



Ho Chi Minh National Academy of Politics
Institute of Sociology



United Nations Entity for Gender Equality
and the Empowerment of Women

Study Report

Access to Justice in the Plural Legal System in Viet Nam: A Case Study of Women Domestic Violence Survivors

Ha Noi, 2015



Foreign Affairs, Trade and
Development Canada

Affaires étrangères, Commerce
et Développement Canada



Nhà xuất bản Lao Động

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**ACCESS TO JUSTICE IN THE PLURAL LEGAL SYSTEM IN VIET NAM:
A CASE STUDY OF WOMEN DOMESTIC VIOLENCE SURVIVORS**

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Foreign Affairs, Trade and
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The Committee on the Elimination of Discrimination Against Women stated that domestic violence is one of most insidious forms of violence against women prevalent in all societies¹. The National Survey on Domestic Violence in Viet Nam conducted in 2010 discovered that 58 percent of ever-married women reported having experienced at least one form of domestic violence in their lifetime (GSO 2010). Despite the high prevalence of domestic violence, the issue is largely met with a deep silence within Vietnamese society. In fact, nine-out-of-10 women have never sought help from authorities or formal services according to the survey. The small number of women who pursue justice through the State legal system often face layers of obstacles with little possibility of a conviction for the offence being reached. In reality, the majority of women use quasi-State and non-State legal systems to seek redress, protection and remedies.

“Access to Justice in the Plural Legal System in Viet Nam: A case study of women domestic violence survivors” is a study initiated within the framework of a regional study on women’s access to justice through plural legal systems. The regional study is conducted through UN Women’s regional programme on “Improving Women’s Human Rights in Southeast Asia – CEDAW, Phase II” with the support from the Government of Canada. In Viet Nam, the Institute of Sociology, a State organization part of the Ho Chi Minh National Academy of Politics, worked with the UN Women country office in Viet Nam to conduct this study on “women’s access to justice in the plural legal system in Viet Nam from the CEDAW perspective to promote policies, focusing on domestic violence”. This study analyzes the relationship between formal and informal legal systems and identifies factors preventing women from accessing justice. It also determines specific demands and steps to address barriers in the plural legal system and increase women’s access to justice.

The research group would like to express special thanks to UN Women officials, the Asia Pacific Forum on Women, Law and Development (APWLD) and Institute of Development Studies (IDS) specialists for their ideas, assistance and contributions during the course of its research. In addition, valuable inputs are acknowledged from representatives of the Women’s Union, Ministry of Justice (MOJ), Ministry of Culture, Sports and Tourism (MOCST), Ministry of Labour, Invalids and Social Affairs (MOLISA) and specialists from research bodies and civil society organizations during participation in discussions and contributions of document sources and advice for the report.

Important content of this report is based on results from the field research conducted between October and December 2013, which applied Feminist Participatory Approach Research (FPAR) methods. In the process of forming and adopting these participatory research methods, valuable assistance and advice was received from APWLD and IDS technical experts. The national research team would also like to express its sincere gratitude to the People’s Committees and Women’s Unions of Bac Kan, Ben Tre and Nghe An provinces for their cooperation and commitment to allow research to be conducted smoothly. The cooperation of numerous bodies, departments and sectors in the research areas in sharing comments and opinions about the realities of local issues related to the study’s focus is also acknowledged. Last but not least, this study would not have been possible without the valuable inputs from informants, especially women, who agreed to participate in this study in Duong Phong commune of Bac Kan province, Nghi Hoa ward of Nghe An province and An Khanh and Vinh Binh communes of Ben Tre province². Their thoughts, experiences and wishes allowed the national research team to better understand issues surrounding women domestic violence survivors’ access to justice in the plural legal system in Viet Nam.

1 CEDAW General Recommendation No.19 (1992), para 23.

2 Commune is an administrative subdivision in the rural area equivalent to a ward in the urban area.

LIST OF ABBREVIATIONS

APWLD	Asia Pacific Forum on Women, Law and Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CIHP	Consultation of Investment in Health Promotion
DOCST	Department of Culture, Sports and Tourism
DV	Domestic Violence
DVL	Law on Domestic Violence Prevention and Control
FPAR	Feminist Participatory Approach Research
GDP	Gross Domestic Product
GSO	General Statistics Office of Viet Nam
HIV	Human Immunodeficiency Virus
HLSS	Household Living Standard Survey
IFGS	Institute for Family and Gender Studies of Viet Nam
IDS	Institute of Development Studies
ILO	International Labour Organization
MOCST	Ministry of Culture, Sports and Tourism
MOJ	Ministry of Justice
MOLISA	Ministry of Labour, Invalids and Social Affairs
OHCHR	Office of the High Commissioner for Human Rights
UN	United Nations
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UN-ESCAP	Economic and Social Commission for Asia and the Pacific
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UNODC	United Nations Office on Drugs and Crime
WB	World Bank
WHO	World Health Organization

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EXECUTIVE SUMMARY

Viet Nam has been developing progressive policies and frameworks to achieve gender equality from the very early days of the country's independence in 1945. Its new Constitution adopted in 2013 and Law on Marriage and Family amended in 2014 guarantee the right to equality between men and women in the family and society as well as prohibit gender discrimination. Having been a State party to the CEDAW since 1982, Viet Nam has committed to eliminate all forms of discrimination against women and violations of women's human rights. The establishment of the Law on Gender Equality (2006) and Law on Domestic Violence Prevention and Control (2007) are the result of continuous efforts to develop a legal framework to protect women's human rights and prevent discrimination. These two legal documents play a crucial role in addressing domestic violence in Viet Nam.

Although the nation is gradually overcoming gender disparities and reforming legal frameworks to eradicate domestic violence, the ability of women domestic violence survivors to access justice remains limited. One of the fundamental issues behind women not being able to access their rights is domestic violence not being understood as a form of discrimination closely linked to gender power imbalances. Damaging gender stereotypes and biases embedded in society pressure women to accept subordination, disguise domestic violence as a normal part of life and blame women for causing violence by failure to be "good wives". Therefore, actors across the legal systems in Viet Nam view domestic violence as a private issue best dealt within families. As a result, numerous women remain silent about such violence and live in fear, instead of bringing injustices to light. When violence takes forms of emotional, sexual or economic abuse, women are even more hesitant to seek justice as they may not carry visible injuries to gain attention from others. In most cases, those seeking justice are survivors of physical violence and only take action when it becomes too severe to endure.

In Viet Nam, women domestic violence survivors can seek justice through the State, quasi-State and non-State legal systems. The State legal system establishes foundations for the right to access to justice, however, women tend to be afraid of approaching it due to doubts about its effectiveness or lack confidence in receiving protection. This study found that the vast majority of survivors rely on quasi-State and non-State legal systems. The quasi-State legal system abides by State legal system principles and mainly assists it through agents of local authorities. The non-State legal system is least influenced by State law and heavily reflects traditional and cultural concepts applied by influential leaders in communities and religions, while lacking means to safeguard against discrimination.

Patriarchal traditional values and norms are still widely held by Vietnamese society today and are reflected in preferences for sons, disparities in land use and property entitlements, political participation and direct discrimination in retirement age. Gender inequality is a common issue for Vietnamese society as a whole. However certain groups of women, such as those belonging to ethnic minorities in remote areas, endure greater disparities which increase their vulnerability

to violence. Meanwhile, such women are often marginalized from necessary support to protect themselves from violence and assert their rights.

This study conducted in three selected provinces from the north, centre and south of Viet Nam identified cross-cutting issues throughout the plural legal system, which challenge women seeking redress and protection from domestic violence. In many cases, the administrative sanctions for domestic violence are inappropriate and have little impact. This is seen in the small fines not taken seriously by perpetrators, but result in burdening survivors who often come forward to pay such fines. In addition, the emphasis on solving domestic violence cases through reconciliation places survivors at risk and reduces perpetrators' accountability. Survivors interviewed for this study revealed that when mediations were conducted, both parties were blamed for the violence. Therefore, reconciliation fails in the absence of equal negotiation powers for both parties. These cross-cutting issues are closely related to the recognition of domestic violence as a form of gender discrimination and violation of women's human rights. When the justice chain is not responsive to gender equality, women struggle to trust legal systems. Many survivors in this study were hesitant to seek assistance as they did not believe in the attitude, accountability, willingness and fairness of legal enforcement officials.

Another major challenge highlighted by this study is the complexity of the plural legal system, which confuse users as well as competent authorities supposed to administer them. The local law enforcement system is multi-layered, encompassing a number of bodies and individuals including heads of residential areas, police, Women's Union and People's Committees. The study also learnt that domestic violence cases are rarely scrutinized for criminal offences upon a survivor's initial contact with non-State and quasi-State legal systems. In almost every case, any reconciliation attempt is made before sanctioning a perpetrator. This process delays responses and negates the timely provision of protection, healthcare and support services for survivors. In each attempt to proceed through the layered procedures of the plural legal system, survivors encounter negative comments questioning their behaviour and attitudes, which in turn discourage them for asserting their rights. A coordinated referral system for legal aid, counselling and medical assistance is very much in need for Viet Nam.

State law assigns responsibility to competent authorities and individuals to address domestic violence and explicitly set out reporting obligations in a case. Nevertheless, the entire system is heavily dependent on survivors' initiation to file a petition. This is particularly problematic as it places the onus on survivors, while they may lack knowledge of their rights, are unable to recognize violent acts as an infringement of their rights or freely report violence without fear of repercussions. There is a need to strengthen the accountability of competent authorities particularly at local level, disseminate information on relevant laws and provide trainings for justice providers tailored to address domestic violence. The roles of local authorities are increasingly important as village heads and respected people in the community, who women often seek advice from, are more focused on cultural activities and handling conflicts related to land and natural resources rather than dealing with cases of domestic violence.

Control over land use and property also emerged as having a significant impact on women's access to justice. When women do not have or are unable to assert their rights to land use

and property, they fear losing land to work and reside on as a consequence of seeking legal support. This is particularly a concern for ethnic minority women, who are heavily dependent on land and agricultural activities. In addition, ethnic minority marriages are not adequately registered and child marriage remains a concern. Lack of legal entitlement within or during the dissolving of marriage results in complicated legal procedures upon separation and division of family property and assets as well as child custody. Overall, legal support to ethnic minority women must be prioritized to protect their rights and safety.

Addressing the root causes of domestic violence requires a transformation of gender roles in society, which cannot be achieved without the commitment of men and boys. Expanding government domestic violence prevention and control projects will support communities to enhance collective knowledge on domestic violence and gender discrimination, which will enable them to develop effective measures to prevent and respond to violence at grassroots level. The media also plays an important role in disseminating information on social issues and newly established laws and policies will help people make informed decisions. Any enhancement of women domestic violence survivors' ability to access justice requires a holistic approach by all members of the society.

1. INTRODUCTION

In Viet Nam, women domestic violence survivors can seek justice through State, quasi-State and non-State legal systems. The country's mechanism of plural legal system is complex and their interrelation not thoroughly understood. In particular the non-State legal system, which consists of customs, unwritten laws and traditional norms, is least studied. In Viet Nam and globally, any justice chain influenced by traditional and cultural values presents a challenge to women's ability to access justice due to embedded gender stereotypes and biases. This study aims to better understand the realities faced by women navigating the justice chain as well as paint a broad picture of the plural legal system and enforcement mechanisms through qualitative data generated from field work in three provinces and a literature review. Recommendations from the findings will assist policy and law-makers, law enforcement officers as well as other actors in the plural legal system to create an enabling environment for women domestic violence survivors to enjoy their human rights.

1.1. Rationale of the study

Viet Nam has promulgated numerous legal documents to ensure gender equality and justice for women and prevent acts of domestic violence. However, no study has specifically focused on domestic violence survivors' access to justice in the context of a plural legal system to comprehensively evaluate how domestic violence cases are handled. Particularly, there is little understanding of justice mechanisms beyond the State or formal legal system, while the vast majority of women domestic violence survivors never seek help from authorities or formal services³. Quasi-State or non-State legal systems may be more accessible than the State legal system and may have the potential to provide quick, relatively inexpensive and culturally relevant remedies. However, in many contexts they deal with issues that have a direct bearing on the best interests of women (UN, UN Women and UNICEF 2012). There are studies that indicate gender-biased legal frameworks and processes are a major obstacle to the achievement of progress in eliminating gender inequality (UNDP 2010). In other words, access to justice is "a key means to defend other rights" and "an enabling right" that "allows individuals to enforce their substantive rights and obtain a remedy when these rights are violated" (UN Women 2014). Therefore, enhancing access to justice is an essential factor in the process of eliminating discrimination against women, promoting equality and achieving development goals (UN Women 2014).

This study provides an understanding of women's access to justice in Viet Nam, presenting an in-depth analysis of factors affecting women domestic violence survivors' access to justice and creating opportunities for women to share and suggest relevant interventions to enhance access to justice.

3 87 percent of respondents to the survey who were women DV survivors had never sought help from authorities or formal services (GSO. 2010). "National survey on Domestic Violence against Women in Viet Nam." Ha Noi: General Statistics Office of Viet Nam.

1.2. Domestic violence in Viet Nam

As with other countries, domestic violence is a major violation of women's rights in Viet Nam. In fact, it is one of the most prevalent violations of human rights in the country today, threatening development and hindering social progress. According to the 2010 National Survey on Domestic Violence in Viet Nam, one-in-three women have experienced beating, forcible sexual intercourse or other forms of abuse (GSO 2010). Of all types of violence, emotional abuse was the most common. Reportedly, the rate of women suffering from emotional abuse was as high as 53.6 percent, with physical violence the second most prevailing form of abuse (31.5 percent). Compared to physical and emotional abuse, the reported rate of sexual violence was lower at 9.9 percent. For emotional, physical and sexual violence, the prevalence was higher in rural than urban areas. Economic abuse was the least reported of all forms of violence, at 9 percent.

Table 1: Prevalence of different kinds of violence by husbands against ever-married women (%)

Kinds of violence/abuse	Urban	Rural	Total
Physical violence	28.7	32.6	31.5
Sexual violence	9.5	10.1	9.9
Emotional abuse	47.2	56.2	53.6
Economic abuse	7.4	9.6	9.0

Source: GSO 2010 (Table 3.1-3.10)

Women often experience multiple forms of violence. For instance, of the 9.9 percent of women in the GSO survey reporting sexual violence, up to 6.8 percent experienced emotional abuse and physical violence at the same time. The survey results also indicated that domestic violence often recurred. It was reported that 60.1 percent of respondents had experienced physical or sexual violence by their husbands more than once. Sexual and emotional violence often lasted throughout a woman's lifetime.

The GSO survey also shows that domestic violence has serious consequences for women, their families and society. Among women who reported sexual and physical violence, 36.3 percent were injured, 26 percent suffered bad health and 7 percent lost self-confidence. Many women suffering domestic violence reported health problems in daily activities, decreased memory or difficulty in walking. Children in families where women are survivors of domestic violence also directly or indirectly suffer from violence. Of women experiencing domestic violence, 50 percent reported their children had witnessed such violence and 25 percent said children were also survivors of violence from husbands. The survey also revealed that many domestic violence perpetrators had witnessed violence against their mothers or experienced violence themselves, or witnessed violence in the past (GSO 2010). Domestic violence is also recognized as a major cause that breaks the stability and happiness of a family. It is said that 53.1 percent of divorces in Viet Nam are a result of domestic violence⁴. In addition, there is evidence that direct and indirect costs of domestic violence impact on the national economy. A 2012 UN Women study in Viet Nam estimated the potential productivity loss for the economy as a whole was 1.78 percent of gross domestic product (GDP) in 2010. In total, the costs of domestic violence and lost productivity amounted to 3.1 percent of Viet Nam's 2010 GDP (UN Women 2012).

4 Source: <http://www.dtinews.vn/en/news/017004/26394/domestic-violence-major-cause-of-divorce.html>

Domestic violence as a form of gender discrimination

In many studies in Viet Nam, gender stereotyping and biased traditional cultural factors, such as social values, norms and customs, were regarded as causes of domestic violence. At the same time, they influence the way women react to domestic violence. Social norms, customs and traditions prescribe gender-specific roles and positions. Women are expected to be meek, to curb sexual desire, to be submissive to their husbands and to keep peace in the family. Domestic violence results from men exerting masculinity and power over women (Phan Thi Thu Hien 2008). In Vietnamese culture, it is common to refer to women as “yin” and men as “yang”. Thus men are considered more aggressive, while women are soft and tender, and they know how to use “yin over yang” to release the tension within the family (Rydstrøm 2004). If a woman fails to comply with the rule, then it is her fault if the man commits violence (Jonzon et al. 2007).

Such research findings show that according to the rules of Confucianism, men have privileges to be the family head, maintain the family’s reputation and educate women. Whereas women always have an inferior position. Thus, an unmarried girl must obey her father, a married woman must obey her husband and a widow must obey her son. As expected, the role of women is “to keep their family peaceful” and to maintain “family values” (Hoang Thi Ai Hoa 2009; Rydstrøm 2006). Therefore, keeping silent and enduring violence is the way Vietnamese women try to maintain peace in the family (Le Thi Phuong Mai et al. 2005; Le Thai Thi Bang Tam 2005; Romedenne and Vu Manh Loi 2006). Survivors of domestic violence, consequently, are less likely to file a complaint or submit a divorce application (Hoang Thi Ai Hoa 2009). Many of them want to divorce, but end up accepting to live with violence because they are concerned about their children and their family’s reputation (UNFPA 2002). When women seek help, they will turn to neighbours, friends and relatives. If they have serious injuries, they will consult healthcare providers (Krantz et al. 2005; Vu Manh Loi et al. 1999).

1.3. Gender equality in Viet Nam

In principle, the Vietnamese Government has affirmed its commitment to gender equality. The right to equality between men and women has been recognized since the first Constitution of Viet Nam (1946) and in the following Constitutions in 1960, 1980, 1992 and 2013. In accordance with the Constitution, the Government promulgated a number of legal documents and policies related to women’s rights and gender equality, in particular the Law on Gender Equality (2006) and National Strategy on Gender Equality 2011-2020, to be further examined in Chapter III of this report. Despite such efforts to strengthen the legal and policy framework, numerous issues still hinder women from enjoying their rights on equal terms with men.

Son preference

Gender stereotypes and biases such as “male chauvinism” and the Vietnamese saying “one son is more valuable than 10 daughters” still prevail in Vietnamese society today. In many cases, women are disregarded and considered sinful if they cannot bear a son. As a matter of fact, the national average sex ratio at birth imbalance is high as 112.6 boys per 100 girls in 2013⁵, despite prenatal sex-identification and sex-selective abortions being outlawed. The Committee on the Rights of the Child expressed its concern about societal discrimination against girls resulting in the practice of aborting female foetuses⁶.

5 General Office for Population Family Planning, 2013.

6 CRC/C/VNM/CO3-4 (2012), para 29 (d).

Inheritance and land use rights

It is commonly thought among Vietnamese families that sons, especially the eldest, are entitled to inheritance. Inheritance patterns legitimated by lineage practices serve to exclude many women from accessing their land rights (UNDP 2013). Research has shown there are links between women's ownership of property and domestic violence, and that guaranteeing women's right to land use helps reduce women's vulnerability to violence (UN Women and OHCHR 2013). While there has been a gradual increase in female-only and jointly-held land use certificates for agricultural and residential land, rates remained low at 20 and 18 percent respectively, while male-only certificates accounted for 62 percent (World Bank 2011). In response the new Land Law, which came into effect from July 2014, enforced the issuance of joint land use certificates and introduced restrictions for single nominations under Article 98 (4). In addition, Article 108 of the Civil Code regulates that: "The common property of a family household shall comprise land use rights, the forest and/or planted forest use rights of the family household, the property contributed or jointly created by household members or presented as a common gift, or jointly inherited and other property which the members agree to be the common property of the household". The Marriage and Family Law 2014 also states that: "The land use rights obtained by a spouse after marriage shall be common property of husband and wife, unless they are separately inherited by, or given to a spouse or are obtained through transactions made with separate property" (Article 33).

Employment

In the field of employment and work, women are heavily involved in own-account and unpaid care work, leaving them overrepresented in the informal sector. As women are expected to fulfil roles as primary caregivers in the family and be financial providers, they are pressured to take informal jobs which have flexible working hours. Noticeably, many women work in industries and sectors which have a high underemployment rate. Women are also disadvantaged in terms of job security, social insurance coverage and protection provided by the Labour Code. Moreover, labour migration trends also show gender disparity. According to the Viet Nam Labour Force Survey 2013, 58.9 percent of internal migrants in Viet Nam were women. Meanwhile, the rate of job mobility away from agriculture among female workers was lower than males. For example, the rate of women working in agriculture, forestry and aquaculture in 2012 decreased by 1.7 percent from 2011 compared to 2.4 percent for men (UN Women 2014).

Retirement age

The Labour Code and Social Insurance Law stipulate that women must retire five years earlier than men, with the exception of women who have "high professional qualifications and work at management level" to retire at the same time as men - at 60 years. Discrimination in retirement age has limited women's hiring, promotion and training opportunities. The Viet Nam Labour Force Survey 2013 showed that only 15.7 percent of the female labour force received technical training compared to 20.6 percent of male counterparts. Women forced to retire earlier are also less likely to be promoted to senior civil service management positions. Gender inequality in retirement age also prevents women from attaining higher salaries, which results in lower pensions than men.

Political participation

In regard to women's participation in the Party, National Assembly, People's Councils and civil service, Viet Nam has set targets to accelerate women's representation and continues to strengthen its legal and policy framework. However, women's participation at all levels of decision-making remains limited. The proportion of women in the Thirteenth National Assembly (2011-2016) is 24.4 percent, the lowest percentage in the past four terms⁷. Currently, just two out of 22 government minister positions are assigned to women and only 3.3 percent of all ministerial positions are held by women. In addition, women's leadership is more prominent in traditionally "feminine" ministries such as Health, Education and Training, and Social Affairs and lower in "masculine" sectors such as Transport, Natural Resources and Environment, and Construction. Conservative stereotypical values and beliefs that men are natural leaders, whereas a women's role should be confined to the home, are still commonplace in Vietnamese society. Women's care-giving duties in the absence of sufficient pre-school/early childhood facilities and care facilities for the elderly hinder women from enjoying the same opportunities as men to progress in the political arena.

Ethnic minority women and girls

Gender inequality still exists in various aspects of social life, especially in ethnic minority communities. Viet Nam has 54 ethnic groups, in which Kinh is the largest group with 87 percent of the total population. Another 53 ethnic minorities account for around 14 percent of the population and live mostly in the mountainous areas across the country⁸. The role of women in these communities is often limited within the family. Whether communities are matrilineal or patrilineal, ethnic minority women are disadvantaged compared to men in almost every aspect of life to a greater extent in comparison to Kinh women. Men have more leisure and entertainment time than women, who work harder and for longer hours (Hoang Ba Think 2008; Le Kim Lan 2005; Terry et al. 2001). Although they contribute more to the family's economic development, women of ethnic minority groups have less power than men in decision-making on expenses. Even within matriarchal families, women only decide small-scale spending, while men decide family expenditure of greater amounts (Hoang Xuan Thanh et al. 2011; Le Thi Thuc 2014).

For ethnic minority girls, inequality in education is of great concern. In 2011, the literacy rate for ethnic minority women aged 15-24 was 83.2 percent, compared to 99.1 percent for Kinh ethnic majority women⁹. Ethnic minority girls' net attendance in primary and lower secondary schools was 76.64 percent in 2013 compared to 92.6 percent for Kinh girls (UNICEF 2013), while 41.9-75 percent¹⁰ of ethnic minority women reported education levels below elementary school, compared to 20 percent for Kinh women (Hoang Cam et al. 2013). A high proportion of girls still drop out of school and those in rural and remote areas do not have full access to education¹¹.

7 A decrease from 27.3 percent in the 11th National Assembly (2002-2007) and 25.8 percent in the 12th National Assembly (2007-2011).

8 International Work Group on Indigenous People, World Report 2013, Viet Nam part from p272-278.

9 GSO Viet Nam, Viet Nam Multiple Indicator Cluster Survey, 2013-2014.

10 This number is changing depending on the ethnic minority concerned 41.9 percent for women from patrilineal, 58.9 percent from matrilineal and 75 percent from bilateral groups.

11 CEDAW/C/VNM/CO/6, para 20.

2. RESEARCH FRAMEWORK

2.1. Research objectives and major research questions

The research aims to:

- Identify gaps and limitations which hinder women from accessing justice through the plural legal system in response to cases of domestic violence
- Enhance commitments by duty bearers to address such gaps and limitations through increased awareness and knowledge on the plural legal system and domestic violence
- Increase the knowledge of women, especially those who experience domestic violence, on means to access justice through the plural legal system
- Present policy recommendations which define the specific needs and action steps for the elimination of barriers in the State, quasi-State and non-State legal systems, to enhance women's access to justice.

To assess factors that influence the access to justice of women who experience domestic violence, the research aims to answer the following questions:

1. How do women, who experience domestic violence access justice through plural legal system?
2. Which factors facilitate or restrict women who experience domestic violence from accessing justice?
3. How can women who experience domestic violence better access justice?

2.2. Conceptual framework

Justice

Justice is defined in the Vietnamese dictionary as “the quality of being just, conformity to the principles and common interests of all those involved”¹² (Nguyen Nhu Y 1998). Justice can also be viewed as the satisfactory resolution of legitimate demands or requirements by individuals and groups through the State's law enforcement or implementation of other informal regulations and orders through non-State and quasi-State legal systems.

Access to justice

Access to justice is a core concept of this research and the issue can be understood in different ways. A narrow meaning is the right to access courts upon the occurrence of a violation of other rights (UN Women 2014). A broad meaning is not only the demands for courts or judicial agencies to resolve rights violations, but also the process of negotiation to shift legal regulations

12 Tu dien Tieng Viet. Nguyen Nhu Y - 1998

to allow vulnerable groups to exercise rights to challenge the inequality they face (Chionson et al. 2011).

In this research, access to justice is understood as “the ability of people to seek and obtain a remedy [for grievances] through formal or informal justice institutions in conformity with human rights standards” (UN Women 2014). Access to justice is not only a basic human right, but also a means to defend other rights. Therefore, guaranteeing this right is essential to promote gender equality and eliminate domestic violence. This realization of access to justice requires legal systems, legal procedures and administrative apparatus to operate efficiently. People must also have adequate legal knowledge, be aware of their rights and interests as well as know how to claim their rights when violated. Simultaneously, duty bearers must take effective legal measures to provide remedies and compensation in compliance with international human rights standards (UN Women 2014).

The research applies the conceptual framework for access to justice in the plural legal system which includes the following components (UN Women 2014):

1. *A normative framework*, consisting of “laws, procedures and administrative structures in place and understood by claim holders and duty bears;”
2. *Legal awareness*, which means that “claim holders are aware of the law and their rights under it and know what to do in case of a grievance;”
3. *Access to appropriate forum*, which means that “claim holders seek remedies for grievances through appropriate mechanisms and grievances are received by duty bearer;”
4. *Effective handling of grievance*, which means that “duty bearers take necessary actions to provide remedies for a grievance;” and
5. *Satisfactory remedy obtained*, which means that “claim holders receive appropriate remedies, in line with human rights standards.” Involved in all these five components are the elements of monitoring, oversight and transparency.

Plural legal system

The plural legal system in general can be understood in different ways, depending on the forms, diversity and enforcement range of each legal system. In the most general meaning, a plural legal system manifests a co-existence of various legal orders. A legal system is a system for law interpretation and enforcement and consists of codes, rules and regulations that create legal frameworks and organization apparatus with procedures for law enforcement. The plural legal system exists in a society where there is more than one legal system. This system often exists in countries which went through colonial periods, with influences from a colonial legal system and traditional laws, or in multi-cultural and multi-religious countries (UN Women 2014). For instance, in India the national legal system co-exists with the Muslim legal system. In countries characterized by diverse culture and co-habitation of various ethnic minority groups, such as Southeast Asian countries (Viet Nam, Cambodia and Laos), the legal system is governed under different forms. The pluralism of a legal system is characterized by the concurrence of other legal standards and institutions which are complementary, but at the same time clash and overlap with each other.

Studies indicate that a plural legal system exists in Viet Nam. (GSO 2010; Hoang Thi Ai Hoa 2009; Krantz et al. 2005; Le Thi Phuong Mai et al. 2005; Le Thai Thi Bang Tam 2005; Rydstrøm 2006; UNFPA 2002; Vu Manh Loi et al. 1999). However, there are different ways to categorize such a legal system. Some scholars divide a legal system of a country into formal and informal systems (Chiongsong et al. 2011). The plural legal system of a country can be categorized into State, non-State and quasi-State legal systems. This research shall focus on the plural legal system as a combination of State, non-State and quasi-State legal systems.

State/formal legal system

The State/formal legal system consists of a set of legal documents and policies issued by the State and a State apparatus and process to supervise and assess law enforcement. Under the State legal system, conflicts and disputes are settled through courts/judiciary or resolved in accordance with State law. The State/formal legal system plays an overriding importance in ensuring justice for people because their legitimate rights are prescribed by law and protected through the law enforcement by State bodies. Although a State legal system governs legal relationships in a society, legal regulations and law enforcement agencies in many countries lack gender sensitivity and even show gender discrimination (UN Women 2014). Thus, in many cases, the State/formal legal system also creates barriers that hinder domestic violence survivors from accessing the justice system.

Non-State legal system

The non-State legal system consists of norms and customs not adopted by the State, but instead retain legitimate power according to culture and society. Traditional values, customs, practices, laws, rules, beliefs and religious regulations can be referred to as non-State norms and rules. The non-State legal system exists in different forms, including rules and institutions in each community or regulations adopted by non-State institutions such as schools, enterprises, associations, unions and religious bodies. Justice providers can vary from religious leaders, heads of families/clans, and village patriarch to respected people in a community. This system is formulated, developed and maintained by members of civil organizations and communities, regulating behaviours of individuals, groups and community in all aspects of life, from positions and relationships among family members to ways to deal with conflicts in the community. Members of organizations and communities agree and abide by this system, thus creating stability, balance and unity within organizations and communities. This system generally has great influence over social relationships, particularly rules governing traditional relationships which exert significant influence on people's social lives. In general, this system of rules orient, monitor and adjust behaviours of community members. Alleged violators of such rules can be put on trials or punished, but such punishments are mainly considered a deterrent.

Although the foundations of the non-State legal system are not primarily based on statutory law, it recognizes State regulations. Therefore, State and non-State legal systems are understood to be interactive and influence each other.

Quasi-State legal system

The quasi-State legal system has similar features to the State and non-State legal systems. For example, regulations stipulated in the State legal system in the settlement of disputes can

be applied through socio-political organizations or community representatives. Community regulations, such as those related to residential area/hamlet/village or socio-political organizations and unions, demonstrate the existence of the quasi-State legal system.

Table 2: Plural legal system in Viet Nam

	State legal system	Non-State legal system	Quasi-State legal system
Standards and regulations	- State policies and legal documents	- Unwritten laws, customs, practices, beliefs and traditional cultural values. - Tenets and religious beliefs	- Conventions of hamlets/villages - Regulations of the community and socio-political organizations
Justice enforcement authority	- Representatives of local authorities - Representatives of law enforcement agencies - Parties providing consultative services and legal assistance.	- Those who hold power in the family and community, consisting of householder, head of family/clan, village patriarch - Representatives of religious organizations such as a Catholic priest or vicar.	- Community representatives including head of hamlet/village and residential areas - Representatives of socio-political organizations.

The most common feature of these legal systems is they embrace and maintain social stability and order. The State legal system has a broader influence on people’s lives as it is underpinned by government and is usually employed and enforced at national, regional and international levels, while the non-State legal system is often recognized and abided by a specific cultural community or social organization restricted to a narrower geographical area. Legal systems vary, but have the ability to govern and exert positive or negative influences on all members of a society. The role of these systems in different circumstances is not uniform, but instead can coincide, supplement or contradict each other. The existence and operation of each system is independent and satisfies requirements for justice in different ways. For example in Viet Nam’s legal system, law enforcement in the State/formal legal system is also influenced by customs and practices in particular regions and communities. Particular regulations of a village and hamlet, as a community’s rules, can also support people’s access to justice.

2.3. Methodology

Research teams and timeframe

Research was conducted based on coordination between national and local research teams. The national research team¹³ was responsible for developing a set of research tools and other

13 The national research team comprised seven female researchers from the Institute of Sociology, Institute for Human Rights and Institute of Leadership and Policy and Institute of Economy from the Ho Chi Minh National Academy of Politics.

field work preparation. It also supported local researchers during information collection. In research areas, the national research team did not directly participate in interviews, but instead trained local researchers to conduct interviews. Local researchers were responsible to lead group discussions¹⁴. The selection of local researchers was based on a criteria comprised of age, enthusiasm, a sound social knowledge and adequate communication skills. Research participants consisted of 72 commune-level officials, 80 community women and 28 domestic violence survivors.

The research was conducted from July 2013 to July 2014 and field research lasted from October to December 2013. In each research area, training and information gathering was completed within four days.

Desk research

As a source of secondary information, a desk review was conducted by the national research team to understand the socio-economic and cultural factors that influence domestic violence survivors' access to justice. It analyzed findings from recent studies and reports that addressed gender equality in Vietnamese society, development of the legal framework related to domestic violence prevention and control and women's access to justice. The knowledge generated through this secondary information enabled the national research team to contextualize primary information collection results that revealed the reality of women's access to justice in different localities.

Feminist Participatory Approach Research

This research applied the FPAR method. The nature of this approach is based on the definition of "participatory action research" by Maguire (1987), which emphasizes the participation of women. Accordingly, FPAR draws on the participation of community women and women affected by an issue in the process of discussing and finding equitable solutions. This process also applies to training female researchers and women in the community. During this study's research process, women participated in discussions and interacted to identify the issue and analyze its structural causes. This approach also allowed female participants and researchers to closely collaborate to act together for change. The expected result of this research was an action plan built and developed by women in the community. Women were not only the object of the research, but also the focus to be empowered and bring about change with knowledge and skills acquired from the research to help enhance their capacity to access justice.

Why did the research apply FPAR?

The research for this study aimed to generate evidence on the situation of women domestic violence survivors' access to justice and factors impeding such access. Because domestic violence is a manifestation of unequal power relations between men and women in families, raising awareness of damaging gender stereotypes and biases was essential to enable women, community members and authorities to analyze and describe issues related to domestic violence. A better understanding of challenges to women's access to justice is essential to develop policies and intervention measures which work for women. As a result, FPAR was the most appropriate approach to deliver these outcomes.

14 See Appendix for the contents of the training for local researchers.

Primary data collection

To better understand the research issue, primary data collection focused on qualitative data collected through focus group discussions and in-depth interviews. As a primary data collection technique, the research group employed easy to understand image-based techniques to encourage women to participate in research. For instance, a dream tree was used to develop action plans¹⁵.

In total, in-depth interviews were conducted with 28 women domestic violence survivors, while 80 community women and 72 representatives from local authorities, organizations and unions participated in focus group discussions. Audio content from the in-depth interviews and focus group discussions was recorded and transcribed for further analysis.

In-depth interviews

The national research team developed guidelines for in-depth interviews to track life stories and group discussions¹⁶ using Participatory Action Research techniques adjusted in accordance with recommendations from Viet Nam Academy of Social Sciences, Viet Nam Women's Union, APWLD and UN Women. In each area selected for research, seven in-depth interviews were conducted with women who have experienced domestic violence, in at least one form of physical, emotional, economic or sexual abuse. The research group conducted in-depth interviews with women who have sought assistance through legal systems (State, non-State and quasi-State) and those who have not. All interviewees were selected through recommendations by heads of commune and village/hamlet, Women's Union and in the case of Ben Tre province, representatives of domestic violence prevention and control clubs. Some of the interviewed survivors sought assistance from these organizations. Others volunteered to be interviewed after having participated in group discussions with community women. When selecting potential interviewees, the research group was required to ask domestic violence survivors whether they were comfortable being interviewed. The selection of interviewees was completed based on voluntary principles and measures were taken to protect their privacy. Almost all the interviewed survivors still lived with their abusers.

Focus group discussions

Information was also collected through focus group discussions facilitated by local researchers. Two focus group discussions were conducted in each research area. Group 1 consisted of 20 community women who were married with different careers and had or not had experienced domestic violence¹⁷. Discussions focused on understanding domestic violence and laws on its prevention and control, public conceptions of justice as well as mechanisms and steps to ensure justice for women experiencing domestic violence. The discussion also provided knowledge on women's rights and formal legal mechanisms to protect women from domestic violence and encouraged participants' contributions to develop action plans to enhance justice for women experiencing domestic violence.

15 Dream tree is a technique to collect information from informants on their action plan. Informants are expected to develop their own dream tree with three main components: fruit, trunk and root. The fruit illustrates expected outcomes or changes. The trunk illustrates actions needed to achieve expected outcomes. The root illustrates conditions for them to implement the action.

16 See Appendix for the Guidelines.

17 See Appendix for the Guidelines for focus group discussion of community women.

Group 2 comprised local authorities, consisting of 18 representatives of local government agencies from different local government units such as judiciary, police, culture and information, healthcare and population, and representatives from socio-political organizations such as the Fatherland Front, War Veterans' Association, Women's Union, Youth Union, Farmer's Union, Elderly People's Association as well as heads of communities¹⁸. The selection prioritized members of domestic violence prevention and control steering committee. Discussions focused on local conceptions of women's rights to live free from domestic violence, mechanisms and processes to ensure justice for women suffering from domestic violence, roles and responsibilities of local authorities as well as coordination among relevant sectors and departments.

Participating bodies and organizations in the research

In each province, the national research team coordinated with the provincial People's Committee and Women's Union to conduct the research. The provincial People's Committee examined and adjusted work plans in research areas, instructed provincial Women's Union and commune People's Committees to coordinate and support the research group. The vice chairs of ward/commune People's Committees also supported research through assigning the local Women's Union to work and support the national research team. Provincial People's Committee leaders assigned Steering Committee members to attend working sessions with the research group. In addition, provincial People's Committee leaders arranged meeting rooms during group working days and provided reports on local socio-economic development as well as domestic violence prevention and control measures. The coordination of the provincial People's Committee was important, because in principle such research activities in a community must be reported and approved by this body. Moreover, provincial People's Committee commitment to the research project exerted a positive influence on the commitment of other research partners.

Coordination with the Women's Union was also important. The Women's Union is a socio-political organization of women¹⁹, which gathers and attracts local women and implements programmes, movements and activities to promote gender equality and protect women's rights, including protection from violence. With these functions, the Women's Union directly assists local women and better understands gender issues at community level. In many localities, the Women's Union is the only organization directly assisting survivors of domestic violence, as a place where survivors seek assistance and disseminate information about gender equality. The provincial Women's Union examined the research's purpose and requirements, checked the situation of domestic violence and its prevention and control at community level and recommended research areas in wards and communes, assigned a female official to assist the research as well as directly contacted and instructed local Women's Unions to prepare for the research. The chairperson of the ward/commune Women's Union selected local researchers, listed and invited members to join the research as required by the national research team, provided logistics to conduct research and assigned domestic violence prevention and control officials to join the working sessions. Before any selection of local researchers, the head of the national research team contacted the chairperson of the commune Women's Union to ensure the voluntary participation, privacy and security of participants.

18 See Appendix for the Guidelines for focus group discussion of local authority.

19 Viet Nam Women's Union is a mass organization belonging to the one-party State apparatus. It is a socio-political organization in the political system representing women's rights and legitimate interests and strives for women's advancement and gender equality in Viet Nam. It was formed in 1930 and functions as one of the State administrative bodies with a hierarchical structure operating branches from national down to community level. An estimated 15 million women are members of the Women's Union, representing more than 50 percent of the female population over the age 18 years. The Women's Union has a multi-layered decision-making structure, which makes it particularly effective for networking at all levels. It operates at central, provincial, district and commune levels. For more information, see <http://vwu.vn>.

Ethics and safety considerations

Due to the sensitivity of the research subject, ethics and safety recommendations were closely abided throughout the research process. All contents of recorded interviews, notebooks and information related to interviewees were kept confidential and only used for the purposes of research.

All local researchers employed by the research group were women. However, when the research was first conducted in Ben Tre province, the local Women's Union did not thoroughly understand the sensitivity of the research and necessity to select female researchers. As a result, it selected male researchers by mistake, subsequently replaced by females. Ahead of any research, the national research team trained local researchers on ethics and confidentiality principles²⁰ to be respected throughout the research and required them to state these principles before working with women and related parties in localities. To ensure privacy and security for those involved in the focus group discussions or in-depth interviews, focus group discussions took place in meeting halls and interviews were conducted in separate rooms at the headquarters of the commune People's Committee or private houses of local Women's Union officials. No one from outside was allowed inside the venue or to interrupt working sessions. In addition, researchers were provided with training on skills to identify and deal with interviewees becoming emotionally distressed when recalling cases of domestic violence.

National validation

A National Validation Workshop was held in Ha Noi on 5 June 2014 to receive comments to develop the second draft study report. The event was attended by 41 participants, including the national research team, UN Women representatives as well as those from central and provincial levels working for government ministries with the authority to develop or implement domestic violence policies and laws. Central level participants included representatives from the MOJ, MOCST and Viet Nam Women's Union. Those from provincial level included representatives from the three provinces selected for field research (Bac Kan, Ben Tre and Nghe An). Besides, representatives from two other provinces (Hue and Phu Tho) also joined the workshop as they have similar conditions to the selected provinces. In addition, there were representatives from various research institutes and NGOs.

During the discussion, many suggestions and comments were provided to improve the quality of the study report. All were taken into consideration and addressed in the second draft report by the national research team.

2.4. Background of the research areas

2.4.1. The selection of research areas

The primary data collection was implemented in three communes and one ward from three provinces: Bac Kan (in northern Viet Nam), Nghe An (centre) and Ben Tre (south). These provinces were selected because they represent the three geographical regions of Viet Nam and they have a combination of mountains and plains as well as urban and rural areas. Ben Tre recorded a high

20 Following WHO's Standards and Operational Guidance for Ethics Review of Health-Related Research with Human Participants (see Chapter 5).

number of domestic violence cases, Bac Kan is home to many ethnic minority groups and lacks intervention activities in domestic violence prevention and control, while Nghe An is known for its successful implementation of domestic violence prevention and control activities.

In these three provinces, Duong Phong commune (Bac Kan), Nghi Hoa ward (Nghe An) and An Khanh and Vinh Binh communes (Ben Tre) were selected as research areas. The national research team selected these areas on the basis of statistics on cases of domestic violence and other information on interventions provided by local Women's Unions. The research localities consisted of urban and rural areas where ethnic minority, the Kinh majority, Catholics and Buddhists live and where domestic violence prevention and control programmes have been implemented or were missing.

2.4.2. Information about research areas

Bac Kan is a northern mountainous province and home to ethnic minority groups of Dao, Mong, Nung and Tay as well as other minority groups. The province has yet to experience sustainable socio-economic development, with numerous poor communes or those only recently having escaped poverty. While general educational level is low, cultural values and traditional practices have a huge influence over people's lives. As agriculture and forestry are the key local economic activities, land is a vital asset for local households' economic development.

Duong Phong commune in Bach Thong district was chosen as the research area in Bac Kan province. The commune borders Bac Kan town (20 kilometres from Bac Kan town) and consists of ethnic groups, such as Tay (64 percent), Dao (22 percent) and Kinh (14 percent) and other groups who live concentrated in an inter-district traffic axis, thus enjoying favourable socio-economic development conditions. The commune has escaped poverty with a rate of less than 10 percent. As compared to other communes in the area, Duong Phong is not a typical ethnic minority commune located in a remote area, characterized by a traditional lifestyle and underdeveloped economy. However, Duong Phong was chosen because it is among the few ethnic minority communes in the province that reportedly had a high prevalence of DV, with no prevention and control project having been undertaken.

Nghe An is a north-central province and home to various ethnic groups, mostly Kinh with pockets of Muong and Thai. Compared to Bac Kan, Nghe An has enjoyed better socio-economic growth, yet there is a greater development gap between localities, with educational levels and economic growth, especially development of non-agricultural sectors, considerably higher in urban than rural areas. The two major religions are Buddhism and Catholicism.

To study and compare access to justice for women in rural and urban areas, the selection of research areas in Nghe An prioritized urban settings. Nghi Hoa ward, in Cua Lo town, displays typical features of a central urban area, as it is located close to Cua Hoi port and on the traffic route from Vinh City to Cua Hoi, 3 kilometres from the coast. The ward is characterized by strong economic growth in different sectors, including agricultural production in conjunction with tourism services, small-scale industries, seafood processing, mechanics and construction materials. The local population is concentrated in a relatively small area and has a high level of education as up to 90 percent has graduated from higher secondary education. Unlike Duong Phong, Nghi Hoa has implemented domestic violence prevention and control programmes.

The Domestic Violence Prevention and Control Steering Committee was established with the participation of representatives from the local administration, police, judiciary, political and social organizations and residential units to raise local people's awareness and assist survivors. Along with the project "An Integrated Model for Responding to Gender-based Violence in Clinic and Community Settings"²¹, with technical support from the Consultation of Investment in Health Promotion (CIHP) under the auspices of the Ford Foundation, from May 2006 to June 2012, domestic violence prevention and responses in the area were promoted through numerous activities, including groups of reconciliation teams and counselling clubs. Nghi Hoa ward is considered one of the localities in Cua Lo town where domestic violence prevention and control efforts have been most successful.

Ben Tre is a province in the south and home to many ethnic groups, mainly Kinh, Khmer, Cham and Hoa. Due to migration from other areas, Ben Tre is home to a diversity of religions, which distinguish the area from Bac Kan and Nghe An. The three most influential religions are Buddhism, Catholicism and Caodaism. The latter is a monotheistic religion established in the south of Viet Nam in 1926 that is characterized by prayer, veneration of ancestors, non-violence and vegetarianism. It has around 2.4 million followers in the country.

The province, however, also displays a high prevalence of domestic violence and has received relatively greater assistance on domestic violence issues than the other two selected provinces. As with Nghi Hoa ward, Ben Tre wards/communes have established Domestic Violence Prevention and Control Steering Committees to encourage engagement from relevant sectors and departments. Domestic violence prevention and control of Ben Tre has been promoted through projects, such as one by the MOCST's Family Department during 2008-2010, the "Bread for the World" project in 2010-2012 and one by UNFPA during 2013-2016. Consequently, clubs in hamlets, reconciliation groups and legal awareness groups have expanded with their interventions in cases of DV. The two communes selected for research were An Khanh in Chau Thanh district and Vinh Binh in Cho Lach district. An Khanh represents localities benefiting from domestic violence prevention and response projects, while Vinh Binh has a high concentration of Catholics.

Generally speaking when comparing research areas, Duong Phong mountainous commune (Bac Kan) is a relatively poor commune compared to the other research areas with a majority of ethnic minority people whose major source of income is agriculture. Incidences of domestic violence are less reported with a modest number of four domestic violence cases and no domestic violence prevention and control activities have been undertaken. An Khanh and Vinh Binh (Ben Tre) are agricultural communes, with few ethnic minority groups and a high number of Catholics. Several domestic violence prevention and response activities have been undertaken in the two communes. Nghi Hoa (Nghe An) was the only urban area selected for research and is different from other research areas because local people have higher education levels and better economic conditions not reliant on agriculture. Consequently, women have more income-earning opportunities and are less economically dependent on their husbands and in-law families. However, domestic violence is still common in Nghi Hoa and domestic violence prevention and control activities are common.

21 Further information of the project could be found at: <http://ccihp.org/index.php/project/31/33/356/Gioi-thieu-du-an-GBV---Giai-doan-2-&> and http://www.cihp.vn/Desktop.aspx/News-Events/Workshops/A_project_on_An_integrated_model_for_responding_to_Gender-based_Violence_in_Clinic_and_Community_Settings/

2.4.3 General information on interventions addressing domestic violence in research areas

Incidences of domestic violence prevention and control varied in research areas, with some implemented in urban (Nghì Hoa) and lowland areas (An Khanh), but few or none in mountainous areas (Duong Phong). In An Khanh and Vinh Binh (Ben Tre) and Nghì Hoa (Nghe An), such projects have been implemented and left relatively comprehensive domestic violence prevention and control organizational mechanisms. Domestic Violence Prevention and Control Steering Committees have been established, ranging from provincial to district and commune levels. All relevant agencies and sectors have actively participated in domestic violence prevention and response activities under the leadership of the People's Committee at equivalent levels. Participants included deputy heads of People's Committees, representatives from relevant sectors and agencies such as health, police, judiciary, population, culture and education and representatives from socio-political organizations such as Women's Unions, Fatherland Front, Youth Union and War Veterans' Association. In Duong Phong (Bac Kan), a Domestic Violence Prevention and Control Steering Committee has not been established and work is needed to coordinate different sectors to harmonize intervention activities.

At community level, domestic violence prevention and control activities are implemented with participation of heads of residential areas/hamlets, police, Women's Union and representatives of social organizations in the area. Although they do not have the authority to resolve cases which involve violence, they can act like a small-scale administrative apparatus. In addition, the reconciliation committee is established at ward/commune and community levels. It is regulated that reconciliation activities are implemented on a voluntary basis to "guide, support and persuade" parties in dispute at grassroots level.

2.5. Research limitations

Due to a shortage of data on women's access to justice in cases of domestic violence in Viet Nam, conducting an in-depth analysis of the secondary data was challenging. In addition, the use and analysis of information and local reports on domestic violence and its prevention and control were limited as some reports from localities were insufficient and incorrectly recorded.

Field research allowed for the study and comparison of differences between ethnic minority groups and the Kinh majority, urban and rural areas as well as coverage of domestic violence prevention and control projects. However, due to limited time and resources as well as the considerable diversity in Viet Nam, it was not possible to comprehensively represent this diversity and comparative results were limited. For example, the diversity of ethnic minority groups among regions is significant, but for example the mountainous commune of Duong Phong (Bac Kan) was not fully representative of other areas with ethnic minority groups. On the other hand, Nghì Hoa (Nghe An) ward despite being an urban area could not be viewed as a typical modern urban area found in Viet Nam.

Since very few cases of domestic violence have been brought to court in Viet Nam, researchers were unable to review any cases of domestic violence that reached court procedures.

3. APPLICABLE LEGAL AND POLICY FRAMEWORK

3.1. International framework

3.1.1. A rights-based approach to tackling domestic violence

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is one of the most ratified international conventions in the field of human rights. It obliges States parties to implement measures to eliminate all forms of discrimination against women that hinder them from enjoying basic human rights, including those specified by other international human rights treaties. Viet Nam ratified CEDAW on 17 February, 1982.

Under CEDAW violence against women, of which domestic violence is recognized as most prevalent, is understood as “a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men”²². As such, it constitutes discrimination in and of itself and signifies lack of respect for women’s integrity and dignity (Freeman, Chinkin and Rudolf 2012). The notion of discrimination under CEDAW is not restricted to a State’s action, but also includes violence against women perpetrated by non-State actors. This means States parties are obliged to ensure women’s rights to be free from violence and the fear of violence. Shifting perceptions of domestic violence away from being “natural” to instead directly linking it to the failure of States parties to fulfill their obligations, will allow for the recognition of survivors as rights holders instead of victims perceived as having invoked such violence.

“Empowerment discourse – through interventions ranging from education, skills training, legal literacy, access to productive resources, among others – aims to enhance women’s self-awareness, self-esteem, self-confidence and self-reliance. This enables women to understand that subordination and violence are not fate; to resist internalizing oppression; to develop their capabilities as autonomous beings; and constantly negotiate the terms of their existence in public and private spheres.” - Yakin Ertürk, former United Nations Special Rapporteur on Violence Against Women

General Recommendation 19 of the Committee on the Elimination of Discrimination against Women (CEDAW Committee) provides a comprehensive description on how to interpret CEDAW to address violence against women. It clearly states that “the full implementation of CEDAW require[s] States to take positive measures to eliminate all forms of violence against women,” thus, situated the issue in the domain of human rights. The CEDAW Committee also

22 CEDAW General Recommendation 19, para 1.

requires States parties to “identify the nature and extent of attitudes, customs and practices that perpetuate violence against women” and on all forms of violence. The definition of violence against women provided by General Recommendation 19 indicates that such violence is motivated by the need to assert masculinity, to enforce assigned gender roles in society and to punish what is perceived as deviant behaviour. In this regard, corporal punishment or chastisement has been of particular concern as such forms of violence are often legitimized by social acceptance, leading to silence about its occurrence, a culture of impunity and under-reporting for fear of retaliation²³. Gender biased social norms or cultural stereotypes impede the eradication of domestic violence and may also undermine the effectiveness of intervention measures. As such, States parties are required to take “all appropriate measures” to “modify the social and cultural patterns of conduct of men and women” to remove damaging gender stereotypes, in compliance with Article 5 of CEDAW.

3.1.2 Women’s access to justice under international law

The legal basis for women’s access to justice is provided through Article 2 (b) and (c) and Article 15 of CEDAW in particular, among provisions under other international human rights instruments. The CEDAW Committee interprets Article 2 (b) and (c) as the source of States parties’ obligation to ensure the availability of remedies for women subject to discrimination²⁴. In other terms, it calls for the effective judicial protection of women’s entitlement to enjoy rights on an equal basis with men. This is “a stringent obligation of result, meaning that the remedy be a practically available and accessible one”²⁵. Moreover, CEDAW requires States parties to transform their legal systems through eliminating embedded gender stereotypes and institutionalised discrimination on the ground of the principle of equality before the law stipulated by Article 15. This includes taking measures to address women’s disadvantages in accessing all decision making bodies, including those belonging to quasi and non-State legal systems. Specifically, “achieving substantive equality within the meaning of Article 15 involves that legal literacy and legal aid must be accessible to women to claim their rights”²⁶.

3.1.3 States parties’ obligations

Under CEDAW among other international laws, States parties are obliged to exercise due diligence to prevent acts of violence against women, to investigate such acts and prosecute and punish perpetrators, and to provide remedies including reparation. States’ efforts to comply with their obligation of due diligence must address the structural causes that lead to domestic violence. The UN Special Rapporteur on violence against women in 2011 pointed out the clear correlation between prevalence rates of violence and effective and responsive accountability measures. Therefore, States’ efforts to investigate, prosecute and punish acts of domestic violence, protect survivors and offer redress should be aimed at preventing re-victimisation and future acts of violence by addressing structural discrimination and ensuring empowerment of women²⁷.

23 See CEDAW Concluding Observations: CEDAW/C/UK/CO/6; CEDAW/C/ECU/CO/7; CEDAW/C/MDG/CO/5.

24 CEDAW General Recommendation 28, para 32.

25 The Concept Note ‘Access to Justice’ endorsed by the CEDAW Committee at its 53rd Session for the General Discussion.

26 Ibidem.

27 Statement by Ms. Rashida Manjoo, Special Rapporteur on violence against women, its causes and consequences, 66th session of the General Assembly, Third Committee Item 28, 10 October 2011.

The CEDAW Committee has made recommendations specifically directed at Viet Nam²⁸. In the last Concluding Observations in 2007, the government was asked to take measures to ensure women's access to immediate means of redress and protection, punish and prosecute perpetrators, conduct research on the prevalence, causes and consequences of all forms of violence against women, including domestic violence, to serve as the basis for comprehensive and targeted intervention. In addition, the CEDAW Committee has repeatedly recommended the government continue and increase the implementation of educational and awareness-raising measures aimed at law enforcement officials, the judiciary, health-care providers, social workers, community leaders and the public to ensure they understand all forms of violence against women and girls are unacceptable. Establishment of a sufficient number of crisis centres, including shelters for victims of violence, in urban and rural areas was also recommended. In response, Viet Nam made efforts to embrace CEDAW's provisions into its national legal system, described further in the next section of this report.

3.2. National framework

3.2.1 Legal and policy framework on gender equality

Since the ratification of CEDAW more than three decades ago, Viet Nam has gradually developed laws and policies on gender equality. Most newly-drafted legal documents reflect the country's attempts to better comply with CEDAW's principles of non-discrimination, substantive equality and State obligation.

Constitution 2013

Article 26 of the 2013 Constitution prohibits discrimination based on gender and guarantees the right to and opportunities for gender equality in all sphere of life. Equality before the law is guaranteed under Article 16, which also states that no one is subject to discriminatory treatment in political, civil, economic, cultural or social life.

Law on Gender Equality 2006

The Law on Gender Equality, approved by the National Assembly in 2006, was considered a significant turning point in championing gender equality in Viet Nam. In accordance with this law, a State management body on gender equality was established for the first time. Moreover, it became compulsory to interweave gender equality into legal normative documents and for relevant bodies to develop gender equality promotion measures. The Law on Gender Equality is viewed as a positive action to embrace the norms and standards of international treaties on human rights, especially those of CEDAW.

Chapter III of the Law designates measures to ensure gender equality, to create development opportunities for men and women, including measures to promote gender equality and ensure the basic principles of gender equality are seen in amendments of legal normative documents. Article 5, Section 6 of the Law stipulates that: "A measure to promote gender equality is a measure aimed at ensuring substantive gender equality, set forth by the State authorities in

28 CEDAW/C/VNM/CO/6, para 17.

cases where considerable disparity remains between men and women concerning the positions, roles, conditions, and opportunities for men and women to bring into full play all their capacities and to enjoy the achievement of development, where the application of equal regulations for men and women cannot remove this disparity. The measure to promote gender equality is to be implemented for a certain period of time and shall end when the gender equality goals have been achieved.” This is regarded as a provision incorporating Article 4 of CEDAW into the Vietnamese legal system.

In relation to the stereotyped gender roles and prejudices in society, Article 7 attaches special importance to ensuring gender equality in all fields of politics, economy, culture, society and family, while eliminating backward customs and habits. The Law further specifies that “spreading thought, conducting oneself and inciting other people to conduct backward manners and customs with a gender discriminatory nature under all forms” will violate the Law under Article 40 (6).

Responsibilities of ministries, State agencies and other organizations to promote gender equality were specified under the Law. Specifically, MOLISA was identified as the responsible agency for the overall implementation of gender equality²⁹.

National Strategy on Gender Equality 2011-2020

The National Strategy on Gender Equality for 2011-2020 set targets to achieve substantive equality. For example, it calls to reduce gender prejudices in culture and public information, ensure gender equality in family life and gradually eliminate gender-based violence. The Strategy also assigns responsibilities to State management agencies for implementation led by MOLISA.

3.2.2 Legal and policy framework on domestic violence

Law on Domestic Violence Prevention and Control 2007

Besides the Law on Gender Equality, the promulgation of the Law on Domestic Violence Prevention and Control (DV Law) in November 2007 also marked a milestone, establishing the first legal document that specifically addressed domestic violence in Viet Nam. Globally, it is understood that where there are laws in place on domestic violence, prevalence is lower and fewer people think that violence against women is justifiable (UN Women 2011). Previous national legal documents did mention measures to protect family and prevent domestic violence. However, they were too general without specific and direct regulations on violence occurring within the family. The DV Law clearly designates behaviours regarded as acts of domestic violence which consist of physical, psychological, sexual and economic violence (Article 2), asserts that such acts are strictly forbidden (Article 8), clearly indicates rights and obligations of domestic violence survivors (Article 5), introduces direct and specialized measures to prevent, intervene, and deal with domestic violence (Chapters II and III) and emphasizes that it is the responsibility of the whole society to work together to prevent and control domestic violence and ensure justice for survivors (Chapter IV). Following the issuance of the Law, the government has introduced decrees, circulars, strategies and action plans which provide guidelines for the legal enforcement³⁰.

29 Decree No. 186/2007/ND-CP of December 25, 2007 and Decree No. 70/2008/ND-CP of June 4, 2008.

30 The list of legal documents is provided in Appendix I.

Box 1: Acts of domestic violence (Article 2)³¹

- a. Corporal beating, ill-treating, torturing or other purposeful acts causing injuries to one's health and life
- b. Insulting or other intended acts meant to offend one's human pride, honour and dignity
- c. Isolating, shunning or creating constant psychological pressure on other family members, causing serious consequences
- d. Preventing the exercise of legal rights and obligations in the relationship between grandparents and grandchildren, between parents and children, between husbands and wives as well as among brothers and sisters
- e. Forced sex
- f. Forced child marriage, forced marriage or divorce and obstruction to freewill and progressive marriage
- g. Appropriating, demolishing, destroying or other purposeful acts to damage the private properties of other family members, or the shared properties of family members
- h. Forcing other family members to overwork or to contribute more earning than they can afford, controlling other family members' incomes to make them financially dependent
- i. Conducting unlawful acts to turn other family members out of their domicile.

Significantly, the law recognizes access to support services as a right. Article 5 stipulates that survivors have a right to access support services such as counselling services on law, psychology, healthcare, temporary shelters and other necessary services. The Law also provides for protection orders to forbid contact (Article 20). For emergency intervention, police, commune-level People's Committee and community leaders are given the responsibility to promptly take action to protect the survivor (Article 18). The law also mandates the government encourage individuals and organizations to establish domestic violence support and counselling facilities, and calls for trusted addresses in the community to be recorded to provide supporting services and temporary shelter (Articles 29 and 30).

31 Article 2 of the Law on Domestic Violence Prevention and Control 2007.

Box 2: Rights of domestic violence victims³²

a) General rights

- To request authorized institutions, organizations and individuals to protect their lives, dignity and other legal rights and legitimate benefits; to request the authorized institutions and individuals to apply measures to prevent, protect and forbid contact; to be provided with medical services as well as psychological and legal advice; to be provided with temporary domicile which shall be kept confidential as well as with other information; to have other rights stipulated by laws (Article 5).

b) Right to be assisted and protected when domestic violence occurs

- To be entitled to reconciliation assistance by family and clan, an institution/ organization, and grassroots reconciliation teams that work under the coordination of the commune People's Committee and the Committee of Viet Nam Fatherland Front (Articles 13, 14 and 15)
- To receive 1) advice from community leader who shall organize communal meetings to collect comments and criticism of the community on the person(s) committing domestic violence (Article 17) and 2) support from health stations, social protection centres, domestic violence counselling centres, domestic violence victim supporting facilities (Article 24)
- To request the application of preventive measures in accordance with the law in dealing with the violations of civil and criminal nature applicable to the perpetrator (Article 19)
- To request the application of the measure of forbidden contact upon decision of the chairperson of the commune People's Committee in case the domestic violence acts cause or threaten to cause serious physical injury to health or life of the domestic violence victims, and to request a cancellation when she/ he finds it no longer needed (Article 20)
- To receive first aid arrangements and care from health centres (Articles 19, 23)
- To be provided with emergency support to meet essential needs and temporary shelter (Article 25).

There appears, however, to be an emphasis on the use of reconciliation across the DV Law. This may divert the focus from recognizing domestic violence as a violation of human rights. In fact, the use of reconciliation in response to domestic violence offences is not recommended under international standards. It is recognized that “women seeking redress through alternative dispute mechanisms, such as mediation, are at enhanced risk of being discriminated against due to the imbalance of power and the absence of judicial safeguards, especially in domestic

³² Provided under the Law on Domestic Violence Prevention and Control 2007.

violence cases, where women often cannot obtain reparation when using mediation channels”³³. The purpose of reconciliation includes prevention of crimes arising from conflict, therefore successful reconciliation is thought to cease violent acts. However, previous research in Viet Nam revealed that 77 percent of reconciliation cases did not produce the expected outcome and violence continued (UNODC 2011).

The Law describes principles of reconciliation as respecting the free will of all parties (Article 12). Therefore, if the survivor cannot exercise free will due to pressure or intimidation by the perpetrator, reconciliation should not take place. The Law further stipulates there should be no reconciliation of incidents of a criminal or administrative nature. In other words, the law provides that mediation or reconciliation should not be used in cases where there is serious or persistent violence. However, a case could be withdrawn from criminal proceedings upon request by the survivor. If the incident involves a violation of an administrative nature, no reconciliation should be conducted by an institution, organization or grassroots reconciliation team.

Law on Grassroots Conciliation 2013

The State’s responsibility to facilitate and support grassroots reconciliation is outlined in the Law on Grassroots Conciliation adopted in 2013. The law reiterates a voluntary principle to reconciliation as stipulated in the DV Law. The Law on Grassroots Conciliation stipulates that a conciliation team has at least three conciliators including female conciliators (Article 12), and gender equality needs to be assured during the conciliation (Article 4). For areas inhabited by many ethnic minority people, a conciliation team must comprise members of such ethnic minority people. Commune-level People’s Committee chairpersons will decide on the number of conciliation teams and conciliators in a conciliation team based on local characteristics, socio-economic situation and population and proposal of the standing boards of the commune-level Viet Nam Fatherland Front Committees. The role of the Viet Nam Fatherland Front at different levels is emphasized as part of State management of grassroots conciliation, to agitate organizations and individuals to observe the law, oversee the implementation of the law and join in the inspection, review and commendation of grassroots conciliation. In line with the DV Law, the Law on Grassroots Conciliation states that reconciliation is not appropriate in cases where the incident is of a criminal or administrative nature (Article 3).

Law on Handling Administrative Violations 2012

Acts of violence that result in less than an 11 percent infirmity rate are prosecuted under this Law. Forms of punishment include warnings, fines, public apologies and other administrative measures. Violations are investigated by the police and adjudicated by the court, whereas sanctions were previously determined by the chair of the local People’s Committee (UNODC and UN Women 2013).

Penal Code 1999 (amended in 2009)

Although the Penal Code does not have specific provisions on DV, such acts could be investigated under Article 104 as an offence of intentionally inflicting injury. In order for such an act to be investigated as a criminal offense, the survivor must have injuries above an 11 percent infirmity rate, as determined by a medical professional. Meeting this threshold, acts of domestic violence could be investigated by police and a criminal investigating agency, prosecuted by the procuracy and adjudicated by the courts. As a result, perpetrators may receive a prison sentence. Besides

33 The Concept Note ‘Access to Justice’ endorsed by the CEDAW Committee at its 53rd Session for the General Discussion.

physical violence, other forms of domestic violence may also be investigated as criminal offences. However, the current Penal Code does not provide a clear definition on which circumstances acts of domestic violence should be investigated. While Article 130 criminalizes infringements upon women's rights to equality, its definition is too broad and there is insufficient information on how this provision has been implemented.

Civil Code 2005

Domestic violence acts can also be addressed under the Civil Code. Article 307 provides for liability to compensate for damages, including material and mental damage. In addition, Article 604 provides that those who intentionally or unintentionally infringe upon the life, health, honour, dignity, prestige, property, rights or other legitimate interests of individuals and thereby cause damage, shall be liable to provide compensation.

Customary laws and village codes

In some villages in remote parts of the country still choose to follow customary laws and village codes. While customary laws reflect common rules or practices that have become an intrinsic part of accepted and expected conduct in a community, the village code is more influenced by State law or regulations. The village code is a social norm that regulates the common code of conduct agreed by people living in a community to adjust social relationships based on the principles of self-management. According to Inter-Circular No. 3 in 2000³⁴, the content of a village code must be compatible with the State law, habits and customs of a village and must be approved by the community authority. Therefore, although village codes are comprised of social norms, they need to comply with norms stipulated by State law and therefore have become part of the quasi-legal system, contributing to the maintenance of the rule of law.

During the past few years, provincial governments have provided guidance to incorporate anti-DV principles into village codes. In most cases, elements of anti-DV have been successfully embedded in certain articles. For example, articles on building 'cultural values in family' in village codes often have several items on how to deal with DV. However, contents of such items often encourage people to reconcile conflicts internally rather than reporting them to justice providers.

National Strategy on Gender Equality 2011-2020

Under Objective No. 6, the National Strategy on Gender Equality 2011-2020 targets increases in the provision of legal and health counselling, support and care to domestic violence survivors. At the same time, it aims to increase provision of counselling to perpetrators.

Viet Nam Family Development Strategy through 2020

The Viet Nam Family Development Strategy through 2020 also considers domestic violence an important issue that needs to be widely known and addressed in line with objective one³⁵. The strategy specifically aims to achieve:

- **Target 1:** By 2015 and 2020, 90 percent and at least 95 percent, respectively of households will be informed and strictly comply with lines, policies and laws on marriage and family,

34 Circular 03/2000/TTLT/BTP-BVHTT-BTTUBTU'MTTQVN: <http://thuvienphapluat.vn/archive/Thong-tu-lien-tich/03-2000-TTLT-BTP-BVHTT-BTTUBTU'MTTQVN-vb78598t24.aspx>

35 Objective one: To improve awareness about the role, position and responsibility of each family and community in the observance of lines, policies and laws on marriage and family, gender equality, domestic violence prevention and control/response and prevention of social vices from penetrating into families.

gender equality, domestic violence prevention and control and prevention of social vices from penetrating into families

- **Target 2:** By 2015 and 2020, 90 percent and 95 percent, respectively of young people will be provided with basic knowledge about family and domestic violence prevention and control before marriage
- **Target 3:** The number of households witnessing domestic violence will be annually reduced by 10-15 percent on average.

National Action Programme on Prevention of Domestic Violence through 2020

The National Action Programme on Prevention of Domestic Violence through 2020 was developed and approved by the prime minister in February 2014. Introducing major objectives, actions and solutions as well as implementation plans and budget allocation, it is viewed as a practical government action plan to address DV. Major measures include the revision of related policies and legal documents, programmes to raise awareness and understanding about DV, support services for domestic violence survivors and interventions to punish violations in relation to DV.

3.3 Legal enforcement bodies and supporting networks

In Viet Nam, legal enforcement institutions can be divided into belonging to the State, quasi-State and non-State legal systems. In principle, the roles and responsibilities of enforcement bodies of the State legal system are provided under State law. Institutions of the quasi-State legal system have complementary roles to the State legal system. The bodies of the non-State legal system include those who hold power in the family/clans and community as well as religious leaders.

3.3.1 State legal system and enforcement bodies

Court system is divided into three levels (District, Provincial and Supreme People's courts). Criminal cases are initially brought to the District People's Court. Such cases can be appealed in front of the Provincial People's Court. The last appeal level is the Supreme People's Court, which is the highest court level in Viet Nam. Appeals to the Supreme People's Court are assessed and reinvestigated before a review of the decision adjudicated by the Provincial People's Court to ensure conformity in trial.

Investigators conduct investigations, gather and preserve evidence according to prescribed investigative procedures for unlawful acts which are considered to be criminal. They identify an alleged unlawful activity through an examination of facts or circumstances of an incident, and identify enforcement options appropriate to the facts or circumstances.

People's Procuracy is responsible for the prosecution of criminal cases and to monitor judiciary performances. This body's main role is to ensure a fair and transparent conduct of criminal trials and monitor the legal enforcement of institutions like courts, criminal inspectors and bodies that receive and investigate allegations.

Police is composed of the criminal and people's police (community police). The criminal police is accountable for the investigation of crimes. The people's police is responsible to monitor and ensure safety and security in residential areas and address minor offenses, but has no jurisdiction over criminal cases unlike the criminal police.

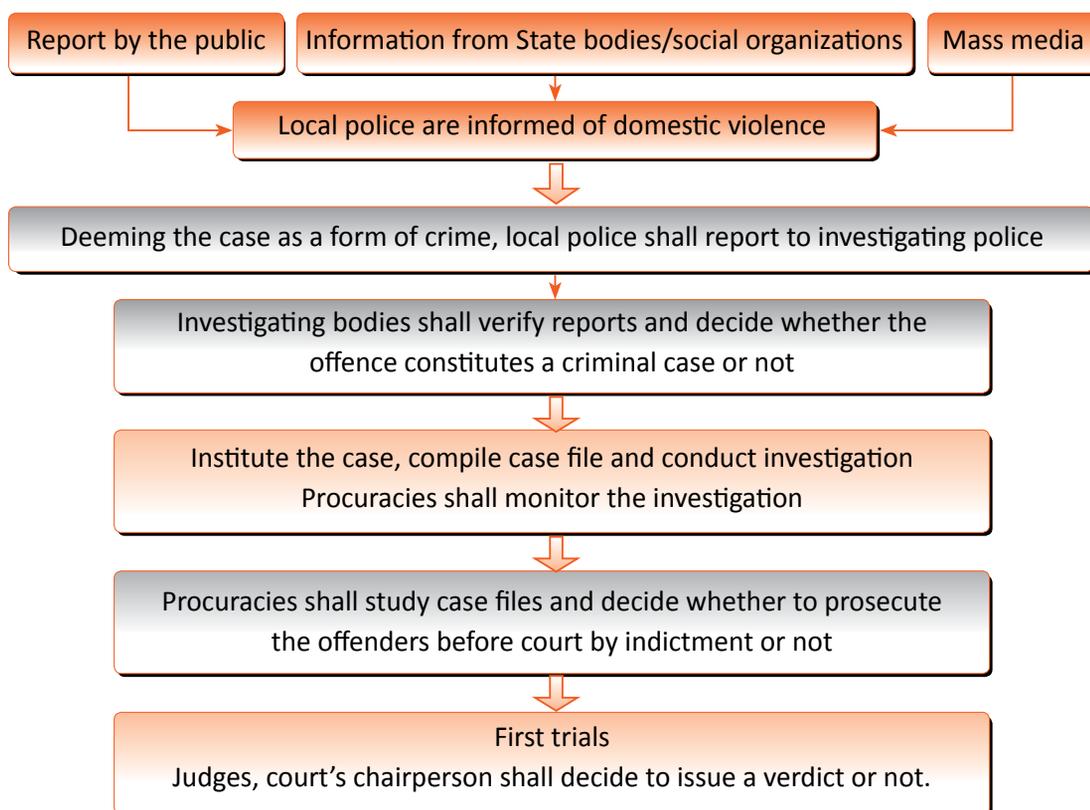
Procedure-conducting bodies are responsible for civil cases. The General Department of Civil Judgment Enforcement, within the MOJ, is in charge of national-level cases whereas the

Department of Civil Judgment Enforcement Management at provincial and district levels are responsible for the enforcement of judgments rendered by local courts.

Lawyers provide legal consultancy services for individuals and/or entrepreneurs. By October 2013, there were more than 3,000 law-practicing organizations belonging to 63 bar associations, with more than 8,000 legal practitioners in Viet Nam (Viet Nam Bar Federation, 2013).

Legal aid centres provide legal aid services to the poor and vulnerable groups in society. At present, there are 64 legal aid centres nationwide under the Department of Justice in 64 provinces and cities. In addition, the MOJ has established legal aid branches in isolated districts and communes. Up to now, 606 legal aid branches and groups operate under the management of legal aid centres and at the headquarters of district-level Justice Departments, and more than 100 commune-level legal aid branches (Legal Aid Department, 2004). These legal aid centres mainly offer legal advice in civil, land, marriage and family disputes, and other criminal cases. When legal aid centres receive cases of DV, a number of responses are required, such as to assign legal aid providers who have awareness of gender equality laws and introduce survivors to relevant agencies/organizations or other support services for assistance³⁶. Assistance centres such as temporary shelters and medical centres could be the first destination where survivors seek support. These assistance centres shall also provide information about the organization and legal assistance practices when survivors ask for legal assistance (Legal Aid Department, 2004).

General overview of the criminal justice process in dealing with domestic violence (UNODC 2011)



36 Circular No. 07/2011/TT-BTP on ensuring gender equality in personnel structure and activities of legal aid organizations.

People's Committee is the executive arm of the State and placed in provincial, district and commune levels. In principle, anyone can lodge a complaint to the chair of the local People's Committee to resolve legal disputes among those living within the committee's jurisdiction. The People's Committee chair shall review the allegation and issue a verdict, which concerned parties shall comply with. If disputes are purely judicial, the chair of the commune People's Committee will either act as mediator or ask the two parties to bring their case to court.

Box 3: Reporting domestic violence

Article 18 of the Law on Domestic Violence Prevention and Control stipulates that the person who discovers domestic violence acts shall report these to the nearest police station or to the commune People's Committee or the community leader at the scene of violence.

3.3.2 Quasi-State legal system enforcement bodies

Head of Women's Union has the role of defender of women's rights and of reconciliation team members. Thus, survivors of violence should inform and request intervention and assistance when and after violence occurs.

Community representative (head of residential area, hamlet and village) is considered a representative of the local administration. The person is elected by citizens and is authorized by the chairperson of People Committee to govern the community. The community representative monitors enforcement of communal resolutions and decisions, as well as reconciliation of disputes that occur in the village. The representative is also responsible for timely interventions in cases of violence in the residential area. When dealing with complex cases, the community representative may seek help from a reconciliation team, reconciliation section or chairperson of the commune People's Committee.

Grassroots Reconciliation Teams assist, consult and reconcile disputes among people in a village, hamlet and commune with the participation of representatives of local organizations and unions, such as the Youth Union, Women's Union, War Veterans' Association and Farmers' Union. Currently, every village and hamlet in Viet Nam has a local reconciliation team.

Measures to prevent and control domestic violence through reconciliation are a priority for socio-political organizations and the community. Each residential area has a residential group which addresses conflicts and affairs within the community and family. Under the residential group, there is a reconciliation team which plays a key role in reconciling cases of DV. Survey data from the study "Awareness and attitudes of the community towards violence in Ha Noi families and recommended solutions" conducted by the municipal Committee for Population, Family and Children in 2006 showed that 64.2 and 59.4 percent of interviewees said residential groups and reconciliation teams, respectively took an active part in domestic violence prevention and control. Regarding work efficiency, 52.9 percent of those surveyed highly rated the efficiency of residential groups and 49.9 percent highly rated the efficiency of reconciliation teams. However, socio-political organizations and the community could be viewed as having attached too much

importance to “reconciliation”. Consequently, the overuse of reconciliation is regarded as a way to encourage women to accept DV, maintain family happiness and stability and keep divorce rates low.

3.3.3 Other influential bodies

Mass Media play an important role in the promotion of access to justice. Particularly, the media contribute to enhancement of people’s awareness and understanding of laws, legal systems and law enforcement mechanisms, thus, enabling individuals to have better access to justice. Under the DV Law, mass media has a responsibility to provide prompt and accurate information on the Law and policies on domestic violence prevention and control (Article 40(2)).

Healthcare providers can provide temporary domicile to survivors in accordance with Article 27 of the DV Law, in addition to provision of medical assistance. Healthcare providers are obliged to keep survivors’ personal information confidential. If the domestic violence acts are defined as criminal acts, healthcare providers must inform the head of the health station, who will report it to the police at the nearest police station (Section 3, Article 23 and Section 4, Article 29 of the DV Law).

4. ANALYSIS OF FINDINGS

4.1. Access to justice for women domestic violence survivors

Despite the high prevalence of domestic violence in Viet Nam, survivors rarely report incidents to the police. The 2010 National Survey on Domestic Violence in Viet Nam revealed that 87 percent of survivors never sought help from formal services or authority (GSO 2010). This section of the report will look at why reporting is so low, how women see and understand domestic violence and whether they are aware of the different channels to seek justice. The research also looked at whether remedies provided by State, quasi-State and non-State legal systems were effective and sufficient.

4.1.1. Legal awareness

The level of understanding of women's human rights by survivors, authority and communities significantly influences responses to DV. Legal awareness of survivors, specifically on whether they consider domestic violence an infringement of their human rights, shapes how they perceive justice. Likewise if the judiciary, authorities and community understand domestic violence as a private issue which should be dealt with primarily within the family, it impacts on the ways they intervene. Their reactions, in turn, greatly affect the willingness of survivors to bring cases to different justice chains. Findings from this research show that different elements can dictate women domestic violence survivors' ability to access their rights and justice.

a) Awareness on different forms of domestic violence

The Law on Domestic Violence Prevention and Control 2007 explicitly defined four different forms of domestic violence: physical, psychological/emotional, sexual and economic. However, due to traditional conceptions and cultural values, this study showed that women's awareness of these forms differed from case-to-case. A number of interviewed women thought some forms of domestic violence were acceptable. This may explain why only four domestic violence cases were addressed by local police in Duong Phong (Bac Kan) in 2012, while women in the community stated that domestic violence was rampant.

Physical violence

Physical injuries and health issues were easier to identify and therefore physical violence was the most recognized form of domestic violence in this study. In particular, ethnic minority women from the study considered domestic violence as behaviour that caused physical and health injuries. Other types of violence were not considered acts of violence.

Psychological and emotional violence

In Viet Nam, emotional abuse is recognized as the most prevalent form of violence (GSO 2010) and it can cause consequences as serious as physical and sexual abuse. However, women in this study often played down such acts of emotional abuse. According to women in the four research areas, many acts of emotional abuse were seen as normal in the daily relationship between husband and wife.

“Glaring, intimidating, scolding and threats happen a lot”, “Any husband would quarrel with his wife”, “It’s normal that a husband rolls his eyes and shouts at his wife”, “Any husband and wife have arguments with each other. Arguments are normal. If fighting leads to beating, that’s violence.”³⁷

In some cases in Duong Phong commune, home to ethnic minority groups, survivors were seriously psychologically injured, but these acts of violence were not punished nor received condemnation from the community. Even women saw violence as the wife’s fault. Statements from the focus group discussions included:

“It [emotional abuse] occurs because women do not know how to behave properly” or “As a wife, women should know how to balance domestic finance and put things in order, but many are lazy and incapable. Thus, they are scolded or shouted at by their husbands.”

Consequences of emotional abuse, though serious, were often disregarded in a way exemplified in the following statement:

“Between that couple, the husband often mistreats and scolds his wife ruthlessly [by saying] ‘you are so lazy and foolish as a dog’ or ‘You are such a fool that it [would be] better to raise a dog than you’. Sometimes the husband does not let his wife enjoy her meal by pouring water into the rice bowl or throwing away all the food. He just does such things, but never beats her.”

Sexual violence

Sexual abuse is often ignored and less recognized in Viet Nam because it is commonly thought that sexuality is a sensitive topic and not often discussed. For some women, certain forms of sexual violence were not regarded as illegal behaviour:

“They haven’t fought or scolded each other, he just put pressure on the wife [to force her to have sexual intercourse, when she was unable to meet his sexual demands], so it is unlikely to be a form of domestic violence.”

It is worth noting how women in this study viewed forced sex from a moral aspect, as many of the interviewed women thought sexual intercourse with their husbands should not be refused, as it was their duty and responsibility to their husbands and a way to maintain family happiness:

“A wife should pamper her husband and satisfy his requirements” or “A wife should meet her husband’s requests to maintain family happiness.”

Due to a lack of awareness on women’s human rights and violence against women, forced sex was considered neither unacceptable nor a violation of rights. On the contrary, interviewed women even saw forced sex as acceptable.

“I’m too old to have sexual desires. I feel hurt whenever we have sex. It frightens me to think about that. My husband is 6 years younger and has higher demands for sex than me. It is natural that he asks for sex. I can’t meet his demands, so it is right if he beats me.” (Survivor in Nghi Hoa, Nghe An)

37 These selected quotes are taken from interviews with survivors and participants from focus group discussions.

When asked about sexual violence, including forced sex and other forms of sexual abuse, older women tended to be more reluctant to share or admit it happened, whilst young women were more open. In Duong Phong (Bac Kan), most older women stated that sexual violence did not exist and if it did, the issue should not be shared with other families, whereas young women asserted that sexual violence was common. The openness of young women when talking about sexual violence reflected the fact that they tended to have more access to information on gender equality and were less influenced by traditional cultural values.

Economic violence

Similar to sexual abuse, less attention was given by interviewed women to economic violence. Acts such as a husband keeping close control of a wife's income and spending and rebuking a wife for her spending were considered by many women to be a result of *"a husband not trusting a wife"*, *"a husband having no respect for a wife"* or *"a husband being selfish"*. Many women said a husband's control over his wife was simply to put psychological pressure on her and should not be seen as a form of violence. Even in cases where the husband forced his wife to give him money to gamble, this was seen as acceptable by some women because *"Money is earned by both a husband and wife, so I give him money because I think a wife should obey her husband."*

Generally speaking, women living in areas benefiting from domestic violence prevention and control projects, including Nghi Hoa (Nghe An), An Khanh and Vinh Binh (Ben Tre), had better awareness of domestic violence than women living in Duong Phong (Bac Kan).

Box 4: Case 1

The story of Mrs. D illustrates how women simultaneously suffer from multiple forms of violence.

Mrs. D is from the Tay ethnic group. She dropped out of school at Grade 6 and got married to a Kinh man at the age of 19, yet their marriage was unregistered. She thought she shouldn't get a piece of land because she was a daughter, but her parents decided to give her some land. She had two children. In the past two years, her husband regularly argued with her. While he did not beat her, he physiologically abused her. While income was earned by both, he always claimed it for himself and said she did not know how to earn money. He threw cooked rice away so she couldn't eat. Sometimes he even poured water on her. She was depressed due to her husband's maltreatment.

At first, she did not respond to this abuse. Later, she told her mother and sister, but was told to accept this treatment. She also asked for help from her friends, but nothing changed. She did not seek an intervention from the Women's Union because she thought no one would listen to her. Finally this continued abuse forced her to petition the authorities. She requested they intervene, but was told family issues must be resolved internally. They also said that if the problem was reported to the police, her husband would be fined. After nearly two years suffering from violence, no one was able to help Mrs. D. Finally, she made a complaint to the Department of Justice, but was told it would meet her husband. Eventually, her husband left and found a new wife to leave Mrs. D alone to raise her children.

b) Awareness on survivors' rights

Awareness of the rights of domestic violence survivors is crucial, directly influencing their ability to access justice. Interactions with women in research areas indicated many women had different understandings of their rights.

In areas benefiting from domestic violence prevention and control projects, such as Nghi Hoa (Nghê An), An Khanh and Vinh Binh (Ben Tre), women are aware of the Law on Gender Equality and Law on Domestic Violence Prevention and Control. Meanwhile in Duong Phong (Bac Kan), with no project to address DV, only a small number of women had the opportunity to learn about the content of these laws, their implications and use. Many were merely aware of the legislative provisions in relation to protection of mothers and children, prescribed in the Law on Marriage and Family. Even for those who were aware of the Law on Gender Equality and Law on Domestic Violence Prevention and Control, there remained a big gap in relation to the level of understanding of the laws. The majority of women in Duong Phong did not understand the rights recognized in these laws. In fact, only domestic violence survivors who took part in projects on domestic violence prevention and control or those who received legal advice had a better understanding of their rights. Specifically, they understood that, in cases of violence they could require the head of residential area, Women's Union, reconciliation team, police and ward/commune People's Committee to intervene to facilitate reconciliation or prevent further violence. They also understood these avenues of support could provide legal advice as well as guidance to deal with DV, and perpetrators should be punished.

Information from interviews also indicated that domestic violence prevention and control projects, though diverse and implemented in different localities, exerted a positive influence on enhancement of survivors' awareness of the Law on Domestic Violence Prevention and Control and the ways to seek assistance. When asked, the majority of women living in areas benefiting from such projects said they gained knowledge about domestic violence through these projects. Many women who suffered from domestic violence said such projects changed the way they dealt with DV:

"Previously, I used to be scolded by my husband. He scolded me all the time when he came home. If I was slow in preparing meals he was angry with me. At that time, I just kept quiet and endured the abuse. It went on and on, so that I got used to it. Then I attended clubs funded by the project and I understood that in such cases I could report to the local authority to receive assistance."(Survivor, An Khanh, Ben Tre)

Justice and plural legal system

Justice is a complicated concept. As discussed earlier in this report, it refers to a response to requests or legitimate claims through State, quasi-State and non-State legal systems. In other words, justice is a right to be recognized and protected by the State legal system or other informal mechanisms. Women joining discussions in the four research areas understood "justice" as "the achievement of justice", "the reason the right is protected" or "wrongdoings being exposed and denounced":

"I don't understand what justice is, probably it is equality", "whenever rights are protected, there is justice", "if a wrongdoing is denounced, it is justice".

Although these answers may be incomplete, the interpretations reflect major characteristics of justice as they refer to the right and impartiality.

Women in the research areas were asked what they wished for when mistreated by their husbands. However, many women did not consider husband's violence as unacceptable and merely wished that their husbands show understanding and never mistreat them: *"I wish I could understand my husband, to satisfy his demands so that he can understand me and never display violent behaviour", "I want my husband to understand me and not to treat me badly", "I want to have a happy life, like others"*. Other women understood that being abused was unfair and they wanted to react against injustice and fight for equality: *"Husbands must respect wives", "I want to stop violence", "I feel so annoyed that I want to beat my husband"*. Despite recognition of such injustice, they still did not want to be assisted to end the violence. This may be because many women were still influenced by long-standing traditional conceptions and cultural values based on men's preeminent role as lead decision-makers within a marriage and the household that urged women to not disobey men under any circumstances:

"The wife should follow her husband. Sad or happy, women should not complain", "If the husband gets angry, the wife should step back because if both get angry, the husband will use violence" or "If you want to say no, be the husband".

Some women had certain levels of legal understanding and were aware that a wife and husband should be equal and that a husband's violent acts were unjust (*"A husband should respect his wife"*) and wanted to seek justice (*"I want to stop violence"*). Some showed impulsive reactions against violent acts (*"I want to beat my husband"*) without seeking any assistance to stop violence.

Although justice could be sought through different legal institutions among the State, quasi-State and non-State legal systems, women often said that *"justice"* was connected to *"activities of police, courts, and local administrations"*. Generally speaking, women suffering from domestic violence were unaware of the different roles played by justice providers across the plural legal system.

In localities where domestic violence prevention and response projects are implemented, such as Nghi Hoa (Nghe An), An Khanh and Vinh Binh (Ben Tre), some survivors not only wished the violence to completely stop, but also wished to receive assistance to achieve this goal:

"It would be ideal if somebody could explain and raise my husband's awareness so he no longer mistreats me", "I want to be protected from violence", "I want to reconcile with my husband, if he disagrees I will report to the police to stop violence by law", "I wish that somebody would intervene so that I can avoid being hurt and I wish that law enforcement agencies would interfere to stop violence."

However, it should be noted that many women in the study did not necessarily understand that authorities have a duty to support and protect women from domestic violence and that survivors have the right to be compensated for suffering abuses. Many women still felt it was their fault that violence had occurred and they may *"disturb"* or *"cause trouble"* for others if they ask for help. Hence, they were uncomfortable seeking assistance.

From observing how women understand different forms of DV, the rights they are entitled to and the concept and means to seek justice, it can be understood that domestic violence is still regarded as a socially acceptable act in Viet Nam and many believed disclosure of such an event may negatively affect survivors. In addition, there was a widespread belief that women should tolerate violence to maintain family “peace”. However, primary information also demonstrated that when there were interventions, women’s understanding on domestic violence transformed towards a rights-based one and encouraged them to not to keep silent. Even after such interventions, awareness of the State’s responsibility remained weak, evidenced by none of the women in the study having mentioned that the State had a responsibility to remove damaging gender stereotypes which cause DV.

Box 5: Case 2

Some groups of women are particularly disadvantaged when it comes to accessing justice because of their ethnicity, socio-economic, marital or health status, age, disability, sexuality and geography which place them in an especially vulnerable position. Mrs. C’s story depicts the obstacles faced by ethnic minority women affected by HIV.

Mrs. C has been married for 16 years and has two children. Due to drug use, her husband was infected with HIV and is being treated for AIDS. While she was left to shoulder the burden of raising the family, her husband still mistreated her. She endured all forms of violence, including physical, psychological, sexual and economic abuse. Her husband was bullying, intimidating and chased her for money.

At first she did not tell anyone because she wanted her husband to change, but he mistreated her more often. His parents lived close, but she did not want to tell them because her mother-in-law served at the commune Women’s Union, but often tolerated daily abuse from her own husband. The only help Mrs. C received was from her mother-in-law, who attempted to dissuade her husband when she learnt of the situation. However, her husband often beat her when everyone had gone to bed.

One time after being hit by her husband, she was so frightened she ran to the husband’s uncle, who was the commune vice president, for help. However, she was told family issues should be resolved within the family. Aware that she may seek further help, he refused to see her. She could not seek help from the local authorities because most people who held important positions were relatives of her husband. Everyone knew, but no one helped.

To avoid violence from her husband, she went to her parent’s house for a few weeks. They loved her, but advised her to go back as they didn’t want their daughter to leave her children and they were also worried that people would talk about her leaving her house. This only made her feel sorry for her children. Despite this desperate situation, she never thought of divorce because she was afraid it would be bad for the children and she would have difficulties with her rights to land and to raise their children.

4.1.2. Access to plural legal system

Domestic violence survivors have different means to seek and access justice through State, quasi-State and non-State legal systems. This section of the report will explore the different legal systems to discover what makes women choose a specific justice channel and the effectiveness or measures taken by different legal systems.

a) Navigating the justice chain

Domestic violence is a violation of human rights. Survivors of domestic violence in Viet Nam have the right to access legal institutions to seek justice. State law defines the responsibilities of individuals and each agency and organization as well as potential measures taken to protect domestic violence survivors and sanctions for perpetrators (Table 3).

Table 3: Competent individuals/agencies and measures taken to handle complaints and appeals related to domestic violence in communes/ward

	Measures	Responsible people/agencies in communes/wards
Ensure survivors' safety	<ul style="list-style-type: none"> Intervene to stop acts of violence 	<ul style="list-style-type: none"> People present at the site of alleged offences must promptly stop the acts of violence, depending on their capacity and risks associated with the situation
	<ul style="list-style-type: none"> Forbidden contact orders 	<ul style="list-style-type: none"> Chairperson of the commune/ward People's Committee can prohibit perpetrator from contacting victim for up to three days Court releases decision to ban any contact with perpetrator(s) under coordination of the Women's Union for up to four months
	<ul style="list-style-type: none"> Protect survivors from future violent behaviour Prevent future acts of violence 	<ul style="list-style-type: none"> Women's Union, healthcare centres and culture specialists coordinate to provide survivor(s) with proper assistance and counselling services Grassroots reconciliation teams screen cases for reconciliation or mediation and reconcile parties in dispute
Handle perpetrator(s)/offender(s)	<ul style="list-style-type: none"> Community advice and criticism 	<ul style="list-style-type: none"> Community councils organize meetings to correct behaviour of perpetrator(s)/offender(s) under good conditions created by People's Committee People's Committee/police/court hold perpetrator(s) responsible for the violence
	<ul style="list-style-type: none"> Educate at commune/ward/town from three to six months 	<ul style="list-style-type: none"> People's Committee of commune/ward release decision upon the request of police head, president of Fatherland Front Committee/representatives of offices/head of residential area

	<ul style="list-style-type: none"> • Send to 'educational centre' from six months to two years 	<ul style="list-style-type: none"> • Provincial People's Committee release decision to send perpetrator(s)/offender(s) to 'educational centre'
	<ul style="list-style-type: none"> • Fine/punish 	<ul style="list-style-type: none"> • People's Committee of commune/ward, commune police release decision on fines up to VND2,000,000 • District police release decision on fines up to VND10,000,000 • District and provincial People's Committee, provincial police, provincial court release decision on fines up to VND30,000,000
	<ul style="list-style-type: none"> • Transfer the perpetrators to investigation agency if there is evidence of crime committed 	<ul style="list-style-type: none"> • People's Committee of commune/ward release decision upon request of police head, president of Fatherland Front Committee/representatives of offices/head of residential area

Nevertheless, information collected in the four research areas, especially from Duong Phong (Bac Kan), showed that women often hesitated to access the State legal system and only did so when violence frequently recurred:

"I rarely ask for assistance from local authorities and police. Whenever it [violence] occurs, members of [my] residential area and Women's Union come and help me and my husband to reconcile. I only ask for help from local authorities and police when it's serious." (Survivor, Nghi Hoa ward, Nghe An)

The common feature found in these four research areas was, after seeking help from family and relatives, survivors sought support from institutions belonging to the quasi-State legal system, including the heads of residential area and Women's Union as well as members of the reconciliation team. Women were worried that other members of the community would have negative opinions if they brought cases to the authorities. In particular, they feared such assistance would not be effective, while the violence could continue:

"What sort of wife takes legal proceedings against her husband", "I don't want to put my husband in jail, it's not good to do that. Not all people can change their behaviour after coming out of prison."

Women domestic violence survivors only sought assistance from local authorities, including police, judicial officers and People's Committee chairpersons, when they thought problems had become serious and could not be resolved internally. Access to State legal system institutions was often the last resort, when non-State and quasi-State legal measures failed to cease violence. Women often felt shy, inferior and ashamed when discussing abuse. As a result, they rarely accessed local legal systems to report violent incidents.

Overall, few women domestic violence survivors accessed State legal proceedings at district, province and national levels. In Duong Phong commune, filed records showed that DV cases had never been brought to district courts. In Nghi Hoa, despite the high number of domestic violence cases, only one was settled by local courts so far. Instead, the majority of domestic violence cases were settled by commune/ward authorities. There was an understanding among studied women that legal proceedings should be initiated in cases of divorce or land disputes, due to the complexity of legal procedures and the financial necessity to pursue legal remedies.

“When arguing with my husband, I often ask for assistance from the Women’s Union and heads of residential area. If it is serious, I ask local authorities to talk to my husband. I would only go to court if I want to divorce my husband or if I have a land dispute with him. It’s complicated to get there and I do not have the money either. If I bring my problem to the court, I have to pay for it.” (Survivor, Nghi Hoa, Nghe An)

Intersections within the plural legal system

Currently, the settlement of domestic violence cases involves a number of complex legal procedures. domestic violence is first dealt with at community or commune/ward levels. When an act of violence is detected or reported, heads of the residential area, Women’s Union and reconciliation teams of the hamlet will intervene to reconcile the parties. If violence continues after reconciliation, the head of residential area will state his or her opinion and make criticisms in public³⁸. If such measures produce no results or if a domestic violence survivor directly petitions the community/ward authority for intervention, the reconciliation team of the commune/ward will intervene. If a survivor’s claims are still not resolved, the Judicial Department of the People’s Committee is responsible for coordinating with the police to work with the family and compile files to address the problem. If the settlement remains unsatisfactory, a survivor can submit a complaint to the court. If conflict is still unresolved, the court will return a verdict. This order of legal procedures outlines the steps to address domestic violence within the competence of authorities from lower to higher levels. However, not all cases will follow this order as each set of circumstances is unique. Legal procedures to deal with domestic violence in localities, thus are complicated and have the potential to confuse and may intimidate some users.

In Duong Phong (Bac Kan), many interviewed women stated they were unfamiliar with legal procedures. Most survivors only sought assistance from competent authorities when violence became acute. In such cases, survivors would contact the head of the residential area, the commune’s police or petition the commune’s People’s Committee for assistance. In general, women knew little about legal procedures or available support.

“I have never been told what I should do [when being beaten by my husband], so I don’t know how to do it. Seeking justice must involve the police. When something wrong happens, if I call the police, they may help to settle it.” (Survivor, Duong Phong, Bac Kan)

“I’m badly mistreated. My parents and friends cannot do anything, so I have to submit a petition to the local People’s Committee. I don’t know who can help, so I must seek assistance from the People’s Committee.” (Survivor, Duong Phong, Bac Kan)

Due to limited education, accessing legal procedures is particularly challenging for ethnic minority women, who require comprehensive guidance to assist them.

40 See: Article 17, 2007 Law on Domestic Violence Prevention and Control

“When violence is reported we go to their house to see what happened and advise them to reconcile with each other. Some cases became so serious that we couldn’t do anything to help, but we are the people who have to write a petition for them because they don’t know how to write such a document.” (Police, Duong Phong, Bac Kan)

Meanwhile, this study found that domestic violence survivors in Ben Tre and Nghe An faced fewer challenges in following legal procedures. The heads of residential areas or local Women’s Union were reported to regularly provide guidance on legal procedures. Accountability of the heads of residential areas or local Women’s Union appeared to have improved through domestic violence prevention and response projects.

“I went many times to talk to the chair of the local People’s Committee to report my problem. Sometimes I went with a petition, sometimes not. I don’t know where I should go and who I should talk to. Thus, I only asked for help from the chair or police. I know the chair’s role is to take care of people and the police’s role is to care for security. Later when I joined the local Women’s Unions and organizations, I learnt many things and they also protected me. Women’s Union members also told me that I need to inform local residential area [head] whenever violence occurs. I should only call the police if we can’t resolve it.” (Survivor, Nghi Hoa, Nghe An)

The complexity of legal procedures not only confuses domestic violence survivors, but also competent authorities. According to some local police officers within current procedural requirements it was difficult to produce the necessary files to hold perpetrators responsible for their behaviour.

“The commune administration only intervenes and supports women experiencing domestic violence when survivors themselves or their families report the case or submit a petition to it. It’s hard for commune authorities to intervene because most families choose to resolve their problems behind closed doors.” (Duong Phong People’s Committee official, Bac Kan)

“The order of legal procedures is problematic. If we closely follow the order, an intervention may be too late for victims. The filing system is too complicated. First of all, victims should submit their own petition, then police make documents verifying the statement and evidence which includes signatures of witnesses. If files are insufficient, the case cannot proceed. In some cases, police have already completed the files, but when they were submitted to the judicial body to be verified, the documents were rejected because they were insufficient. The work of the police and judiciary is not compatible, so cases are not dealt with.” (Police, Vinh Binh commune, Ben Tre)

Box 6: Case 3

Mrs. S is one of the few survivors eventually freed from DV. However, her story illustrates the difficulties in navigating the justice chain to receive immediate protection.

After two years of marriage, Mrs. S's husband became an alcoholic and was often abusive. At first she was embarrassed and did not seek help. But, eventually she was beaten so often she asked for help from her in-laws, who held a family meeting - but nothing changed. Eventually, the pain became so great Mrs. S went to her parents' home. After learning what had happened, her siblings warned Mr. S to stop and even to beat him up. However, afterwards he threatened to not let Mrs. S back home if she sought help from her family again.

When the violence became too severe, Mrs. S ran to the police for the first time. Police handcuffed Mr. S and ordered a public labour sanction. On his return home, he was even more violent towards Mrs. S. From then on, every time she was abused Mrs. S ran to inform the village leaders and Women's Union for reconciliation. To get protection, Mrs. S repeatedly reported to the police and local authorities. Nevertheless the more Mrs. S reported, the more reluctant police and authorities were to intervene.

After more than 20 years of living with her husband, Mrs. S had suffered countless wounds. Once her husband beat her so severely, she was hospitalized for more than a month. She felt hatred towards her husband and wanted him jailed. However, she did not want her children to be upset and embarrassed, so she hid the pain and claimed to have had an accident.

In early 2012, Mrs. S was encouraged by the Women's Union under the project 'Prevention of Domestic Violence' and invited to attend meetings of the violence prevention club. At first, Mrs. S did not dare to participate because she felt guilty and feared people would talk about her. Witnessing the club's many benefits, she decided to join. She learnt about her rights through club activities and began to react differently to violent acts of her husband. "I suffered because of my children, not because I am a loser. You beat me once, I fought back 15 times". Mr S was surprised by her behaviour change. After a while, the Women's Union and the Fatherland Front came to reconcile. They encouraged him to participate in the "self-help club" for male perpetrators of violence. Mr. S agreed to join the club and has undergone a major transformation. Now, he respects his wife and does not beat her like before.

b) Elements hindering survivors from accessing justice

Domestic violence can have serious consequences, but many women still choose to “talk to each other behind closed doors” or keep silent and live with violence without seeking help. Information gathered from focus group discussions and in-depth interviews in the four research areas indicated that traditional cultural values tended to be the basis for survivors to accept and continue to endure violence. Silence and resilience were seen as ways to prevent violence from escalating or to preserve a family’s reputation and relationships with the community, despite it not addressing the root causes of violence. In fact, keeping silent about violence may only worsen the situation as the nature of violence is power and control. Current gender roles within the family put women at a disadvantage, with men exerting power and control over other family members.

Legitimizing violence as chastisement

Women’s silence and resilience partly originate from traditional conceptions and conventions about the role of women in the family. Information from research areas revealed that the majority of women asserted they should be gentle, soft, submissive and discreet and during marriage, should respect, make concessions and listen to their husband as he is the head, image and face of the family. Thus, some women said violence was acceptable in certain cases. For instance, a wife must obey her husband and if she made “mistakes” or did not attend to his desires, the husband could beat her.

“I don’t want to tell others about that [being beaten by the husband]. He is wrong, but it’s because I spoke in front of many people and he felt he had lost face, so he beat me.”
(Survivor of DV, Duong Phong, Bac Kan)

Information from research areas showed that in all urban, rural or mountainous settings, women were expected to keep family happiness: “Men make houses, women make homes”. Therefore, when there were family problems, women were often blamed and domestic violence could be a consequence: “If the husband has a bad reputation, who else but the wife is to blame.” This pressure forced women experiencing violence to keep silent and continue to suffer.

Social pressure to maintain family reputations

The majority of women experiencing domestic violence thought it was negative, yet did not speak out because they did not want to damage their family’s and husband’s reputations. If they spoke out they would “make their children ashamed”, “make their husband lose face”, “cause the husband to lose his reputation”, “make their husbands angrier”.

“Many people feel antipathy for families who suffer domestic violence. They wonder why someone would marry a person who would shout at them. Some speak out, some don’t. [In] reporting to local authorities, I [would] feel ashamed if domestic violence was mentioned.”
(Survivor, Nghi Hoa, Nghe An)

“[Being mistreated by a husband] is a private matter that I don’t want to talk about. It’s embarrassing. If others know, they might think I’m not a good wife.” (Survivor, An Khanh, Ben Tre)

“It’s not good if family members quarrel with each other. If they know, they will laugh at us and if parents know, they will feel sad and children feel ashamed. There is nothing to be proud of in speaking out. I feel so ashamed. My husband has beaten me many times, causing bruising to my face. But, I had to say that it’s because I fell down.” (Survivor, Nghi Hoa, Nghe An)

For many women suffering sexual abuse, silence was considered a better solution than speaking out because *“Sex is a private matter between a husband and wife”, “Sex is taboo and should not be spoken about”, “Satisfying the husband is a wife’s responsibility, it’s shameful to speak out”.*

Fear of repercussions

Women also feared if they talked about family matters, even to authorized people, it could further antagonize husbands and result in even worse treatment that would destroy family happiness.

“If I speak out, people would know and my husband would feel ashamed. He would get into a rage with me. It’s better to keep silent. If he beats me, I should try to avoid it.” (Survivor, Nghi Hoa, Nghe An)

“If he knew I had taken legal proceedings against him, he would use it as an excuse to beat me even more. He beats me at night, so who can save me.” (Survivor, Duong Phong, Bac Kan)

Mistrust of judicial procedures

Silence was a ‘solution’ often selected by survivors, in particular those who believed the largely male-dominated police, judicial system and authorities could not prevent violence or protect them.

“I did not tell anybody (that I was beaten by my husband). It’s better to make concessions. I don’t want to report to local administration, because I don’t trust them. I want to settle the problems myself and do not want to exaggerate. I live my life for my children and still adore my husband. I’m afraid to hurt my husband if I ask for legal assistance. Through TV programmes, I know that the police will fine my husband.” (Survivor, Duong Phong, Bac Kan)

In other cases, survivors lost trust in legal systems after attempts to seek protection and redress were in vain.

“Husbands often beat their wives at night and behind closed doors. When we are informed, a certain period of time has already passed from the moment an incident has occurred, so it is difficult to collect evidence and find witnesses.” (Policeman, Duong Phong, Bac Kan)

It is worth noting that findings from the study’s qualitative data revealed a limited awareness of gender equality, domestic violence and the DV Law among local authorities. A number of local officials held gender stereotypes and made assertions such as it is not domestic violence if *“a husband beats his wife once”, “the husband’s misbehaviour towards his wife did not cause any serious injuries”* and *“DV is a private matter that should be handled in the family”*. These views hinder survivors’ attempts to seek support and negatively impact on women.

Fear of uncertain outcomes of divorce

Enforcement of justice is even more challenging when women consider the consequences of divorce and fear the loss of land and other assets and/or child custody. Women see themselves as disadvantaged in disputes over property division and child custody during divorce procedures, especially when legal entitlement and/or legal basis for the marriage are lacking.

“I still suffer from violence. I asked for assistance from local authorities, but it did not eventuate. I cannot divorce him because we did not register when we got married. The land is mine, we just live under the same roof. He came to live on my land, but now he claims it’s his land and [he] chases me away.” (Survivor, Nghi Hoa, Nghe An)

“I don’t want to report this [domestic violence] to the local administration because my husband could make it more serious and divorce me. Then I would be homeless. Everything belongs to him now. If I go, I go with empty hands.” (Survivor, Vinh Binh, Ben Tre)

In particular, ethnic minority women depend on their husbands because land and houses are often registered in their names, despite women being the main income generator in the family. In addition, not all marriages are registered. This leaves women particularly vulnerable during property division and child custody procedures upon divorce.

Box 7: Case 4

Mrs. H’s story shows how outdated traditional values are factors preventing abused women from obtaining justice. These values allow men to use violence as a tool to assert power, force women to obey and accept violence. Such values also make women endure and conceal violence through sacrificing their safety and preventing them from seeking help in order to keep the family ‘peaceful’.

Mrs. H is from the Tay ethnic minority group. Her family was poor with many children, so she left school at Grade 7 and got married aged 17. After living with her husband’s family for about a year, it gave the couple a piece of land to live separately. Like other local men, her husband drank all day. Whenever her husband drank and Mrs. H did not serve him his preferred food, he beat her.

Nobody knew about the beatings as they lived separately. She also did not want to tell anyone because she thought being patient would have positive effects. However, when she was beaten too much, she called her parents-in-law for help. Her father-in-law did not say anything and her mother-in-law told her to look for neighbourhood help. After being beaten, Mrs. H returned to her parents for a week, who then advised her to endure such punishment. She did not want other people to know, because she was afraid her husband would make it a serious issue. Eventually, she reported these incidents to the police, but they could not help because her husband usually beat her at night and the police could not intervene in time. She also feared that if the case went to court, her husband would be punished. As a result, she decided to address the problem by herself, which made their relationship worse.

Four years of violence continued without any intervention or help. Mrs. H once wanted a divorce, but thoughts of her child’s best interests convinced her to endure and hope her husband would change one day.

4.1.3. Settlement of domestic violence cases

a) Non-State legal system

Due to the rapid pace of socio-economic development in Viet Nam, the influence and role of customary laws are gradually being replaced by village codes and the State legal framework. Although no specific customary laws provide procedures to address DV, the influence of the non-State legal system through traditional patriarchal values and standards still exists, directly affecting the ability of women experiencing domestic violence to access justice.

Information from the four research areas pointed to domestic violence being commonly thought as a matter to be settled within the family. However, such a resolution was often biased against women. Accordingly, it was also believed that any domestic violence case should not be brought to public trial and women should make concessions to husbands and endure violence to maintain family peace and happiness. These traditional values not only affected the way survivors dealt with DV, but also influenced community members' viewpoints and manners in assisting survivors.

Interventions by family and relatives

Family and relatives are often the first people domestic violence survivors turn to for help. Information gathered from the four research areas indicated that such women considered family and relatives the most reliable sources of support, because these relationships were based on blood, feelings and legal relations. However, due to the concept that *"after getting married, women become members of the husband's family"*, support from natural parents and siblings was limited. Consequently, women often sought assistance from the husband's family rather than their own parents and siblings.

"Whenever he is drunk, he beats me. And he gets drunk every day. Sometimes, we are having a normal and peaceful meal and he still finds some reason to pick a quarrel with me. Then he starts throwing bowls and dishes away, grabbing my neck and pulling my hair to hit me. After this happens I talk to his siblings, not to my own parents. If I speak to my parents, they cannot help and I might make them sad and worried about me." (Survivor, Duong Phong, Bac Kan)

"After I married, my own parents cannot intervene because I no longer live under the same roof as them. Even if my parents say the truth, they [the husband and husband's family] will think my parents are taking sides with me." (Survivor, An Khanh, Ben Tre)

In fact, in many cases family and relatives did not want to intervene out of fear that their reputations would also be negatively affected.

"Two years ago, my husband started beating me. At that moment, he forgot to close the door so I managed to run out and get free. I asked my husband's uncle for help because he was a leader of the commune's People's Committee. But, he said it was our private business [and] we should settle it by ourselves. Later on my husband beat me again, I didn't know where to go so I went to my husband's uncle again, but he refused to let me in." (Survivor, Duong Phong, Bac Kan)

Any intervention by family and relatives often took place after violence had occurred, with a strong focus on reconciliation to protect and maintain family harmony. Advice would focus on settling the problem between the couple internally, rather than seeking assistance from outsiders or the authorities. In some cases, family gatherings would be held to educate and request perpetrators not to use violence against their wives.

“Family meetings were organized to give advice, but nothing changed. Our family even said it did not want anyone like him in it. If he continued beating me and our children, it would not view him as a family member.” (Survivor, Nghi Hoa, Nghe An)

Due to the concept *“the boat follows the helm, the wife follows her husband”*, women suffering from violence are disadvantaged when seeking assistance from family and relatives. As support from a women’s own parents and siblings is crimped by cultural norms, they rely on assistance from the in-laws. However, in-laws in general will often back the alleged perpetrator and encourage women who experience domestic violence to remain silent. Any denouncement of the husband to local authorities would be rejected by the in-laws.

“If women make concessions, they will be considered reasonable and be supported by the husband’s family. If I speak out, the family will lose face and will turn its back on me. They [in-laws] always take sides with their son.” (Survivor, Vinh Binh, Ben Tre)

“I once thought of filing a request for divorce and then I saw the attitudes of the in-laws. They started to slander and fabricated a false story directed against me. It is natural it takes sides with its son.” (Survivor, Duong Phong, Bac Kan)

Due to a lack of legal knowledge and the influence of traditional cultural values, customs and practices, family and relatives often pointed the finger of blame at women and not the perpetrators of DV.

“It is a private affair that needs to be dealt within the family”, “A husband might be wrong at times, but as a wife, a woman should make concessions to her husband”, “A wife should be soft, no matter who is wrong and make concessions to her husband.”

In these circumstances, advice and reconciliation efforts from family and relatives not only failed to help women escape violence, but brought them even more injustice.

Interventions by friends and neighbours

Limited support from friends and neighbours was reported, with variations in different areas. In Duong Phong (Bac Kan), women said such assistance included protection from violence when relations between a married couple were strained. In such cases, neighbours would urge a stop to violence. However, such preventive measures were limited because people did not live closely together and the majority thought *“one should care for their own family affairs”*, particularly when acts of violence were associated with alcohol and drug abuse. When acts of violence were committed by such people, neighbours feared getting involved in the violence.

“When someone is drunk, one should not interfere. Let them resolve their own family matters. If we say or do something, he will pick a quarrel with us. I had better to turn a blind eye and avoid this.”

In Ben Tre and Nghe An provinces, some neighbours also displayed a reluctance to get involved as they “watched, but did not want to intervene in other people’s affairs” or “Neighbours rarely interfere for fear of getting involved”. However, in some cases neighbours played an active role in preventing acts of violence, facilitating full reconciliation after violence, advising on legal procedures and providing other necessary support:

“Neighbours advised me to report to the police and seek protection” or “Neighbours lent me a helping hand, hid me and fed me, concealing this from my husband.” (Survivor, Nghi Hoa, Nghe An)

Many interviewed women also reported seeking out friends’ support after violence had occurred, but this was more focused on sympathy and sharing. “Make concessions” or “Speak less, otherwise it is natural to be beaten” were common types of advice that failed to address the actions of the perpetrators.

Box 8: Myths about domestic violence and alcohol

Qualitative data from the study indicated that many people believed drinking alcohol caused DV. However, the study findings affirmed that many men who beat their wives do not drink. Alcohol may be used as an excuse for violence, but it is not the cause of violence. Domestic violence against women stems from the unequal power relationship between men and women and is used to maintain power and control over women.

Interventions by respected people in community

When violence occurs, women often seek advice or help from highly respected members of a community, such as heads of communities, families, patriarchs and religious leaders. Information gathered from research areas indicated the roles of respected people to manage relations in a community and families had decreased partly due to socio-economic development. The heads of village, hamlet and family clan mostly maintained cultural activities in a community as well as reconciled and intervened in disputes related to use of land and natural resources. Such people maintain ancestors’ traditions and do not directly intervene in family matters. Some women participating in discussions noted that a head of a village, hamlet and family clan would offer practical analysis and advice as they understood the circumstances behind the violence.

In the Catholic community, although gender equality and opposition to domestic violence was often preached, it did not necessarily facilitate women’s access to justice. Obedience to religious tenets is voluntary and violations of such dogma were neither deterred nor punished. The church’s intervention in domestic violence cases was mostly through reconciliation, as divorce was not widely accepted. Divorce is possible in cases of violence, but not encouraged because the Catholic religion gave prominence to marriage ‘for life’.

“I’m a Catholic. Once he [husband] insulted me. I went to see the parish to ask him to meet my husband and advise him. The parish then met my husband, gave him advice and analyzed what was right and wrong for him.” (Survivor, Vinh Binh, Ben Tre)

The influence of the non-State legal system through traditional patriarchal values and standards still exists and directly affects survivors' access to justice. Information gathered from the four research areas showed that it was commonly thought that domestic violence was a family matter and should be settled within the family and not brought to trial. However, this level of settlement was often biased against women. Survivors were expected to make concessions to their husbands and endure violence to maintain family peace and happiness, while perpetrators remained unpunished. These traditional values not only impact on the ways women deal with violence, but also influence conceptions and behaviours of community members in assisting survivors.

b) Quasi-State legal system

Interventions by heads of residential areas

Heads of residential areas play an important role in assisting women survivors of domestic violence to access justice, interviews from the four areas suggest. These heads directly manage residential areas, are often familiar with each household and intervene soon after violence occurs. However, many such heads are men and survivors do not feel comfortable seeking their help.

“The head of the hamlet is male. I’m a woman so it’s hard to talk [to him]. I feel afraid to talk about what I suffered”.

In case of ongoing violence, heads of residential areas will often intervene, give advice, dissuade and isolate the perpetrator. Stronger measures, such as escorting perpetrators to the authority, are rarely taken because according to the law, they are within the competence of commune/ward levels. If heads of residential areas receive calls for assistance after domestic violence has occurred, they coordinate with the reconciliation team to give advice and strengthen reconciliation efforts. If violence continues after such interventions, the residential area head can publicly criticize the perpetrator. As the perpetrator and residential head often live in the same community, this rarely occurs. Instead of direct criticism, cases of domestic violence would be indirectly mentioned in community meetings. However, such measures are ineffective because perpetrators usually do not attend such meetings.

When a violent act is repeated and/or causes serious injuries and consequences, residential area heads can guide survivors on how to follow legal procedures.

“My husband recently beat me. Everybody knew it and I reported it to the local authority. The head of the hamlet came and advised my husband not to beat me. He also told us that if we addressed our dispute, he would report the case to the local police. If we continued fighting, the residential area would be affected.” (Survivor, Duong Phong commune, Bac Kan)

Interventions by the Women’s Union

The role of local Women’s Union female officials in handling domestic violence cases is to raise awareness of the husband and wife on DV, advise and reconcile them. However, the level of involvement depends on the locality. In Ben Tre and Nghe An, which have benefited from domestic violence prevention and control projects, many women had positive comments about support provided by local Women’s Union officials. They *“Are the first to learn about and intervene in an incident”, “Directly reconcile the two sides”, “Regularly organize training courses to improve knowledge, provide trusted addresses and guidance on legal procedures”.*

“I got used to being mistreated by my husband for several years. Previously I used to go to district hospital to have my injuries treated and I did not dare to say that I had been beaten by my husband. If somebody asked, I would say I fell down. Recently, projects have opened my eyes and I no longer keep such abuse a secret. It is necessary to speak out and ask for assistance from Women’s Union officials.” (Survivor, Nghi Hoa, Nghe An)

A number of women stated that reporting their situation to male officers made them feel uneasy, however, female officers could also reflect gender-biased perceptions. Information collected from focus group discussions with Women’s Union officials in Duong Phong indicated they were involved in reconciliation and counselling activities, but lacked knowledge and skills. They mostly offered advice and reconciled spouses based on their own knowledge and life experiences, which were also influenced by traditional cultural conceptions. A number of local Women’s Union officials gave advice and conducted reconciliation that placed women at a disadvantage or even discriminated against them. These measures made survivors feel even guiltier and less self-confident, instead of supporting them.

“Women should learn to behave well and should not magnify the problem of their husband losing face. The dispute between the two should be handled within the family. In many cases, domestic violence occurs partly due to the women’s fault. When the husband is angry, the wife should not speak too much. Women should know how to make concessions.” (Women’s Union official, Duong Phong, Bac Kan)

“Women must accept being disadvantaged and make concessions to avoid fighting. If violence continues, they can ask for help from the reconciliation team.” (Women’s Union official, Duong Phong, Bac Kan)

In Duong Phong, the Women’s Union was not considered a reliable place where survivors of violence could ask for help as it had no prestige or influence on the community. In some cases, Women’s Union officials were also survivors of DV.

“I did not inform the Women’s Union because I know my husband would not listen to it.” (Survivor, Duong Phong, Bac Kan)

“The Women’s Union only has female officials. In local authorities there are no female staff. It’s easy to talk to women officials, but who would listen to them? Many times I asked for their assistance, but they did nothing to help me and even blamed me.” (Survivor, Duong Phong, Bac Kan)

“I didn’t inform the Women’s Union because my husband wouldn’t listen to its advice. So I reported my problem to the head of the residential area, who advised me to make concessions. If it doesn’t work I will submit a petition to the local police.” (Survivor, Duong Phong, Bac Kan)

c) State legal system

Interventions by the Chair of People’s Committee

The chair of the commune/ward People’s Committee has the highest authority in an area to make decisions against perpetrators. They have the ability to summon, advise, criticize, educate and admonish perpetrators and take punitive measures such as imposition of community service, fines or time in rehabilitation centres.

This study's research revealed different People's Committee interventions by four areas. In Nghi Hoa (Nghe An), local administration representatives took an active part in the settlement of domestic violence cases. They not only summoned perpetrators to the People's Committee, but also supported the commitment and coordination of activities to provide justice for survivors in the local administrative system. The ward's authority also spent some of its local budget to disseminate information on domestic violence prevention and responses, after gender-based violence projects were completed in 2012.

However, People's Committee interventions were rarely mentioned by women in Duong Phong, where representatives mostly made civil orders not always strictly implemented.

"In some cases, those who committed acts of violence were requested to meet with the local People's Committee, but they did not turn up. After this occurred one or two times, the authority no longer wanted to intervene", "There are cases where the wife takes legal proceedings against her husband, but when the husband is requested to see the local administration, the wife herself tends to protect him". (Survivor, Duong Phong, Bac Kan)

Interventions by Judicial Department of the People's Committee

The Judicial officers under provincial, district and commune level People's Committees provides legal advice to survivors³⁹. However, information gathered from focus group discussions and in-depth interviews rarely mentioned such judicial officers. In Ben Tre and Nghe An provinces, survivors were assisted by Women's Union and heads of residential areas to undergo complicated judicial procedures. In the heavily ethnic minority-populated Duong Phong commune, legal knowledge was limited and women had an acute need for legal assistance to seek justice. However, the shortage in judicial officers in the area remains a pressing concern. According to women in the four research areas, in general judicial officers advised on legal procedures for the community and domestic violence survivors. However compared to police, judicial officers' roles were limited.

Like other authorities, judicial officers regarded domestic violence as a private matter that should be dealt with within the family. They were also found to disregard women's requests for interventions, were reluctant to support and lacked accountability, despite their legal knowledge.

"I went to see them [police, judicial officials] several times, but they said it was family business and I should deal with it by myself. They said that if I reported him [husband] to the police, he would be fined. Recently, I submitted a petition to the judicial office, but a judicial staff member told me that he would see [the husband]. I don't know whether he has seen my husband yet." (Survivor, Duong Phong, Bac Kan).

Interventions by local government

Representatives from commune-level units such as Cultural, Labour, War Invalids and Social Affairs also bear responsibility to support women domestic violence survivors. However, information gathered from the community indicated such assistance was lacking, especially in Duong Phong where there was no domestic violence prevention and control project. This was in stark contrast to the situation in Ben Tre and Nghe An.

39 No. 01/2009/TTLT-BTP-BNV, 28/4/2009. Source: <http://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=12126>

Reportedly, local government activities to disseminate information about domestic violence took place, yet were ineffective as many women only had superficial knowledge about domestic violence and the Law on Domestic Violence Prevention and Control that was often obtained through the mass media:

“I read newspapers so I know the law protects mothers and children, so it will protect me [from acts of violence]”, “I didn’t know anything until I watched television”, “Nobody has told me about domestic violence. I know it through television”.

Information gathered from discussions with representatives of local departments, sectors and social organizations indicated this may be because:

“Information about the Law on Domestic Violence Prevention and Control is only mainstreamed in community meetings⁴⁰, thus the information [shared] is quite general”, “Local people are invited to community meetings where they will be provided with information about the law, but many do not turn up”, “It’s necessary to disseminate information about gender equality, but men rarely attend”.

Interventions by local police

Police are at the frontline of the State legal system and have a duty to effectively investigate all alleged incidents of violence and conduct investigations. In practice, they also provide legal advice and conduct reconciliation. However, information from the four research areas indicated that, in some cases, survivors’ requests were not followed-up by police as domestic violence was deemed a private matter to be dealt with within the family. Police intervention was focused on reconciliation, dissuasion and provision of legal advice for survivors. Some interviewees claimed police intervention was ineffective or reconciliation measures did not protect women from further violence.

“I phoned the police, but when they arrived [the] violence [had] ended. They couldn’t find the weapons [used in the violence]”, “They couldn’t stop acts of violence”, “They couldn’t reprimand the perpetrators”, “When informed, the village head and police came to dissuade my husband and advised us to reconcile with each other. They also provided guidance on legal procedures when reconciliation was ineffective and violence reoccurred.” (Survivor, An Khanh, Ben Tre)

Reportedly, police advice often did not take the power balance between husbands and wives into account and did not adequately address the root causes of DV:

“The husband behaves violently towards the wife, but she is quite garrulous. The husband says once, she says five or six times more. The husband is brutal but she is so talkative that he often goes insane and beats her. We have talked to both of them and advised them that a husband should not beat his wife and a wife should not try to teach her husband something when he is drunk.” (Police, Duong Phong, Bac Kan)

40 Community meetings are organized every three months. The meetings focus on many issues, thus, there is little time for the dissemination of legal information.

d) Other support service

Interventions by healthcare providers

DV survivors reported little support from healthcare providers. In Duong Phong, there were women who had been rushed to district hospitals or had suffered from serious mental abuse as a result of DV. Some of these women showed signs of depression or had suffered from physical, psychological, sexual and/or economic abuse caused by husbands who were drug addicts and lived with HIV. However, they had not received healthcare assistance or advice from medical staff as they were largely unaware of their needs.

“My husband mistreats me, so I need to ask for an intervention from police and local authorities, not from medical workers. I think medical staff have nothing to do with it, so I will not speak to them.” (Survivor, Duong Phong, Bac Kan)

4.1.4. Protection and remedies for domestic violence survivors

Respect and protection of survivors’ rights can only be guaranteed when effective remedies are available and legal rights are only meaningful if they can be asserted⁴¹. Access to justice is a means for women to actively claim their human rights. However, inefficiency or absences of protection and legal support hamper women’s access to justice. Findings indicated that when safeguards to protect women from violence were lacking, women could not effectively claim their rights. Non-recurrence of violence requires long-term efforts and interviews showed this was only achieved in a small number of cases. In one case, the legal system’s intervention in the case of a woman who had suffered violence for many years resulted in her husband being sent to a rehabilitation centre and eventually the violence stopped.

“About 10 years ago, my husband used to get drunk and beat me and our children. I got so annoyed that I asked the local authorities to intervene. He was sent to a rehabilitation centre for 14 months. After that, he changed completely. He still drinks wine, but he never beats me or our children. Whenever he gets drunk, he just goes to bed.” (Survivor, Nghi Hoa, Nghe An)

In other cases, the impact of settlements was limited as only the frequency or intensity of violence decreased, yet did not completely stop:

“I still suffer from violence, but less. In the past, he used to scold me once every five days and send me away from home. Now he shouts at me once every 20 days or every month. I have asked for intervention from local authorities, but it doesn’t work.” (Survivor, Nghi Hoa, Nghe An)

“Frankly speaking, I still suffer from violence even though I have asked for commune authority assistance. When my husband met the local authority, he seemed to be reasonable, but then nothing changed. I once thought of getting a divorce, but I really don’t want to.” (Survivor, Nghi Hoa, Nghe An)

41 The concept note ‘Access to Justice’ endorsed by the CEDAW Committee at its 53rd Session for the General Discussion.

Overall, women experiencing domestic violence struggled to access justice and competent authorities' interventions have not sufficiently protected women from violence or punished perpetrators. In many cases, remedies were not provided because survivors' requests were ignored or indirectly rejected, while women experiencing violence received advice from family, relatives and local authorities such as *"They should make concessions"*, *"They should deal with their own affairs"*, *"Your husband is irritated, it's natural he beats you if you speak too much"*.

"The family organized meetings to give suggestions, but later things remained the same. It even said no one in the family could be like that [the violent husband]. If he [the husband] did not listen to its advice, it would have no relationship with him. However, things didn't change." (Survivor, Nghi Hoa, Nghe An)

"I'm a Catholic. Once he [the husband] insulted me and sent me away. I went to see the parish to ask him to meet and advise my husband. My husband seemed to listen to him attentively and committed to change. However, after a period of time, he was the same again. Thus, I thought I should withstand this, rather than seeking further help from the parish. I do not want to bother him, because he has many other matters to care for, not just mine." (Survivor, Vinh Binh, Ben Tre)

Due to a number of reasons, interventions largely failed to prevent perpetrators from committing violence. In many cases outlined in interviews and focus group discussions, assistance and interventions from residential area heads did not stop violence. This suggests violence should be reported to higher level authorities.

Even when the local administration and competent authorities intervened, women's safety was not guaranteed. Findings indicated that sanctions such as warnings, fines and community service were inadequate and did not prevent violence from recurring. In some cases, fines had a negative impact and hindered access to justice as survivors were often reluctant to pay such a fine on behalf of her husband.

"We only go to court when we want to divorce or settle land disputes. If I go there, in the end, I will still have to pay money." (Survivor, Nghi Hoa, Nghe An)

"The husband violated the law. We compiled the files and fined him VND1.5 million. Then it was the wife who came to pay the fine for him. We punish the husband, but after all it affects the family. So it is the wife who suffers the consequences, while the husband still mistreats her and she no longer asks for our intervention, fearing that she will have to pay more fines." (Police, Duong Phong, Bac Kan)

"If the husband is still violent towards his wife after reconciliation, he will be warned in public meetings. However, only the wives turn up at the meetings, not the husbands – the violent ones, so no one can warn or ask them to admit faults publicly." (Village head in An Khanh, Ben Tre)

"There was a case we could not resolve through reconciliation, because the husband kept beating his wife again and again. We reported it to the People's Committee of the commune. It asked him to write a paper admitting his fault, but he did not turn up saying he had to travel far for business. We couldn't do anything." (Women's Union official, Nghi Hoa, Nghe An)

Box 9: Case 5

In Mrs. K's case, her husband received behaviour-changing interventions, but could not free herself from the fear of violence and anticipated the second intervention would also fail. Her case highlights the need to review protection and sanction measures applied for cases of DV.

Mrs. K and her husband had two children. Her main occupation was farming, but in her spare time she was usually took on extra work to generate more income. Her husband often drank all day and had unstable employment. As a result, the family was reliant on her income. But, her husband always said she was foolish and if she could not do things the way he wanted, she deserved to be beaten. Violence became normal and sometimes left her bruised. All the neighbours knew about her situation.

At first, she was ashamed of being beaten and did not tell anyone. After the violence became frequent, she called neighbours for intervention. People went to dissuade him from beating her, but he destroyed the house's furniture in response.

After joining the Violence Prevention Club, Mrs. K's awareness of gender equality and domestic violence improved, so she resisted her husband's beating and said he had no right to treat her badly as it violated the law and the police would get involved. She also asked the Women's Union and village leader to intervene, but they only tried to dissuade her husband and told him that such behaviour was not appreciated and he would be brought to the local authorities if further violations were committed. The Women's Union invited her to participate in the "violence prevention club" and the commune's War Veterans Association invited the husband to join "the self-behave club". However, he continued to scold and beat her.

Sometimes she thought about divorce, but did not dare proceed because she feared the children could not be sheltered without a father. The husband also refused to divorce. She also feared that divorce would not end the violence and he would have harassed her, while the government could not protect her and her children.

Recently, he beat her so severely she ended up in hospital. The Women's Union and village leader decided to inform the police and the husband was sent to a six-month education programme. Mrs. K is still worried as she fears the solution will be insufficient. She wishes the law could guarantee a more severe penalty, so she could be finally enjoy a life free of violence.

5. CONCLUSION

The Government of Viet Nam has made efforts to combat domestic violence against women, particularly through establishing legal and policy frameworks to promote gender equality as well as prevent and respond to DV. Nevertheless many survivors struggle to be protected, while perpetrators enjoy impunity. This research revealed a number of factors which shroud the issue of domestic violence in silence as well as challenges women survivors face to access justice.

Patriarchal norms embedded in Confucianism, traditional values and customs that heavily influence the effectiveness of the law and policy implementation emerge as barriers to women accessing justice. They form roles and behaviours of women and men not only in society, but also govern family relationships, forcing women into submissive roles. When addressing domestic violence against women, patriarchal concepts need to be understood together with domestic violence to provide meaningful and effective interventions. In many cases during research for this study, the root causes and nature of domestic violence were not fully understood by competent authorities, communities and survivors themselves. Of particular concern is that reconciliation in Viet Nam largely takes place without considering the existing gender power imbalance faced by women. Therefore, deepening the understanding of domestic violence as a manifestation of gender inequality will help the law and policy-makers, implementation authorities and other justice chain actors to better respond to the issue and empower women to break the code of silence. The study found that a better understanding of the law allowed survivors to seek support from authorities, rather than keeping the issue behind closed doors.

Drawing the link between domestic violence and gender discrimination will also help raise awareness on different forms of domestic violence women suffer from. Attempts to access legal systems - whether it be State, quasi-State or non-State - are not common in cases of emotional, sexual or economic violence as such forms of violence are not regarded as DV. Almost all women who sought justice in this study experienced severe physical violence. Older women were more hesitant to discuss sexual violence, while younger women were more open. This could be due to the younger generation having greater access to information through various sources. Media seemed to play a role in raising awareness about domestic violence as well as laws and policies that protect women's human rights.

The reality of women's ability to access justice in the four research areas illustrated that intervention programmes could help survivors rebuild their self-confidence, raise men and women's awareness of domestic violence and increase local leaders' commitment to address the issue. Activities carried out included establishment of provincial and communal-level steering committees to prevent domestic violence to reflect local governments' commitments to deal with DV, provide trainings to improve social organizations' skills and knowledge, set up clubs for perpetrators of violence and domestic violence survivors. Broadening the scope of projects addressing domestic violence nationwide would greatly improve women's access to justice. Simultaneously, timely referral mechanisms need to be in place to channel survivors of violence to other legal and medical practitioners once such projects discover cases of DV.

5.1. Plural legal system and women's access to justice

In Viet Nam, women may seek justice through State, quasi-State and non-State legal systems. In reality, however, few women refer to the State legal system as the other two systems were seen as more accessible. The Law on Domestic Violence Prevention and Control sets out responsibilities of different actors across the plural legal system to prevent and respond to DV. Accordingly, efforts are being made to establish a broad network for social management and legal enforcement to address domestic violence from central to grassroots levels. In particular, heads of residential areas and grassroots reconciliation teams play a major role in responding to domestic violence cases. Only when such interventions have been exhausted, cases were brought to the police for investigation, in practice. From the primary data collected for this study, most interventions in domestic violence cases were initially carried out by family members, relatives and friends. One aspect of such interventions was the encouragement of survivors to deal with domestic violence issues internally without engagement of public authorities. The general reluctance to deal with domestic violence cases, was reported against different actors throughout the plural legal system. Most reported cases were brought to reconciliation regardless of the different legal systems utilized, while this research was unable to gather statements on cases which were dealt with by courts.

5.2. Legal, institutional and structural challenges

Under CEDAW and other international instruments, the Government of Viet Nam is obliged to exercise due diligence to prevent acts of violence against women, to investigate such acts and prosecute and punish perpetrators as well as provide redress and relief to survivors. In other words, the State is not only responsible for enacting legislation that guarantees women's human rights, but also ensuring they are implemented through a functioning justice chain that is gender-responsive.

Gaps in the legal framework

Although Viet Nam has worked to promote gender equality and made considerable progress in reforming its legal framework from the perspective of gender equality and protection of women from DV, women still struggle to access justice. Measures taken against perpetrators of domestic violence at quasi and non-State legal systems remain inadequate and punishments ineffective to deter perpetrators from causing violence. In fact, the reality is they erode survivors' trust in a legal system that fails to provide necessary protection. Although the State legal system can place strong sanctions such as imprisonment under certain circumstances, few reported cases undergo criminal investigation. The fact that domestic violence is not classified as a criminal offence, gives the distinct impression it is a petty offence by the public as well as justice providers. Unless the root causes of violence are addressed and abusers are held accountable by the law, domestic violence will continue and threaten the safety of family members including children who witness such violence. In reality, reconciliation agreements place blame on both parties and require them to modify their behaviour. Such measures merely reinforce the embedded gender inequalities in families that cause such violence.

In other cases, implemented sanctions are ineffective to fight the violent behaviour of abusers and even harm survivors. This is illustrated by fines for domestic violence offences having little

deterrent on abusers and doing little more than shift the burden to survivors who often end up paying out of their own pocket.

Institutional and procedural obstacles

Survivors can directly report domestic violence to the police or commune People's Committee without undergoing reconciliation measures. In fact, the Law on Domestic Violence Prevention and Control explicitly prohibits the use of reconciliation in cases where the incident is of a criminal nature or subject to administrative sanctions. Nevertheless, the study's findings revealed an overreliance on reconciliation measures, particularly in the non-State and quasi-State legal systems. Moreover, even the police have a tendency to attempt mediation as a first response to DV. There is also a major concern that there are no safeguards to ensure impartiality and fairness of reconciliation measures, while survivors may be unable to exercise freewill due to threats and intimidation by perpetrators and social pressures that require wives to behave in certain ways.

Moreover, the study also found cases where actors across the plural legal system attempted to intervene in DV, yet failed to protect the survivor or punish the perpetrator. Even the police have proven to be not responsive if violence had ceased before arrival on the scene. Public criticisms of perpetrators by People's Committees or heads of residential areas were not often undertaken as violators failed to attend such meetings. In other cases, police and the Judicial Department of the People's Committee neglected domestic violence reports, claiming they were family matters to be dealt with internally. These incidences demonstrate legal enforcement officers' lack of accountability to protect survivors. Inconsistent responses to domestic violence can also result in impunity. Without adequate legal support, survivors struggle to navigate plural legal system, as legal aid or other necessary counselling services are not readily available.

Reliance on reconciliation measures or a reluctance to intervene in domestic violence cases by legal enforcement officers as well as other supporting networks and non-State actors could be due to a limited understanding of the gender discriminatory nature of domestic violence and gender equality. While domestic violence prevention and control projects target women and men in communities, huge gaps remain in the knowledge and skills of justice providers to assess domestic violence from the perspectives of gender equality and women's human rights. Survivors also find it difficult to report violence to male officers commonly found across the majority of the plural legal system. While this often resulted in an approach to Women's Unions, such officials often also held gender stereotypes which disadvantaged women.

Social barriers

Customs and traditional cultural views in Viet Nam tend to prioritize family harmony and happiness over women's human rights and gender equality. Consequently, informal social networks including families, relatives, friends and neighbours tend to reinforce gender norms and may instead prevent women from seeking justice. This has reduced the effectiveness of legal enforcement at grassroots level and increased dependence on reconciliation measures. Respected people in the community are often hesitant to get involved in addressing domestic violence cases as they consider they be solved within the family.

Values and customs held by society not only influence the non-State legal system but also provide the foundation for the quasi-State and State legal systems. Legal systems of a patriarchal nature, for which is the case in Viet Nam, lead to negative gender stereotyping and discriminatory attitudes of law enforcement officers, including police and judiciary. Interviews of survivors revealed this was the reality in Viet Nam today, as gender stereotyped views were held by law enforcement officers and local authorities. This also explains why women domestic violence survivors were sceptical of such officers' attitudes, accountability and helpfulness.

Practical and economic challenges

A number of other factors prevent women from seeking justice or disadvantage them in pursuing justice. Key among these are the lack of financial resources that stop women from pursuing protection from violence because many are dependent on the abuser for financial security, shelter and social status within a community. Women, particularly ethnic minorities, have little control over land use and family properties. This makes women economically dependent on their husbands and in-law families, even when they make major contributions to family income. Such dependence prevents women from seeking justice due to fears they may become homeless and unable to sustain their life. In addition, some ethnic minority couples are married without legal marriage certificates and such women face uncertain consequences of legal procedures, including entitlement to child custody. The uncertainties surrounding legal action against husbands accompanied by the lack of legal support place considerable pressure on women to maintain outward impressions of a stable and happy family life. As a consequence, divorce as an option to escape violence is often rejected and drives women towards reconciliation measures, even though they often do not provide necessary protection or redress.

6. RECOMMENDATIONS

Results of this study, enhanced through use of the FPAR research method, provide a broader and deeper understanding of women domestic violence survivors' ability to access justice. The findings help formulate the following recommendations to improve women's access to justice. The following recommendations aim to support the Government of Viet Nam, competent authorities and actors across the plural legal system to strengthen the justice chain by addressing identified obstacles which impede women domestic violence survivors' access to justice.

1. Addressing gender stereotypes at community level that inhibit women's access to justice

Unless the deeply gendered dynamics of violence are addressed, efforts to prevent and respond to domestic violence are more likely to fail. Ending gender discrimination and promoting gender equality need to be at the centre of efforts to address domestic violence in Viet Nam.

	Recommended Actions	Implementing agencies
1.1	Organize training courses for heads of residential areas, chairpersons of commune/ward People's Committees, community police and other grassroots justice providers to enhance understanding of root causes of domestic violence as well as the risks and psychological harm caused by domestic violence as a form of gender discrimination.	District and provincial People's Committee
1.2	Review family models pursued by socio-political organizations, particularly the Women's Union, to remove damaging gender stereotypes and build family models which embrace gender equality.	MOCST
1.3	Accelerate the dissemination of information to eradicate gender prejudice and raise public awareness of gender equality, women's human rights and the legal and policy framework to address DV, with particular attention to different forms of violence. Support the media to disseminate information and reduce content reinforcing discriminatory gender roles.	Ministry of Information and Communication

Transformation of harmful gender roles and concepts cannot be achieved without all members of society on board. In this regard, engagement of men and boys is critical to challenge existing gender stereotypes and discrimination.

1.4	Implement grassroots activities to raise awareness of the connection between domestic violence and gender discrimination. Facilitate discussions on how to address gender discriminatory norms and customs to achieve gender equality in society and within family settings; and increase men's participation in such discussions and celebrate male role models who promote gender equality and non-violent forms of masculinity.	District and provincial People's Committee
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2. Strengthen accountability and effectiveness of justice provision

Many women domestic violence survivors are hesitant to approach and make reports to the police or other justice providers of the State legal system because of acute feelings of shame, embarrassment or mistrust as to how they will be treated by justice providers and seen by the community. Women face a number of barriers to make the initial contact with justice providers. Therefore, it is important to strengthen accountability and coordination mechanisms across police, People’s Committees, socio-political organizations, local authorities and other State, quasi-State and non-State actors. At the same time, support services including legal advice, counselling and medical services for survivors must be readily available during the reporting stage.

2.1	Improve accountability of justice providers, particularly community police and commune People’s Committee by introducing sanctions in cases reporting on domestic violence is not followed up in accordance with legislation and failed to properly meet their responsibilities when handling domestic violence cases. In particular, sanctions should be placed on commune police officers who fail to follow up reported cases.	Department of Public Security and Department of Culture, Sports and Tourism
2.2	Regularly collect data on reported domestic violence cases at commune/ward, district, provincial and national levels and monitor the use of different sanctions and reconciliation measures, forbidden contact orders and referral of survivors to support services.	Commune/ward police and local government officials
	Annually evaluate whether timely protection for survivors is in place and recurrences of violence are prevented through effective interventions. Allocate necessary resources to address challenges identified by such evaluations.	MOCST
2.3	Introduce sanctions when reconciliation measures are utilized under prohibited conditions provided in Article 12 of the DV Law. Develop detailed guidelines to assess risks in reconciliation measures to safeguard women’s human rights.	Fatherland Front Committee
2.4	Expand the implementation of the minimum intervention package of services for domestic violence survivors which clarifies the coordination among law enforcement officers and supporting networks at the commune/ward level to respond to domestic violence cases.	MOCST
2.5	Broaden the coverage of domestic violence prevention and control projects especially in new areas. Within these projects, include educational programmes about the roles and responsibilities of State and grassroots justice providers as well as service providers in addressing DV.	DOCST
2.6	Build knowledge and skills of local legal aid providers to better respond to domestic violence cases, especially in ethnic minority communities where survivors lack legal support. Such legal support should inform and advise women on their rights to property, assets, land and child custody as well as to overcome obstacles in pursuit of justice.	National Legal Aid Agency under MOJ

Increased women’s participation throughout plural legal system will reduce survivors’ psychological burthen to reporting to male justice providers and better address challenges women face while navigating the justice chain.

2.7	Increase the number and legal capacity of female police officers to ensure survivors can request female officers to record cases.	Ministry of Public Security
2.8	Increase women’s representation in decision-making positions of local authorities, including People’s Committees.	People’s Council, district and provincial People’s Committee

3. Strengthen the legal and policy framework for criminalization and prohibition of domestic violence

Domestic violence occurs in many forms with varying but serious consequences. In particular, psychological, sexual and economic abuse is less visible than physical violence, hence is difficult to investigate under Viet Nam’s current legal framework. In addition, a substantial proportion of domestic violence incidents are not limited to single incidents, but form a pattern of repeated violations. Many survivors suffer from symptoms of chronic traumatization. Particular attention is required to address the systematic nature of behaviour behind domestic violence which, if viewed in isolation, would seldom constitute a crime under the Penal Code. Therefore, it is recommended concretizing the level of punishments and clarifying the evidentiary rules.

3.1	Shift the focus of the criteria for punishment from consequences of physical injury, such as the percentage of infirmity, to intentional conduct to commit acts of physical violence against another person.	MOJ
3.2	Revise Article 151 of the Penal Code so that repeated acts of domestic violence can be prosecuted as patterns of repeated and persistent abuse without the prerequisite for a suspect to be administratively sanctioned before.	MOJ
3.3	Expand the scope of sexual violence under the Penal Code by revising the definition of “rape” and “forcible sexual intercourse” to explicitly include the provision “irrespective of the nature of the relationship” between the perpetrator and victim/survivor, for clarity.	MOJ
3.4	Behaviourally define and circumscribe “psychological violence” in detail in the Penal Code and other laws prohibiting acts of domestic violence to enable effective investigation and prosecution of domestic violence cases. The definition should view psychological violence as a form of coercion to endure certain behaviours that constitute infringement of a survivor’s freedom and/or safety.	MOJ
3.5	Revise Article 105(1) of the Criminal Procedure Code requiring certain provisions only be instituted at the request of victims/survivors and ensure the onus to initiate reporting of alleged crimes involving domestic violence is not placed on the victim.	Supreme People’s Procuracy

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APPENDIX I: LIST OF NATIONAL LAWS, POLICIES AND STRATEGIES

National legal and policy framework on domestic violence prevention and control		
Law	Policy	Strategy
<p>2003: Population Ordinance 03/2003/PL-UBTVQH11</p> <p>2004: Civil Procedure Code</p> <p>2004: Law on Child Protection, Care and Protection</p> <p>2005: Civil Code</p> <p>2006: Law on Gender Equality</p> <p>2006: Legal Aid Law</p> <p>2007: Law on Domestic Violence Prevention and Control</p> <p>2009: Penal Code</p> <p>2009: Law on the Elderly</p> <p>2012: Law on Handling Administrative Violations</p> <p>2012: Law on Grassroots Conciliation</p> <p>2013: Viet Nam Constitution</p> <p>2014: Law on Marriage and Family</p>	<p>2005: Instruction No.49-CT/TW on Viet Nam family development</p> <p>2008: Instruction No.16/2008/CT-TTg by the Prime Minister on implementation of the Law on Domestic Violence Prevention and Control (which regulates responsibility of relevant ministries in enforcing the Law on Domestic Violence Prevention and Control)</p> <p>2009: Decree No.08/2009/ND-CP stipulates details and instructs the implementation of some articles of the Law on Domestic Violence Prevention and Control</p> <p>2009: Decree No.110/2009/ND-CP on dealing with administrative violations in domestic violence prevention and control</p> <p>2009: Circular No.16/2009/TT-BYT instructs the acceptance of and provision of healthcare supply for domestic violence victims at medical establishments</p> <p>2009: Decree 55/2009/ND-CP stipulates the punishment of administrative violations in gender equality</p> <p>2010: Circular No.02/2010/TT-BVHTTDL on the Law on Domestic Violence Prevention and Control</p> <p>2011: Circular No.23/2011/TT-BVHTTDL stipulates the gathering and dealing with information on family, and domestic violence prevention and control</p> <p>2011: Joint Circular No.143 /2011/TTLT/BTC-BVHTTDL stipulates the management and usage of State budget in domestic violence prevention and control activities and State budget supporting establishments assisting victims of domestic violence and non-State establishments consulting domestic violence prevention and control.</p>	<ul style="list-style-type: none"> - Viet Nam Family Development Strategy through 2020 - National Action Plan on Domestic Violence Prevention and Control by 2020 - National Strategy on Gender Equality 2011-2020

APPENDIX II: TRAINING CONTENT FOR LOCAL RESEARCHERS

To get acquainted with each other

To clarify research purposes

1. To listen to community points of view about gender equality, domestic violence, justice/impartiality for women, based on what to provide further necessary knowledge
2. To learn about domestic violence and experiences to seek justice/impartiality of domestic violence victims to identify problems and needs of domestic violence victims
3. To listen to community opinions about barriers restricting or supporting seeking justice/impartiality. To see how the State law and traditional concepts of family, family clan, and community influence access to justice/impartiality
4. To listen to community ideas to work out proper action plans to improve access to justice/impartiality of women.

To clarify research principles to promote participation of women

1. Women have better understanding of the problem =>Encourage them to point out problem(s)
2. Women have demands => Encourage women to state their demands
3. Women need action =>Encourage women to seek solutions and build action plans.

To clarify information to be collected

1. Understanding of gender equality: Equal rights between men and women
2. Understanding of domestic violence: Definition and classification
3. The real situation of domestic violence in local areas
4. Concept of justice: What is it?
5. Understanding rights of women experiencing domestic violence to be protected by the State legal system? How do women know about these rights?
6. Understanding of regulations relating to family, family clan and community in regard to behaviour upon the occurrence of domestic violence
7. How do women deal with problems upon occurrence of domestic violence? What factors prevent and support women experiencing domestic violence in seeking justice
8. The real situation of domestic violence in local areas, which forms of domestic violence are most worrying?

9. Based on the most concerned forms of domestic violence, an action plan by women will be set up to enhance the accessibility to justice for women experiencing domestic violence:
 - a. Which changes do they wish for (priority demands)?
 - b. Which actions are needed to achieve such changes?
 - c. Which resources do women need (contact points, finance and techniques) to carry out such actions?
 - d. What resources are available for women?
 - e. How to mobilize other necessary resources?

Role requirements of those who lead discussions

1. To recommend discussions = Questions for multiple replies
2. To encourage all members to express their personal opinions and points of view
3. To respect opinions and standpoints of those asked, to assure there are no wrong answers, to not put forward his/her personal opinions or points of view, to not suggest answers
4. To listen and observe rather than speak
5. To summarize or provide further information
6. To create a natural and comfortable environment
7. To present clearly and coherently.

Information gathering manners

- To raise questions as instructed in in-depth interviews and group discussions
- To tell a story and raise questions related to situations in the story
- To invite participants to contribute their opinions and share their standpoints
- To encourage participants to share stories they can recount
- To tell stories about the journey to seek justice, to draw dream trees.

APPENDIX III: GUIDELINES FOR RESEARCH

I. GUIDELINES FOR FOCUS GROUP DISCUSSION OF COMMUNITY WOMEN

Introduction

- Purpose of working sessions
- Participants introduce themselves to get acquainted.

Subject 1: Gender equality

Step 1: Large group discussions:

Instructors:

- To require participants to think of and write down two words on a piece of paper which demonstrate the equality between wife and husband most vividly
- To collect and stick answers on A0 size paper into columns
- To sum up answers on gender equality.

Subject 2: Domestic violence

Instructors: To divide participants into four groups for discussion

- In life there often occur many situations in which the relationships between wife and husband are not completely similar to those stipulated in the family law. We shall discuss one of these situations together.
- Now we shall count from number one to four. One should read her number loudly and raise her hand so everybody shall know her number. All those of number 1 shall be in Group 1; Those of number 2 shall be in Group 2; Those of number 3 shall in Group 3; and Those of number 4 shall be in Group 4.

Step 2: Small group discussions:

Instructors:

- (1) To give each group member a story and ask her to read her story.
- (2) To raise questions for members to think of and give answers: **In your opinion, what is happening in the story mentioned above?** To require participants to use pencil to **write down three words that appear first in their heads.**
- (3) To collect coloured papers with answers and stick them onto A0 size paper into columns, words of similar meanings stay in the same column.
- (4) To raise questions for members of small groups:
 - **Do you think that described situation is a form of domestic violence or not?**
 - **Could you explain why?**

Situation 1:

“That day, he went out to drink with his friends for the whole afternoon. At dusk, I came to ask him to go home, because he had a stomach ache and couldn’t drink too much. As I requested he stop drinking, he rolled his eyes and chased me away. I couldn’t do anything, but let him be. Later when he got home, he was drunk. Seeing me feed our pigs, he came over and beat me, grabbing my hair and sinking my head down into the pigsty. While beating me, he shouted that I had made him lose face. I was frightened, so I begged him to stop beating me, but he did not. Only when he fell due to his drunken state, could I escape his blows.”

Situation 2:

“He used to get angry and scold me. One day, I met one of my old friends by chance so I came home late. I arrived home about five to seven minutes later than usual, he grumbled all evening: “You don’t come home straightaway, but frolic with somebody after work”. “If you feel fed up with this house, you can go”. “If you dare to so, let’s see who will accommodate you”. If I replied, he would scold me more. If I got angry and talked back to him, he would immediately slap my face. This happens regularly. If I keep silent, everything will be alright. He scolds me, but there is no violence between us.”

Situation 3:

“It happened during harvest time which lasted for a couple of weeks. At that time we were very busy with our fieldwork, but he forced me to have sexual intercourse regularly. But, I felt tired with the daily workload and I just wanted to sleep, however, he kept asking me to have sex with him. If I refused his requirement, he would repeat his demand the next day and force me to meet his demand. If I kept refusing, family work would surely be affected the following day and the family environment would also be unpleasant. Once I was too tired and couldn’t satisfy him, so he bawled me out: “If you don’t want to sleep with me, which man would you prefer?” Therefore, I must pamper him and let him do whatever he wants. We are a married couple, thus, it’s my duty to satisfy his demands.”

Situation 4:

“I don’t work, so I don’t make money. I want to look for jobs, but my husband disagrees and tells me that “It’s better I stay at home and take care of our children”. Every week he gives me money for shopping. Whenever I go to the market, I need to write down all expenses for him to see. At first, I didn’t want to do this, but he kept grumbling so I had to. I do as he says, but many times he didn’t believe my figures. For instance, I wrote “VND3,000 for shallots”, he questioned me: “Why did you have to buy shallots? Our neighbours plant shallots, why didn’t you ask them for some” I choked with anger many times, but generally speaking I feel it’s better to keep silent, or things could get worse.”

Step 3: Large group discussions:

Instructors: To require participants to re-join large groups

Participants: To present discussion results of their group

Instructors: To sum up and define and classify domestic violence

Subject 3: Concept of justice

Step 4: Large group discussions:

Instructors: To require participants to think of and give answers to the question: In your opinion, what does the wife wish for when she experiences the situation as mentioned above?

Participants: To write down their answers onto coloured pieces of paper

The answers might be: Offenders must be isolated, compensate for damage, detained, or simply make an apology, stop violations, or be sent to the local reconciliation teams, etc.

Instructors:

- To gather answers and stick them into columns onto A0 size pieces of paper
- To sum up major expectations
- To forward matters for discussion: **With questions raised, which mechanisms are available to protect and prevent women from being badly treated?**

Instructors: To divide participants into four groups for discussion in line with subjects.

Step 5: Small group discussions:

Subject 4: Awareness of legal systems and women's rights - Groups 1 & 2

Instructor: To direct group members to focus on questions as follows:

1. In your opinion, which regulations stipulated by the State and local authorities are available to protect women?
2. Among these regulations, how are relationships between wife and husband stipulated?
3. How are the rights of husband and wife stipulated? (economic rights such as assets/land ownership, rights to reproductive health)
4. In accordance with State regulations, how are women suffering from domestic violence be protected?
 - + What rights do they have?
 - + Who can they seek assistance from? (Responsible individuals/organizations)
 - + Which types of assistance can they receive?
5. How do State documents stipulate husbands who commit violent acts?
 - + How is the husband assessed?
 - + What is the husband forced to do?
 - + How can the husband be punished?
6. Shall the State supplement legal regulations to protect women? If any, which regulations should be amended?

Subject 5: Understanding of cultural values and standards, principles of family clan and community in dealing with domestic violence - Groups 3 & 4

Instructor: To instruct members to concentrate on questions as follows:

1. What are differences between men and women?
(Strong /Weak, Hot-headed/Gentle, Smart/Knowledgeable/Adequately express oneself, be of good behaviour, active, decisive/passive, obedient)

2. In a family, which roles are husband and wife expected to take?

Added suggestion: As the saying goes: *“Men make houses, women make homes” – what do you think of this concept?*

3. How is the wife expected to behave in married life?

Added suggestion: What do you think of these concepts:

“A good wife is a person who is capable of domestic work, bringing up children, complying with and pampering their husband and to maintain harmony”

“Once a husband gets angry, a wife should speak less, as you should lower a fire once the rice is boiling so it is not overcooked”

It this acceptable? “The husband is the family’s backbone and responsible for family lifestyle, so he can use violence to educate/control family members”

4. How different is the position of wife and husband in family?

Added suggestion: What do you think of these concepts:

“A wife is like a shadow of her husband”, “The husband is boss and the wife inferior”, “A husband is master, a wife is a servant”

5. In your opinion, what are the causes of domestic violence?

Added suggestion: What do you think domestic violence is a result of:

“Lack of education”? – Will violence occur in a family whose members are educated?

“Use of wine, beer and drugs” – Will violence occur if family members don’t use these? Will those who drink alcohol and use drugs argue with their parents/siblings/ employer?

“Inability to control one’s temper?” – Where does violence often occur? – What are the chain of behaviours to force/control?

“Wife’s inadequate behaviours”- In some localities, women suffer from violence for a number of reasons, such as “Let a husband have cold meals/turn on the wrong TV channel/children crying” – Are these still happening?

6. In localities, are there regulations that protect wives in conflict with their husbands? (Family, family clan, community, religion)

7. What should a wife do if she is badly treated by her husband? Why?

8. What do you think of these concepts: *“A husband is the family’s economic pillar and to maintain family harmony, he can use violence to educate/control wife”*? Do people in your locality think this way? How should husbands be dealt with?

9. In localities, are there regulations that protect wives in conflict with their husbands? (Family, family clan, community, religion)

10. What should a wife do if she is badly treated by her husband? Why?

Added suggestion - Concept: *“A husband is the family’s economic pillar and to maintain family harmony, he can use violence to educate/control wife”*? Do people in your locality think this way? How should husbands be dealt with?

Step 6: Large group discussion:

- To require representatives of groups to provide brief answers within 10 minutes
- To discuss Viet Nam's legal regulations of domestic violence prevention and control.

Subject 6: The reality of access to justice

Instructors:

- To finalize the notion of justice
- To divide participants into four groups to **continue discussions on factors influencing the access to justice for women experiencing domestic violence** regarding physical, emotional, sexual and economic abuses.

Subject 7: Factors influencing access to justice of women experiencing domestic violence

Step 7: Small group discussions:

Instructors:

1. Are the situations highlighted earlier occurring in your locality? How serious are they?
 2. Do you know any similar stories from your localities? Could you please share and explain what happened and how it ended?
 3. Do wives seek outside assistance?
- +) If they don't, why?**
- Women know how to **fight for themselves**
 - a. To clearly explain manners of the fight?
 - b. How do women suffering from domestic violence have such ability? (*have legal awareness; be consulted*)
 - Women suffering from domestic violence **accept** or are forced to accept this situation.
 - a. To indicate ways women respond to violence (*to keep silent and endure, to not report to or share their problems with outsiders, do not seek assistance on their own initiative*)
 - b. If they **accept**, please explain why? – *Suggestion: is this due to traditional norms or the lack of understanding of their own rights*
 - c. If **they are forced to accept**, why?

Suggestion: They face pressure from public, family, family clan and community, they don't know where to seek assistance from, they depend on their husband and husband's family, they don't believe in local administration, they don't receive any assistance/adequate assistance

- +) If they seek assistance, protection and prevention, will they no longer suffer from violence?**
- a. Who do they turn to for assistance? (*Family, family clan, religious bodies, head of residential area, women's union officials, representatives of competent authorities*)
 - b. **How are they assisted?**
 - c. **What are the results?**

Participants: To write down results of group discussions onto a piece of A4 paper and a representative of the group shall present the results in front of the large group within 10 minutes

Step 8: Large group discussions:

Participants: To present discussion results of each group within 10 minutes and to pose questions:

1. **What will happen next? Will the acts be repeated?**
2. **To summarize and** to let them know about the frequency of violence
3. To ask them **which types of domestic violence are most common**

Subject 8: To work out action plans to deal with domestic violence

Step 9: Small group discussions:

Instructors: To require participants to return to small groups and build action plans to promote the accessibility to justice – **draw a “dream tree”**

Participants: To give answers to the following questions:

1. Which barriers prevent women from accessing justice?
2. What are major barriers?
3. **Which changes could help victims of domestic violence access justice? – FRUITS**
4. **What do women need to do/which actions should they take to achieve these changes? – TRUNK**
(Suggestion: building capability, knowledge, policy, resources, network/movement)
5. **Which conditions are needed to enable women to realize such actions? – FOOT/ROOT**
(Suggestion: environment, method (of working with community), co-ordination (with partners, concerned parties, organizations and human rights lawyers)

To re-join large groups and the groups’ representative presents discussion results, 10 minutes for each group.

Conclusion

Instructors: To require and instruct members to give answers assessing the working session

Note: It’s unnecessary to write down one’s name

1. To ask whether members have any queries and gather queries (if any) and place them onto A0 paper and share within large groups.
2. To thank all people for their participation and contributions, and to encourage them to learn more about RIGHTS, LAWS, LEGAL ENFORCEMENT AND CULTURE.

II. GUIDELINES FOR IN-DEPTH INTERVIEWS

Name of village/township or district (double check the name)

Name of interviewees (double check the name), age and marital status

Occupation of interviewees or means of subsistence

Interview date, name and contact of interviewers.

1. Could you please tell something about your family? When were you married? Who are your family members? Could you tell something about your parents and children? How is your current family life? Do you have any difficulties? Does your husband share family burdens with you? How is the relationship between you and your husband? How tense is the relationship between you and your husband: does he scold, slap your face, beat you?
2. Differences in opinions and incompatibility between husband and wife are sometimes unavoidable. However, people have different ways to express these views. Some think that wife should make concession no matter if she is right or wrong. Whereas others argue that if a wife is right, she should speak out to persuade her husband to follow her. What is your opinion?
3. In which matters do you and your husband disagree or feel tense? Could you please recount a situation in which your husband even beat you?
4. Under such circumstances, what did you think? What did you wish for?
5. How did you react in response to your husband's behaviour?
6. Is there anybody, besides you and your husband, that knows about what happened?
7. Did you tell your story to others? Why?
8. *(Feel ashamed, disgraced, dependent on husband, be afraid of revenge, be afraid that children and family will be affected)*
9. Learning about your story, please explain people's behaviour towards you and your husband?
10. Did you seek assistance from the head of residential area, Women's Union representatives, police, legal workers, medical staff, and local People's Committee officials? Why/what did you wish for?
11. When you came for assistance, what did they say and do? Were you satisfied with the response? How did they assist you? What was the level of concern and assistance expressed?
12. How did your husband behave towards you after that? Does he beat you? If so, how serious is it?
13. If your husband still badly treats you, what will you do? Why?
14. In your opinion, what types of assistance do victims of domestic violence need to stop being vulnerable to domestic violence?

III. GUIDELINES FOR FOCUS GROUP DISCUSSION OF LOCAL AUTHORITY

General introduction of working objectives and manners

Subject 1: Awareness of domestic violence and State regulations on domestic violence

Step 1: Large group discussions:

Instructors

- To require participants to think of and write down on a piece of paper three words demonstrating the concept of domestic violence
- To collect and place these on A0 paper into columns based on four types of domestic violence
- To summarize and present a definition of domestic violence and mention **four examples of domestic violence**
- To pose questions: **Are the situations common in the community? How do they happen? The commonness and seriousness of forms of violence? – Questions should be raised in line with situations**
- In your opinion, which rights do women have once they suffer from domestic violence (rights are stipulated in State legal documents and in community regulations/rules/practices)?
- To require participants to **think of and write down answers for the following questions:**
Responsible agencies/departments:
 - + What assistance should they give to victims?
 - + How should they assist them?
 - + The co-ordination among parties in the process of providing assistance to victims?
- To collect written answers from participants and place them onto A0 paper

Conclusion: **To classify three groups of assistance**

Subject 2: Factors influencing domestic violence victims' access to justice

Step 2: Group discussions

Instructors

- To divide participants into three groups.
 - + Group 1: Social unions and organizations
 - + Group 2: Legal enforcement bodies
 - + Group 3: Heads of hamlet/village and prestigious people in the community
- To require participants to discuss and give answers to questions as follows:
 - + The results of assistance/support provided to victims of domestic violence (red)?
 - + Disadvantages (white) and advantages (green): It is noted they should highlight the most important factors. Suggestion: Individual factors such as awareness of law and women's rights, standpoints and values, economic conditions of victims of

domestic violence. Factors of the plural legal system such as lack of legal regulations, conflicts between State legal systems and other regulations, settlement circle and procedures. Agencies and departments: Resources, co-ordination among agencies and departments and enforcement, levels and responsibilities.

- To ask groups to prepare and briefly present discussion results within 10 minutes for each group.

Subject 3: To build action plans of localities with domestic

Step 3: Small group discussions:

Instructors: To require participants to return to their small groups to build up strategies to accelerate the access to justice. **In accordance with types of domestic violence that need to be concerned:**

Participants: To think of obstacles and roles to make clear:

- What shall happen if nothing changes?
- Which changes are needed to enable victims of domestic violence to access justice?
- Are these changes easy or difficult, at which level?
- How significant is it? Is it feasible?
- **Which changes are needed?** *Suggestion: Activities that need to be implemented, results, manifestations of change?*
- **What should be done to achieve these changes?** *Suggestion: Building capacity, enhancing awareness, developing policies and movements*
- **Foundations for change?** *Suggestion: environment, methods (of working with community), co-ordination (with partners, concerned parties, organizations and human rights lawyers)*

Participants: To present discussion results. Ten minutes for each group.

Step 4: Conclusion:

Instructors: To congratulate participants for their contributions and to encourage everybody to have a better understanding of rights, laws, legal procedures and culture factors that regularly affect their lives.

Participants: To write down answers for following questions on pieces of paper

Note: It is unnecessary to write down one's name because the answers shall be anonymous. Once answers are completed, participants can return to their large group.

Instructors: To collect questions (if any) and place them on A0 paper and share within large groups.

To discuss with local authorities and share research results with relevant agencies and organizations.

APPENDIX IV: REVIEW OF FPAR RESEARCH APPROACHES

Participatory research activities for this study produced sound results, overall. All three of its main objectives, to encourage women to understand domestic violence, to state their needs and build action plans were well implemented. This was largely due to thorough preparation of the working agenda and close coordination between local researchers and the national research team.

The national research team created an open environment to enable full participation of all respondents in interviews and focus group discussions. However, in some cases, participants' responses were less informative because of low education levels and an inability to express their answers, especially when they were asked to write answers. Some questions were relatively abstract and complex for participants, for instance, the activity to draw dream trees. In heavily ethnic minority populated areas, like Duong Phong, the research group had to guide local researchers. In some areas like An Binh and Nghi Hoa, where women survivors were involved in domestic violence prevention projects, they were more comfortable about sharing experiences and personal needs.

The research process provided unique opportunities for participants to assess the challenges faced by survivors, find solutions and build action plans. Nevertheless, due to limited time and financial resources, changes in capacity and participatory results were modest. However, in the action plans developed by community women, changes in mind-sets were seen when women felt the need to speak out about problems instead of enduring and accepting violence. To make these action plans effective, these women need to be equipped with legal knowledge and an understanding of different channels to access justice. Therefore in the near future, it is imperative such women's capacity and active participation in domestic violence prevention and responses be enhanced.

Comparing the two information gathering methods for primary data collection, the research group found in-depth interviews more effective than focus group discussions, especially when participants had a low educational background or felt shy about sharing information. However, the research group was satisfied with the overall participatory nature of the research. The research process enabled female survivors and women in the community to share their stories as well as discuss and think more seriously about domestic violence issues. This enhanced participants' legal understanding, changed their attitudes and encouraged them to address domestic violence. For example, some domestic violence survivors said participation in the research motivated and made them more confident in seeking assistance. This was particularly the case with ethnic minority respondents who generally had lower education levels. In localities which had already benefited from domestic violence prevention projects, participatory research was important because as such projects only reached a small number of survivors who had participated in clubs.

Difficulties and challenges encountered during research

In general, there was scope for local authorities and related parties to more fully participate in working groups. Moreover, group discussions with local authorities displayed limited attention and commitment to domestic violence prevention and control initiatives. Moreover limited awareness of this issue was exhibited, especially in ethnic minority areas. It was difficult to apply the participatory research approach to ethnic minority groups because officials did not actively partake and local researchers could not lead group working sessions. Even when local authorities showed commitment and support, participants usually failed to turn up on time and had left discussions early due to family reasons. Local women's limited awareness often prolonged working sessions as extra time was required to give instructions and encourage participation.

In addition, there was limited time for research with only four days for each commune/ward to train local researchers, conduct focus group discussions and in-depth interviews with community women and officials from relevant departments. The one-day training for local researchers was also too short to provide necessary skills to apply FPAR and knowledge on gender equality and domestic violence. The qualifications and capacity of female researchers, especially in ethnic minority communities, was limited and resulted in less confidence to lead discussions.

Solutions to the challenges of the research

The national research team closely followed the work of local researchers during working sessions. Each working session started with group meetings to review the preparation and ended with assessments of work to learn lessons.

The national research team regularly assessed and adjusted working methods and tools. For instance during field trips in Ben Tre, the research group encountered difficulties in undertaking the “dream tree” exercise because members had different expectations and discussion content was scattered. Consequently, the group reconsidered and adjusted the exercise's requirements, with participants left to decide which types of domestic violence were of greatest concern in their locality, then discuss and build action plans to address the problem, instead of having a general discussion on domestic violence. Research in Bac Kan also revealed an inadequate understanding of domestic violence causes amongst officials and the community, which affected attitudes and ways to deal with it. Therefore in Nghe An, the research group added questions about husbands' acts of violence against their wives in different situations, for example whether it was unacceptable if a husband beat his wife, even when he was drunk.

Levels of satisfaction after applying FPAR

While the application of FPAR was a new experience to the national research team, it was viewed as beneficial by the research group and community women. Participation in research not only enabled local women to contribute, but also allowed them to enhance their awareness, change attitudes and learn skills to become more self-confident. During this process, groups were encouraged to become active local researchers, rather than be passive. When discussing the content of in-depth interviews and focus group discussions, most local women said discussions gave them insightful new knowledge. Interviewees also felt comfortable as they could share stories and be appreciated and trusted.

“Thank you for listening to me and posing questions that need to be thought of in the future. I talk to my family and friends, but no one ever talked to me like this. I have only been advised to accept my situation. But, I have endured enough. By talking to you, I understand that I have to think much more positively, be self-confident and stronger to care for my children and myself.” (Female, Bac Kan)

“This issue [domestic violence] is discussed by mass media as well as at women’s meetings. However, never as thoroughly as this [during the study]. The discussion content was really interesting and I learnt a lot.” (Female, Nghe An)

“The information was very helpful. I [now] understand more about gender equality and domestic violence. I will [now] spend time talking to my husband and children, especially my husband, so they can understand, sympathize and share with me.” (Female, Ben Tre)

For local researchers, participation helped raise their awareness and working capacity in the community.

“Here, female officials have few opportunities for further training, so their qualifications are rather limited. They have learnt a lot from this [participation in this research]. As a member of the local Women’s Union, I understand the necessity to listen to women so I can share and assist them. First and foremost, I should not have any prejudices.” (Women’s Union official, Bac Kan)

“Nghị Hòa has participated in domestic violence prevention and control projects. So, Women’s Union members have been trained to address domestic violence and have organized many awareness raising activities for local women. But this [study] was very beneficial as the way issues were raised and discussed was interesting. If the issue is approached adequately and encouragingly, women will partake more fully.” (Women’s Union official, Nghe An)

The research group was satisfied with the outcome of the research process, as it not only painted a vivid picture of the research issue through women’s active descriptions, but also strengthened women’s community networks to better respond to incidents of domestic violence.

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