



POLICY KIT GENDER BASED VIOLENCE

BACKGROUND

Gender-based violence (GBV), and violence against women in particular, is a serious concern in Viet Nam. The National Study on Domestic Violence in 2010 reported that 34% of ever-married women have suffered physical or sexual violence, and 58% of ever-married women have suffered at least one form of physical, sexual or emotional violence from their intimate partners at some point in their lives (GSO, 2010).

In addition, the 2012 Population Change Survey revealed that the imbalance of the sex ratio at birth (SRB) is pervasive, with 112.3 boys born per 100 girls in 2012, and up to 120 in some provinces. Data on trafficking of women and children is limited. According to the Ministry of Public Security (2013), between 2012 and the first quarter of 2013, 550 cases of trafficking were identified, involving 1,080 victims including women, girls, men and boys.

Sexual violence and sexual harassment at the workplace or in public spaces is widespread based on media reports, though data is not systematically collected.

The Government of Viet Nam has responded to these multiple forms of violence by legislating new laws addressing different forms of GBV, issuing policy guidance for the implementation of these laws, and supporting programmatic interventions across sectors to address GBV. However, significant gaps and challenges remain, including the persistence of unequal gender norms at all levels of society, a limited capacity of duty bearers to address GBV, and weak coordination for a comprehensive multi-sectoral response. To strengthen prevention efforts, as well as effective responses, a deeper understanding of the drivers of GBV, as well as an assessment of the implementation of policies and programmes, is essential. In 2012 and 2013, several UN agencies and organizations commissioned important new research to expand the evidence base on GBV in Viet Nam and identify critical gaps in prevention and response. The five issue papers summarize research that used both quantitative and qualitative methodologies, exploring key questions relating to drivers, impacts and consequences of GBV.



This kit brings together five issue papers on GBV, based on research undertaken in 2012 and 2013 in Viet Nam. These studies deepen the understanding of masculinity norms, a critical driver of GBV; the consequences of GBV; and the challenges in addressing some forms of GBV. The issue papers together present new evidence to inform and strengthen policy and programmatic responses to GBV. The intended users of this kit are first and foremost policy makers and programme practitioners, as well as researchers and other stakeholders committed to addressing GBV more broadly.

OVERVIEW OF ISSUE PAPERS

- 1) Redefining Masculinity:** This study brings together three new studies on masculinity that explore in depth the links between notions of masculinity, domestic violence and SRB imbalance. Two studies are primarily qualitative in nature, while the third uses mixed research methods. The studies focus on masculinity norms in Viet Nam and their impact on GBV and the SRB imbalance.
- 2) Trafficking in Boys in Viet Nam:** This is a qualitative exploratory study, based on data collected in 12 provinces and cities of Viet Nam, including interviews with boy victims, as well as in-depth interviews and focus group discussions, including trafficked boys and their relatives, government officials at all levels, and representatives of international and non-governmental organizations. The central questions of the research focuses on defining the prevalent forms and purposes of trafficking in boys; awareness among local government officials and communities on trafficking in boys; and factors for vulnerability, especially gender conceptions. The study makes recommendations to enhance measures to prevent and combat trafficking in boys while promoting safe migration.
- 3) Sexual Harassment at the Workplace in Viet Nam:** This study explores the extent of sexual harassment in workplaces in Viet Nam, the consequences for those experiencing such violence, and the gaps in the legal framework to address it. The research is qualitative in design and involves officials of state management agencies, representatives of mass organizations, trade unions, workers', employers' and entrepreneurs' organizations, and of other research institutions, as well as students from four universities in Ha Noi.
- 4) Assessment of the Situation of Women in the Criminal Justice System in Viet Nam:** This study explores the realities of dealing with the criminal justice system for women victims of crime, especially domestic violence; women in conflict with the law; and women working in the criminal justice system. This assessment is based on a desk review of available documents and interviews with stakeholders in Ha Noi.
- 5) Cost of Domestic Violence Against Women in Viet Nam:** This study highlights the results of research estimating the economic costs of domestic violence against women for women, their families and communities, and for the overall economy. The research uses qualitative and quantitative methods across 4 provinces and 3 Central cities in Viet Nam, including a survey of 1,053 women. The study estimates three types of costs – out of pocket expenditures incurred by women for accessing services; income lost as a result of missed paid and unpaid work (including housework, reproductive work and school days lost for children); and productivity loss for the national economy as a percentage of GDP.

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ISSUE PAPER

Assessment of the Situation of Women in the Criminal Justice System in Viet Nam

INTRODUCTION

Viet Nam has made significant strides in developing its legal system since committing to a rule of law-state in 1991 and adopting a sweeping judicial reform policy in 2005¹. These reforms, along with the passage of the 2006 Law on Gender Equality², illustrate the Government's commitment to building

¹ Starting with the 7th Communist Party's Congress in 1991, the fundamental component of the rule of law concept was officially endorsed in Party documents and enacted through different laws and regulations. The Communist Party of Viet Nam's Manifesto on national construction in transition towards socialism in 1991 stated that the Party committed to lead the country towards a "socialist rule of law-based state." The Communist Party of Viet Nam's Manifesto on National Construction (1991). In 2005, the Communist Party of Viet Nam adopted the Judicial Reform Strategy (Res No 49). The Strategy addresses the goal of judicial reform as "Building a judicial system which is clean, strong, democratic, strict and just, justice-protecting, modernized, people-serving, serving the Socialist Republic of Viet Nam; judicial activities, with a focus on trial activities, shall be conducted with a high level of efficiency and effectiveness". The Strategy specifies the changes required to realize objectives in seven major areas: 1) criminal and civil policy legislation and judicial procedures, 2) the organizational structures of the judicial organs with focus on the people's courts, 3) judicial support institutions, 4) ethical, healthy and strong corps of judicial and support staff, 5) oversight of the judicial system by elected bodies, 6) international cooperation in the judicial sector and 7) physical infrastructure for judicial activities. At the 5th Session of Central Steering Committee on Judicial Reform in April 2012, projects relating to major issues in renovation of operations and structuring of judicial bodies in the judicial reform progress were discussed. For more information on legal reforms see "The 4th Legal Policy Dialogue: Gender Mainstreaming in Law Making and Implementation: the Justice Sector's Response to Gender Inequality and the Protection of Women's Rights (Government of Viet Nam and UNDP: September 2011), "The 8th Legal Partnership Forum: Strengthening Legal and Judicial Reform" (Government of Viet Nam and UNDP: December 2011), "Newsletter: Strengthening Access to Justice and Protection of Rights in Viet Nam" (Issue No. 5, December 2011 and Issue No. 6, May 2012).

² Viet Nam, National Assembly, Law on Gender Equality, No. 73/2006/QH11, 12 December 2006: Article 5(7): Gender mainstreaming in developing legal normative documents is a measure to undertake the gender equality objective by determining gender issues, forecasting impacts on gender caused by the document, responsibilities, resources for resolving gender issues in social relations as governed by the legal normative documents.

a legal system that addresses the needs of all Vietnamese citizens. However, despite this legislative progress during the past two decades, the reality is women in Viet Nam today still encounter many difficulties within the criminal justice system, whether they are survivors of crimes, perpetrators of crimes or employees in the criminal justice sector³. To understand and address women's needs, the UN in Viet Nam undertook an extensive assessment process in November 2012 to evaluate the current situation of women within the justice system and provide guidance on areas for improvement. The UN's research reinforced a perception that Viet Nam's criminal justice system, as in most countries, was designed by men for men and promoting equal access to a patriarchal criminal justice system runs the risk of unintentionally reinforcing gender inequalities. With this in mind, the UN believes it is essential to recognize the impacts that laws and policies in Viet Nam have on women and men in everyday life. The reality on the ground is women encounter structural inequalities due to deep-rooted power differentials that privilege men over women and contribute to discrimination against women in every area of society. Since judicial institutions are built to favour men, the Law on Gender Equality in some cases does not necessarily always protect women from discrimination and special measures, in the shape of specific policies, are often needed to ensure they obtain full equality with men and access all their rights.

BACKGROUND

1. The socio-economic and cultural context of the issue in Viet Nam

Vietnamese society is rooted in Confucianism, which strongly influences gender norms and reinforces traditional patriarchal concepts of gender inequality. Confucianism emphasizes the importance of patrilineal descent, patrilocal residence, male privilege and hierarchical

³ While recognizing that not all women and girls are the same, the assessment tries to be mindful of the differences among women and girls regarding age, socio-economic status, marriage, race and education level that can influence needs and opportunities for women and girls. In this report, the term "women" will include both women and girls, unless specifically addressing the group "girls".

relationships⁴. This perpetuates gender stereotypes that dictate ways that women and men are supposed to behave within society, such as women being associated with housework, procreation and the nurturing of male offspring to perpetuate the husband's family lineage, whereas men are associated with community and household decision-making. In relationships, women are expected to please their partners by meeting their sexual demands. Cultural beliefs about masculinity and femininity greatly influence the ways in which people deal with anger⁵ as men are considered to be naturally angry and unable to control themselves, so violence to "correct" women's behaviour is considered acceptable by individuals and communities⁶.

Viet Nam has made important progress in advancing women's rights in some areas during the past two decades, with economic growth a key driver. Since the late 1980s, Viet Nam has experienced fast economic development due to the doi moi (open door) reforms, which shifted Viet Nam from a centrally-planned to a market-oriented economy. As a result, more women have entered the labour market and made up 46.6% of the total labour force in 2010⁷. In some sectors, such as those encompassing electronics, garment and shoe-making, women in 2010 made up 70-80% of workers⁸. However, women are predominantly represented in informal occupations, where they earn 50% of men's incomes and have less job security⁹. Additionally, the gender wage gap has increased since 2008,

⁴ Gardsbane, D., Vu, H.S., Taylor, K., Chanthavysouk, K. (2010). *Gender-based Violence: Issue Paper*. Ha Noi: United Nations Viet Nam. See also: Viet Nam, General Statistics Office (2010). *Results from the National Study on Domestic Violence against Women in Viet Nam: "Keeping silent is dying."* Ha Noi. Women in rural areas (compared with women in urban areas) are more likely to support statements indicating that men were the decision-makers in the family, that women must obey their husbands and not refuse demands for sex.

⁵ Viet Nam, General Statistics Office (2010). *Results from the National Study on Domestic Violence against Women in Viet Nam: "Keeping silent is dying."* Ha Noi.

⁶ Ibid

⁷ United Nations Fund for Gender Equality (2010). *Briefing Paper on Current Gender Equality Issues*. Ha Noi.

⁸ United States Agency for International Development (2010). *Women's Participation in Vietnam's Economy: Agenda for Action*.

⁹ Ibid

and women earn 13% less than men¹⁰. Strikingly, these figures are backed up by studies that suggest doi moi reforms have actually increased women and girl's vulnerability to abuse and exploitation at work and at home¹¹. Meanwhile, women also continue to bear the traditional responsibility for care giving and domestic work, which places a double burden on women also working in paid employment.

2. The legislative and policy context in Viet Nam

In Viet Nam, there is a broad legal framework to address gender inequality. The current Constitution provides for equality between women and men, stipulating that "all citizens regardless of their sex have equal rights in all respects, political, economic, cultural, social and in family life," and that "any discrimination against women and violation of women's dignity is prohibited." The Law on Gender Equality provides that women and men are equal, including within the family and that no one should be discriminated against based on their sex.

MAIN FINDINGS

Finding 1: Women who experience violence

This chapter explores the legal provisions against violence against women (VAW) and the social

¹⁰International Labour Organization (2013). "Despite high labour force participation rate for women, gender pay gap on the rise", 7 March. Available from: http://www.ilo.org/hanoi/Informationresources/Publicinformation/Pressreleases/WCMS_206104/lang--en/index.htm

¹¹Rushing's and Piper's studies are discussed in detail in: Gardsbane, D., Vu, H.S., Taylor, K., Chanthavysouk, K. (2010). *Gender-based Violence: Issue Paper*. Ha Noi: United Nations Viet Nam.

context in Viet Nam. Patriarchal norms have created a society in which violence against women is considered "normal" and women are encouraged to deal with its consequences outside the criminal justice system. As a result, rates of reporting VAW to authorities are low and victims are often referred to reconciliation facilitators within their local community to arrive at a solution within the family before involving the criminal justice system. For cases that do enter the criminal justice system, the investigation and evidence-gathering process faces many difficulties. Despite legislation having been passed to prohibit VAW, the Police and Procuracy have limited guidance or training on the implementation of such laws. Once a case comes to trial, women are often unable to access legal aid services and the courts possess no procedures to appropriately deal with the specific needs of victims of violence. For these reasons and others explored within this policy brief, conviction rates for cases of VAW are extremely low and perpetrators of such violence are rarely punished for their crimes.

Finding 2: Women in conflict with the law

This section reviews pertinent international standards and Vietnamese laws regarding women who violate criminal or administrative laws. As with women as victims of crime, gender stereotypes influence the treatment of women in conflict with the law.

While there was limited information available to this assessment team to paint a comprehensive picture, available data indicated that women commit fewer crimes than men in Viet Nam and make up only 10% of the prison population. A legal analysis by the assessment team illustrated

Viet Nam is a signatory to various international treaties to promote women's rights

The International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Rights of the Child (CRC) and its optional protocols

The International Convention on Transnational Organized Crime (UNTOC) and its Protocol on Human Trafficking (TIPP)

The Convention on Rights of Persons with Disabilities (CRPD).

that while there are some specific provisions for female accused and prisoners, the criminal justice system is male-focused and male-dominated. As a result, women's different biological (i.e. pre-natal and post-natal) and societal (i.e. women are typically the primary caregivers for children) needs are not met by the criminal justice system.

This section also explores recent legislation that closed so called "05 Centres"¹² for women involved in the sex industry - a significant Government step towards efforts to reduce stigmatisation of women involved in sex work. In the wake of the 05 Centre closures, NGOs and Government ministries are developing plans to reintegrate former detainees into society and the Government is developing new policies for women involved in sex work.

Finding 3: Women working in the criminal justice system

Women are vastly under-represented as employees within the criminal justice system and are concentrated in lower levels of management. Viet Nam has passed numerous laws and policies to promote gender equality and instituted quotas to boost hiring rates of women. However, the system is built on the foundations of a male-dominated culture that views women as incapable of handling the same tasks as men.

Additionally, women are predominantly the primary caregivers in Viet Nam and the criminal justice agencies offer little flexibility for women workers to fulfil their responsibilities at work and at home. A further hurdle is the differential retirement age of 55 for women and 60 for men, that prevents women from advancing their careers within the criminal justice system as they have fewer working-age years to obtain the necessary experience. Cases of sexual harassment are also common within criminal justice agencies and such

¹² In Viet Nam, sex workers are considered to be perpetrators of social evils and are heavily stigmatised as a result. The Ordinance on Prostitution Prevention and Combat states that women accused of selling sex will be administratively sanctioned. Up until 1 July 2013, women accused of selling sex, depending on the nature and seriousness of their violations, were subject to education at communes, wards or townships, or compulsory detention in medical treatment establishments known as "05 Centres." However, according to the Resolution on the implementation of the Law on Handling Administrative Violations (The Law on Administrative Violations, adopted in July 2013) this practice has been abolished.

incidents make the workplace unwelcoming for female workers.

RECOMMENDATIONS

This issue paper's two major recommendations are to conduct additional research and analysis in step with the improved implementation, monitoring and evaluation of existing laws and policies encompassing a) women as victims of crime, b) women in conflict with the law and c) women working in the criminal justice system. Specific recommendations for future Government and/or UN agency interventions to promote women's rights are:

1) Conduct further research and analysis to develop evidence-based, gender-sensitive policies and programmes

One of the major challenges in producing this assessment document was the lack of available and comprehensive information on the criminal justice system's treatment of women in Viet Nam.

Women as victims of crime

While recent studies have focused on the prevalence and nature of domestic violence, there is a dearth of information about other forms of VAW, such as rape and sexual violence, forced prostitution and sexual harassment. It is essential to collect sex-disaggregated data in a systematic way and make it available to fully analyze the prevalence of VAW and evaluate responses to violence to develop effective solutions and prevention strategies. Specifically, deeper research is needed on police responses to VAW, Procuracy and Court practices in VAW cases and how the criminal law, criminal procedural law and evidentiary issues are implemented in such cases. This information is especially necessary to analyze why many VAW cases fail to lead to convictions and how the system can better deliver justice to victims of VAW.

Women in conflict with the law

Without access to quality data, the situation of women in conflict with criminal and administrative law cannot be fully understood and addressed. Therefore, it is strongly recommended that qualitative and quantitative information be collected about how procedures, including the Bangkok Rules¹³, are applied to and experienced

¹³ The Bangkok Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules), which were adopted by the UN General Assembly in 2010, outline specific guidelines for women prisoners.

by women in conflict with the law throughout their interactions with the justice system (criminal and administrative). The data should be robust, verifiable, sex-disaggregated and analyzed from a gendered perspective to understand women's experiences at each stage of the justice process and assess how existing laws and policies in Viet Nam are implemented in practice.

Women working in the criminal justice system

A systematic collection of sex-disaggregated data is recommended to highlight women's and men's experiences of working at all levels of the criminal justice system. Such data could detail job descriptions, performance appraisals, recruitment and promotion criteria as well as attitudes and practices of senior management.

2) Improve implementation, monitoring and evaluation of existing laws and policies

This assessment report has revealed gaps between the normative framework and implementation of laws and policies related to women in the criminal justice system.

Women as victims of crime

To effectively implement legislation on VAW, it is essential to build the capacity of law enforcement agencies in this area. While there are programmes currently in place to train local police and Viet Nam Women's Union representatives, the Government should expand them to other criminal justice professionals, particularly prosecutors and judges, and consider a pilot model incorporating specialized police officers or units to address VAW.

Women in conflict with the law

Due to the paucity of available data, the research team for this assessment report, was unable to comprehensively assess the implementation of existing laws and policies addressing VAW. Building a comprehensive evidence base is the first step to determining whether there are gaps between policy and practice. Such gaps could be addressed through training, awareness-raising, capacity building for justice sector staff and allocation of adequate resources.

Women working in the criminal justice system

A legal framework to promote gender equality, such as the Law on Gender Equality and subsequent decrees, circulars and decisions, has been in place for a number of years. However, it

has been slow to gain traction and results have been largely disappointing. As a result, gender parity is far from being achieved in criminal justice professions and women are still not sufficiently represented on the front line of law enforcement. Thus, it is recommended Government take special measures, such as affirmative action policies, to benefit women.

3) Strengthen legal provisions for VAW cases and revise the Penal Code

As the Penal Code was under review, until 2015, it was suggested offences were redefined to ensure effective investigation, prosecution and punishment of perpetrators and deliver justice for victims of specific forms of VAW.

Rape and other sexual violence

In the Penal Code, non-consensual intercourse is currently the only type of sexual crime that can occur to women and girls over 16 years old, which prevents women from being able to receive justice for other types of sexual crimes¹⁴. Sexual molestation is only considered a crime if it is perpetrated against children under 16 years of age¹⁵. Experts also suggested Viet Nam specifically criminalize sexual assault within a relationship and marital rape¹⁶. Marital rape is not explicitly included in the Penal Code due to prevailing cultural attitudes about a husband's entitlement to sex, resulting in no convictions for marital rape in Viet Nam as of mid 2013. Marital rape is classified as an administrative violation in the Domestic Violence Law, but the inclusion of marital rape in the Penal Code would help shift cultural attitudes and encourage prosecution of this type of crime¹⁷.

Domestic Violence

Domestic violence is not explicitly defined as a crime in the Penal Code as of mid 2013. Incidents

¹⁴ Viet Nam, National Assembly, Penal Code, No. 15/1999/QH10, 21 December 1999: Article 116.

¹⁵ Viet Nam, National Assembly, Penal Code, No. 15/1999/QH10, 21 December 1999: Article 116.

¹⁶ United Nations (2008). Final report of the expert group meeting on good practices in legislation on violence against women. Vienna.

¹⁷ Viet Nam, National Assembly, Penal Code, No. 15/1999/QH10, 21 December 1999: Article 111 (rape), Article 113 (forcible sexual intercourse), Article 112 (rape against children), Article 114 (forcible sexual intercourse against children) and Article 115 (sexual intercourse with children).

of physical violence are only considered criminal if the incident inflicts a certain level of physical harm¹⁸ and the victim must consent to proceed with a criminal investigation if the infirmity rate as a result of violence is less than 31%. If the infirmity rate is more than 31%, the police, investigating officers and procurators can proceed with criminal charges without the victim's agreement. In law, there appears no need to prove that the accused's actions were premeditated to cause injury or health damage. However, police and Procuracy often show little awareness of this during case investigations. The prohibited range of physical, sexual, psychological and economic acts as defined in the Law on Domestic Violence Prevention and Control are seen as administrative violations and it is recommended a number should be defined as penal offences.

Trafficking in women and girls

The Human Trafficking Law, that came into force in January 2012, expanded the definition of trafficking in people to include forms of trafficking prohibited in the Penal Code under articles 119 (trafficking in persons) and 120 (trading in, fraudulently exchanging or appropriating children)¹⁹. In order to hold perpetrators accountable for trafficking crimes prohibited under the new law, the Government must issue detailed instructions establishing criminal or administrative penalties for these crimes.

Stalking and sexual harassment

Stalking and sexual harassment are not criminalized nor defined in any Vietnamese legislation, but they affect the health, safety and well being of many women. The recently revised Labour Code prohibits sexual harassment in the workplace, but does not provide a clear definition of such acts²⁰. The revised Penal Code should

include a definition of sexual harassment and stalking to protect women.

Ratify the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment (CAT)²¹

1) Support reintegration of former prisoners and detainees into their communities

Comprehensive measures are needed for the effective reintegration into society of former detainees of compulsory rehabilitation centres known as "05 Centres." The Government, in cooperation with the Viet Nam Women's Union and civil society organizations, should consider establishing a management plan or developing community support for such women released into society.

2) Uniform retirement age for women and men

The current laws on retirement age, the Labour Code and the Law on Social Insurance, are examples of protective legislation in Viet Nam that require review and revision. Different retirement ages constitute direct discrimination against women and is inadmissible under CEDAW norms.

3) Address gender discrimination and promote cultural change

Further concerted Government efforts are required, as outlined in Article 5 of CEDAW²², to confront cultural norms that disadvantage women. For example, shared responsibility amongst men and women for childcare and household work would reduce the primary caregiver burden on women and facilitate women's equal participation in the workforce.

This assessment provides a preliminary insight into the experiences of women in the criminal justice system, focusing on women as victims of crime, women in conflict with the law and women working in the criminal justice sector. In each area, women encounter structural inequalities due to deep-rooted power differentials and socio-cultural

²¹ The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) aims to prevent and punish acts of torture, cruel, inhuman or degrading treatment. According to the information obtained during the drafting process of this report, the Government of Viet Nam is considering signing this international human rights treaty.

²² United Nations, General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 14 December 1990, A/RES/45/124: Article 5.

norms that privilege men over women. This may limit women's access to justice, especially when violence is perpetrated against them. It also could mean that the specific needs of women who are in conflict with the law are often overlooked and that women working in criminal justice do not have access to the same opportunities as men and are not equally represented in all levels of the sector. Although there are important national and international legal frameworks to which Viet Nam has committed to and which apply to women in the criminal justice system, this assessment has shown they are not always gender sensitive or adequately implemented. Furthermore, dominant attitudes and beliefs that discriminate against women can actually reinforce gender inequalities and undermine efforts at policy level.

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ISSUE PAPER

Trafficking In Boys In Viet Nam: An Exploratory Study

INTRODUCTION

This issue paper is based on key findings from exploratory research on trafficking in boys in Viet Nam, conducted between October, 2010 and January, 2011. The study was implemented as part of the United Nations and Government of Viet Nam Joint Programme on Gender Equality, with technical and coordination assistance from the General Statistics Office and International Organization for Migration. Field research was conducted by a team from the Community Health Development Consulting Joint Stock Company and financed by the Spanish-funded Millennium Development Goals Achievement Fund.

Before this research there was no official data on the trafficking of boys published by the Government, as all research on trafficking in Viet Nam had largely focused on women and girls. To address this gap, exploratory research

was designed and undertaken to provide a preliminary insight into the trafficking of boys. This paper highlights its findings, including forms of trafficking in boys, factors for vulnerability especially gender conceptions, and recommendations for more effectively combating the trafficking of boys. Overall, there is a need to better understand gender-specific factors that may affect the trafficking, return, and recovery of boys.

Data was collected in 12 provinces and cities of Viet Nam, in which 82 boy victims were identified and interviewed for the study. The study conducted 134 in-depth interviews and 22 group discussions with more than 150 participants, including trafficked boys and their relatives, a broad spectrum of government officials, and representatives of international and non-governmental organizations.



BACKGROUND

Socio-economic and cultural context of the issue in Viet Nam

Viet Nam is a source country for cross-border and internal¹ trafficking of men, women and children. The majority of trafficked people are women and girls. Although the Government of Viet Nam has taken action in recent years to address human trafficking and support victims, most of the identified victims are women and girls. Despite certain achievements, significant gaps still remain in terms of protecting and supporting victims of trafficking, both male and female. “While there was no official data on trafficking in men and boys before this exploratory research, in recent years, anecdotal and media reports suggest an increase in the number of boys trafficked within Viet Nam and abroad for sexual and labour exploitation.

The legislative and policy context in Viet Nam

In 2004, the Prime Minister of Viet Nam approved the “National Plan of Action to combat trafficking in women and children during the period of 2004-2010 of the Government” (NPA) under Decision No. 130/2004/QĐ-TTg (‘Programme 130/CP’). However, in a five-year assessment of anti-trafficking measures by international organizations, it was found that the NPA was still limited in its scope as it only addressed cross-border trafficking in women and children and neglected both internal trafficking and the trafficking of men (UNIAP, 2009). These gaps were addressed in the NPA for 2011-2015 when the scope was enlarged to include men, boys and internally trafficked victims.

According to Resolution No. 04/HDTP and the Judicial Committee of the Supreme Court that provides guidance for the Penal Code 1985, child trafficking is understood as “the act of buying and selling children for purpose of self-benefit including buying from the abductors or the parents.”

The Penal Code of Viet Nam was amended in 2010 and the Law on the Prevention and Suppression of Human Trafficking was approved in March 2011, recognizing the trafficking of men and boys, not just women and children. The Law on Prevention

¹ Internal trafficking refers to trafficking within Viet Nam

and Suppression of Human Trafficking, which was approved by Viet Nam’s National Assembly and came into effect on January 1, 2012, fails to define the term “trafficking”. However, Article 2 “Explanation of Terminology” and Article 3 “prohibition of acts” have listed “transfer, receipt, recruitment, transportation, harboring of persons for the purpose of sexual exploitation, forced labour, the removal of organs or for other inhuman purposes or for the commission” as typical acts that directly referred to someone being found guilty of the crime of “trafficking of persons”.

The UN Convention for the Rights of the Child (CRC) and the Palermo Protocol define children as individuals under the age of 18 years, whilst according to Viet Nam’s Law on the Protection, Care and Education for Children, a child is an individual under the age of 16 years. This





research encompassed boys under the age of 18, in keeping with the CRC definition.

MAIN RESEARCH FINDINGS

1. Boys are trafficked within and out of Viet Nam for a range of purposes

Boys face significant risk of being trafficked and exploited in Viet Nam, both within the country and across borders. Though the prevalence is difficult to establish, there is evidence of trafficking in boys for labour exploitation, street begging and vending, sex work, sexual exploitation and adoption.

Boys, newborn to around 10 years of age, have been trafficked to China and within Viet Nam for adoption. Boys are particularly targeted, most likely because of a cultural preference for sons, which creates demand for young boys to adopt.

Labour trafficking was the most common form of trafficking identified for boys over 10 years of age, followed by sexual exploitation mostly of boys 16 and over.

2. There is a low awareness among local government authorities and communities about trafficking in boys, especially for labour and sexual exploitation

Definitions of trafficking and its constituent elements are still poorly understood. Women and girls are regarded as primary victims of trafficking. Often, trafficking is understood to involve only women and girls, and is viewed as only a trans-border problem.

Communities and authorities have low awareness or incomplete understanding about trafficking of boys, especially for labour exploitation. Many community members consider labour exploitation as illegal, but less serious than trafficking.

As most of the boy victims surveyed in the study were trafficked internally for labour exploitation, the lack of recognition of male victimization and internal trafficking is an important factor in the risk and vulnerability of boys to trafficking.

3. Contributing factors that push boys into migration increase their vulnerability to trafficking

The perception that boys are at less risk of trafficking than girls, combined with a lack of understanding of safe migration practices, increases the vulnerability of boys to trafficking.

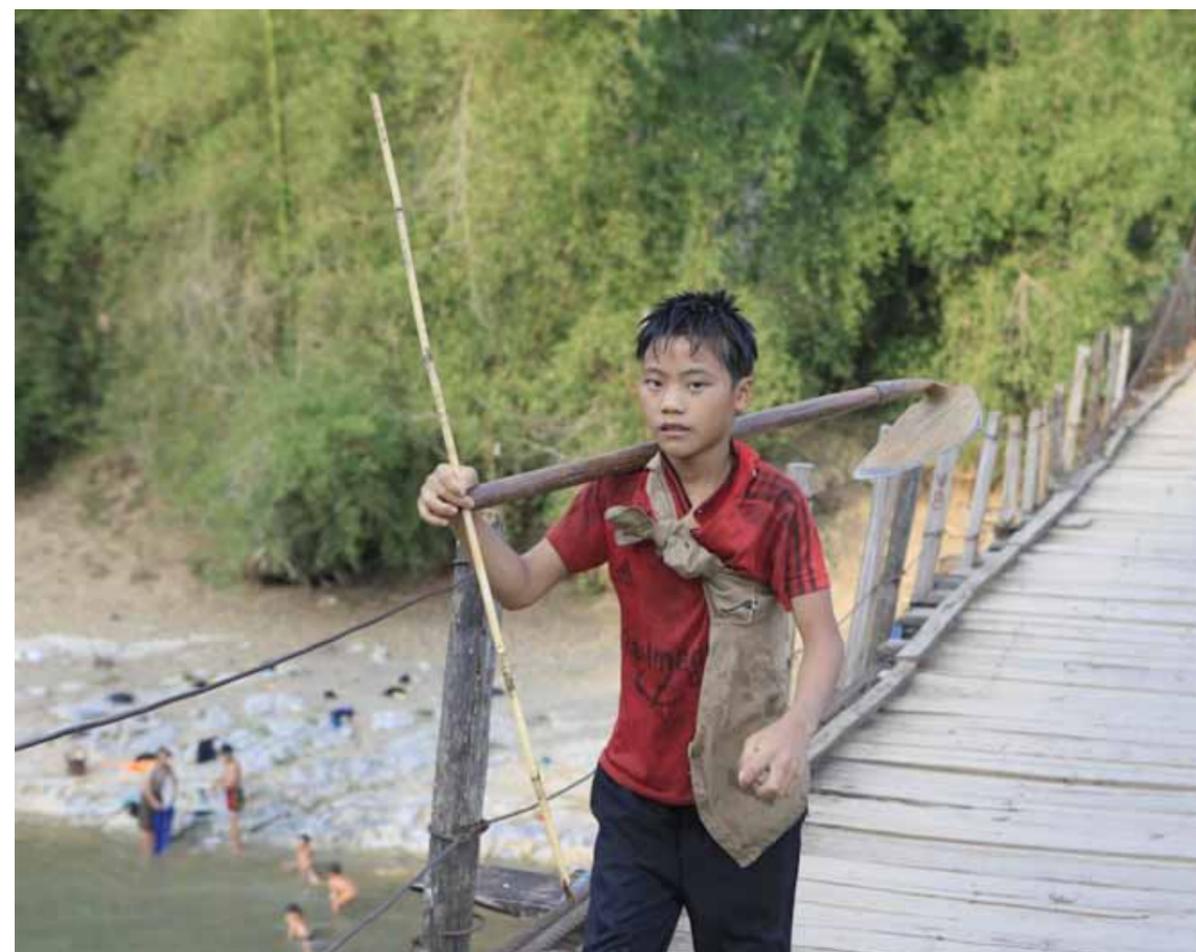
Many boys and their families share the expectation that boys will work to support the family. This, combined with a general acceptance of exploitative working conditions as normal or unavoidable, and a limited understanding of children's rights, also leaves boys vulnerable to

trafficking.

This vulnerability is further reinforced by the lack of employment and education opportunities, and limited family support, which pushes boys into migration.

4. Gender norms and ideas of masculinity affect boys' risk behaviour and risk perception

While girls and boys migrate to earn more income, search for suitable jobs and access opportunities, boys surveyed in the study also expressed motivations to explore the outside world as a way to prove their masculinity. Boys also expressed perceptions of themselves as stronger or braver than girls and believed they were at less risk of being trafficked. These attitudes can lead to boys migrating without sufficient pre-departure information or taking appropriate precautions for



safe migration. This increases their vulnerability to trafficking and to contracting HIV, or Sexually Transmitted Infections and Sexually Transmitted Diseases (STI/STD).

5. There are gaps in identification and provision of assistance to male victims

There are gaps in identification and provision of assistance to male and female internal and cross-border, self-returned victims, in terms of infrastructure, finance, training and resources for emergency referral. Combined with the lack of recognition of trafficking in boys, these gaps may create a double barrier to support for self-returned or internal boy victims.

Trafficked boys seem to face less stigmatization than trafficked girls, due to the perception that trafficking in girls is solely linked to sexual exploitation, to which boys are not seen as vulnerable.

More appropriate support services are needed to meet the specific reintegration needs of boys, especially regarding counseling and vocational training.

RECOMMENDATIONS

1. Strengthen communication and education programmes targeting at-risk groups to combat human trafficking and promote safe migration

Campaigns in migration source communities should be designed to enable and promote safe migration, and avoid using the term 'trafficking,' since it is widely misunderstood as mainly involving girls and cross-border movements. Safe migration information that includes strategies to help people avoid being exploited for sex and labour should be the focus of education and awareness-raising. There is a need to target families, girls and boys – particularly families with school leavers - from low socio-economic backgrounds and ethnic minority communities, and to highlight risks for boys as well as girls. Families and children must also understand their rights under the Labour Law and the concept of

gender equality. More comprehensive provision of education and training for young women and men is needed to address safe migration and counter trafficking.

Ethnicity-specific interventions and projects must be developed to address ethnic minority vulnerabilities relating to migration and other types of trafficking risks. Many women from ethnic minorities with unexpected pregnancies do not know where and how they can have newborn children adopted. Furthermore, information and counselling on existing alternative options to legal adoption should be more readily available in hospitals.

2. Strengthen education and enhance enforcement of the new Law on Prevention and Suppression against Human Trafficking and the Labour Law

A better understanding of relevant laws which define human trafficking and labour rights will improve recognition of various forms of trafficking. This will help address the misconception that only women and girls are trafficked and enhance the identification of trafficked boys and girls. Government officials need to be better informed to fully understand the trafficking issue, particularly in boys.

Better communication with communities is needed to raise awareness of the Labour Law to prevent child labour and labour exploitation, which contribute to demand for trafficked boys. Regular monitoring of labour laws in destination countries is also needed.

3. Strengthen child protection systems and community involvement in at-risk areas

The involvement of the community in monitoring and identifying cases of child labour and labour exploitation is essential. Stricter monitoring should be in place to identify and protect children in border areas

Protection and monitoring systems should be strengthened especially in relation to newborn



boys and adoption to prevent trafficking of boys for illegal adoption.

4. Develop a return and recovery programme and services that address the needs of trafficked boys

A standardized identification system needs to be developed to ensure that returnees, who do not use return formal procedures, are able to access support for recovery and reintegration.

The gender dimension also needs to be taken into account when designing recovery programs, paying close attention to the different needs

of girls and boys. Training and support must be developed for service providers to ensure they meet the needs of trafficked boys.

Specific programme development is needed to address HIV and STI/STD issues, drug abuse, and addiction among male sex workers, especially young men and boys, to enhance their understanding of HIV, STIs, drug misuse, and addiction services. Peer education programmes have potential to be effective in this regard. Outreach of voluntary counselling and testing services and STI treatment also needs to be increased to reach and cover the male sex workers.

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ISSUE PAPER

Sexual Harassment at the Workplace in Viet Nam: An Overview and the Legal Framework

INTRODUCTION

This issue paper summarizes the key findings of the study “Sexual Harassment at the Workplace in Viet Nam: An Overview and the Legal Framework” 2012, a result of the coordinated efforts of the ILO Country Office in Viet Nam (ILO) and the Ministry of Labour, Invalids and Social Affairs (MOLISA).

The brief’s purpose is to provide an overview of the situation, Viet Nam’s laws and recommendations for preventing and addressing sexual harassment at the workplace to related stakeholders.

The study consisted of a literature review of relevant research and materials in Viet Nam, a review of international conventions and international, regional and Vietnamese laws and policies concerning sexual harassment at the workplace and primary data collection through qualitative methods including focus

group discussions (FGDs) with key informants in Ha Noi (three FGDs) and Ho Chi Minh City (two FGDs). FGD participants encompassed a broad spectrum of interested parties including 102 civil servants (72 women and 30 men) from State management agencies, representatives of trade unions and workers, enterprises’ associations and entrepreneurs, research institutions and mass organizations along with students from four universities. The FGDs took place after the review of secondary data and the literature on sexual harassment in the workplace in Viet Nam to deepen the understanding on the issues and trends which had emerged from the desk review.

BACKGROUND

1. The social and cultural context on sexual harassment in Viet Nam

In Viet Nam, there are limited statistics and official figures on sexual harassment. While there has been some non-specific research referring to

this issue, information gleaned from the media illustrates how sexual harassment is widespread in Vietnamese workplaces, and the majority of the victims are women. Most cases, however, go unreported as the victims are often embarrassed and afraid of losing their job. The few victims who do come forward often do not know how to report and make a claim for compensation.

Sexual harassment is a form of gender-based violence that is considered as an extremely sensitive issue and as a taboo in Vietnamese society. However, the reality is that sexual harassment in the workplace is a violation of workers' fundamental rights and both female and male workers are protected from sexual harassment by the law. Sexual harassment undermines equality at work by calling into question the integrity, dignity and wellbeing of workers. Economically, the productivity of enterprises is also impaired as sexual harassment weakens the basis upon which workplace relationships are built.

2. The legislative and policy context in Viet Nam

The Gender Equality Law's Article 10 prohibits gender-based violence and the Criminal Code's Articles 111 and 113 provides for punishments for rape and forcible sexual intercourse, respectively. Sexual harassment was not mentioned in Vietnamese labour legislation until the revised 2012 Labour Code adopted by the National Assembly on 18 June 2012. The Code which came into effect on 1 May 2013 has four provisions on sexual harassment. Article 8 strictly prohibits "maltreating a worker and committing sexual harassment at the workplace"; Article 37 provides that an employee, who is maltreated or sexually harassed, shall have the right of unilateral termination of a labour contract and Article 182 states that a domestic worker shall have an obligation to "report to the authoritative agency if his/her employer commits acts of sexual harassment". Lastly, Article 183 strictly prohibits the employer from mistreating or sexually harassing his/her domestic workers.

Overall, this is a significant step forward in addressing the issue. However, the revised 2012 Labour Code falls short of effectively prohibiting



this type of behaviour and protecting victims, as it does not provide a clear definition of sexual harassment nor does it oblige employers to take preventive measures and establish complaint procedures in the workplace.

MAIN STUDY FINDINGS

The findings from the desk review and the FGDs were as follows:

1. Sexual harassment at the workplace is a gender issue. Victims of sexual harassment are predominantly women, who usually work in lower-ranking positions under the supervision of their harassers and depend on them for their job security.
2. Sexual harassment at the workplace encompasses all age groups, but the risk is higher for people aged between 18 and 30. Harassment can occur between supervisors and staff, and between colleagues.

3. Forms of sexual harassment include verbal harassment such as unwelcome flirting, lewd remarks, insults and put-downs, sexual comments (either in person or by phone, email, SMS, facebook, etc), physical touching, suggestions of sexual intercourse, and actual sexual assault and rape. Since there is no definition of what constitutes sexual harassment in Viet Nam, there is a tendency to confuse sexual harassment with insensitive comments. This misconception affects whether an act is considered sexual harassment in the workplace or not and how to deal with it.

4. Sexual harassment in the workplace can be either associated with or unconnected to the career prospects of the harassed person and may affect their ability to obtain or keep work-related rewards, such as accessing education and training opportunities, job retention, a wage increase, recruitment into another job, a promotion or a transfer to another position. Sexual harassment that does not include a demand for a sexual

favour in exchange for a job benefit may still seriously disadvantage the victim by creating a hostile working environment.

5. The lack of legislation that can be applied and enforced in practice - including legal definitions, legal and financial responsibilities of enterprises and employers, redress processes and payment of damages and fines - has led to many victims not reporting sexual harassment.

6. Sexual harassment at work has many negative impacts on victims and their organizations. Victims suffer health, economic, social and psychological side effects and their career development may be impaired. The direct and indirect consequences for enterprises and organizations where sexual harassment occurs are also negative, including reductions in productivity and profits, damage to their institutional reputation, and business relationships, and loss of qualified human resources.

7. The reference to prohibiting sexual harassment in the revised 2012 Labour Code is an important step in the right direction. However, the study concludes that there is a need to effectively prohibit this behaviour and protect its victims,





by providing a clear definition and obliging employers to take preventive measures against sexual harassment and establish complaint procedures in the workplace.

RECOMMENDATIONS

Sexual harassment at the workplace in Viet Nam is a social challenge that needs to be addressed head on. The Party and the State are moving to address the challenge, as evidenced by the

positive changes made in the revised 2012 Labour Code. The study's recommendations to further address the issue include:

Recommendations for the implementation of related articles on sexual harassment in the workplace in the 2012 Labour Code

1. It is important to enhance the awareness of employers, workers and the public on different forms of sexual harassment at the workplace, the

legal framework prohibiting sexual harassment and measures to prevent and redress it.

2. As the current Labour Code's provisions against sexual harassment do not yet give a clear definition of sexual harassment and employers are not obliged to prevent and redress the problem, it is essential to have a legal document guiding the implementation of relevant articles of the 2012 Labour Code to sexual harassment at the workplace. Due to the scope

and complexity of the issue, it should be in the form of a Governmental Decree. While waiting for the Decree on guiding the implementation of workplace sexual harassment provisions in the Labour Code, sexual harassment should be addressed in relevant legal documents as follows:

- A definition of sexual harassment at workplaces, solutions to the problem and sanctions should be integrated into the Governmental Decree on penalties for acts in violation of labour legislation. The definition of sexual harassment at the workplace could be: "Such unwelcome sexually determined behavior as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory when the victim has reasonable ground to believe that her/his objections to such behaviour would disadvantage her/him in connection with her/his employment, including recruitment or promotion or when it creates a hostile working environment."
- Procedures for addressing sexual harassment in the workplace can be integrated into future Governmental Decrees on procedures for handling violations of labour regulations.
- Employers' obligations to prevent and address sexual harassment at workplaces can be integrated into the Governmental Decree on collective agreement, internal rules or regulations of enterprises.

3. Organize trainings on preventing and addressing workplace sexual harassment for enterprises, trade unions and other organizations.

4. In-depth sociological research at the national level is needed to study the scope and extent of sexual harassment at workplaces to create a database for the development of the aforementioned legal document.

5. Encourage legal initiatives and implement a pilot model at enterprise level for developing codes of conduct on preventing sexual harassment at the workplace, and include this



issue in enterprises' internal rules or regulations on collective agreements.

Recommendations for workplace measures for addressing sexual harassment at the workplace

Sexual harassment at the workplace will be effectively addressed when enterprises and organizations have their own proper internal policies to confront the problem.

1. Enterprises need to consider and formulate their own internal workplace policies on the prohibition of sexual harassment, including preventive and remedial measures.
2. While waiting for Government legal documents to provide guidelines for the implementation of related articles in the revised Labour Code 2012 concerning sexual harassment at the workplace, there should be active dissemination and education on employees' rights to a safe and healthy working environment without sexual harassment.

3. Employers should provide all enterprise managers with regular training on their responsibilities to ensure sexual harassment does not occur in the workplace.

Recommendations for trade unions, enterprises' associations and mass organizations

Preventing and addressing sexual harassment at the workplace can only be achieved with the support of all relevant stakeholders.

1. Trade unions need to negotiate with employers to include measures to prevent and stop sexual harassment at the workplace in collective agreements or internal regulations of enterprises. Trade unions can develop information materials and train members on employees' right to be protected from sexual harassment along with skills needed to address sexual harassment.
2. Enterprises' associations should offer guidance on the most effective ways to train entrepreneurs, managers and workers in preventing sexual

harassment at their workplaces. It is important to collaborate with State agencies to carry out pilots to develop a code of conduct on the prevention of sexual harassment at the workplace, or otherwise bring these issues into collective agreements or enterprises internal rules or regulations.

3. Mass organizations, particularly those related to women and youth, can play an important role in promoting and supporting victims of sexual harassment at the workplace, especially encouraging them to report cases and to support the victims.



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ISSUE PAPER

Redefining Masculinity: The role of men and boys in preventing GBV and SRB imbalance in Viet Nam

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EXECUTIVE SUMMARY

Gender based violence (GBV) and sex ratio at birth imbalance (SRB) are forms of gender-based discrimination maintained by unequal power structures and inequitable relations between women and men, both as groups and as individuals. Yet, they are often viewed as women's issues, related to internal family conflicts and inter-generational norms. Recent research conducted with men and boys, however, suggests that interventions which are designed and implemented well can transform discriminatory attitudes and practices which regard women as less worthy and subordinate to men, and contribute to GBV and SRB imbalance. It is critical to pay attention to recommendations emerging from these studies to bring about social change across Viet Nam.

The studies¹ that focus on the interrelation between conceptions of masculinity, GBV, and SRB imbalance in Viet Nam indicate that a comprehensive response to GBV and SRB must include multi-sectoral approaches at all levels

¹ This brief is based on the following studies:

- 1) 'Teach the wife when she first arrives': Trajectories and pathways into violent and non-violent masculinities in Viet Nam;
- 2) Masculinities and Violence against Women;
- 3) Study on Gender, Masculinity and Son Preference in Nepal and Viet Nam;
- 4) Estimating the Costs of Domestic Violence Against Women in Viet Nam;
- 5) Risk and protective factor analysis of GSO and WHO data on women's health and domestic violence against women in Viet Nam; and
- 6) Sex Ratio at Birth in Viet Nam: New evidence on patterns, trends and differentials.

(individual, family, community, and government). A central finding of these studies is that existing laws, policies, and programs should include men and boys in order to change social norms about masculinity to become gender equitable. Since men are typically the primary decision makers in the family, they are in an ideal position to be partners and agents of change. Further, the research suggests that excluding men and boys will be detrimental to effecting real and lasting change in gender relations.

BACKGROUND

Although there have been improvements in educational and economic opportunities for girls and women in Viet Nam, rates of gender-based violence remain consistently high, and the SRB imbalance is increasing. For example, in 2000, the SRB in Viet Nam remained at the standard biological level, with 106.2 male births per 100 female births. However, the ratio increased to 112.1 in 2008 and in some provinces, exceeds 120 (UNFPA, 2010). Declining fertility and rapid developments in prenatal sex selection technology have exacerbated this practice. Sex selection in favour of boys is a serious consequence of pervasive social, cultural, political and economic injustices against women, and is a violation of women's human rights.

Patriarchal structures and gender attitudes in Viet Nam that reinforce son preference also fuel violence against women and girls. The National Study on Domestic Violence in Viet Nam revealed a high national prevalence of domestic violence: 32% of ever-married women aged 18-60 had experienced physical violence by an intimate partner and 10% had experienced sexual violence. The lifetime prevalence of physical and/or sexual partner violence was 34%, and 54% of women had experienced emotional abuse. In total, 58% of women in Viet Nam have experienced some form of physical, sexual or emotional violence by an intimate partner.

The effects of GBV and SRB imbalance in Viet Nam are not limited to individuals and families. Recent research has demonstrated that gender inequality also impacts Viet Nam's economic development. An estimate of the costs of domestic violence

against women in Viet Nam suggests that out-of-pocket expenditures and lost earnings represent nearly 1.41% of the national GDP (approximately 2,536,000 billion VND in 2010). Furthermore, it was found that women experiencing violence earned 35% less than those that had not, representing another significant drain on the national economy. Overall productivity loss was estimated to be 1.78% of GDP (UN, 2012). Combined, the cost of domestic violence represents over 3% of Viet Nam's GDP.

“Gender inequality and violence in Viet Nam is normalized and maintained by traditional family gender roles, and exacerbated by economic insecurity. Public knowledge of the Domestic Violence Law is also limited, suggesting a gap between policy and implementation.”

Background Paper on Gender-based violence in Viet Nam, (WHO Regional Office for the Western Pacific, 2011)

To date, most programming on gender in Viet Nam has focused on women's rights and empowerment, legal reform, protection and service provision. It is increasingly recognized, however, that current responses to gender inequality are not enough. It is critical to increase prevention efforts in order to decrease the prevalence of GBV and correct the SRB imbalance, as well as minimise their long-term human, economic and public health costs.

POLICY ENVIRONMENT

In the mid-2000s, Viet Nam began to adopt targeted legislation to reduce gender inequality, GBV and SRB imbalance, as a result of advocacy by local and international NGOs, as well as support to government from donors and UN agencies. Through these policies, the government has demonstrated its commitment to tackling gender inequality issues that result from discriminatory attitudes towards women in Viet Nam. However, there are gaps in implementation that need to be overcome.

In Viet Nam, as in other countries, GBV interventions remain primarily response-based, focusing on developing legal frameworks and supporting victims of violence. Viet Nam, therefore, needs a revised conceptual and policy framework to integrate prevention strategies with response-based approaches in order to address GBV and SRB imbalance.

The UN in Viet Nam has supported the government, civil society and research partners to explore the links between conceptions of masculinity and gender discrimination related to prenatal sex selection and GBV, and to support male involvement to address such discrimination. Recently, UN Viet Nam commissioned studies with partners to gain a better understanding of cultural perceptions related to masculinity, men's attitudes and behaviours, and how these are linked to son preference and perpetration of violence. It is essential to address attitudes, norms and values that perpetuate discrimination in order to achieve sustained social change that includes men and boys in promoting gender equality and eliminating gender discrimination and gender based violence.



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LAWS AND POLICIES ON GENDER EQUALITY AND GENDER BASED VIOLENCE IN VIET NAM

- Viet Nam has ratified CEDAW in 1982 and has signed other international human rights treaties and conventions related to gender equality.
- Law on Gender Equality (2006) promotes universal gender equality and stipulates that sex selective abortion of the foetus is a violation of human rights.
- Law on Domestic Violence Prevention and Control (2007) protects and assists the victims of domestic violence.
- Population Ordinance (2003) and the Decree No. 104/2003/ND-CP prohibits determining and identifying the sex of a foetus, and performing an abortion for the purpose of sex selection
- Decrees on aspects of implementing the Domestic Violence Prevention and Control Law were issued in 2008, 2009 and 2010.
- Action plans for the advancement of Vietnamese women were in place for the periods 2001-2005 and 2006-2010.
- The National Strategy to Promote Gender Equality (2011-2020) provides Viet Nam increased capacity to assess gender inequality.

IMPLICATIONS FOR POLICY FROM RESEARCH FINDINGS

Recent findings from the studies on masculinity suggest that GBV and SRB imbalance in Viet Nam are rooted in and reinforce gender inequality. Specifically, the research indicates that variations in men's attitudes, beliefs and practices across Viet Nam are associated with childhood experiences of gender socialization and violence, levels of education, and acceptance of violence against wives and children in private settings as legitimate. Masculinity tends to be associated with physical strength, intelligence, authority and dominance, and not doing 'women's' domestic work. The studies indicate that GBV and SRB imbalance are preventable, and identify a firm role for policy in influencing the structural determinants which shape gender attitudes and behaviours.

Socialization and Education

Gender socialization and experiences of violence in childhood play an important role in shaping men's attitudes, behaviour and conceptions of masculinity. For example, childhood experiences of violence were among the strongest factors associated with adult spousal abuse (ICRW and ISDS, 2011:63), and amongst students surveyed for the study, *Masculinities and Violence against Women*, those who experienced abuse in their childhood were more likely to have gender inequitable attitudes. On the other hand, family relationships and settings can also be instrumental in developing positive non-violent methods of conflict resolution, and ensuring equal opportunities and rights for girls and boys (UNFPA, UN Women & P4P, 2012:41). Indeed, data from all three studies indicates that men who experience a peaceful childhood and have non-violent, supportive parents are less likely to associate masculinity with violence and dominance.

Inequitable gender relations contributes to men's low-level of participation in childcare and housework, and to potential violence within households

A second consistent theme among the studies concerns the intersection between GBV, gender inequitable attitudes and men's practices in the domestic sphere. In both the *Teach the wife when she first arrives* and *Masculinities and Violence against Women* studies, violence is considered both a legitimate disciplinary tool for children and an appropriate response of a husband towards a wife, so long as it occurs in private.

"Men have a crucial role to play as fathers, friends, decision makers, community and opinion leaders, in speaking out against violence against women and ensuring that priority attention is given to the issue. Importantly, men can provide positive role models for young men and boys, based on healthy models of masculinity."

(United Nations UNiTE Campaign, 2009)

Accordingly, the three studies on masculinity indicate that moving discussions about gender, violence and inequality into the public sphere, and changing men's domestic practices are key strategies for reducing harmful practices in families. Indeed, boys whose fathers helped with housework and childcare, or who had talked to their parents about sex and gender issues were more likely to have more gender equitable attitudes. The findings also show that men who have been exposed to communication, education and information on GBV-related issues were less likely to be violent (UNFPA, UN Women & P4P, 2012:48).

Men and masculinity are diverse, multifaceted and changeable

The Study on *Gender, Masculinity and Son Preference in Nepal and Viet Nam* indicated that education, living arrangements, socio-economic class, geography, and childhood experience of gender inequality play a role in shaping men's and women's attitudes toward son preference. Data from *Teach the wife when she first arrives* illustrates that men's and women's conceptions of masculinity change



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over time, depending on economic, family/ social and age-related factors (UNFPA, UN Women & P4P, 2012:17). Both studies also show that some men who express violent tendencies toward intimate partners also hold positive beliefs about sharing housework, advocating for equal social participation for men and women, and non-violence. Such paradoxes alert us to the complexity of trying to achieve sustained attitude and behaviour change for gender equality. The report concludes that effective violence prevention efforts must work with men and boys, together with women and girls, to promote non-violent and equal relationships, through transformative approaches that build commitment to gender equality and challenge norms that oppress women (UNFPA, UN Women & P4P, 2012).

POLICY RECOMMENDATIONS

1. Strengthen education policies encouraging positive conceptions of masculinity

School is an institutional setting where notions of gender are learned, practiced and reinforced. At schools, education and opportunities for girls' and boys' futures are developed. Therefore, it is imperative to integrate gender transformative curricula to teach girls and boys about gender equality, non-violence, healthy relationships and sexuality. It is also recommended to work with teachers to ensure that they are promoting gender equality. Policies should therefore mandate specific activities to promote gender equality from early childhood education through tertiary education, engaging girls and boys, women and men in appropriate ways.



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2. Disseminate media message on positive conceptions of masculinity

Positive conceptions of masculinity should also be promoted through a wide variety of channels including the media and popular culture. Depicting positive masculinity in TV soaps, radio and street dramas, and news stories is one way of addressing social and gender norms more broadly.

3. Engaging men as caregivers and household workers

Family relationships and settings can be instrumental in developing non-violent methods of conflict resolution, and promoting equal rights and opportunities for girls and boys. Therefore, it is recommended to promote programs that nurture healthy parenting practices and equal treatment of sons and daughters, especially for fathers. For example, a comprehensive paternity leave policy could shift societal views of men's

roles as being only providers, and give incentives for their increased involvement in childcare and household work. Related media campaigns could provoke discussion about, and increase awareness of gender-related issues around GBV, son preference, and the Law on Domestic Violence Prevention and Control.

4. National and sub-national policies and community engagement involving men to promote gender equality

National and sub-national policies and programs aimed at involving men to promote gender equality, and transform discriminatory socio-cultural and religious practices, should be promoted and adequately implemented. Well coordinated, multi-sectoral policies on GBV and gender inequality can address the multiple dimensions in which gender and discrimination intersect in peoples' lives, including their health, education, social interactions, economic opportunities, safety, legal protection, and

human rights. Integration of gender equality into national education and labor policy initiatives could be considered.

5. Better implementation of existing laws and programs addressing GBV and SRB imbalance

Even though Viet Nam has instituted laws to address gender inequality, domestic violence and SRB imbalance, implementation is weak, as evidenced by high rates of domestic violence and the SRB imbalance. Viet Nam should increase awareness of existing legal provisions amongst all stakeholders

and increase resources for programming in order to improve implementation.

6. Advocacy for a national budget addressing GBV and SRB imbalance

An independent, national budget focused on GBV and SRB would enable improved coordination among government agencies tasked with addressing gender inequality, and aid the comprehensive implementation of policies by increasing capacity for follow-up programs, including research and analysis, consultation, and monitoring and evaluation.

AREAS FOR ACTION

1. Strengthen education policies encouraging positive conceptions of masculinity
2. Disseminate media message on positive conceptions of masculinity
3. Engaging men as caregivers and household workers
4. National and sub-national policies and community engagement involving men to promote gender equality
5. Better implementation of existing laws and programs addressing GBV and SRB imbalance
6. Advocacy for a national budget addressing GBV and SRB imbalance

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ISSUE PAPER

The cost of domestic violence against women in Viet Nam

INTRODUCTION

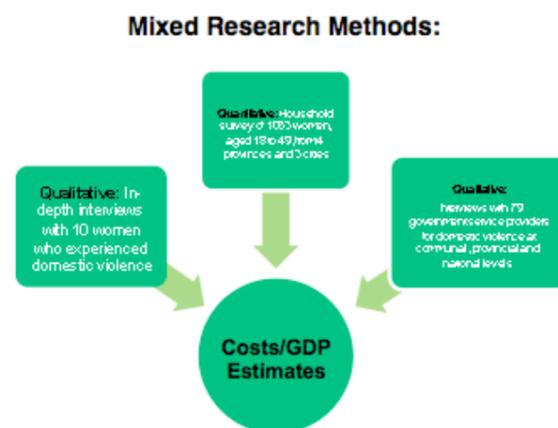
Violence against women is a persistent and prevalent problem in Viet Nam. The rates of domestic violence, which may include psychological, physical and/or sexual violence perpetuated against women by a husband or intimate partner, have reached epidemic proportions in the country. This is evidenced by the 2010 Viet Nam National Study on Domestic Violence (2010 National Study), which revealed that 58.3 per cent of ever-married women experienced at least one type of domestic violence at some point in their lives and 34 per cent experienced physical and/or sexual violence (GSO, 2010). The human cost of such violence is enormous - it devastates lives, fractures communities and hinders socio-economic development (Duvvury, et. al. 2000).

However, domestic violence is an issue often overlooked by policy-makers as well as the society as a whole. It is viewed as a 'family matter' rather than a public policy issue. To change this mindset and publicize this persistent violation of women's rights and its costs to society, UN Viet Nam, the Viet Nam Institute of Gender and Family Studies and the National University of Ireland conducted research in 2012 to determine the economic implications of domestic violence. The ultimate goal of this ground-breaking study was to deepen the understanding of policy-makers, political leaders, NGOs, communities, and families in Viet Nam about the costs of inaction against domestic violence. This policy briefing document highlights the key findings and

recommendations for action from the final report of this study, “Estimating the Costs of Domestic Violence against Women in Viet Nam.”

Study Methodology:

The study used mixed research methods of data collection.



The study discovered that domestic violence has direct and indirect costs to society. The direct costs include out-of-pocket expenditure incurred after an incident of domestic violence, such as the cost of healthcare services or replacement of damaged property. Indirect costs include loss of income due to missed work, including housework.

The total direct and indirect costs represented almost 1.41 per cent of Viet Nam’s GDP in 2010. Domestic violence also results in loss of overall productivity, since women who are victims of domestic violence earn up to 35 per cent less than other women. The overall productivity loss amounted to 1.78 per cent of the country’s GDP in 2010. Altogether, the potential opportunity cost and productivity loss of domestic violence committed by an intimate partner against women amounted to 3.19 per cent of Viet Nam’s GDP in 2010. These figures illustrate that in addition to wrecking lives, bodies and families, domestic violence is taking a tangible economic toll on Vietnamese society and hindering economic development.

BACKGROUND

1. The socio-economic and cultural context of the issue in Viet Nam

Culturally, Viet Nam is a deeply patriarchal society with a traditional outlook on gender relations, based on an interweaving of Confucian and Buddhist traditions. Traditional gender norms place men at the head of the family, while women are socialized to stay behind the scenes and maintain harmony within the family (Vu Song Ha, et. al. 2002). The 2010 National Study found that women internalize these norms and are willing to accept acts of domestic violence and keep silent in order to preserve a sense of balance within the family. For example, men are thought to be naturally angry or “hot blooded” and not able to control their emotions. On the other hand, women are taught to be sexually available to men even when they don’t want to be.

On a socio-economic level, the doi moi economic reforms in 1986 ushered in high levels of economic development, which shifted traditional gender relations within the family. Women now account for 70-80 per cent of the workforce in electronic, garment and shoe factories (USAID, 2010) and 46.6 per cent of the total labour force. As a result, women’s economic contribution to the household has clearly increased through these advances in the workplace. However, outside the factories women are concentrated in informal occupations where they earn just 50 per cent of men’s average incomes in the formal economy and face greater job insecurity (UNIFEM, 2010). Moreover, since there has been little change in basic gender role expectations, women continue to bear the primary responsibility for household duties, such as childcare, eldercare and domestic work. These responsibilities prevent women from being able to fully participate in the labour market (World Bank, 2011).

Education for girls is another area that has improved during the last few decades. In primary and secondary schools, boys and girls are enrolled at almost equal rates, while more girls than boys are enrolled in higher education institutions (World Bank, 2011). Female literacy rates are also

almost equal to male rates (GoV, Population and Housing Census, 2009). Nonetheless, girls in the poorest 20 per cent of Vietnamese households and in northern mountainous ethnic communities are far less likely to be in school than boys in the same communities (Lee, 2008). Increasing education rates for girls is important for domestic violence prevention, as women with higher education levels are less likely to experience domestic violence as the 2010 National Study suggested. This finding is consistent with other international studies (Duvvury et. al. 2000). Notwithstanding these advancements, gender stereotypes in Viet Nam today still perpetuate the idea that domestic violence is acceptable and as a result, women from all socio-economic levels and throughout the country continue to experience such violence.

2. The legislative and policy context in Viet Nam

The Government of Viet Nam is a signatory to the Convention on the Elimination of all forms

of Discrimination Against Women (CEDAW), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). All of these international treaties prohibit violence against women in the public and private spheres, and mandate that member states have a responsibility to modify national laws and policies to prevent such violence. CEDAW further asserts that states have a responsibility to change cultural gender stereotypes, which perpetuate discrimination and violence against women. In line with these international commitments, Viet Nam has created a strong legislative and policy framework to promote gender equality and prevent violence against women:

Viet Nam’s policies today are a significant step towards gender equality. However, implementation remains a significant challenge, as societal attitudes and the limited awareness of laws and policies make it difficult to fully enact them and make significant progress towards gender equality (World Bank, 2011).

Laws and Policies on Gender Equality and Domestic Violence in Viet Nam

- Vietnamese Constitution (1992) recognizes equal rights of women in public and private life (Article 63).
- Based on the Constitution, women’s rights have been institutionalized in the following legislation: Civil Law, Labour Code, Law on People’s Healthcare, Enterprise Law, Law on Science and Technology, Marriage and Family Law, Criminal Code, Criminal Procedure Law, Law on National Assembly Election, and Law on People’s Council Election.
- Law on Gender Equality (2006) promotes universal gender equality and prohibits violence against women.
- Law on Domestic Violence Prevention and Control (2007) strives to prevent domestic violence and protect its victims. Decrees on aspects of implementing the Law on Domestic Violence Prevention and Control were issued in 2008, 2009 and 2010.
- Action Plans for the Advancement of Vietnamese Women were in place during 2001-2005 and 2006-2010.
- The National Strategy to Promote Gender Equality (2011-2020) and the National Programme on Gender Equality (2011-2015) provide Viet Nam with increased capacity to assess gender inequality.
- Labour Code (revised in 2012) prohibits sexual harassment in the workplace.

MAIN FINDINGS OF “ESTIMATING THE COSTS OF DOMESTIC VIOLENCE AGAINST WOMEN IN VIET NAM”

Prevalence of Domestic Violence

The study found that domestic violence is more common in rural areas, a fact initially identified in the 2010 National Study. Approximately 48 per cent of rural women and 38 per cent of urban women have experienced physical violence at some point in their lives, while more than a quarter of all women surveyed reported experiencing sexual violence. The most common type of sexual violence was non-consensual sex, which reflects the patriarchal notion that women are obligated to have sex with their husbands on demand. Psychological violence was by far the most common type of domestic violence. Almost 60 per cent of rural women and 48 per cent of urban women have experienced psychological violence during their lifetime. This type of violence includes insults, threats and shouting. The study found that domestic violence is typically a pattern of behavior and not one-off incidents, as the women surveyed experienced on average nine incidents in the 12 months previous to the survey. This finding is consistent with international literature. Individuals with childhood experiences of violence, or acceptance of traditional gender norms are more likely to be at risk for domestic violence. Furthermore, despite the distinctions between urban and rural women, women across all socio-economic and education strata experienced violence at equal levels. This illustrates the fact that domestic violence is endemic in Viet Nam and the perpetuation of patriarchal gender norms is a significant contributing factor to such violence.

Physical and Emotional Impacts of Violence

Domestic violence has a devastating impact on the health and mental well-being of women. The study found that women who experienced domestic violence had poorer mental health than women who had not experienced violence. For example, women who experienced violence

were twice as likely to suffer from depression and suicidal thoughts, and were one-and-a-half times more likely to be unable to conduct their daily duties or even enjoy leisure activities. Women who experience violence were also less healthy than the rest of the sample. As a result, they were more likely to visit a healthcare provider and regularly need medical care. However, the 2010 National Study revealed that just 9 per cent of women who experienced violence sought healthcare services, whereas 87 per cent did not seek for any help from any public services. Access to healthcare is a critical intervention to support women who have experienced domestic violence. However, the study also found that there is no official channel for healthcare providers to report incidents of domestic violence to the police and they only recorded particularly extreme cases. Neither health providers nor the police have a comprehensive system to record domestic violence cases. This makes it difficult to get accurate information on the scope of the



problem as well as its financial and social cost, which ultimately prevents general awareness of the consequences of the issue.

Economic Costs of Domestic Violence

In order to calculate the impact of domestic violence on the Vietnamese economy, the study identified two key costs: direct costs, such as out-of-pocket expenditure due to violent incidents (cost of healthcare, replacement of property, etc.) and indirect costs, such as lost income due to missed work.

Direct Costs:

The cost of healthcare, including the cost of medical appointments, transport to health centres

and medicines, averaged 28.2 per cent of the average monthly income of women who had experienced violence. This is not surprising given the frequency of visits reported by women who have experienced violence. Other costs included replacement costs for broken furniture, the cost of shelter outside the home and the cost of seeking assistance from police, courts and other authorities. In total, the weighted average of all direct costs of domestic violence came to 21.0 per cent of average monthly income of the surveyed women. This is especially substantial since many women who experience domestic violence actually earn less than the average monthly income of women not experiencing violence, so this figure likely represents a much higher percentage of their actual salaries.

A Broken System – An Example

Most cases of domestic violence are confined to the home and are never addressed by the criminal justice system. But even when the police are involved, they often do little to support women who experience domestic violence. The perpetrator is rarely jailed, he is usually fined and sent back to live with his family. Often, the wife must pay the fine for a crime that was committed against her.

One woman recounted an incident where her husband was arrested for domestic violence:

After [he was arrested], a policeman called me to come and told me: “We don’t have the authority to put him in prison. We can only fine him”. He asked me: “Can you live with him when he is back? I had to pay VND500,000 for the fine.” (PTH)

Indirect Costs:

Incidents of domestic violence also incur indirect costs, such as lost income due to missed work. Many women must take time off work due to their injuries or emotional issues after an incident of domestic violence. The loss of earnings per incident comes to 13.4 per cent of average monthly income of surveyed women. The perpetrators of violence may also miss work after such an incident for a variety of reasons. The average loss of men’s average monthly income in the sample came to 8.31 per cent. Combined, the total loss of household income from each incident is 10.5 per cent of the average household monthly income of households surveyed. Moreover, since



women who experience domestic violence and their partners receive lower wages than the entire sample on average, this loss of income is even more significant. Many women were also unable



to fulfill their domestic duties after an incident, which created an additional loss to the household. On average, 33 hours of household work were missed after an incident of domestic violence, representing 17.8 per cent of the average monthly income for surveyed women.

In total, the opportunity cost of domestic violence for the women in the sample, taking into account the costs of out of pocket expenditures and lost earnings from paid work, comes to 34 per cent of their average monthly income. Thus, on top of the emotional and physical impacts of domestic violence, women who experience domestic violence and their families are financially disadvantaged as well.

Macro Costs:

The costs of domestic violence reverberate throughout Viet Nam's economy. The total potential costs of this violence for individuals, including out-of-pocket expenditure, lost earnings and the value of missed housework represented 1.41 per cent of GDP in 2010. Furthermore, women who experience domestic violence have decreased productivity in the workplace and at home, resulting in a total lost earnings of 35 per cent. The potential productivity loss for the

economy as a whole was estimated at 1.78 per cent of GDP in 2010. In total, the costs of domestic violence and lost productivity represented 3.1 per cent of Viet Nam's 2010 GDP.

RECOMMENDATIONS

1. Increase funding for multi-sectoral responses to domestic violence

The study found that domestic violence is a persistent and prevalent issue in Viet Nam, with substantial financial implications for the national economy. Though the Government has improved its policy and legislative response to domestic violence, there is still much progress to be made. Since the costs of inaction are so high, funding for this issue should be increased to expand effective programmes that address domestic violence.

2. Enhance the capacity of healthcare providers and police to respond to domestic violence against women

Most public officials believe that domestic violence is a private matter that only becomes a public issue in extreme cases. As a result service providers, such as police, are not providing women with necessary support to such an extent that women are often instructed to simply learn to deal with their situation or leave their families. This indicates that the Government is relying on reconciliation or mediation as a primary response to domestic violence. Meanwhile, healthcare providers who are not adequately trained cannot provide appropriate assistance to women who experience domestic violence. The Government should work to improve the technical capacity of healthcare providers and police to respond to these cases.

3. Strengthen record keeping by service providers at all levels

Service providers at all Government levels and sectors do not have a system to record domestic violence incidents. For example, few healthcare facilities record cases of women experiencing domestic violence despite the Ministry of

Health's register to document this information. Additionally healthcare facilities, police and Women's Union had little information on the referral system for women who experience domestic violence. In order to ensure that women receive all of the support they need after an incident, service providers need a coordinated response with referrals and proper documentation. The courts have some detailed information on divorce cases involving domestic violence, but little additional information on other criminal cases involving domestic violence. The Government, especially the Ministry of Health, Ministry of Justice and Ministry of Public Security, should work with healthcare providers and judicial bodies to improve this system. It is important these incidents are documented to gain a better understanding of this type of violence as well as the toll that inaction against domestic violence is taking on Vietnamese society.

4. Design and implement national communication campaign and media strategies to prevent domestic violence

A key risk factor for domestic violence is the acceptance of patriarchal gender norms by the individuals impacted by the violence and society as a whole. The Government should further implement and strengthen ongoing behavioral change interventions to accelerate the changing of traditional attitudes to prevent violence before it occurs.

5. Conduct periodic costing studies to assess the required resources for a

comprehensive response to domestic violence

Given the lack of information regarding the cost of service provision for women who experience domestic violence, it is difficult to assess the adequacy of the Government's current resource allocation. The Government should conduct periodic studies to establish better baseline data on costs of these services to determine whether the current budget is sufficient.

6. Identify a cost effective minimum intervention package for national replication

Since resources are scarce, the Government needs to determine its policy options for a national response with a cost analysis. It should conduct a cost effectiveness study on the minimum intervention core package that it could take to address this issue at a national level.

7. Undertake evaluations of existing interventions

The Government has not conducted any significant evaluation of domestic violence response programmes to determine which strategies most effectively address domestic violence. In order to ensure that the Government is funding effective programmes, it should develop an evaluation and monitoring framework for all intervention programmes.



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