEMA, 2017, page 30

⁸⁵ Vietnam 2014 Multiple Indicator Cluster Survey – MICS 2014

⁸⁶ Report on “Exploring barriers to accessing maternal health and family planning services in ethnic minority communities” published by MOH and UNFPA in 2017, page 19.

⁸⁷ 11 ethnic groups have the rate of below 50%, of which, the lowest one is La Hu (9.1%), followed by Ha Nhi (25.4%), Si La 25.5%), La Ha (31.9%), Mang (34.9%), and HMong (36.5%). Report on “Socioeconomic status quo of 53 ethnic groups”, CEMA, 2017, page 28

⁸⁸ Report on “Exploring barriers to accessing maternal health and family planning services in ethnic minority communities” published by MOH and UNFPA in 2017, page 47

⁸⁹ especially La Hu, Si La, La Ha, Lu, Ar, Ha Nhi. Report on “Socioeconomic status quo of 53 ethnic groups”, CEMA, 2017, page 28

⁹⁰ Committee for Ethnic Minority Affairs’ report on “Socioeconomic status quo of 53 ethnic groups” issued in 2017.

⁹¹ Report on “Exploring barriers to accessing maternal health and family planning services in ethnic minority communities” published by MOH and UNFPA in 2017, page 44.

⁹² Report on “Exploring barriers to accessing maternal health and family planning services in ethnic minority communities” published by MOH and UNFPA in 2017, page 40

⁹³ Report on “Socioeconomic status quo of 53 ethnic groups”, CEMA, 2017, page 75

⁹⁴ Report on “Exploring barriers to accessing maternal health and family planning services in ethnic minority communities” published by MOH and UNFPA in 2017, page 28. 71% of women reported that they were using a contraceptive method. The most widely used modern contraceptive methods are contraceptive pill and intrauterine device. Male sterilization is not applied and the use of condoms is limited, with a small variation among regions (1-5%)

⁹⁵ Report on “Exploring barriers to accessing maternal health and family planning services in ethnic minority communities” published by MOH and UNFPA in 2017, page 28

⁹⁶ Article 2, Law on Persons with Disabilities 2010 stipulates that a person with disabilities means a person who is impaired in one or more body parts or suffers functional decline manifested in the form of disability which causes difficulties to his/her work, daily life and study.

⁹⁷ Article 14 Decree 28/2012/NĐCP stipulates that it must be ensured that by 2015, at least one carriage in the North-South interprovincial passenger train must ensure technical standards on accessible transport; By 2020, at least one carriage in a passenger train on all lines/routes will have had to ensure technical standards on accessible transport. Participating units in public transport shall be responsible for arranging equipment, tools and personnel to assist passengers with disabilities to conveniently get on and off means of transport. The aid/assistance scheme must be notified at railway stations, embarkation and disembarkation stations at the easily noticeable places; Units engaged in public transport shall be

responsible for reviewing, accounting and evaluating the actual situation of means of public transport that have not yet met the technical standards on accessible transport, elaborating plans to equip and renovate means of public transport to ensure technical standards on accessible transport that fall under their scope of management.

⁹⁸ <https://www.vietnamairlines.com/vn/vi/plan-book/book-flight-now/special-deals/special-deals-detail/vietnam/cac-loai-gia-ve-dac-biet/gia-ve-cho-nguoi-khuyet-tat>

⁹⁹Decree No. 65/2018/ND-CP of the Government dated 12/5/2018 detailing the implementation of a number of articles of the Law on Railways, promulgated by the Government, including the regulation on fare reduction and exemption for beneficiaries of social policy.

¹⁰⁰ Source: <https://dsvn.vn> (Accessed on 26/6/2018)

¹⁰¹ On the basis of the provisions of Article 21¹⁰¹ and Article 24¹⁰¹ of the Law on Gender Equality 2006, the Ministry of Finance introduced Circular No. 191/2009/TT-BTC guiding the management and use of funds for gender equality and for the advancement of women. Clause 5, Article 8 of the Law on State Budget 2015 only stipulates priority budget allocations for the achievement of gender equality objectives and the implementation of other policies. The Law on Public Investment 2014 sets out principles and classifies investment portfolios according to various investment areas and scales.

¹⁰²Speaking at the Debate entitled “Gender responsive budget–awareness and reality” organised on March 26, 2018 by the Governance for Comprehensive Growth Project, deputy head of the Office of National Assembly’s Department of Finance – Budget, Nguyen Minh Tan said “Gender responsive budgeting is a novel matter in Vietnam and is understood differently. A big challenge facing Vietnam’s gender responsive budget is the lack of specific instructions in developing and implementing the budget, as well as staff specialised in gender issues or gender responsive budget” (Source:

<http://www.molisa.gov.vn/vi/Pages/chitiettin.aspx?IDNews=27675> viewed on June 6, 2018)

¹⁰³Document No. CEDAW/C/VNM/CO/7-8

¹⁰⁴ According to the Law on Investment 2014, tax incentives are available for investment in 30 encouraged areas and 27 areas eligible for special preferential treatment. Regarding geographical area, tax incentives apply to areas eligible for preferential treatment, including districts and towns of 53 provinces among 63 provinces and cities nationwide. Additionally, high-tech zones, economic zones, industrial zones and export processing zones are eligible for tax incentives. Accordingly, Vietnam has offered high tax incentives for investment projects in underdeveloped areas and for investment projects in certain areas such as agriculture, agricultural and aquatic product, nevertheless, these areas still find it hard to attract investment whereas investment in agriculture remains limited.

¹⁰⁵ UN Women, Discussion paper on gender equality and taxation in Vietnam – issues and recommendations, 2016

¹⁰⁶Source: http://europa.eu/rapid/press-release_MEMO-17-5122_en.htm (Viewed July 6, 2018)

¹⁰⁷including the Law on Corporate Income Tax, the Law on Value Added Tax, the Law on Personal Income Tax, the Law on Special Consumption Tax, and the Law on Natural Resources Tax . The Ministry of Finance submitted to the Prime Minister Official Document No. 4191/BTC-CST dated March 30, 2017 to consider the amendments to five existing tax laws, including the Law on Value Added Tax, the Law on Special Consumption Tax, the Law on Corporate Income Tax, the Law on Personal Income Tax and the Law on Natural Resources Tax. On that basis, on April 19, 2017 the Government Office issued Official Document No. 3964/VPCP-PL in which the Prime Minister asked “the Ministry of Finance to coordinate with the Ministry of Justice and relevant bodies to develop the Draft Law on revising and amending some articles of the Law on Value Added Tax, the Law on Special Consumption Tax, the Law on Corporate Income Tax, the Law on Personal Income Tax and the Law on Natural Resources Tax to submit to the Government for a report to the National Assembly Standing Committee to be included in the National Assembly’s Law and Ordinance Building Programme 2018 in accordance with the Law on Promulgation of Legal Normative Documents”.

¹⁰⁸Experimental research defining causes leading to gender pay gap by the Ministry of Labour, Invalids and Social Affairs in 2015 shows that in the 2004 – 2014 period, there was a big pay gap between female and male workers. In 2004 the average wage of female workers was only ¾ of men, in the 2012 - 2014, the difference narrowed a bit but at snail’s pace – about 20% in 2012. Gender-based income inequality in urban areas is higher than that in rural areas. The gap is likely to widen in high-skilled working groups: if the income of the unskilled female workers is only 8.1% lower than male workers of same level, the difference is 19.7% among university graduates and those with postgraduate education. In terms of employment status, gender pay gap is found in almost all working groups, except for the group of female workers who are owners of production and business establishments.¹⁰⁸ Study by conducted by Vietnam Institute for Economic and Policy Research (VEPR), OXFAM and the Centre for Education Promotion and Empowerment of Women (CEPEW)

¹⁰⁹According to the Population Census 1999, in all over the country, the rate of illiterate women and illiterate men accounted for 11.8% and 5.69%, respectively. In the rural area, this figure was 13.5% and 6.59%, respectively. Out of the total number of adolescents who have never attended school, ethnic minority adolescents accounted for 52%, of which the proportion of female adolescents who have never attended school was at the highest level of 19% while this figure of male adolescent was 10% and the proportion of Kinh adolescents who have never attended school was 2%. A national report on education for all in Vietnam released by the Ministry of Education and Training (MOET) in 2015 shows that in the period 2000 - 2013, although the proportion of girls enrolled in primary education was higher than boys but the proportion of girls enrolled in lower secondary education was lower than boys and lower than the average.

¹¹⁰The empirical study on the gender-based wage gap reasons of MOLISA in 2015 shows that, on the low qualification basis, female workers in sectors that do not require high qualifications such as agriculture - forestry and fishery, services, always account for a high proportion. Their jobs are unstable and vulnerable

¹¹¹Female workers also accounted for the majority of the unemployed: in the unemployed, untrained worker category, women accounted for 57.3% and in the category of trained workers, women accounted for 50.2%. In particular, the proportion of female workers in the unemployed group has a university degree of 55.4%. This indicates that access to employment for female workers is more limited than for men in most categories, especially in the lowest and highest ones. Report: Gender equality and taxation in Vietnam - Issues and recommendations made by UN Women in 2016 show that the retirement age of female workers which is lower than that of male workers also impacts on women's income. Being retired at this age makes women less likely to engage in income-generating activities while pension benefits are lower than for men of the same age.

¹¹²Ministry of Labor, Invalids and Social Affairs, 2014

¹¹³PM's Decision No. 56/2011/QĐ-TTg on Promulgation of the set of national indicators on gender-related development statistic dated 14/10/2011

¹¹⁴ Report of the Study on gender responsive budgeting in Vietnam conducted by UN Women and WiPPA in 2015

LIST OF ORGANIZATIONS AND GROUPS PARTICIPATING IN CONSULTATION WORKSHOP

1. Association of people with disability in Ha Giang
2. Association of people with disability in Hai Duong
3. Association of people with disability in Nam Dinh
4. Association of people with disability in Thai Nguyen
5. Center for Creative Initiatives in Health and Population (CCIHP)
6. Centre for Community Development and Social Work (CODES)
7. Center for Education Promotion and Empowerment of Women (CEPEW)
8. Consultative Institute for Socio -Economic Development of Rural and Mountainous Areas (CISDOMA)
9. Center for Studies and Applied Sciences in Gender – Family – Women and Adolescents (CSAGA)
10. IDEA - Inclusive Development action (IDEA)
11. International Organization for Migration Vietnam (IOM Vietnam)
12. Human Rights Space
13. LEA – Group Action for
14. Oxfam Vietnam
15. Research center for Gender, Family and Environment in Development (CGFED)
16. Tien Phong – Ethnic Minority Leaders' Network
17. UNESCO Vietnam
18. UN Women Vietnam
19. Women Who Make a Difference
20. Vietnam Network of Women Living with HIV/AIDS (VWN+)
21. Y Change