

# NPRS-PRF

Helping Accelerate Poverty Reduction in Asia and the Pacific

## DEVELOPING THE LAW FOR GENDER EQUALITY IN VIET NAM

Viet Nam's strong economic performance (with an average 7.5% gross domestic product [GDP] growth per annum in 1991–2000<sup>1</sup>) has contributed to a remarkable decline in income poverty from 58% in 1993 to 22% in 2005.<sup>2</sup> With such a strong economic performance, there is an opportunity to ensure that benefits gained result in equitable outcomes across Viet Nam's population, for both men and women alike.

In many areas, Viet Nam's gender equality indicators fare relatively well within the Asia and Pacific region, including access to education and health care services and economic participation rates.<sup>3</sup> The country also has higher-than-average female representation in national legislative positions (e.g., 23% female members in the National Assembly).<sup>4</sup>

Women's rights and gender equality are embedded in many of Viet Nam's government policies, including its Constitution, and are being promoted in the *National Strategy for the Advancement of Women in Viet Nam by 2010* and the ongoing *National Plan of Action for the Advancement of Women (2006–2010)*. The Government also signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1980 and 1982, respectively.

In spite of these positive elements, gender gaps persist in many other indicators. For example, women are working longer hours than men for less pay. Studies show that women and girls in Viet Nam shoulder much of the country's economic burden, with those in the rural areas working an average of 18 hours a day.<sup>5</sup> Women living in the rural areas perform about 60% of the total agricultural workload yet earn only 72% of the average salary earned by their male counterparts. Access to productive resources and formal credit and job training is still more limited for women than for men. Women are poorly represented in decision-making positions especially at the local level.

Notwithstanding the generally high level of education, both men and women hold strong cultural beliefs about the appropriate behavior for women. This often results in women not fully exercising their rights accorded by law and policy. Gender-based discriminatory practices including gender-based violence, weak enforcement of the existing laws and regulations, and lack of awareness of rights prevail.

The situation is much more disadvantaged among women and girls who live in poor rural, remote, and mountainous areas, or are members of ethnic minority communities.<sup>6</sup> Their basic health and education status is low and they are vulnerable to the new types of risks, such as HIV/AIDS and unsafe migration.

### Strengthening Viet Nam's Gender Policies

Viet Nam's XI National Assembly, during its 4<sup>th</sup> meeting in 2003, passed a resolution on the drafting and promulgation of a law on gender equality. This was in response to the Comprehensive Poverty Reduction and Growth Strategy (CPRGS),<sup>7</sup> which identified insufficient access to the law and protection of an individual's legitimate rights as one cause of poverty.

Such a law on gender equality would strengthen Viet Nam's current policies on gender. It would also provide the framework and appropriate mechanism to institutionalize the structures, systems, and procedures required for gender equality.

Technical Assistance 4453: Supporting the Preparation of the Law on Gender Equality in Viet Nam<sup>8</sup> was designed to support the process of crafting a law on gender equality. It has three major undertakings:

- Conduct a diagnostic analysis on the latest documents and reports on gender equality in legal systems;
- Draft the law on gender equality and recommend amendments to other relevant laws and regulations; and
- Conduct awareness raising and public advocacy for major stakeholder groups before and after the law on gender equality was passed.

The enactment of the gender equality law aims to respond not only to discrimination and inequality across different sectors in

Viet Nam (including relationships of power) but also to the country's continuing need to maintain economic growth for poverty reduction. It is intended to support the reduction of both income and non-income poverty by ensuring gender equal access to assets, land property, finance, and business registration and by strengthening pro-poor and inclusive governance.

## The Draft Law on Gender Equality: Key Features

The bill submitted for adoption by the National Assembly consisted of six chapters and 44 articles, including provisions on responsibilities of the government, state agencies, other agencies and organizations, families and citizens in ensuring gender equality in society; and provisions for inspection, oversight, handling, and punishment of violations of the gender equality law.

A review of Viet Nam's policies on gender demonstrates a general acceptance and support to formal gender equality (or equal treatment). The draft law proposes a move toward substantive equality (or equality which recognizes that different responses may be required for men and women in some circumstances to deliver equal outcomes).

Given the need to fully define Viet Nam's framework for gender equality, the bill includes an article stipulating the aim of gender equality: to eliminate gender discrimination; to give equal opportunities to men and women in all fields, including in socioeconomic areas and in the process of development; and to set up and reinforce the cooperation and assistance between men and women in all fields.

Further, the draft law enables the identification of an internal government agency (state management agency) focused on advocating for gender equality within government and an agency/agencies to oversee implementation of the law, that is, the National Assembly and its relevant committees and members, as well as the people's councils and its councilors, within the extent of their duties and powers.

## The Process for Drafting and Passing the Law on Gender Equality

The technical assistance was conducted through a series of supplementary research and analysis (both at the national and international levels), rigorous stakeholder consultations, deliberations with the working group drafting the law, and national public campaigns and advocacy programs. By May 2006, the draft Law on Gender Equality was submitted for discussion at the National Assembly, where the Social Affairs Committee (SAC) supported the bill's article to set up a state management agency on gender equality and even proposed that the Government consider the promulgation of a Gender Equality Code.

The Viet Nam's Women Union, the head of the drafting committee, has since worked closely with SAC to improve the draft law and address questions raised during the deliberations at the National Assembly. These questions include the need to pay attention to different classes of workers (e.g., female farmers),

special subjects (e.g., the elderly and people with disabilities), and the need to ensure equality between children of both genders. Support was also provided from an external panel of five experts, each from a different country, to review the draft gender equality law.

National Assembly deliberations on the draft gender equality law focused on gender issues in the workplace, in elected agencies, and in the household. They have agreed that the age of retirement for female workers will not be included in the law on gender equality but will be applied in accordance with the Labor Code, the Law on Social Insurance, and the Ordinance on Civil Employees;<sup>9</sup> and that the bill should only stipulate the proportion of women in the National Assembly and people's councils in principle.<sup>10</sup>

The bill was approved by the National Assembly on 21 November 2006 and took effect on 1 July 2007. Presently, the text of the bill submitted to the National Assembly for its adoption is being refined for its official publication.

## The Major Challenge Ahead

In spite of the advances made in institutionalizing gender-fair and gender-sensitive policies,<sup>11</sup> gender-based, traditional stereotypes<sup>12</sup> still exist in Viet Nam. Gender inequalities impose large costs on the well-being and health of the poor, diminishing their productivity and potential to reduce poverty.<sup>13</sup>

Viet Nam's Law on Gender Equality provides the legal framework for achieving the constitutionally guaranteed equal rights. The law will hopefully enable Viet Nam's government and its population to address gender and cultural norms that continuously disempower both men and women, girls and boys. The challenge now is to ensure that the law, once implemented, is able to do just that.

### Endnotes

- <sup>1</sup> The Comprehensive Poverty Reduction and Growth Strategy, The Socialist Republic of Viet Nam, Hanoi, November 2003.
- <sup>2</sup> Asian Development Bank (ADB). 2006. Country Strategy and Program, Viet Nam 2007–2010. Manila.
- <sup>3</sup> ADB. 2002. *Country Briefing Paper on Women in Viet Nam*. Manila.
- <sup>4</sup> General Statistics Office. 2005. Viet Nam Gender Statistics in the Early Years of the 21<sup>st</sup> Century. Hanoi.
- <sup>5</sup> [www.onlinewomeninpolitics.org/vietnam/tradition.html](http://www.onlinewomeninpolitics.org/vietnam/tradition.html)
- <sup>6</sup> Footnote 3.
- <sup>7</sup> The CPGRS emphasizes the empowerment of women and the need to improve their access to legal information and judicial system.
- <sup>8</sup> TA 4453: Supporting the Preparation of the Law on Gender Equality in Viet Nam. TA approval date: November 2004. Executing agency: Viet Nam's Women Union. TA Amount: \$370,000.
- <sup>9</sup> Disparities in salary structures, retirement age, and retirement pay have been among the much-debated concerns in Viet Nam. While the draft law asserts the "equality of male and female Vietnamese citizens before the law in all aspects of life including employment" (Article 3 and 55 of the 1992 Constitution and Article 5 of the Labour Code), National Assembly deputies agreed not to include it in the Law on Gender Equality.
- <sup>10</sup> The later drafts of the law offered two options: one, stating that the ratio should not be less than 30%, and the other to keep it flexible. The National Assembly recognized the need to allow authorized agencies to work out measures that respond to reality—women's lack of equal levels of education to men, little time to participate in demanding leadership positions, etc. (noted in the Consultant's Draft Final Report, page 9).
- <sup>11</sup> Viet Nam has been listed among the countries with relatively high achievements in the region in the gender-related development index (GDI), ranking 87/144 nations in the world (the People's Republic of China 83, Thailand 61, Philippines 66, Singapore 28, Cambodia 105, and Lao People's Democratic Republic 109)

– UN report on the Implementation of the Millennium Development Goals in 2005. [www.tmcnet.com/usubmit/2006/04/24/1601672.htm](http://www.tmcnet.com/usubmit/2006/04/24/1601672.htm)

<sup>12</sup> “Gender stereotyping and the society’s attitude of giving preference to male over female, especially in the family, remain and are reflected in the preference of boys to girls, seeing household chores as purely a woman’s affairs, etc. A number of legal provisions for the protection of women’s rights have not been applied as sanction measures are absent or remain at just the level of administrative fines.” Mme Ha Thi Khiet, (Chairperson of the National Committee for the Advancement of Women in Viet Nam, Head of the Vietnamese Delegation to Session 37, CEDAW Committee, New York, 17 January 2007). Introductory Statement on Viet Nam’s Combined 5th and 6th National Report on the Implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

<sup>13</sup> Bamberger et al 2001.

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